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Staff Brief 98-11*

**BACKGROUND INFORMATION ON FAITH-BASED APPROACHES
TO CRIME PREVENTION AND JUSTICE**

INTRODUCTION

This Staff Brief was prepared for the Joint Legislative Council's Special Committee on Faith-Based Approaches to Crime Prevention and Justice. The Special Committee was created and the Chairperson appointed by a June 24, 1998 mail ballot; the members were appointed by a September 4, 1998 mail ballot.

The Special Committee is directed to study means by which faith-based approaches to lessening crime rates, lowering recidivism and achieving restorative justice in the aftermath of criminal acts may be encouraged. The Committee is directed to report its recommendations to the Joint Legislative Council by May 1, 1999.

The Staff Brief is divided into the following parts:

Part I describes current state-funded faith-based crime prevention programs in Wisconsin.

Part II describes faith-based crime prevention programs in other states.

Part III describes the restorative justice concept.

Part IV describes constitutional constraints on the provision of public funds to religious organizations for use in crime prevention and intervention.

*This Staff Brief was prepared by Shaun Haas and Mary Matthias, Senior Staff Attorneys, Legislative Council Staff.

PART I

STATE-FUNDED FAITH-BASED CRIME PREVENTION PROGRAMS IN WISCONSIN

This Part of the Staff Brief provides information on state-funded faith-based or religiously affiliated programs currently in operation in Wisconsin. Specifically, this Part provides information on the provision of and services provided by chaplains in Wisconsin correctional facilities and programs administered by the Department of Health and Family Services (DHFS) which provide funding to organizations with religious affiliations. This Part also provides information on Department of Corrections' (DOC) policies pertaining to the religious beliefs and practices of inmates and DOC's guidelines governing volunteers in corrections facilities.

A. DEPARTMENT OF CORRECTIONS

1. Facilities Chaplains

The DOC employs chaplains at each of the maximum and medium security adult correctional facilities in Wisconsin, the minimum security Oakhill Correctional Institution, the Wisconsin Resource Center, and at the four juvenile correctional facilities. Chaplains are not on the staff at adult minimum security correctional centers or farms other than the Oakhill Correctional Institution.

Table 1, below, lists each institution at which one or more chaplains are employed, and the name of the chaplain or chaplains at each institution. As noted in Table 1, a number of chaplain positions are currently vacant. The "vacant" designations accompanied by an asterisk are positions which were recently created in 1997 Wisconsin Act 27, the Biennial Budget Act. According to DOC, DOC and the Department of Employment Relations are currently developing the process to fill those positions, within the constraints of civil service requirements.

TABLE I

Department of Corrections' Facilities Chaplains

<i>Institution</i>	<i>Chaplains</i>
DIVISION OF ADULT INSTITUTIONS	
Columbia Correctional Institution Portage, WI	Gene Dawson Vacant
Dodge Correctional Institution Waupun, WI	Paul Rogers Vacant Vacant*
Fox Lake Correctional Institution Fox Lake, WI	Glenn Lashway Steven Thomas

<i>Institution</i>	<i>Chayluins</i>
Green Bay Correctional Institution Green Bay, WI	Paul Emmel Jerome Taddy
Jackson Correctional Institution Black River Falls, WI	Alan Minshall vacant*
Kettle Moraine Correctional Institution Plymouth, WI	Paul Zoschke Kenneth George
Oakhill Correctional Institution Oregon, WI	Larry Heitke Bob Groth
Oshkosh Correctional Institution Oshkosh, WI	G a r y Burkum* Vacant
Racine Correctional Institution Sturtevant, WI	Tommie Thomas Vacant*
Racine Youth Offender Correctional Facility Racine, WI	Cornelius Gordon
Taycheedah Correctional Institution Fond du Lac, WI	Marilyn Morris
Waupun Correctional Institution Waupun, WI	Reotha Cole Jerry North
DIVISION OF JUVENILE CORRECTIONS	
Ethan Allen School Wales, WI	Mark Molling Vacant
Lincoln Hills School Irma, WI	Gary Uttech Craig Lindgren
Prairie du Chien Correctional Facility Prairie du Chien, WI	Vacant*
Southern Oaks Girls School Union Grove, WI	Vacant*
DEPARTMENT OF HEALTH AND FAMILY SERVICES DIVISION OF CARE AND TREATMENT FACILITIES**	
Wisconsin Resource Center Winnebago, WI	Gary Lee

Source: DOC.

* New Position.

** The Wisconsin Resource Center is a DHFS facility operated by the Division of Care and Treatment Facilities.

As shown in Table 1, the State-of Wisconsin currently employs 21 chaplains and there are currently nine vacant chaplain positions at correctional facilities in Wisconsin. Of those nine vacant positions, five were created recently in 1997 Wisconsin Act 27.

Table 2, below, sets forth the amounts budgeted by the DOC for the costs of chaplains at state correctional facilities for fiscal year 1998-99. The table sets forth both the amounts budgeted for the salaries and fringe benefits of chaplains as well as the amounts budgeted for related supplies and services.

TABLE 2

FY99 Budgeted Chaplaincy Costs at Department of Corrections' Facilities

<i>Department/Division</i>	<i>Full- Time Equivalent Positions</i>	<i>Salary and Fringe Budget - FY99</i>	<i>Estimated Supplies and Services Budget - FY99</i>
Dept. of Corrections Div. of Adult Institutions	20.90	\$950,100	\$34,200
Dept. of Corrections Div. of Juvenile Corrections	5.50	\$247,200	\$9,600
Dept. of Health and Family Services Div. of Care and Treatment Facilities - Wisconsin Resource Center*	1.00	\$49,800	\$1,800
TOTAL	27.40	\$1,047,100	\$5,600

Source: DOC.

* The Wisconsin Resource Center is a DHFS facility operated by the Division of Care and Treatment Facilities. Chaplaincy costs for the Wisconsin Resource Center are included in the DHFS budget.

As shown in Table 2, in fiscal year 1997-98, it is expected that slightly more than \$1 million will be expended on salaries and fringe benefits for chaplains at DOC facilities and an additional \$45,000 will be spent on supplies and services related to those chaplains. This figure includes funds sufficient to fully fund the positions which are currently vacant.

2. Duties of Chaplains

DOC administrative rules provide that chaplains must hold services, provide counseling and provide other pastoral services to inmates or arrange for other qualified persons to provide those services. The chaplain, or designated staff person with appropriate religious training, is to develop and maintain close relationships with religious resources from outside the institution and encourage religious groups from outside the institution to take part in institution religious activities. [s. DOC 309.61 (4), Wis. Adm. Code.]

A more detailed description of chaplains' duties is provided in the DOC position description for chaplains. The following information was obtained from the position description for the chaplain at the medium security Oshkosh Correctional Institution. One-half of the chaplain's time is spent administering the institution's ministerial program to meet the spiritual and rehabilitation needs of the inmates. The specific duties of the chaplain in this area are to:

- Plan, administer and supervise the institution's religious programs to meet the spiritual and rehabilitation needs of all the inmates. This includes all recognized religious expressions.
- Arrange for inmates to participate in religious services.
- Work with institution staff in planning programming which will effect the rehabilitation of inmates.
- Represent the institution in maintaining contact with and seeking support from community organizations.
- Assist in budget preparation for the institution's religious program.
- Prepare reports and maintain office records.
- Recruit and supervise inmate and nominate volunteers to assist with religious services and activities.
- Recruit, train, supervise and evaluate volunteers to work with inmates.
- Counsel inmates, their families and affected parties regarding personal **problems and inform them of institution policies, procedures and programs.**
- Supervise any inmate workers in the chapel area.
- Represent the institution at any meetings, seminars or training pertaining to religious activities.

Approximately 30% of the chaplain's time is spent providing personal and special ministry to inmates. The specific duties of the chaplain in this area are to:

- Arrange for and/or conduct religious worship services.
- Arrange for special services such as ecumenical services during holidays or for special events.
- Conduct or arrange for religious instruction classes.
- Follow department and institution policy and procedure in regards to marriages and other significant events, such as funeral videos and memorial services.

The remaining 20% of the chaplain's time is to be spent providing assistance with the planning, development and implementation of community-based volunteer organizations and programs. The specific duties of the chaplain in this area are to:

- Provide assistance to various institution staff in the planning of volunteer programs provided by community-based organizations as needed.
- Provide orientation to the institution philosophy and various programs to community-based organizations providing volunteer services to the institution's inmates as needed.
- Provide assistance with the scheduling and coordination of volunteer and intern services and programs provided to the institution's inmates as needed.
- Perform other assigned duties as needed.
- Provide institution staff with information regarding the requirements of the various religious groups.

As noted in the description of duties above, chaplains at Wisconsin correctional facilities are required to provide services to meet the spiritual and rehabilitation of inmates of all recognized religious expressions.

B. RELIGIOUS PRACTICE BY INMATES AT WISCONSIN CORRECTIONAL FACILITIES

Section 301.33, Stats., entitled "Freedom of worship; religious ministrations," provides that subject to reasonable exercise of the privilege, members of the clergy of all religious faiths shall have an opportunity, at least once each week, to conduct religious services within the state correctional institutions. Attendance at the services is voluntary. In addition, the statute states that every inmate shall receive, upon request, religious ministrations and sacraments according to

the inmate's faith and every inmate who requests it shall have the use of the Bible. The state must also make copies of the Quran available to prisoners to the same extent that the Bibles are made available. [*Pitts v. Knowles*, 339 F. Supp. 1183 (1972).]

The DOC's administrative rules state that "the department recognizes that religious beliefs can provide support to inmates which may aid in their adjustment to institutional life and can lead to development of community ties which may aid in the inmates' successful reintegration into the community upon release." [s. DOC 309.61 (1) (a), Wis. Adm. Code.]

The administrative rules require institutions to make facilities and other resources available to inmates for permitted religious practices to the extent feasible. [s. DOC 309.61 (1) (d), Wis. Adm. Code.]

The DOC has established written guidelines known as "Internal Management Procedures" which govern, among other things, the practice of religion by inmates. [DOC 309 IMP #6.] Each correctional institution is required to develop its own policies and procedures to implement religious programs in compliance with Internal Management Procedures established by DOC.

The DOC's guidelines relating to religious belief and practices provide that, to the extent feasible, institutions must offer the opportunity for reasonable access to religious activities by inmates, including regular religious services and ceremonies, special ceremonies or sacraments, prayers and meditation, religious instruction, counseling, literature and dietary accommodations consistent with restrictions prescribed by the religion, institution resources and appropriate security considerations.

The DOC guidelines provide that participation by inmates in any religious programs is on a voluntary basis.

The DOC guidelines further provide that the institution's schedule of religious services and activities must be made available to all inmates. Religious meetings are permitted in accordance with faith group obligations, except that inmates in segregation status are not allowed to attend. A warden at each institution must designate an area for the location of religious meetings and make decisions regarding staff supervision, participation by volunteers or spiritual advisers and the monitoring of religious programs.

The guidelines provide that inmates may engage in personal devotional activities in their living quarters that do not violate institution policies or procedures. Inmates are permitted to have certain religious property and literature in their living quarters.

The DOC guidelines state that chaplains or designated staff persons are to develop and maintain contact with religious resources outside the institution and encourage religious resource persons and groups to take part in the institution's religious activities.

All correctional institutions are required to, when possible, accommodate inmates and religious leaders' requests for special foods for religious obligation within constraints of budget and security.

Resolution of all issues relating to the legitimacy of a religious activity or materials and an inmate's participation in such activity are to be determined by the warden. Every reasonable effort is to be made to accommodate religious practices.

The DOC guidelines contain as addenda specific guidelines for each recognized religious practice. The guidelines set forth the minimum religious obligations, other recognized religious activities, religious literature and property and dietary restrictions applicable to the following religions: Buddhist; Catholic; Church of Christ Scientist (Christian Science); Church of Jesus Christ of Latter Day Saints (Mormon); Jehovah's Witnesses; Jewish; Muslim; Native American; Protestant, including Seventh Day Adventist and Wicca.

C. DEPARTMENT OF CORRECTIONS' GUIDELINES GOVERNING VOLUNTEERS IN CORRECTIONAL INSTITUTIONS

The DOC's Internal Management Procedures regarding volunteers in correctional institutions define a volunteer as any approved individual, including DOC staff members not in pay status, who enters an institution to provide services to inmates. The guidelines provide that volunteer programs or their individual participants should not receive monetary compensation, although some expenses may be reimbursed with the warden's approval. The individual's participation in volunteer activities is subject to approval by the institution or his or her designee. [DOC 309 IMP #30.]

The guidelines specify numerous forms which must be completed by any volunteers wishing to serve in a correctional institution and each institution is required to develop a volunteer manual. The guidelines provide that each institution must develop additional procedures which include a statement that volunteers will not replace, but rather enhance staff; a statement of support for volunteer programs; a statement of goals and objectives for the institution volunteer program and an evaluation component; and a statement regarding staff responsibility for the supervision of volunteers.

The DOC guidelines contain specific procedures to be followed when any person on probation or a person who has recently been discharged from a correctional institution applies to volunteer at an institution. The guidelines provide that the immediate family of an inmate or any persons on an inmate's approved visiting list may not be approved as a volunteer at the same facility. Any volunteer who chooses to visit an inmate at the institution where they volunteer loses their volunteer status at that institution. Exceptions to these policies may be granted by the warden under certain circumstances.

Each volunteer program must be evaluated annually to determine if the program effectively serves the needs of inmates for whom it was established.

D. DEPARTMENT OF HEALTH AND FAMILY SERVICES

According to the DHFS, the agency does not administer any programs that specifically involve faith-based strategies to prevent crime. DHFS does, however, contract with and provide grants to a number of religious organizations to carry out various programs which may have the effect of reducing crime. Although these programs are operated by organizations with religious affiliations, the actual program delivery does not necessarily incorporate any faith-based elements.

Some of the organizations with religious affiliations which receive grant funds, along with the program operated by each organization, are set forth in Table 3, below.

TABLE 3

***A Representative Listing of Religious Organizations
That Receive Funding Administered by DHFS***

<i>Organization</i>	<i>Program</i>	<i>1998-99 Funding</i>
Salvation Army	Domestic Violence Shelter	\$44,000
Catholic Social Services	Refugee Family Strengthening Program	\$8,700
Catholic Charities, Milwaukee	Pregnancy Counseling	\$32,904
Lutheran Social Services	Adolescent Pregnancy Prevention	\$30,000
	Adolescent Parent Self-Sufficiency Programs	\$35,000
Bethany Christian Services, Milwaukee	Abstinence-Only Adolescent Pregnancy Prevention	\$40,000
Community Enterprises of Greater Milwaukee	Abstinence-Only Adolescent Pregnancy Prevention	\$35,000
St. Mary's Hospital, Milwaukee	Abstinence-Only Adolescent Pregnancy Prevention	\$46,580
Holy Cathedral Church of God in Christ and Word of Hope Ministries, Inc.	The Family Technology Resource Center Initiative	\$12,000

Source: DHFS.

In addition, Catholic Charities and Word of Hope Ministries are included as Medical Assistance certified providers for the Milwaukee Family Project, which extends the Medicaid Prenatal Care Coordination benefit until a child reaches age seven. According to DHFS, the

primary goal of the project is to improve family functioning, thereby reducing the risk of child abuse and neglect, thereby reducing negative health and social outcomes.

DHFS also reports that the U.S. Department of Agriculture Emergency Food Assistance Program uses a statewide distribution network that includes many churches.

PART II

FAITH-BASED CRIME PREVENTION PROGRAMS IN OTHER STATES

This Part of the Staff Brief provides information on two faith-based crime prevention programs in other states: The InnerChange Freedom Initiative in Texas and the activities of faith-based organizations involved in the Boston Strategy to Prevent Youth Violence.

A. THE INNERCHANGE FREEDOM INITIATIVE IN TEXAS

This Part of the Staff Brief provides information on the InnerChange Freedom Initiative currently in operation at the minimum security Jester II unit of the Sugar Land Correctional Facility in the State of Texas. The InnerChange program is a Christian-based immersion-style rehabilitation program which is operated within the prison and paid for by Prison Fellowship Ministries.

1. Origins of the InnerChange Program

The InnerChange program was developed in response to a request for proposals by the State of Texas for a values-based, faith-neutral, prerelease program designed to reduce recidivism. The request for proposals was based on a resolution adopted by the Texas State Senate which urged the Texas Board of Criminal Justice and several other corrections-related Texas state entities to permit faith-based correctional programs, facilities and initiatives to play a more significant role in the rehabilitation of criminal offenders by: (a) encouraging more use of faith-based programming in public prisons and jails and treating such programs on the same basis as nonreligious programs; (b) facilitating the operation of private, faith-based correctional facilities for willing, inmates who are nearing release; and (c) utilizing one-on-one faith-based programs that intervene in the lives of willing, nonviolent offenders to encourage positive behaviors by offering a structured and readjusted program of education and spiritual nurture as a positive alternative to incarceration or as a part of agreed-upon, post-incarceration aftercare. [Senate Concurrent Resolution 44, adopted by the Texas Senate on May 20, 1997; adopted by the Texas House, with amendment, on May 28, 1997; and concurred in as amended by the Texas Senate on May 29, 1997.¹

The InnerChange program is modeled after a similar program operated in Brazilian prisons by Prison Fellowship which began in 1973. The InnerChange model is currently in operation in approximately 80 prisons in Brazil.

According to Jack Cowley, Director of the InnerChange program, Prison Fellowship will soon begin operating similar programs in prisons in Kansas and Iowa. Prison Fellowship is seeking some financial assistance from those states. For example, Prison Fellowship has requested \$200,000 annually from the State of Kansas to operate a program there. According to Mr. Cowley, the State of Kansas has expressed reluctance to pay for religious programming, and

therefore Prison Fellowship will separate the religious and secular portions of its program and state funds will be applied only to the secular portions.

2. Description of the InnerChange Program

The InnerChange program began operation in the Texas prison in April 1997. The program is operated and paid for by Prison Fellowship Ministries. Prison Fellowship, an international organization with headquarters in Reston, Virginia, provides counseling, job training, and Bible studies in prisons throughout the United States. Prison Fellowship, founded by Charles Colson, operates 55 field offices in the United States, with 280 paid employees and approximately 50,000 volunteers.

The InnerChange program is staffed by five full-time paid staff and over 350 volunteers who serve as instructors, small-group leaders, mentors and administrative volunteers. The salaries of the paid staff persons are paid by Prison Fellowship. According to Prison Fellowship, the direct annual cost of operating the InnerChange program is \$400,000. The State of Texas pays for the inmate's shelter, food and prison guards. The warden is responsible for meeting state correctional standards including standards relating to command and control, security and major disciplinary procedures. The InnerChange program director is responsible for the overall day-to-day operation of the program.

Corrections officers working in the Jester II unit are specifically selected for their assignment by the TDCJ with the assistance of InnerChange staff. Officers are interviewed to ascertain their level of comfort in working with a biblically based, Christ-centered program. Officers who are uncomfortable with the program or unwilling to participate are not assigned to work in Jester II. Corrections officers assigned to Jester II receive special training relevant to the InnerChange program.

Volunteers for the program are recruited by **InnerChange** staff from churches in the Houston area and indirectly through other ministries. All volunteers must complete a thorough screening process that was developed jointly by the Texas Department of Criminal Justice (TDCJ) and InnerChange staff. Screening includes, at a minimum, an interview, a records check, and completion of an application form that requires signing a statement of faith. Applicants must complete 20 hours of Prison Fellowship and TDCJ training before certified as a Prison Fellowship volunteer.

The InnerChange Operations Manual contains the following mission statement:

The mission of the InnerChange program is to create and maintain a prison environment that fosters respect for God's law, the rights of others and to encourage the spiritual and moral regeneration of offenders to the end that they develop responsible and productive relationships with their creator, families and communities.

This program will foster prisoners' respect for the rights of others, obedience of the law and encourage their spiritual and moral regeneration. As a result, these prisoners will develop responsible and productive relationships with their Creator, families and communities.

According to information from the Texas Department of Criminal Justice, the program emphasizes restorative justice, in which the offender works to restore himself, the community, the victims and his family.

The InnerChange program consists of three phases. The first lasts 12 months and emphasizes education, work assignments, classes in biblically based life skills and family and victim-offender reconciliation. Classes cover topics such as forgiveness, anger management, substance abuse, racial reconciliation, goal-setting, exercise and nutrition. Phase 2 lasts six months and includes more classes and community service work, such as helping build houses for low-income families through Habitat for Humanity. Programming in the prison is conducted every day from 5:30 a.m. to 10:30 p.m.

The third phase of InnerChange begins when the inmate is placed on parole and consists of regular meetings with Christian mentors and support groups, with the goal of helping offenders reconnect with their families and communities.

Since the InnerChange program began in April 1997, a total of 163 inmates have entered the program; of those, 89 are still participating in the program in prison and have not yet completed the 18 months of programming; 41 of the participants have gone on parole; 12 were expelled from the program and 21 withdrew voluntarily. Of the 41 participants who were in the program and are now on parole, only seven completed the full 18-month program; the remainder were paroled early. According to InnerChange, 93% of the participants who were paroled are succeeding in the aftercare portion of the program, while 7% have "failed" aftercare.

3. Participation by Inmates

In order to be accepted into the InnerChange program, an inmate must be male, must be classified as a minimum security risk and must be within 21 to 24 months of his release or parole date and be scheduled for release in the Houston area. The inmate must be allowed to leave the correctional facility to participate in community service projects. The inmate must either live in Harris County, Texas (the county in which the prison is located), or have Harris County listed as their county of record. The inmate must be healthy, speak English, be functionally literate and have no enemies at Jester II. Participants are not required to be Christian, although they must be willing to participate in a program that is explicitly Christian in both content and delivery. Inmates who practice other faiths are allowed to participate in the program if they are willing to actively participate in a Christ-centered program based on the Bible.

4. Evaluation of the InnerChange Program

The InnerChange program will be evaluated by comparing the recidivism rates and the cost of incarceration of inmates participating in the InnerChange program to the recidivism rates and costs of incarceration of a control group of inmates with similar backgrounds, convictions and sentences. The evaluation will be conducted by Byron Johnson, Ph.D., Director for Justice Research and Education at Lamar University in Beaumont, Texas.

B. ACTIVITIES OF FAITH-BASED ORGANIZATIONS IN THE BOSTON STRATEGY TO PREVENT YOUTH VIOLENCE

The Boston' Strategy to Prevent Youth Violence was implemented in the City of Boston in phases, beginning in the early 1990s. The Boston strategy emphasizes the importance of partnerships between the law enforcement community and the rest of the community, including Boys and Girls Clubs, religious organizations, social services agencies and the public school system. The Boston program has been successful in reducing violent crime in the city. Specifically, since July 1995, not a single juvenile under the age of 17 has been killed by gunfire. The Boston program was used as a model for the Federal Values-Based Violence Prevention Initiative which, through the U.S. Department of Justice, has made grants available to 16 community-based collaborative organizations, including religiously **affiliated** organizations, that target youth violence, gangs, truancy and other juvenile problems.

In 1996, the U.S. Department of Justice released a report describing the Boston Strategy to Prevent Youth Violence, entitled "Youth Violence--A Community-Based Response." That document describes the role that religious organizations played in the success of the Boston initiative. According to the Department of Justice report, an organization called "The 10 Point Coalition," a group of clergy and lay leaders, was instrumental in the success of the Boston strategy. The main activities of "The 10 Point Coalition" are facilitating collaboration between churches with violence prevention programs already in place and helping to train members of churches wishing to become involved. The coalition also sponsors a street ministry program. Participants in that program participate in mediation efforts between gangs, participate in neighborhood crime watches and patrols and in meetings with youth agency workers. The coalition provides training for pastors and lay people to carry out these activities.

The 10 Point Coalition has released a "10-Point Plan to Mobilize the Churches," which sets forth specific ways in which the Christian community can help to reduce violence among youth. The types of activities which the coalition calls upon religious organizations to implement are the following:

- To establish collaborative groups of churches to sponsor "adopt-a-gang" programs to organize and evangelize youth in gangs. Innerscity churches would serve as drop-in centers providing sanctuary for troubled youth.
- To commission youth evangelists to do street-level one-on-one evangelism with youth involved in drug trafficking. The evangelists would also help

youth prepare for **college**, develop legal revenue-generating enterprises and gain skills necessary to compete in the marketplace. °

- To establish accountable, community-based economic development projects.
- To establish links between suburban and downtown churches and front-line ministries to provide spiritual, human resource and material support.
- To initiate and support neighborhood crime watch programs within local church neighborhoods.
- To establish working relationships between local churches and community-based health centers to provide counseling for families during times of crisis.
- To establish drug abuse prevention programs and abstinence-oriented educational programs focusing on the prevention of aids and sexually transmitted diseases.

PART III

RESTORATIVE JUSTICE

A. BACKGROUND

The legal system in the United States is generally divided into two major categories, the criminal justice and the civil justice systems. Under the criminal justice system, a criminal action is prosecuted in criminal court by the state as the complainant, usually represented by a district attorney, against a person charged with a public offense or crime for which punishment is commonly expressed in terms of a forfeiture, fine or imprisonment. In contrast, the civil justice system involves **private** litigants; that is, a plaintiff seeking the establishment, recovery or redress of private and **civil** rights against another. A civil action, which is tried in civil court, may involve a claim for monetary damages or other relief (e.g., restraining order or injunction) arising out of **injury** to a person or harm to property. Historically, the criminal justice and civil justice systems were considered separate and independent. However, in modern times, civil justice and criminal justice are becoming intertwined.

An example of the trend to mix the civil justice system with the criminal justice system is found in s. 973.20, Stats. Under s. 973.20 (1r), Stats., a court, when imposing sentence or ordering probation for the commission of a crime is required to order the offender to make full or partial restitution to any victim of the crime unless the court finds substantial reason not to do so and states the reason on the record. The statute further provides that the court, in determining whether to order restitution and the amount thereof, must consider all of the following: (1) the amount of harm suffered by the victim of the offender; (2) the financial resources of the offender; (3) the present and future earning ability of the offender; (4) the needs and earning ability of offender's dependents; and (5) any other factors which the court deems appropriate. [s. 973.20 (13) (a), Stats.]

Section 973.20, Stats., has been substantially revised and expanded since its original enactment in 1979 when its obligation was limited to requiring the court to determine if restitution would be an appropriate condition of probation. [Ch. 189, Laws of 1979.] The restorative justice concept proposes to further mix the civil justice and criminal justice systems.

B. RESTORATIVE JUSTICE PHILOSOPHY

Restorative justice represents further mixing of the criminal justice and civil justice systems. In fact, restorative justice rejects the notion that crimes should be viewed simply as a violation against the state. Crime is seen as something done against the victim and the local community. [Restorative Justice for Victims, Communities and Offenders, Center for Restorative Justice and Mediation, School of Social Work, University of Minnesota (1996); hereinafter, "Restorative Justice."] As described in a "Backgrounder" on restorative justice, prepared by the

Minnesota Department of Corrections (January 22, 1997), which is attached as Appendix A, restorative justice is described as a “new framework” for the criminal justice system:

Restorative justice is a philosophical framework which has been proposed as an alternative to the current way of thinking about crime and criminal justice. Restorative justice emphasizes the ways in which crime harms relationships in the context of community.

Crime is viewed as a violation of the victim and the community, not as a violation of the state. As a result, the offender becomes accountable to the victim and the community, not the state. [*Id.* at 1.1]

Because restorative justice redefines crime as “an act against a victim and a local community,” rather than as an act against the state or government, the government alone does not determine the outcome of the case, as under the traditional criminal justice system. Instead, the victim and community join with the offender to decide how the harm will be repaired. [Restorative Justice, *supra.*] Because restorative justice involves the victim, offender and community in determining how to address the harm caused, restorative justice may take many forms. The restorative justice “Backgrounder” in Appendix A, contains a listing of the various forms that restorative justice may take in practice, which range from the provision of support and assistance to victims by community volunteers, faith communities and professional agencies; the payment of restitution by the offender; and the involvement of faith communities in sponsoring support groups for offenders trying to change life patterns.

C. RESTORATIVE JUSTICE IN PRACTICE

A common restorative justice practice involves restitution. As noted in Section B., above, current Wisconsin law requires a criminal court to order a convicted offender to pay restitution to a victim of a crime, if the offender is financially able to do so. Restitution under the restorative justice model is a common result of victim/offender mediation or conferencing, outside the traditional criminal justice system. Victim/offender mediation specifically involves a trained mediator, who may be a volunteer, acting to facilitate a face-to-face meeting between the victim and offender to express feelings, discuss the harm done by the crime and negotiate a restitution agreement. Voluntary participation by the offender in victim/offender mediation or conferencing is encouraged. However, participation by the offender could be ordered by the criminal court (for example, as a condition of probation). Victim/offender mediation could also be a component of an agreement between a district attorney and the defendant, whereby the district attorney defers prosecution on the condition that the offender participate in victim/offender mediation.

Based on various estimates, more than 100 victim/offender mediation programs are operating throughout the United States. In Wisconsin, according to spokespersons for the Dane County Juvenile Offender Conferencing Services Program, victim/offender mediation programs

exist in Dane, La Crosse, Manitowoc and Outagamie Counties; Jefferson County is starting a similar program.

PART IV

CONSTITUTIONAL CONSTRAINTS ON THE PROVISION OF PUBLIC FUNDS TO RELIGIOUS ORGANIZATIONS FOR USE IN CRIME PREVENTION AND INTERVENTION

This Part of the Staff Brief discusses constitutional issues that are likely to be raised regarding legislation authorizing the provision of public funds to religious organizations for use in crime prevention and intervention. Because this legislation has not been drafted, the discussion describes constitutional issues in general terms without reaching conclusions. The value of this exercise is to alert the Special Committee to constitutional constraints on the provision of public funds to religious organizations, so that the Special Committee may formulate its legislative recommendations, if any, so as to avoid obvious constitutional impediments and pitfalls.

Also discussed in this Part is the “charitable choice” provision of the Federal Personal Responsibility and Work Opportunity Reconciliation Act. As will be apparent from the discussion, the charitable choice provision is an example of legislation that has been carefully crafted to authorize the transfer of public funds to religious organizations for use in the provision of services to needy persons without violating constitutional constraints.

A. CONSTITUTIONAL ISSUES

The provision of public funds to religious organizations for use in crime prevention and intervention is likely to be challenged as violating the Establishment Clause of the First Amendment to the U.S. Constitution and Wis. Const. art. I, s. 18. The Establishment Clause of the U.S. Constitution provides in part: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . . .” This provision of the First Amendment to the U.S. Constitution is applicable to state governments by operation of the Fourteenth Amendment to the U.S. Constitution. [*Cantwell v. Connecticut*, 310 U.S. 296 (1940).]

In addition, Wis. Const. art. I, s. 18, provides as follows:

Freedom of worship; liberty of conscience; state religion; public funds. Section 18. [As amended November 1982] The right of every person to worship Almighty God according to the dictates of conscience shall never be infringed; nor shall any person be compelled to attend, erect or support any place of worship, or to maintain any ministry, without consent; nor shall any control of, or interference with, the rights of conscience be permitted, or any preference be given by law to any religious establishments or modes of worship; *nor shall any money be drawn from the treasury for the benefit of religious societies, or religious or theological seminaries.* (Emphasis added.)

I. Meaning of the Establishment Clause of the U.S. Constitution

Justice Black in *Everson v. Board of Education*, 330 U.S. 1, 675 S. Ct. 504 (1947), opined that the proper relationship between religion and state is one of *strict separation*. As expressed by Justice Black in *Everson*:

The establishment of religion clause of the First Amendment means at least this: Neither a state nor the federal government can set up a church. Neither can pass laws that aid one religion, aid all religions, or prefer one religion over another. Neither can force nor influence a person to follow to or to remain away from church against his will or force him to profess a belief or disbelief in any religion No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion In the words of Jefferson, the clause against establishment of religion by law was intended to erect a *wall of separation* between church and state. (*Id.* at 15; emphasis added.)

Subsequent to *Everson*, the Supreme Court devised the three-prong test for reviewing Establishment Clause challenges in *Lemon v. Kurtzman*, 403 U.S. 602, 91 S. Ct. 2105 (1991) (hereinafter, “Lemon”). Under that test, to be constitutional, a statute, policy or program must meet all of the following criteria:

- a. It must have a legitimate *secular purpose*.
- b. Its *principal or primary effect* must neither advance nor inhibit religion.
- c. It may not foster *excessive government entanglement* with religion (e.g., there must not be excessive state supervision to ensure that any state aid is used solely for secular purpose and not to advance religion).

The three-prong test set forth in *Lemon* has guided Establishment Clause jurisprudence for more than 25 years. However, recent Supreme Court decisions indicate that at least several members of the Court are no longer satisfied with the *Lemon* test.

In *Zobrest v. Catalina Foothills School District*, 509 U.S. 1, 113 S. Ct. 2462 (1993), the Court held that the Establishment Clause did not prevent a school district from providing a sign language interpreter to a deaf student at a parochial school. Writing for the majority, Chief Justice Rehnquist expressed the opinion that the Court has “. . . never said that religious institutions are disabled by the First Amendment from participating in publicly sponsored social welfare programs.” [509 U.S. at 8, quoting from *Bowen v. Kendrick*, 487 U.S. 589, 609, 108 S. Ct. 2562 (1988).] Justice Rehnquist expressed the opinion that government programs are not necessarily subject to Establishment Clause challenge if such programs “neutrally provide benefits to a broad class of citizens defined without reference to religion” [*Zd.* at 8.] Justice

Rehnquist, writing for a five-member majority, effectively ignored *Lemon* and the concerns of entanglement or effect in deciding the case.

In contrast, the Supreme Court did apply the *Lemon* test in *Lamb's Chapel v. Center Moriches Union Free School District*, 508 U.S. 384, 113 S. Ct. 2141 (1993), a case decided 11 days before *Zobrest*. The issue in that case was whether a school could deny a church permission to use school facilities in order to show a religiously based film series. The justices unanimously agreed that in a nonpublic forum, decisions regarding access must be “reasonable . . . and viewpoint neutral.” [508 U.S. at 392.] The Court found that the school district’s refusal to allow the church to show its film was not viewpoint neutral. Because the church’s use of the school property did not promote establishment of religion under the *Lemon* test, the Court found no justification for the school district’s actions.

Although the Supreme Court has not explicitly rejected the *Lemon* test, its failure to apply this test may indicate a willingness on the part of some members of the Court to recognize a new method for analyzing the Establishment Clause. Professor Carl H. Esbeck has written an article for the *Emory Law Journal*, in which he expresses a view that the concept of “separatism,” as expressed by the Supreme Court in earlier decisions addressing the meaning of the Establishment Clause (e.g., *Everson v. Board of Education* and *Lemon v. Kurtzman*, *supra*) is being replaced by a **neutrality-based** rule. [See Esbeck, Carl H., “A Constitutional Case for Governmental Cooperation With Faith-Based Social Service Providers,” *46 Emory Law Journal* 1 (Winter 1997).]

The concept of neutrality was set forth in a concurring opinion by Justice Kennedy in *Bowen v. Kendrick*, *supra*. The five-member majority opinion in *Bowen* upheld federal grants for teenage sexuality counseling, including counseling offered by faith-related centers. In his concurring opinion, Justice Kennedy advocated a neutrality-based rule for analyzing Establishment Clause cases. A social assistance program would be facially constitutional, Justice Kennedy opined, as long as its purpose was neutral as to religion and a diverse array of organizations were eligible to participate. What was important to Justice Kennedy was not whether the entity receiving the public funds is of a religious character but how it spends its public grant funds. In Justice Kennedy’s opinion, as long as the grant is actually used for the designated public purpose--rather than to advance inherently religious beliefs or practices--there is no violation of the Establishment Clause.

2. Meaning of Wisconsin Constitution Article I, Section 18

The provision of the Wisconsin Constitution prohibiting the allocation of state revenues “. . . for the benefit of religious societies, or religious or theological seminaries” is more restrictive than the Establishment Clause in the federal constitution.

The Wisconsin Supreme Court has indicated that the provisions of the Establishment Clause to the U.S. Constitution and Wis. Const. art. 1, s. 18, are intended and operate to serve the same dual purposes of prohibiting the “establishment” of religion and protecting the “free exercise” of religion. [*State ex rel. Warren v. Nusbqum*, 64 Wis. 2d 314, 328, 219 N.W.2d 577

(1974), hereinafter, “Warren (1974)”; *State ex rel. Warren v. Nusbaum*, 55 Wis. 2d 316, 332, 198 N.W.2d 650 (1972), hereinafter, “Warren (1972).”] According to the Wisconsin Supreme Court, a holding that a statute violates the Establishment Clause of the U.S. Constitution is a holding that it violates the Establishment Clause of the Wisconsin Constitution. [*Warren (1972)*, 55 Wis. 2d at 332.1 However, in both *Warren (1972)* and *Warren (1974)*, the Wisconsin Supreme Court expressed the view that, in addition to meeting the requirements under the Establishment Clause of the federal constitution, in order to be constitutional under Wis. Const. art. I, s. 18, a statute must meet the requirement of the last clause of art. I, s. 18, that “money [not be drawn] from the treasury for the benefit of religious societies, or religious or theological seminaries.” ‘Thus, a program may violate art. I, s. 18, even if it is permissible under the Establishment Clause of the federal constitution.

B. DISCUSSION OF THE CHARITABLE CHOICE PROVISION OF THE FEDERAL PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996 AND RELATED CONSTITUTIONAL ISSUES

Relevant to the assignment given to the Special Committee and constitutional issues described in the previous section is a provision of the Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996. [403 U.S.C. s. 604; hereinafter referred to as the “Charitable Choice” law.] A copy of the Charitable Choice law is contained in *Appendix B*.

1. Description of the Charitable Choice Law

Under the Charitable Choice law, a state is authorized to administer and provide social services through contracts with charitable, religious or private organizations and provide beneficiaries of state assistance with certificates, vouchers or other forms of disbursement which are redeemable with such organizations. Specifically, the law applies to services funded by Temporary Assistance for Needy Families (TANF) block grants. (TANF replaces the Aid to Families with Dependent Children Program on the federal level.) It also applies to food stamp, Medicaid and Social Security Income programs. The stated purpose of the law is to allow states to contract with religious organizations, or to allow religious organizations to accept certifications, vouchers or other forms of disbursement on the same basis as any other nongovernmental provider without impairing the religious character of such organizations and without diminishing the religious freedom of beneficiaries of assistance funded under such program.

The Charitable Choice law specifies that, in the event that a state exercises its authority to contract with private, charitable or religious organizations, religious organizations are eligible on the *same* basis as any other private organization to contract to provide assistance or accept various forms of disbursement as long as their programs are implemented consistent with the Establishment Clause of the U.S. Constitution. The law states that unless prohibited or restricted by a provision of the state constitution or a state statute, neither the federal government nor a state receiving funds under such programs may discriminate against an organization which is or applies to be a contractor to provide assistance or which accepts certificates, vouchers or other forms of disbursement on the basis that the organization has a religious character.

The Charitable Choice law specifies that a religious organization with a contract or which accepts a disbursement funded by a state program must retain its independence from federal, state and local governments, including such organization's control over the definition, development, practice and expression of its religious beliefs. Specifically, the law states that neither the federal government nor a state may require a religious organization to alter its form of internal governance or remove religious art, icons, scripture or other symbols in order to be eligible to contract to provide assistance or accept any disbursement funded under a state program.

The Charitable Choice law also provides that if an individual who receives, or applies or requests to apply for, state assistance has an objection to the religious character of an organization or institution from which the individual receives or would receive assistance, the state in which the individual resides must provide the individual, within a reasonable period of time after the date of such objection, with assistance from an alternative provider that is acceptable to the individual and the value of which is not less than the value of the assistance which the individual would have received from such organization.

The Charitable Choice law specifies that religious organizations' exemption from the current federal equal employment opportunity law is not affected by its participation and receipt of funds from state programs.

The Charitable Choice law also provides that, except as otherwise provided in law, a religious organization may not discriminate against an individual in regard to rendering assistance funded under any program on the basis of religion, a religious belief or refusal to actively participate in a religious practice. The law also specifies that no funds provided directly to institutions or organizations to provide services and administer programs may be expended for sectarian worship, instruction or proselytization.

Finally, the Charitable Choice law states that nothing in the section regarding discrimination against religious organizations may be construed to preempt any provision of a state constitution or state statute that prohibits or restricts the expenditure of state funds in or by religious organizations.

2. Constitutional Issues Relating to the Charitable Choice Law

The provisions of the Charitable Choice law described above are certain to lead to litigation in states which elect to exercise the authority under the law to administer and provide social services through contracts with religious organizations. The resolution of these challenges may determine the fate of the faith-based solutions to crime which may be recommended by the Special Committee. Thus, speculation on how the courts might resolve constitutional issues that are likely to be raised regarding the Charitable Choice law should provide a helpful guide to the Special Committee in formulating its recommendations so as to avoid constitutional pitfalls. Joel Weaver, a student at the T.C. Williams School of Law, University of Richmond, has speculated on the constitutionality of the Charitable Choice provisions depending on whether a court construing the law applies the "effects" and "entanglement" prongs of the Lemon (*supra*) test or the neutrality principle recognized in *Zobrest* (*supra*). [See Weaver, Joel, "Charitable

Choice: Will This Provision of Welfare Reform Survive Constitutional Scrutiny?’, Perspectives *on the Law and Public Interest* (Spring 1997).]

According to Mr. Weaver, if courts continue to embrace a *separationist* interpretation of the Establishment Clause, as articulated in *Everson (supra)*, a state program in which a religious entity is authorized to administer government-funded welfare benefits is likely to fail under both the “effects” and “entanglement” prongs of the three-prong *Lemon* test.

Lemon’s second prong requires that the *principal or primary effect of a law not advance religion*. Although the Charitable Choice law exclusively states that “no funds provided directly to institutions or organizations to provide services and administer programs . . . shall be expended for sectarian worship, instruction, or proselytization”, Mr. Weaver speculates that it may be difficult for a religious organization empowered to administer government-funded welfare benefits to remain religiously neutral, which is a concern expressed by Chief Justice Burger in *Lemon*. [403 U.S. 602, 618.1 Passing the test under the “excessive entanglement,” third-prong of *Lemon* will be even more difficult, according to Mr. Weaver, if the traditional separationist theory is followed by the court.

Under the excessive entanglement prong of the *Lemon* test, explains Mr. Weaver, courts must consider whether the statute in question fosters *an excessive administrative entanglement* between religious officials in the offices of government. In order to ensure proper disbursement of government benefits, states will have to monitor the activities of participating religious organizations. This will require regular audits of the accounts of participating religious organizations and monitoring to ensure compliance with the provision of the Charitable Choice law which precludes the expenditure of government funds for sectarian worship, instruction or proselytization. Sensing this potential legal issue, the Charitable Choice law specifically authorizes a religious organization to segregate federal funds, provided to a religious organization to administer and provide authorized social services, into “separate accounts” so that “. . . only the financial assistance provided with such funds shall be subject to audit.” [42 U.S.C. s. 604 (h) (2).]

Mr. Weaver also expresses doubt whether states will be able to avoid constitutional pitfalls in attempting to administer the program consistent with the *neutrality principle*. As explained by Chief Justice Rehnquist in *Zobrest (supra)*, this interpretation of the Establishment Clause requires only that benefits be neutrally provided to a broad class of citizens defined without reference to religion. [509 U.S. at 1.] Mr. Weaver suggests that issues of discrimination will arise as states choose amongst various religious entities. He also suggests that religious organizations will find it difficult to remain “neutral and uninvolved” and concludes that the mix of government and religion will be an unworkable coalition.

In contrast, Professor Esbeck expresses the view that states will find it easier to avoid constitutional pitfalls in the administration of the Charitable Choice law if the neutrality principle governs their efforts. He concludes that if the neutrality principle replaces separatism and the three-prong *Lemon* test, involvement of religious organizations in the administration and

provision of social services, which is authorized in the Charitable Choice law, will not violate the Establishment Clause. As explained by Professor Esbeck:

Rightly interpreted, the Establishment Clause does not require that faith-based providers censor religious expression and secularize their identity as conditions of participation in a governmental program. So long as the welfare program has as its object the public purpose of society's betterment--that is help for the poor and needy--so long as the program is equally open to all providers, religious and secular, then the First Amendment [Establishment Clause] requirement that the law be neutral as to religion is fully satisfied. [46 *Emory Law Journal* at p. 40.1

The Wisconsin Constitution's variation of the Establishment Clause [Wis. Const. art. I, s. 18] may pose a greater challenge than the Establishment Clause of the federal constitution. As noted previously, the Wisconsin Supreme Court has held that the phrase ". . . nor shall any money be drawn from the treasury for the benefit of religious societies or religious or theological seminaries," makes Wisconsin constitutional constraint more restrictive than the Establishment Clause of the First Amendment to the U.S. Constitution. However, statutes and programs which have been found not to have the primary effect of advancing religion under the second part of the *Lemon* test, have been found to meet the requirements of Wis. Const. art. I, s. 18. Further, if the Wisconsin Supreme Court follows the devolvement of the U.S. Supreme Court away from separatism and toward the direction of neutrality theory, the involvement of religious organizations in the provision of welfare services (or perhaps services to criminal offenders) may not violate constitutional constraints if neutrality is observed.

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Backgrounder Restorative justice

January 22, 1997

Introduction

Restorative justice is a new framework for the criminal justice system that is rapidly gaining acceptance and support by criminal justice professionals and community groups in Minnesota and across the nation. The Minnesota Department of Corrections advocates adoption of restorative justice principles and has established a department unit that supports implementation of restorative justice concepts throughout the state. This statewide effort involves all aspects of the community including schools, churches, courts, corrections and law enforcement agencies, and citizens.

The restorative justice initiative provides education about the philosophical framework of restorative justice to engage the interest and enthusiasm of key stakeholders. Upon request from agencies or jurisdictions interested in moving toward a more restorative system, the initiative provides technical assistance in designing and implementing applications of restorative justice. The initiative also creates networks of professionals and community activists to support one another and share accumulating knowledge regarding new practices.

Education is provided through public speaking, trainings, an annual conference, distribution of written materials, and a newsletter. Technical assistance is provided through onsite and phone consultation, referrals to state and national experts, research, and skills training. Networking is promoted through organized special interest meetings, maintenance of a special interest resource list, and phone referrals to interested colleagues.

A statewide advisory council advises the department on restorative justice implementation.

What is restorative justice?

Restorative justice is a philosophical framework which has been proposed as an alternative to the current way of thinking about crime and criminal

justice. Restorative justice emphasizes the ways in which crime harms relationships in the context of community.

Crime is viewed as a violation of the victim and the community, not a violation of the state. As a result, the offender becomes accountable to the victim and the community, not the State.

Restorative justice defines accountability for offenders in terms of taking responsibility for actions, and taking action to repair the harm caused to the victim and community.

Restorative justice provides for active participation by the victim, the offender and the community in the process of repairing the fabric of community peace.

As the Twin Cities *Star Tribune* noted in a July, 1993, editorial, "This vision of justice... about making things right instead of lamenting what's wrong, cultivating strength rather than perpetuating failure."

Community corrections, which has been a primary component of corrections in Minnesota for many years, encompasses many of the restorative justice principles. Victim services, restitution, community service, face-to-face meetings between victims and offenders and their support systems, victim impact panels, and skill-building classes for offenders are elements of restorative justice.

Expanded role for victims

Under restorative justice, crime victims are offered more opportunities to regain personal power.

Currently, victims frequently feel left out of their own cases except possibly as witnesses. One of the key developers of restorative justice, criminal justice specialist Howard Zehr, emphasizes that victims have many needs. They need chances to speak their feelings, experience justice, and have the power restored to them that has been taken away by the offender. Restorative justice allows for victim involvement in determining how those needs can best be met.

Community participation

The role of the community also changes dramatically under restorative justice.

The entire community bears some responsibility for all its members, including the victim and the offender.

The community is responsible for supporting and assisting victims, holding offenders accountable, and ensuring opportunities for offenders to make amends. Communities are also responsible for addressing the underlying causes of crime to reduce victimization in the future.

Offender's role

Under the existing criminal justice system that concentrates on legal issues and the possibilities of avoiding punishment, offenders are not required to realize the harm they have done. They often are not required to do anything to right the wrong they have committed.

Incarceration by itself may be considered a relatively easy sentence compared to the restorative justice approach that holds offenders directly accountable to victims, confronts them with the personal harm they have caused, and requires that they make real amends to the victim and the community.

In the existing system, offenders are in a passive role. In a restorative justice system, they become active participants in repairation.

The restorative justice framework is based on the following assumptions:

- ❑ Crime results in injuries to victims, communities and offenders.
- ❑ All parties should be included in the response to crime including the offender, the community, and the victim if they wish.
- ❑ The victim is central to the process of defining the harm and how it might be repaired.

- Accountability is based on accepting responsibility and repairing the harm done.
- Crime is defined as an act against another person and the community, rather than an act against the state. The state has an interest in resolving the problem but is not the primary actor. The offender becomes accountable to the victim and the community, not the state.
- Restoration or making things right replaces the imposition of punishment for its own sake as the highest priority of the system. Restitution would become common, not the exception.
- Results in a restorative justice model are measured not by how much punishment was inflicted, but by how much reparation was achieved.
- Crime control rests primarily with the social system. The criminal justice system can have only a marginal impact **on the level** of crime because it can only respond to crime after it occurs.
- Offenders are accountable for their individual choices, but communities are also accountable for the conditions which may exist that contribute to crime.

Public opinion

A 1991 statewide public opinion survey asked residents about their support for the underlying concepts of restorative justice.

By large margins, respondents expressed an interest in participating in victim/offender mediation, chose restitution over jail time for a burglary sentence, and supported prevention efforts over prison as an effective way to reduce crime.

According to the Minnesota Citizens Council on Crime and Justice, the survey results suggest that the public will support a restorative justice model that emphasizes repairing the harm done by a crime, encourages face-to-face accountability to the victim and community where appropriate, and

What does restorative justice look like in practice?

- ✓ Support and assistance are provided to **victims and families of victims** by community volunteers, faith communities, and professional agencies.
- ✓ Restitution is given priority over other financial obligations of the offender.
- ✓ **Victim/offender mediation** is available for victims who wish to participate.
- ✓ The community provides work **opportunities** so that offenders can **pay restitution** to victims.
- ✓ Offenders are engaged in community service projects valued by the community.
- ✓ Treatment programs include components dealing with victim empathy and responsibility as a community member.
- ✓ Offenders face the personal dimension of the harm caused by their crime through victim/offender mediation, family group conferencing, sentencing circles, victim panels or community panels.
- ✓ If they wish, victims have the **opportunity** to help shape obligations placed on the offender for repairing the harm.
- ✓ The courts and corrections provide annual reports on measures related to reparation.
- ✓ Community **members** are involved in advisory boards which guide the courts and corrections.
- ✓ Businesses and community organizations work with offenders to reintegrate them into the community as offenders fulfill their obligations.
- ✓ Faith communities sponsor support groups for offenders trying to change life patterns.
- ✓ Offenders leave the corrections system with greater skills than when they entered.
- ✓ Every criminal justice intervention leaves the community stronger than it was before the crime occurred.

recognizes that crime control rests primarily outside the criminal justice system.

Change possible

Change toward a more restorative response to crime is guided by the following questions:

- How can we increase opportunity for victim involvement in defining the **harm** and potential repair?
- How can we increase offender awareness of injury to the victim and the community?
- How can we encourage offender acknowledgment of the wrongness of the behavior?
- How can we acknowledge the harm to the victim and confirm that the victim is not responsible for what happened?

- How can the community send messages of disapproval while not banishing offenders?
- How can the community provide opportunities for the offender to repair the harm?
- How can the community be involved in the process of holding offenders accountable?

Mutual responsibility between individual and community is the loom on which the fabric of community is woven. Crime represents a failure of responsibility. Our response to crime needs to emphasize and reestablish **mutual responsibility**.



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The Charitable Choice Provision of the 1996 Welfare Reform Act

(From Public Law 104-193, the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," enacted August 22, 1996).

SEC. 104. SERVICES PROVIDED BY CHARITABLE, RELIGIOUS, OR PRIVATE ORGANIZATIONS.

(a) IN GENERAL.-

(1) STATE OPTIONS .-A State may-

(A) administer and provide services under the programs described in subparagraphs (A) and (B)(i) of paragraph (2) through contracts with charitable, religious, or private organizations; and

(B) provide beneficiaries of assistance under the programs described in subparagraphs (A) and (B)(ii) of paragraph (2) with certificates, vouchers, or other forms of disbursement which are redeemable with such organizations.

(2) PROGRAMS DESCRIBED.-The programs described in this paragraph are the following programs:

(A) A State program funded under part A of title W of the Social Security Act (as amended by section 103(a) of this Act).

(B) Any other program established or modified under title I or II of this Act, that-

(i) permits contracts with organizations; or

(ii) permits certificates, vouchers, or other forms of disbursement to be provided to beneficiaries, as a means of providing assistance.

(b) RELIGIOUS ORGANIZATIONS.-The purpose of this section is to allow States to contract with religious organizations, or to allow religious organizations to accept certificates, vouchers, or other forms of disbursement under any program described in subsection(a)(2), on the same basis as any other nongovernmental provider without impairing the religious character of such organizations, and without diminishing the religious freedom of beneficiaries of assistance funded under such program.

(c) NONDISCRIMINATION AGAINST RELIGIOUS ORGANIZATIONS.-In the event a State exercises its authority under subsection (a), religious organizations are eligible, on

the same basis as any other private organization, as contractors to provide assistance, or to accept certificates, vouchers, or other forms of disbursement, under any program described in subsection (a)(2) so long as the programs are implemented consistent with the Establishment Clause of the United States Constitution. Except as provided in subsection (k), neither the Federal Government nor a State receiving funds under such programs shall discriminate against an organization which is or applies to be a contractor to provide assistance, or which accepts certificates, vouchers, or other forms of disbursement, on the basis that the organization has a religious character.

(d) RELIGIOUS CHARACTER AND FREEDOM.—

(1) **RELIGIOUS ORGANIZATIONS.** a religious organization with a contract described in subsection (a)(1)(A), or which accepts certificates, vouchers, or other forms of disbursement under subsection (a)(1) (B), shall retain its independence from **Federal, State,** and local governments, including such organization’s control over the definition, development, practice, and expression of its religious beliefs.

(2) **ADDITIONAL SAFEGUARDS .-**Neither the Federal Government nor a State shall require a religious organization to-

(A) alter its form of internal governance; or

(B) remove religious art, icons, scripture, or other symbols;

in order to be eligible to contract to provide assistance, or to accept certificates, vouchers, or other forms of disbursement, funded under a program described in subsection (a)(2).

(e) RIGHTS OF BENEFICIARIES OF ASSISTANCE.—

(1) **IN GENERAL.**-If an individual described in paragraph (2)has an objection to the religious character of the organization or institution from which the individual receives, or would **receive,assistance** funded under any program described in subsection **(a)(2),the** State in which the individual resides shall provide such individual (if otherwise eligible for such assistance) within a reasonable period of time after the date of such objection with assistance from an alternative provider that is accessible to the individual and the value of which is not less than the value of assistance which the individual would have received from such organization.

(2) **INDIVIDUAL DESCRIBED.**-An individual described in this paragraph is an individual who receives, applies for, or requests to apply for, assistance under a program described in subsection (a)(2).

(f) **EMPLOYMENT PRACTICES**-A religious organization’s exemption provided under section 702 of the Civil Rights Act of 1964 (42 U.S.C.~~2000e-1a~~) regarding employment practices shall not be affected by its participation in, or receipt of funds from, programs described in subsection (a)(2).

(g) **NONDISCRIMINATION AGAINST BENEFICIARIES.**-Except as otherwise provided in law, a religious organization shall not discriminate against an individual in regard to rendering assistance funded under any program described in subsection (a)(2) on the basis of religion, a religious belief, or refusal to actively participate in a religious practice.

(h) **FISCAL ACCOUNTABILITY.**-

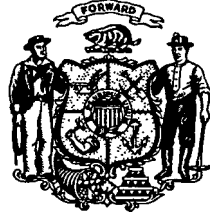
(1) **IN GENERAL.**except as provided in paragraph (2), any religious organization contracting to provide assistance funded under any program described in subsection (a)(2) shall be subject to the same regulations as other contractors to account in accord with generally accepted auditing principles for the use of such funds provided under such programs.

(2) **LIMITED AUDIT.**-If such organization segregates Federal funds provided under such programs into separate accounts, then only the financial assistance provided with such funds shall be subject to audit.

(i) **COMPLIANCE.**-Any party which seeks to enforce its rights under this section may assert a civil action for injunctive relief exclusively in an appropriate State court against the entity or agency that allegedly commits such violation.

(j) **LIMITATIONS TO USE OF FUNDS FOR CERTAIN PURPOSES.**-No funds provided directly to institutions or organizations to provide services and administer programs under subsection (a)(1)(A) shall be expended for sectarian worship, instruction, or proselytization.

(k) **PREEMPTION.**-Nothing in this section shall be construed to preempt any provision of a State constitution or State statute that prohibits or restricts the expenditure of State funds in or by religious organizations.



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**COPY
FOR YOUR
INFORMATION**

February 16, 1999

TO: MEMBERS OF THE SPECIAL COMMITTEE ON FAITH-BASED
APPROACHES TO CRIME PREVENTION AND JUSTICE

FROM: David J. Stute, Director *David Stute*

The next meeting of your Committee is scheduled to be held on ***Tuesday, February 23, 1999, at 10:00 a.m., in Room 417 North (the G.A.R. Room), State Capitol, Madison.***

Enclosed for your review in advance of that meeting are the following:

1. The Summary of Proceedings of the January 20, 1999 meeting.
2. Memorandum from Walt Thieszen, Division of Adult Institutions, Department of Corrections, regarding religious practice requests (February 15, 1999).
3. Provisions of the Department of Corrections administrative rules relevant to the practice of religion by inmates (undated).
4. *A Guide to Charitable Choice*, The Center for Public Justice, Washington, DC, and the Christian Legal Society's Center for Law and Religious Freedom, Annandale, Virginia (January 1997), submitted by Committee Member Reverend Susan Vergeront (enclosed for Committee members only).
5. *The Twenty-First Century City, Resurrecting Urban America*, Mayor Stephen Goldsmith, submitted by Chairperson Jensen (undated).
6. "Jezem Call," *PRISM*, submitted by Chairperson Jensen (March/April 1998).
7. Testimony submitted by Andrew Peyton Thomas (January 20, 1999).
8. A notice of the March 11, 1999 meeting of the Special Committee.

If you have any questions regarding the above materials or the next meeting, please feel free to call Legislative Council Senior Staff Attorneys Shaun Haas, at (608) 267-9025, or Mary Matthias, at (608) 266-0932.

DJS:ksm;kjf
Enclosures

**COPY
FOR YOUR
INFORMATION**

JOINT LEGISLATIVE COUNCIL

SUMMARY OF PROCEEDINGS

**SPECIAL COMMITTEE ON FAITH-BASED APPROACHES TO
CRIME PREVENTION AND JUSTICE***

Room 141, Department of Natural Resources Building
2300 North Martin Luther King, Jr. Drive
Milwaukee, Wisconsin

January 20, 1999
10:00 a.m. - 1:40 p.m.

[The following is a summary of the January 20, 1999 meeting of the Special Committee on Faith-Based Approaches to Crime Prevention and Justice. The file copy of this Summary has appended to it a copy of each document prepared for or submitted to the Committee during the meeting. A tape recording of the meeting is retained for two years by the Legislative Council Staff in its office at Suite 401, One East Main Street, Madison, Wisconsin.]

COMMITTEE MEMBERS
PRESENT:

Speaker Scott R. Jensen, Chairperson; Sen. Alberta Darling, Vice Chairperson; Rep. Tim Carpenter, Secretary; Reps. Robert Goetsch, Eugene Hahn and Carol Owens; Public Members Rev. Keith Dobbe, John Emberson, Clarence Hill, David Lerman, Mary Steppe, Roger Utnehmer and Rev. Susan Vergeront; and Nonvoting Public Member Vaso Bjegovich.

COMMITTEE MEMBERS
EXCUSED:

Reps. Spencer Black and David Travis; and Public Member Rabbi Sidney Vineburg.

OTHER LEGISLATOR
PRESENT:

Rep. Jon Richards.

COUNCIL STAFF PRESENT:

Mary Matthias and Shaun Haas, Senior Staff Attorneys.

APPEARANCES:

Robert J. Polito, President, Faith Works International, New York, NY; Nicky Cruz, Nicky Cruz Outreach, Colorado Springs, CO; Andrew Peyton Thomas; Paul Gordon, Union of Brothers, Inc., Milwaukee; Terrance Ray, Milwaukee; Mary Steppe, Executive Director, Project RETURN, Milwaukee;

***ATTENTION: THE NEXT MEETING OF THE SPECIAL COMMITTEE ON FAITH-BASED APPROACHES TO CRIME PREVENTION AND JUSTICE WILL BE HELD ON TUESDAY, FEBRUARY 23, 1999, AT 10:00 A.M. IN ROOM 477 NORTH (THE G.A.R. ROOM), STATE CAPITOL, MADISON.**

APPEARANCES (Con't.): Kathleen Shapiro, Project RETURN, Milwaukee; Deacon Bill Locke, Executive Director, Community Enterprises of Milwaukee; and Tom McMahan, Brickyard Ministries, Milwaukee.

OTHER PRESENT: Minister William Mohammed, Nation of Islam, Milwaukee; Cordelia Taylor, Family House, Inc., Milwaukee; Sherry A. Hill, Milwaukee; Jeffrey Seaborg, Richland Center Fellowship, Richland Center; and Others.

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CALL TO ORDER AND ROLL CALL
[AGENDA ITEM 1]

Chairperson Jensen called the meeting to order. The roll was taken and it was determined that a quorum was present. For the benefit of the members of the audience, the Committee members briefly introduced themselves and described their interest in the topics to be addressed by the Committee. Chairperson Jensen introduced Minister William Mohammed of the Nation of Islam. He said that he had recommended that the Joint Legislative Council appoint Mr. Mohammed to serve as a public member of the Special Committee, and invited him to sit with the Committee.

APPROVAL OF THE SUMMARY OF PROCEEDINGS OF
THE DECEMBER 2, 1998 MEETING
[AGENDA ITEM 2]

Ms. Steppe moved, seconded by Reverend Dobbe, to approve the Summary of Proceedings of the December 2, 1998 meeting of the Special Committee. The motion passed on a unanimous voice vote.

MATERIALS DISTRIBUTED
[AGENDA ITEM 3]

Mr. Haas noted that the following two items had been mailed to the Committee prior to the meeting:

- Memo No. 1, Description of the Decision of U.S. Court of Appeals (Seventh Circuit) in Kerr v. Farrey, 95 F. 3rd 472 (1996) (January 12, 1999)
- "God vs. Gangs," Newsweek (June 1, 1998)

PRESENTATIONS BY INVITED SPEAKERS
[AGENDA ITEM 4]

a. Robert J. Polito. President, Faith Works International. New York, NY

Mr. Polito explained that he was in Milwaukee to assist in the establishment of Faith Works Milwaukee, modeled on the program he developed in New York City which provides services to ex-offenders and other persons recovering from alcohol and other drug abuse (AODA). Mr. Polito stressed the importance of focusing on AODA problems when trying to prevent crime. He said that if AODA problems are addressed, then secondary issues, such as criminal activity by addicted persons, will be addressed naturally. He predicted that if AODA problems were sufficiently addressed, the level of success in preventing crime would skyrocket.

Mr. Polito described the program operated by Faith Works in New York City. He said it is a nine month residential program which addresses all the issues faced by ex-offenders, including family, job, education, parenting and AODA issues, among others. He said the criteria for graduation from the program are finding a job and a place to live and learning proper money management techniques. He reported that the program is very effective: 4/5 of the men who have graduated from the program have remained drug free, employed and are not receiving welfare. He said that the program is also cost-effective, at a cost of approximately \$42 per day per person served, compared to a similar program operated by the City of New York which is twice as expensive.

In response to a question from Senator Darling, Mr. Polito explained that the cost of the program is relatively low because of the many services and in-kind contributions provided by members of the faith community which would otherwise have to be purchased.

Mr. Polito said that the Faith Works Milwaukee program will focus on sobriety, job creation and family reunification. In response to a question from Representative Goetsch, Mr. Polito said that the drugs most commonly abused by the men served by the New York program are cocaine and heroin and most participants also use alcohol.

In response to several questions regarding the faith element of the New York program, Mr. Polito explained that all formal religious practices are optional or voluntary. In addition, the New York Governor's staff has interviewed participants to determine whether they felt forced into religious practices and found that they did not. Mr. Polito explained that participants who are not Christian are referred to the leaders of their own faiths for spiritual guidance. He said the program promotes any type of faith expression because it is integral to recovery for participants to strengthen their faith regardless of what it may be. However, he noted that participants who do not profess any spiritual beliefs also succeed in the program.

b. Reverend Susan Vergeront. Milwaukee

Reverend Vergeront provided some additional information on the planned Faith Works Milwaukee program. She **said** it will serve primarily men with dependent children and will provide three months of residential AODA treatment and then assist each participant in finding a job which pays a minimum of \$7.50 per hour. She said the program will serve men from all faiths and although the program will be Christian-oriented, it will refer men of other faiths to leaders in their faith.

Reverend Vergeront discussed the funding for the program and stated that there currently is a significant funding gap.

c. Nicky Cruz, Nicky Cruz Outreach. Colorado Springs, CO

Mr. Cruz told Committee members that the story of his life speaks for itself as to the power of faith in turning one's life around. He explained that he was born in a ghetto in Puerto Rico, in a dysfunctional, abusive family. He said he was severely abused by his mother, felt unloved and rejected and tried to hang himself when he was a child. He said that loneliness is a

killer and explained that he had no heroes in his life and by the age of eight was possessed by anger and hate. After the repeated abuse by his mother, he reacted by vowing that no one would ever hurt him again and he became a gang leader.

When he was 19 years old, Mr. Cruz met Reverend David Wilkerson who converted him to Christianity. At that point, Mr. Cruz exchanged his weapons for a Bible.

Mr. Cruz told the Committee that a psychiatrist once told him that he could never function as a husband or a father and that he was a psychopath. However, Mr. Cruz said that finding Jesus Christ changed his life and he has since become a good husband and father.

Mr. Cruz described the work of **Nicky Cruz Outreach**. He said that after his experiences as a child, he felt an obligation to work with gangs and troubled youth. In 1959 he began the Teen Challenge program which was eventually expanded internationally.

Mr. Cruz described the latest project of Teen Challenge, which is an off-Broadway play which will be performed by teens in several cities, in venues of no more than 3,000 people. He said that this program will give kids a chance to get out of their bad environment and learn about acting and develop faith in themselves.

Mr. Cruz explained that after he became a Christian, his mother and several siblings also became Christians. He stressed that if he can change his life, anyone can.

In response to a question from Senator Darling, Mr. Cruz said he understands the difficulties of mixing government and religion. However, he said that organizations such as his, which are attempting to reach inner-city youth, need resources which he referred to as their "ammunition." He urged the Committee to help programs that are successful. He said that it is important to do everything to help those that are successful working with youth.

d. Andrew Pevton Thomas

Mr. Thomas noted **that** as crime rates remain high, the nation's opinion leaders are finally acknowledging religion's effectiveness in fighting anti-social behavior. He commented that although the use of religion for this purpose may seem like a hot idea today, it is really a very old idea. He said that although governments have tried, there is no secular substitute for religion. He stated that religion is vital for providing an internal, omnipresent deterrent to anti-social conduct through fear of supernatural punishment and by laying the foundation for a conscience.

Mr. Thomas discussed a number of studies which show the effectiveness of religiously based crime prevention efforts. These studies show that the greater a person's commitment to religion, the less likely he is to commit a crime or use illegal drugs. Inmates involved in religion are also less likely to break prison rules or to be disciplinary problems.

Mr. Thomas said that modern rulings of the Supreme Court run counter to what the founders of our country wanted. He said that if the founders had desired official hostility toward religion, they would have adopted such policies right after the Constitution went into effect.

Mr. Thomas noted that Wisconsin led the nation in fighting for school vouchers for parochial schools and urged the Committee to show the same courage in supporting government aid to charities that rely on religion.

In response to a question from Mr. Lerman, Mr. Thomas stated he believes that families are breaking down because there is no social pressure for men to deny themselves for the good of their family.

In response to a question from Chairperson Jensen, Mr. Thomas told the Committee that the Teen Challenge program is a successful model which is in operation all around the United States and has been successful for 40 years.

e. Paul Gordon. Union of Brothers, Inc., Milwaukee. and Terrance Ray. Milwaukee

Mr. Gordon said that the vast majority of ex-offenders need support when they return home. He said that his organization provides that support. He said that all ex-offenders are welcome to take part in the program, regardless of their religious beliefs.

Terrance Ray, a former offender, told the Committee about his experience with the Union of Brothers. He said that the organization provided him with many services and stressed that the faith-based component of the program led to his success. He said Mr. Gordon and his staff are available to assist program participants 24 hours a day. Mr. Ray said that volunteers are essential to this type of program, providing support and fellowship for ex-offenders.

In response to a question from Chairperson Jensen, Mr. Gordon said that the program operates in all prisons in Wisconsin. He said the program works with offenders while they are still in prison and then follows them back into the community. He said it is important to envelop ex-prisoners with services, including job training.

In response to a question from Representative Goetsch, Mr. Gordon explained that parole and probation officers refer people to his program. He said a person need not be a member of any particular faith to participate, rather the person must only be willing to change. He said the personnel of the program serve as role models for the ex-offenders. Mr. Ray added that it is the philosophy of the program that whatever type of faith can pull a person through should be supported. He said the program provides ex-offenders with a vehicle to first have faith in mankind.

Mr. Gordon stressed to the Committee members that his organization has a serious need for funding.

f. Mary Steppe, Executive Director, and Kathleen Shaniro, Project RETURN, Milwaukee

Ms. Steppe described Project RETURN. She said it was founded by 15 churches and 13 nonprofit organizations, and was incorporated in 1981. She said the goal of the program is to return ex-offenders to the community by assisting them in finding employment. She said the program has been very successful.

Ms. Steppe said that recently, at the request of ex-offenders, Project RETURN started a program for the children of ex-offenders. She said 35 children attend the program every weekend.

Ms. Shapiro told the Committee that she is an ex-offender who served two years at Taycheedah Correctional Institution. Ms. Shapiro said that she was served by Project RETURN and is currently employed there.

Ms. Shapiro stressed to the Committee the importance of religious faith to her when she was imprisoned, separated from her children and the rest of her family. She said that her faith gave her an opportunity to forgive herself and others. She said the Committee should seriously consider using religion to help combat crime because it is the only thing that really works. She questioned why the state does not provide financial support to Project RETURN, pointing out that it is not a religious organization. She said it is only members of the religious community who will take steps to help others without getting anything in return.

g. Deacon Bill Locke, Executive Director, Community Enterprises, Milwaukee

Mr. Locke told the Committee he is the Deacon of the Community Baptist Church in Milwaukee. He said the church practices diversity, adding that it is the only way to function in today's society.

Mr. Locke explained that Community Enterprises, which is affiliated with the church, provides technical services and training to all persons, regardless of their faith. He said that Community Baptist Church, which has been offering this service since 1987, is the first African-American church to provide economic development services in Milwaukee. Mr. Locke said he is convinced that belief in a higher power turns lives around. However, he said he does not believe in proselytizing. He said in order to be effective, the church cannot just promote itself, but must be sincerely interested in helping others.

h. Tom McMahan, Brickyard Ministries, Milwaukee

Mr. McMahan explained to the Committee that Brickyard Ministries, which is affiliated with the Salvation Army, provides faith-based aftercare for men coming out of incarceration.

Mr. McMahan said that the present correctional system is failing. He said that the current "lock'em up" policy will only create more prisoners and will not reduce crime. He said that once a prisoner has served his or her time, it is society's duty to help them reintegrate into the community.

Mr. McMahan said that many men who find faith and live as Christians inside prisons find it difficult to live as Christians once they have been released. He said that this is due, in part, to the many choices that they must make on “the outside” as opposed to in prison. Therefore, mentoring and aftercare are very important to help these men avoid returning to crime.

Mr. McMahan said it is very difficult to find volunteers to work with these men, but that people are starting to come forward.

In response to a question from Chairperson Jensen, Mr. McMahan said that the lack of support systems for ex-offenders is the biggest problem faced by these men.

OTHER BUSINESS
[AGENDA ITEM 5]

There was no other business before the Committee.

PLANS FOR FUTURE MEETINGS
[AGENDA ITEM 6]

The next meeting of the Special Committee was scheduled for *Tuesday, February 23, 1999, at 10:00 a.m., in Room 417 North (the G.A.R. Room), State Capitol, Madison.*

ADJOURNMENT
[AGENDA ITEM 7]

The meeting was adjourned at 1:40 p.m.

MM:kjf:ksm;kjf

Tommy G. Thompson
Governor

Jon E. Litscher
Secretary



State of Wisconsin
Department of Corrections


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February 15, 1999

MEMORANDUM

TO: Mary Matthias, Senior Staff Attorney
Legislative Council

FROM: 
Walter D. Threszen, Chief, Program Services
Division of Adult Institutions

SUBJECT: Religious Practice Requests

This memo responds to the request of the Legislative Council's Special Committee on Faith Based Approaches to Crime Prevention and Justice, for examples of the Department's application of administrative rules in responding to religious practice requests. The majority of inmates who participate in religious activities are involved in regular ecumenical activities of larger umbrella groups and generally do not generate special or unusual requests.

The attached examples represent some of the wide range of situations institutions deal with regularly. Per your request, I have also attached copies of DOC 309, Internal Management Procedure #4, Publications and Executive Directive 16, Fraternalization Policy.

Please feel free to contact me if you have questions.

Attachments

CC: Cindy O'Donnell, Deputy Secretary
Dick Verhagen, Administrator, DAI
Robert Margolies, Legislative Liaison

RELIGIOUS PRACTICE REQUESTS

1) **Pedophile claims religion protects his possession of pictures of young naked children.**

An officer conducting a search of an inmate's property discovered nude photos of young female children and a photo actually depicting an adolescent female performing oral sex on an adult male. The photos were confiscated as contraband and the inmate was issued a conduct report for possession of contraband. The inmate challenged the action arguing these photos were religious items and represented the Goddess of his religion. He further argued that destruction of these items would violate his religious freedom.

These materials were denied because their possession by this inmate interfered with his rehabilitation as a sexual predator of small children.

2) **Some volunteers abuse their privileges by developing romantic or personal relationships with inmates.**

The Department encourages the involvement of volunteers who provide additional resources that enhance institution program goals and objectives. Serving as a volunteer is subject to approval of the institution warden. Approved volunteers are required to complete various forms including acknowledgment of the Department's Fraternalization Policy (Executive Directive 16). This prohibits staff and volunteers from establishing social and physical relationships with inmates outside of their role of staff or as a volunteer.

The Department has been confronted with a number of instances where it was necessary to deny or terminate the services of volunteers who have developed inappropriate relationships with inmates. In one situation, two religious volunteers used religious group meetings as an opportunity to permit romantic physical touching between them and inmates, one of whom wrote sizzling love letters to one of the inmates.

3) **Inmates claiming to practice religions of which they may be the only practitioner create resource and fairness issues when they request their own separate service.**

Institutions have received numerous requests from inmates to hold separate services for their particular group or sect. Wisconsin Administrative Code 309.6 l(2) sets forth the process for inmates to submit a written request to the institution warden for permission to participate in specific practices. Although the religious beliefs of each inmate must be respected, institutions do not have the space nor the resources to provide for and supervise a regular service or ritual for every denomination or sect represented in the

population. Group gatherings present concerns for the security and safety of inmates and staff, and strain scarce resources. Institutions provide opportunities for generic congregative worship services for major umbrella groups.

An inmate requested a separate congregative service for his particular religion which had no other known adherents at that correctional institution. This creates problems with the Department's fair allocation of its scarce resources and also raises equal protection concerns since if this is done for one individual, it must be done for others.

4) **Sometimes inmates attempt to justify possession of literature which is obscene and /or advocates violence or hatred under the guise of religion.**

The Department's Administrative Rules prohibit obscene materials and publications that teach or advocate violence or hatred and present a danger to institutional security and order of the institution. In one situation an inmate possessed Nazism and white supremacist materials claiming they were religious literature.

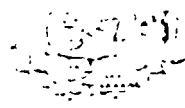
In another situation, an inmate alleged that his religious beliefs did not allow him to work in the institution kitchen, and that he required a special diet. The institution investigated his request and in the process confiscated materials written by the inmate entitled "The Sacerfice" depicting the abduction and sexual torture of females. The inmate claimed he was an adherent to a particular religion and this was protected religious material.

Inmates found with this type of literature in their possession are subject to discipline and prohibited items are confiscated as contraband.

5) **Sometimes inmates use religious "study groups" for purposes other than religion which threatens institution security.**

According to Wisconsin Administrative Code 309.365 no group of inmates may refer to itself by a collective name, conduct meetings, or engage in any organized activity which promotes identification with a particular group unless the institution warden has approved the group and its organizational activities. Institutions diligently monitor such activities and inmates who violate rules are subject to discipline.

Disruptive and unauthorized groups have on a number of occasions attempted to infiltrate religious services and study groups to advance their own purposes. Such activities frequently cause disruption, create a hostile environment, and result in the intimidation of inmates as disruptive group members attempt to manipulate religious services and assume leadership roles. Activities have involved efforts by gang members to conduct gang meetings, to plan riots and to pass materials whose possession is forbidden such as drugs or weapons or obscene or gang literature.



State of Wisconsin
Department of Corrections

EXECUTIVE DIRECTIVE 16

May 1991 - Revised January, 1997

Subject: Fraternalization Policy

I. Background

The Department of Corrections has developed a policy on the relationships between employees of the Department of Corrections and inmates, adult and juvenile offenders under the Department's control and under the control of Department of Health and Family Services (the Wisconsin Resource Center). This policy is designed to eliminate any potential conflict of interest or impairment of the supervision and rehabilitation provided by Department employees for inmates, adult and juvenile offenders in correctional settings.

II. Policy

- A. Employees of the Department of Corrections may not have relationships with
 - an inmate, adult or juvenile offender under the supervision or custody of the Department of Corrections or the Department of Health and Family Services;
 - the spouse of an inmate, adult or juvenile offender;
- B. Employees who have or are considering relationships or who have unplanned contacts with persons identified in (A) above must inform their immediate supervisors in writing of the circumstances.
- C. Employees that have unplanned contacts must keep them brief and businesslike.
- D. This policy does not include employer-directed contacts or those contacts that are part of the employee's job duties.
- E. Employees may be granted exceptions by following the procedures outlined below in Section V, "Exception Procedure."

III. Definitions

Employee is any person employed by the Wisconsin Department of Corrections, including limited-term, project, and permanent employees, students, interns, and those persons under a contractual relationship with the Department of Corrections under a purchase of services arrangement if the contract places the vendor in an employment relationship to the Department. This definition does not include inmate workers.

Relationship includes

1. living in the same household with an inmate, adult or juvenile offender;
2. working **for** an inmate, adult or juvenile offender;
3. employing an inmate, adult or juvenile offender with or without remuneration;
4. extending, promising, or offering any special consideration or treatment to an inmate, adult or juvenile offender;
5. having personal contacts (other than those required by the employee's job duties) such as communicating through verbal or written means or being in a social or physical relationship with an inmate, adult or juvenile offender;
6. providing or receiving goods and/or services with or without remuneration for or to inmates, adult or juvenile offenders;
7. being involved in actions such as those described in Section 302.095 of the Wisconsin Statutes, which reads as follows:

Delivering Articles to Inmate. "Any officer or other person who delivers or procures to be delivered or has in his possession with intent to deliver to any inmate confined in a state prison or shall deposit or conceal in or about a prison, or the precincts thereof, or in any vehicle going into the premises belonging to a prison, any article or thing whatever, with intent that any inmate confined therein shall obtain or receive the same, or who receives from any inmate any article or thing whatever with intent to convey the same out of the prison, contrary to the rules or regulations and without the knowledge or permission of the warden or superintendent thereof, shall be imprisoned not more than 2 years or fined not exceeding \$500."

Inmates, adult, and juvenile offenders (hereafter referred to as "offenders") are all adult and juvenile offenders under the legal custody or supervision of the Department of Corrections or of the Department of Health and Family Services. This includes individuals on adult probation and parole, juvenile aftercare, or adults and juveniles committed to state correctional institutions including the Wisconsin Resource Center.

IV. Clarification of Policy

- A. The policy is applicable to all employees of the Department of Corrections whether permanent, project, or limited term. It includes students, interns, volunteers, or persons under a contractual relationship if the contract places the vendor in an employment relationship with the Department.
- B. Relationships governed by the policy include
 1. those between employees and adult and juvenile offenders under the custody or supervision of the Department of Corrections or the Department of Health and Family Services, including the Wisconsin Resource Center.
 2. those between employees and spouses of offenders.
- C. There is no blanket exception for employees and their relationships with immediate family members. Employees must notify their supervisors when offenders are family members. Supervisors will review the circumstances surrounding supervision or custody and determine possible conflicts of interest for the Department and employee. Supervisors must follow the exception procedure as outlined in the policy. In most cases involving family members, exceptions can be granted. The Secretary will decide the course of action and the employee will be notified in writing. The employee will be cautioned about providing special favors or advising the offender in matters of supervision or custody.
- D. The policy does not apply to former offenders no longer under the supervision or custody of the Department of Corrections or the Department of Health and Family Services.
- E. The policy does not include relationships that employee's family members may have with offenders under supervision or custody. The Department cannot control the behavior of relatives of its employees.
- F. The policy does not apply to inmate workers in as much as they are not employees of the Department. The behavior of inmate workers is governed by Department of Corrections administrative rules.
- G. Relationships prohibited by the policy include
 1. living in the same household with an offender. [Living in the same apartment building or complex, but in a separate apartment, is permissible. Living in a separate unit of a duplex is not forbidden.]
 2. working for an offender. The employer/employee relationship can cause a conflict of interest for the employee as well as the offender. It also violates the ethical standard of not receiving anything of value from an inmate, adult or juvenile offender.

3. employing an offender. [Approved work-release programs where agency funds are used to pay the wages are not forbidden.]
4. extending, promising, or offering special consideration or treatment to an offender, such as giving special preference outside of normal work practices. [Examples are granting a furlough to an inmate who does not meet the furlough requirements or granting work release to an inmate who does not meet the requirements for work release.]
5. having personal contacts or being in a social or physical relationship with an offender. The policy does not prohibit personal contacts that are required for employees to perform their jobs. It also does not prohibit incidental personal contacts in group activities such as church-related activities and sporting events. The policy prohibits personal contacts that are usually one-to-one such as dating, knowingly forming close friendships, corresponding without an exception granted, and visiting that is not job related or without an exception granted.
6. providing or receiving goods and/or services for or to an offender. This provision is not meant to prohibit casual relationships such as buying gas at a gas station where a work-release inmate or parolee pumps the gas for your car. It does cover situations such as accepting or giving gifts or providing services in exchange for work performed.

V. Exception Procedure

The policy provides for exceptions that are granted by the Secretary of the Department after review of the specific circumstances by the supervisors and division administrators.

- A. The policy places certain responsibilities on employees:
 - For informing immediate supervisors in writing of any present relationship or any relationship being considered which has the potential of violating this policy.
 - For reporting to their immediate supervisors any unanticipated non-employer-directed contacts with offenders.
 - For ensuring that any unplanned contacts are brief and businesslike.
 - For requesting exceptions to the policy through their supervisors.
- B. Employing units shall submit the specifics of employee contacts and requests for exceptions to the division administrators who will forward them to the Department Secretary. The reports should include recommendations from the appointing authorities. The Secretary will review all recommendations and either approve or deny the request.

C. The only exception to this procedure is that the warden or superintendent is the final authority to approve or deny requests under Sec. 302.095 of the Wisconsin Statutes, Delivery of Articles.

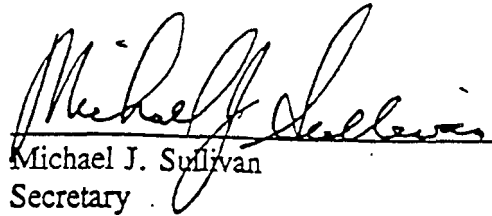
D. Technical assistance on interpretation of this policy is available through the Bureau of Personnel and Human Resources.

VI. Employee Statement

All Department of Correction employees shall sign and return to their supervisors a Form DOC-1558 acknowledging receipt of the fraternization policy.

VII Originated by

Bureau of Personnel and Human Resources



Michael J. Sullivan
Secretary

Each employee of the Department of Corrections is required to read the Work Rules, Fraternization Policy, Executive Directives on Federal Drug Free Workplace Act and Drug and Alcohol Confidentiality, Code of Ethics, Employment or Retention of Individuals Having an Arrest or Conviction Record, and the Harassment Policy as published in the Employee Handbook. Each employee will sign a statement acknowledging receipt of these policies.

EMPLOYEE STATEMENT:

I attest to the fact that:

- 1) I have carefully read the Department of Corrections Work Rules. I understand that violation of a Department Work Rule is considered sufficient grounds for disciplinary action ranging from reprimand to immediate discharge, depending on the seriousness of the offense and the number of infractions.
- 3) I am aware of the contents of the Fraternization Policy and the guidelines concerning relationships between employees of the Department of Corrections and inmates, clients, residents, and offenders. I understand that it is my responsibility to report any possible conflicts with the policy to my supervisor. If necessary, I will request an exception to the policy.
- 3) I am also aware of the Department's Executive Directive on the Federal Drug Free Work Place Act and the Executive Directive on Drug and Alcohol Confidentiality.
- 4) I have carefully read the Department of Corrections Code of Ethics.
- 5) I have carefully read the Department of Corrections policy statement on the employment or retention of individuals having an arrest or conviction record.
- 6) I have carefully read the Department of Corrections Harassment Policy.

Employe's Name <i>(Please Print)</i>	
Employe's Signature	Date Signed
Employee's Classification .	
Employing Unit or Institution	
<p><i>Please turn this signed statement in to your supervisor. This sheet will be filed permanently in your Personnel File.</i></p>	

INTERNAL MANAGEMENT PROCEDURES

PROCEDURE NUMBER: DOC 309 I.M.P. #4	
ORIGINAL EFFECTIVE DATE: 1-15-78	NEW EFFECTIVE DATE: 6-1-92
SUPERSEDES NUMBER: HSS 309, I.M.P. #4	DATED: 11-1-81
CROSS REFERENCE: ADMINISTRATIVE RULE: 309.35 OTHER: ACA: 3-4280; 3-4281 PAGE NUMBER: 1 OF 2	

State of Wisconsin

Department of Corrections
Division of Adult Institutions

SUBJECT: PUBLICATIONS

Pursuant to DCC 309.06, the Division shall encourage and facilitate inmate reading of publications, including books, magazines, newspapers and pamphlets.

The following regulations shall govern:

1. Publications, including books, magazines, newspapers and pamphlets shall be purchased through approved retail outlets or the publisher.
2. Inmates shall not receive publications as described in DOC 309.06(2)(b) (1-5) as follows :
 - (a) Materials which advocate aggressive, hostile behavior of a kind which either exhorts physical violence, the threat of such violence, or the use of intimidation toward any person is not allowed. Further, materials that generally teach or advocate violence within a penal institution (with or without an identifiable victim) or the undermining of programs offered are likewise prohibited.
 - (b) Materials which portray criminal behavior as acceptable conduct are prohibited. To be prohibited, the material must contain explicit encouragement or advocacy of criminal acts or methods of committing crime; or exaltation of those who have committed crimes as models upon which to pattern one's conduct; or a specific theme that crime is a desirable life style. Materials that specify the mechanics of a criminal act are specifically prohibited.
 - (c) Materials which illustrate, explain, describe, or teach martial arts, or the manufacture of weapons or explosives, or advocate behavior contrary to duly established institution rules or Wisconsin Statutes, are prohibited. Materials which illustrate, explain, describe or teach how to sabotage of disrupt communications networks, including a prison's internal communications, are prohibited.
 - (d) Materials which are obscene as defined in DOC 309.05 (6) (c) 8.
3. **Items** received but not approved as defined in DOC 309.06(2) (b) shall be returned to the sender pursuant to 309.06(3).
4. The institution shall not be held responsible for financial obligations initiated by inmates subscribing to membership in book clubs. Inmates shall be required to secure permission prior to subscribing to membership in book clubs.

INTERNAL MANAGEMENT PROCEDURES

HSS 309, I.M.P. #4	
ORIGINAL EFFECTIVE DATE: 1-15-78	NEW EFFECTIVE DATE: 6-1-92
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State of Wisconsin

Department of Corrections
Division of Adult Institutions

SUBJECT: PUBLICATIONS

5. Private subscriptions for newspapers, periodicals, and magazines may be received if they meet established regulations.
6. Each institution warden *or* superintendent shall establish rules for the identification, display, and movement of materials about and within the institution.
7. Inmates may possess a total of 25 publications, to include books, magazines, newspapers, periodicals, and all other publications including legal, religious, educational, etc.

Provisions of Department of Corrections Administrative Rules Relevant to the Practice of Religion by Inmates

DOC 309.05 Publications. (1) The department shall facilitate inmate reading of publications, including books, magazines, newspapers, and pamphlets.

(2) Section DOC 309.04 applies to receipt of publications. In addition, the department shall restrict receipt of publications by inmates as follows:

(a) Inmates may only receive publications directly from the publisher or other recognized commercial sources in their packages.

(b) Inmates may not receive publications that:

1. Teach or advocate violence or hatred and present a danger to institutional security and order.
2. Teach or advocate behavior that violates the law of the state or the United States or the rules of the department.
3. Teach or describe the manufacture or use of weapons, explosives, drugs, or intoxicating substances.
4. Are injurious as defined in s. DOC 309.04 (4) (c) 8.
5. Teach or describe the manufacture or use of devices that create a substantial danger of physical harm to self or others.

(c) The department may not prohibit a publication on the basis of its appeal to a particular ethnic, racial, or religious audience or because of the political beliefs expressed therein.

(3) If a publication is not delivered pursuant to sub. (2), the department shall notify the inmate and the sender. The inmate may appeal the decision to the warden within **10** days of the decision.

DOC 309.14 Special visits. (1) Public officials and members of private and public organizations who provide services to inmates may visit institutions with the approval of the superintendent. Arrangements for all such visits shall be made in advance with the superintendent to minimize interference with normal operations and activities. Such visits may be limited in duration and restricted to certain areas of the institution by the superintendent for security reasons. A person who has not attained his or her 18th birthday may not participate in any group visit except with the approval of the superintendent.

(2) Attorneys and clergy shall be permitted to visit their clients to give professional services during institution business hours on weekdays. An attorney's aide and law students shall be permitted the same visitation privileges only if an attorney has informed the institution in writing that the aide and law students will visit. Attorneys' aides, law students, and clergy must give advance notice of their visit, when feasible. Visiting attorneys, their aides, and clergy shall not count against the allowable number of visitors or hours of visits of the inmate. In emergencies, attorney and clergy visits may be permitted outside business hours with the superintendent's approval.

DOC 369.23 Food.

(5) An inmate may abstain from any foods that violate the inmate's religion. Consistent with available resources, staff shall provide a substitute from other available foods from the menu at that meal. **The** substitution shall be consistent with sub. (1).

DOC 309.365 Inmate activity groups. (1) **DEFINITIONS**. In this section:

(a) "Activity group" means a group of inmates organized to promote educational, social, cultural, religious, recreational or other lawful leisure time activities.

(b) "Inmate union" means an organization of inmates formed for the sole purpose of **servicing** the inmates' collective interest with respect to conditions of confinement issues such as inmate wages, working conditions, housing conditions, programming and services.

(2) **APPROVAL REQUIRED**. (a) With the exception of **organizational** activities approved by the superintendent under sub. (3), no group of inmates may refer to itself by a collective **name**, conduct meetings or engage in any organized activity which promotes identification with a particular group unless the group has been approved by the superintendent under sub. (5).

(b) With **the** exception of organizational activities approved by the superintendent under sub. (3), no individual inmate or other person from inside or outside the institution may attempt to **carry** out organized activities within an institution which promote identification with a particular group unless the group has been approved under sub. (5).

(3) **APPROVAL OF ORGANIZATIONAL ACTIVITIES**. A **group** of inmates or an inmate on behalf of a group may submit a written request to the superintendent for permission to engage in organizational activities necessary to formulate a request for approval as an activity group under sub. (4). The request submitted under this subsection shall state the objectives and proposed activities of the proposed activity group and the activities necessary to formulate a request for approval under sub. (4). Using the criteria listed in sub. (5) (b) 1., the superintendent shall determine within 14 calendar days after receipt of the request whether to permit the requested organizational activities.

(4) **REQUESTS FOR APPROVAL**. A group of inmates or an inmate on behalf of a group may submit a written request to the **superintendent** for approval as an activity group. The request shall include:

- (a) The name of the group;
- (b) The group's mailing address and phone number, if other than that of the institution;
- (c) The names of the group's officers;
- (d) The group's objectives and proposed activities;
- (e) The inmate population the group intends to include;
- (f) The group's charter, constitution or by-laws, or all 3 documents;
- (g) The institutional services and resources, such as staff time or meeting rooms, needed for the group's activities; and
- (h) The anticipated **length** and frequency of group meetings or activities.

(5) **CRITERIA FOR APPROVAL OF GROUPS**. (a) The decision to approve a group as an activity group rests solely with the superintendent.

(b) In determining whether to approve a group, the superintendent shall:

1. Consider whether the objectives of the group promote educational, social, cultural, religious, recreational or other lawful leisure time interests of the inmates who will participate in the group's activities;

2. Consider whether the proposed activities can be accommodated within the available resources of the institution;

3. Balance the benefits of the group's activities and services against the necessary allocation of staff time and institution resources to the group. The consideration of the group's benefits to inmates is subject to s. DOC 309.61 (1) (a).

4. Consider whether the activities, services or benefits offered by the group are adequately provided by existing programs, groups or resources readily available to the inmate population.

(c) The superintendent may not approve:

1. An inmate union; or

2. A group that he or she has reasonable grounds to believe is an inmate gang, as defined in s. DOC 303.02 (9).

(d) The superintendent shall approve or disapprove a request submitted under sub. (4) within 14 calendar days after receipt of the request

(e) If the superintendent approves an activity group, he or she shall **specify** in writing:

1. **The** types of activities the group may undertake;

2. The times at which the group may hold its meetings and activities;

3. The places where the group may hold its meetings and activities;

4. The maximum number of members of the group;

5. Whether persons from outside the institution may participate in the group's meetings or activities, and the maximum number of those persons permitted;

6. The name of the staff member assigned as advisor to the **group**;

7. Whether a staff member's presence is required at group meetings and activities;

8. Whether the group is required to provide the **superintendent** with an agenda prior to meetings, minutes of its meetings, and a **list** of inmates and other persons who attend its meetings; and

9. Whether the group is required to provide the superintendent with an up-to-date list of group members.

(6) **INSTITUTIONAL POLICIES.** Each superintendent shall establish written policies which cover:

(a) Money-making activities by groups;

(b) Group membership dues;

(c) Group activities off-grounds;

(d) The responsibilities of staff advisors to groups; and

(e) Fiscal responsibility requirements of groups.

(7) WITHDRAWAL OF APPROVAL. (a) A superintendent may withdraw approval of an activity group if he or she has reasonable grounds to believe that:

1. The group has created a disturbance as defined in s. DOC 306.22;

2. The group poses a threat to the order and security of the institution;

3. The group has developed a purpose or practice outside the scope of its original charter, constitution or by-laws;

4. The group's purposes and activities no longer provide benefits to inmates which, on balance, warrant the staff time and institution resources which must be allocated to the group; or

5. The group has violated a statute, administrative rule or institutional policy or procedure.

(b) The superintendent shall notify the activity group in writing of the withdrawal of approval and of the reasons for the withdrawal.

DOC 309.61 Religious beliefs and practice. (1) GEN-

ERAL PRINCIPLES. (a) The department may not discriminate against an inmate or an inmate group on the basis of the inmate's or group's religious beliefs. The department recognizes that religious beliefs can provide support to inmates which may aid in their adjustment to institutional life and can lead to development of community ties which may aid in the inmates' successful reintegration into the community upon release.

(b) Inmates may pursue lawful religious practices required or encouraged by their respective religions which are consistent with their orderly confinement, the security of the institution and fiscal limitations.

(c) The department may not require inmates to participate in religious activities and may not maintain information concerning an inmate's religious activities other than records required for administrative purposes.

(d) To the extent feasible, institutions shall make facilities and other resources available to **inmates** for religious practices permitted under sub. (2).

(2) **INMATE PARTICIPATION IN RELIGIOUS PRACTICES. (a) An** inmate who wants to participate in religious practices that involve others or that affect the inmate's **appearance** or institution routines shall submit a written request to the superintendent for permission to participate in specific religious practices. The request shall include a statement that the inmate professes, or adheres to, a **particular** religion and shall specify the practices of the religion in **which** the inmate requests permission to participate.

(b) Upon receipt of the request, the superintendent, with the assistance of the chaplain or designated staff person with appropriate religious training, shall determine **if the** request is motivated by religious beliefs.

(c) In determining whether the request is motivated by religious beliefs, the superintendent may consider:

1. Whether there is literature stating religious principles that support the beliefs; and

2. Whether the beliefs are recognized by a group of persons who share common ethical, moral or intellectual views.

(d) In determining whether the request is motivated by religious beliefs, the superintendent may not consider:

1. The number of persons who participate in the practice;

2. The newness of the beliefs or practices;

3. The absence from the beliefs of a concept of a supreme being; or

4. The fact that the beliefs are unpopular.

(e) If the superintendent determines that the request is not **motivated** by religious beliefs, he or she shall deny the request.

(f) If the superintendent determines that the request is motivated by religious beliefs, he or she shall grant permission to participate in practices that are consistent with orderly confinement, the security of the institution and fiscal limitations.

(g) The superintendent **shall** establish guidelines consistent with this section to govern inmate participation in religious practices and the guidelines shall be posted in a conspicuous place or distributed to all inmates.

(3) **RELIGIOUS SERVICES AND PRAYER.** To the extent feasible, each superintendent, upon the recommendation of the chaplain or designated staff person with appropriate religious training, shall arrange the institution's schedule so that inmates may attend religious services, pray or meditate at the times prescribed or encouraged by their religion.

(4) **CHAPLAINS.** (a) **The** superintendent may employ one or more chaplains to coordinate and supervise the institution's religious programs.

(b) The chaplain shall hold services, provide counseling and provide other pastoral services or shall arrange for other qualified persons to provide these **pastoral** services.

(c) The chaplain or designated staff person with appropriate religious training shall develop **and** maintain close relationships with religious resources from outside the institution **and shall** encourage religious groups from outside the institution to take part in institution religious activities.

(d) The superintendent, upon the recommendation of the chaplain or designated staff person with appropriate religious training, may **permit** representatives of religious groups from outside the institution to visit inmates, hold services, provide counseling, perform marriages and provide other services commonly provided by chaplains. The superintendent may compensate these representatives.

(5) **RELIGIOUS LITERATURE.** Religious literature transmitted through the U.S. mail or otherwise distributed shall be delivered to inmates **unless** the security director has reasonable grounds to believe that the literature will jeopardize the safety of the institution or that the literature promotes **illegal** activity.

(6) **SYMBOLS.** Inmates may wear garments, religious medals and other symbols required by their religion, unless this interferes with the identification of inmates or the security of the institution.

(7) **DIETARY LAWS.** (a) Upon request of an inmate, the superintendent **shall** provide the inmate with a **list** of the contents of each meal in advance of the **meal**.

(b) To the extent feasible, institutions **shall** plan **meals** so that an inmate may maintain a nutritious diet while complying with dietary restrictions prescribed by the **inmate's religion**.

(c) An institution may accommodate inmate requests for special foods for **religious** observances.

Distributed by Chairperson Jensen.
(2/10/99).

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Mayor Stephen
Goldsmith

over another. Second, cities can undertake initiatives with houses of worship, as discussed below, that strengthen communities while encouraging connections that promote religious involvement.

Churches and Parks

When inner-city youths form relationships with churches, good things happen. In Indianapolis, crime and decay haunted many of our two hundred parks. Near a fair number of these troubled parks stood a church. Often the church represented the most important mediating force in the community, yet it lacked adequate resources to program youth activities. At the same time, the community viewed the park not as theirs, but as the city's, and therefore did not reach out in a possessive way to protect and preserve the green and play areas.

We worked to generate interest among these churches in maintaining parks in their neighborhoods. Two church deacons, both city employees, led the effort to create church-park relationships, asking church-affiliated groups to help reclaim nearby parks. The city offered small contracts to neighborhood churches and other community groups to see if they could provide better quality services for the money.

Indianapolis now contracts with ten churches to maintain twenty-nine city parks. Maintenance includes mowing the grass, sweeping the walks and driveways, picking up litter, and keeping athletic areas free of glass and debris. The parks department continues to maintain equipment, make capital improvements, and accept liability on park property.

These partnerships tend to drive away alcoholics and drug addicts and allow families to return. For example, one local church recently organized a community cleanup of a nearby park

and painted a picnic shelter once defaced with gang graffiti. The park area that residents fearfully avoided now houses a church-based summer children's camp.

Another church organized a trash patrol for children after school. Children who participate and who cannot afford the cost of park amenities (pools, for example) receive vouchers for free admission to these facilities. One participating church hired residents from its homeless shelter to cut the grass in the parks. Now local businesses pay these individuals to cut their lawns as well, and an area bank provides materials and trash can liners for all of the parks involved.

Today in Indianapolis, church leaders and neighborhood residents work together in the parks, developing a sense of ownership. They cost the city no more money than previous maintenance, take better care of the parks than the city did, and make the parks safer for general use. The city posts signs in each of these parks with the name and phone number of the involved church and the name of the pastor. Reinvigorated churches help provide services that support neighborhood-driven employment and training, social services, recreation, and housing revitalization. These partnerships not only serve to build up the economic fabric of a neighborhood, but also refocus attention on the importance of churches as sources of moral renewal.

Religion and Troubled Youth

Connecting juvenile offenders to local churches provides a stable connection for young people. More importantly, religion can help people in ways that government cannot. While the criminal justice system generally can only punish, churches can rehabilitate troubled youth by instilling in them respect, obedience, and hope.

The Indianapolis Training Center provides a remarkable example of how government can work with faith-based organizations.

The center was established by Bill Gothard, the founder of a Christian ministry that conducts teaching seminars across the country. Gothard proposed purchasing a closed hotel in the city and converting it into a training facility for young men and women, where they would participate in a biblically based program designed to instill character. We encouraged this participation, and Gothard brought in young people and their families from around the world.

Eventually, Gothard suggested that the center might use its strong religious and moral base to work with troubled teenage boys and girls. Today the juvenile court uses the center as an alternative to Girls' or Boys' School. The program works not only with these adolescents, but also with their families, reflecting a belief that the child who resists his parents is likely to resist the constraints of law and society as well.

The program's emphasis on values has proved an enormous success. Eighty-four percent of the juveniles assigned to the center since it opened in 1993 are offenders who have run afoul of the law multiple times. Yet in four years more than 71 percent of all juveniles sent to the center have stayed out of trouble with the law.

Now other courts refer youths to the center. A DuPage County, Illinois, judge sentenced a young woman named Minnie to the center after she had been arrested more than seventy times. When Minnie and her parents first arrived at the center, she was violently opposed to joining the program. After speaking with two young graduates of the center, however, she decided to give it a try. Over the next several months, her attitude changed dramatically, thrilling her parents and amazing the judge overseeing her case. Minnie decided to stay at the Indianapolis Training Center to

Only hardened skeptics have trouble accepting the idea that widespread belief in a Supreme Being improves the strength and health of our communities.

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complete her training to become a cosmetologist. Like the young women who convinced her to give the program a try, Minnie wants to serve other young people at juvenile detention centers in order to help them make the right choices.

These are not the kinds of stories that one generally hears about the traditional juvenile justice system, from which most kids emerge more estranged and disaffected than when they entered. While reducing crime among juveniles requires that we consistently punish criminal activity, delinquent youths need more than punishment—they need guidance. Connecting troubled youths to programs that can communicate and instill good values can be a powerful tool in reducing recidivism and stemming the tide of juvenile crime.

Faith-Based Assistance

Church-based groups are infinitely better suited than government to help vulnerable individuals. Government is typically unable to discriminate between the truly needy and those simply seeking a handout. Government programs are also prevented from instructing those on assistance about the need to exercise moral judgment in their decision making. They can offer the soup, but not the salvation.

In contrast, when church congregations help needy individuals, they do more than merely pass out checks to case numbers—they help their neighbors, thereby strengthening the bonds of community. And by making faith an integral part of that assistance, church-based efforts provide needy individuals with a source of strength and the moral impetus for personal change that government simply cannot.

Too often government usurps the role of churches in helping struggling community members. Worse, strained interpretations of

the constitutional separation of church and **state** have in some cases produced overt government antagonism toward religion. The proper role for government is to support, not supplant, the involvement of religious institutions in their communities. Government can accomplish more by working with faith-based efforts than it can ever achieve by derailing them.

In Indianapolis, suburban and urban religious leaders regularly work with city officials to look for ways to reach out to communities in need. For example, in 1995 the city provided grants to twelve churches to run summer programs to develop skills, prevent violence, and provide evening recreation. Nearly 1,500 inner-city children participated. One of the churches runs a summer day camp in the park it maintains, and a local bank is setting up educational accounts for each camper.

Other faith-based groups provide assistance without the involvement of the city. The Care Center, for example, affiliated with the Englewood Christian Church, provides shelter to the homeless and victims of domestic violence, food and clothes to the destitute, and moral support to the poor in spirit. Before free, hot lunches are served at the center, a prayer is said. During the meal, a woman sings religious songs. The center furnishes medical and dental services and runs a camp program for children. In return, the center encourages (and in some cases requires) patrons to help on the grounds and attend religious services. Director Ernie Medcalfe says the Care Center is always in need of funding. The center could easily obtain a government grant-if it were willing to drop the religious component of its programs. But that, Ernie says, would eliminate the quality that makes the center successful.

The Salvation Army also combines assistance with religion in a way that profoundly affects the lives of many in need. Like the Care Center, the Salvation Army makes religious instruction and

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personal responsibility conditions of assistance. Every person housed in the group's Adult Rehabilitation Center must participate in religious services and work in some capacity for the good of the center. Work might include driving a truck, serving as a clerk, sorting through donated items that the center sells, or providing janitorial services. For the Salvation Army, there is a close connection between religious observance and self-sufficiency. As the director of the center expresses it, the Salvation Army believes that "if you make a man spiritually right, he can handle most of his problems on his own."

Twelve years ago, Becky Khan arrived at one of the organization's domestic violence shelters with three young children in tow. The shelter provided her with comfort, aid, support, and encouragement, and enrolled her in a support group for battered women. Becky often left the shelter through a back door that exited through a church, providing her first exposure to the Salvation Army's religious underpinnings. Slowly she became active in worship services. She later went on to earn her Graduate Equivalent Degree and become a teacher, and she now directs one of the organization's community facilities.

Other faith-based rehabilitation efforts show equally promising results. Consider the example of Teen Challenge, a worldwide Christian organization that helps people of all ages to escape from drug addiction. Studies have found that the group has long-term cure rates of 67 percent to 8.5 percent for drug addiction. These impressive results are achieved at a fraction of the cost of secular programs that have far lower success rates. Reverend Phil McClain, who directs Teen Challenge of Michigan, attributes this success to prayer and Bible study, noting that "[W]hen a student gets right with God, that is the starting point for progress."

Ironically, despite the success of programs like those run by the Salvation Army and Teen Challenge, these groups have at times

met with government interference and antagonism. In an editorial for the *Wall Street Journal* (August 15, 1995) entitled "Addicted to Bureaucracy," Marvin Olasky describes how Texas bureaucrats opposed to the religious emphasis of the Teen Challenge program attempted to put them out of business. Good results were irrelevant to state officials, who cited the program for not using state-licensed substance abuse counselors and proposed a fine of \$4,000 a day.

The Salvation Army has also encountered government interference, in this case from officials opposed to government support of faith-based nonprofit organizations. A decade ago a judge in Indianapolis prohibited the county government from providing homeless care through the Salvation Army because of its religious base. According to the judge, acceptance of government funds, amounting to 15 percent of the organization's revenues, required the cessation of mandatory church services in return for assistance.

Laws and regulation's that prevent the government from using religious institutions to provide services have the ultimate if unintended effect of favoring homelessness over shelter with religion, and preferring addiction over treatment by unlicensed counselors. Significantly, these are all *voluntary* programs. Tragically, in some cases government aversion to religion is now so pronounced that bureaucrats actively discourage prayer and religious worship.

We experienced this firsthand in Indianapolis. Each year the federal government grants dollars to cities to fund summer jobs for youth. Although mayors appreciate the opportunity to be associated with any sort of job creation, the programs provide little lasting value. In the summer of 1994 we asked church groups

Mayors of both parties have long known: The values associated with civility and reverence are far more essential to helping the inner cities than bigger government.

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to become involved in our job-training program in hopes that linkages would be created between underemployed urban youths looking for jobs and value-promoting institutions in their neighborhoods.

At the end of the summer the state of Indiana cited the city as "out of compliance" with a state law barring the use of funds for promoting religious activities. The state complained that participants voluntarily prayed before meals or going on field trips. Voluntary cursing, of course, did not create an offense, but voluntary praying violated the rules.

Every day, churches and faith-based organizations across America undertake extraordinary efforts *to* improve their communities and the lives of needy individuals. Many people are motivated by their faith to help the less fortunate. Faith works for a lot of people, and to the extent that government precludes groups from using this potent tool for positive change it does a great injustice.

Even simple cleanups can inspire confidence. A grandmother from out of town wrote me about her daughter, who lived with a fourteen-month-old baby in a difficult area. She writes of a visit after some storm damage when she "saw ten young people with rakes and shovels. They were cleaning our area of that debris! We asked and found out that they were from the International Church of God. Praise the Lord for such community service! They even invited us to their church and to an upcoming home-cooked dinner."

The issue is not partisan. While at a conference about juvenile crime, John Norquist, the bold Democratic mayor of Milwaukee, scribbled me a memorable note that read, "There are far greater threats to inner-city kids than religion." What the federal government has yet to figure out, mayors of both parties have long known: The values associated with civility and reverence are far more essential to helping the inner cities than bigger government.

THE JERZEM CALL

BY JOHN J. DIULKO, JR.

ARCHITECTURE P. SM

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INNER-CITY

CHURCHES ARE

SAVING AT-RISK

YOUTH, BUT

THEY NEED

AND DESERVE

SUPPORT

A WHIRLWIND IS COMING, BUT...

Today, America is home to about 57 million children under age 15, 20 million of them ages four to eight. There will be over 30 million teenagers by the year 2006, the highest number since 1975. Whatever their race, region, religious orientation, socioeconomic status or other demographic description, there is every reason to suppose that most of these young people will grow up just fine. Most of them, though to widely varying degrees, will enjoy the human and financial support they need to become civil, sober, skilled, educated and employable adults.

But some **children** find long odds against making it to **adulthood** physically **safe**, **behaviorally** sound, and economically **self-supporting**. Lii calculate the odds mainly by reference to poverty and joblessness. The percentage of **children** under six **living** in **households** with annual incomes **under \$7,600** (in constant 1994 dollars) **doubled** between 1975 and 1994. Fewer **than** half of young black high school dropouts were either working or looking for work in **the** mid-1990s. Conservatives, on the **other** band, **focus** more on **such factors** as **out-of-wedlock** births to **teenagers**, **juvenile** drug **use**, and juvenile crime. The **teenage illegitimacy** ratio (the percentage of **all** live bii to teenagers, ages 15 to 19, **that** occur out of wedlock) rose **from** 29.5 percent in 1970 to 76 percent in 1994. in many **cities**, the percentage of juveniles in custody who tested positive for drugs has **more** than tripled **since** 1990. Despite dramatic post-1992 drops in violent crime **nationally**, in the 1990s black males ages 14 to 24 remained roughly 1 percent of the total U.S. population but over 15 percent of homicide victims and around 30 percent of **assailants**.

Most big-city **children** are members of a racial or **ethnic** minority group. All the **data** indicate **that**, as a class, it is mainly **black** and Hispanic juveniles growing up **fatherless** in high-crime, low-income **inner-city neighborhoods** who find the longest odds against leading decent and productive adult lives in **the** first decades of the **twenty-first** allury.

Studies show that **well-structured mentoring programs** like Big Brothers Big Sisters of America (BBBS) can reduce delinquency, **first-time** drug **use**, biting behavior, and **school failure** among **some** at-risk **urban minority youth**. But to benefit from BBBS, a **child** must first **have** at **least** one adult in his or **her life** who is caring and capable **enough** to **seek** outside help for the child, **follow through** on it (attend meetings, **return calls**, fill out forms, follow directions, **accept guidance**), and get it (BBBS, **like** most of the best mentoring programs, has a long waiting list). The sad truth is **that** some **children**, including increasing **numbers** of **inner-city** minority **adolescents** and young **adults** who **find** themselves in **trouble** with the **law**, **lack** even one **such** **positive** and **persistent** adult **presence** in **their everyday** lives.



The BBBS program was evaluated in **the** early 1990s by Public/ **Private** Ventures (P/PV), **the** nation's leading youth policy research organization. Based on his nearly three decades of professional experience in creating and scientifically evaluating a wide range of **social** programs for at-risk youth and **young** adults, P/PV's president, Gary Walker, concluded that **few**, if any, such programs (probation monitoring, **youth mentoring**, school-based **counseling**, employment and **training**, and others) ever actually reach **America's** most severely at-risk inner-city young people.

Besides, explains Waker, it matters not whether the program **in** question is designed to address teen pregnancy, youth employ-ment, school **paformana**, or crime **prevention** among **this** or that segment of the at-risk urban youth population. Programs for at-risk urban youth that do some good are invariably community-based programs that, whatever else they do, stick

to the basics" by fostering meaningful adult-child relationships. Unfortunately, most **programs** for at-risk urban **youth**—big and small, public, for-profit, nonprofit, and mixed-merely dole out services or change material incentive systems without fostering such **relationships**. That, concludes **Walker**, is why they have **failed** so miserably for so long.

In the absena of real community-based, adult-rich help, the **future** of America's growing popularior of at-risk urban youth is grim. James Q. **Wilson**, the nation's most widely respected social analyst, minced no words in **describing** this dilemma co a group of police executives last spring:

Another generation of young people is coming along to replace those who are now in wards or prisons.... We know that the number of young males who will be on the streets of our cities will be a growing fraction of the American population over the next five years.... In a couple of years, these kids will be in junior high school, and all hell will break loose—unless something profound happens w transform their prospects....

...SOMETHING PROFOUND IS HAPPENING

I am convinced that something profound is happening to save at-risk urban youth from individually devastating and socially destructive problems before it's too late for all concerned. **All** across America, inter-faith networks of inner-city clergy and religiously-motivated volunteers are slowly but surely mobilizing themselves and responsible, caring adults in their communities to **help inner-city** minority youth achieve literacy, avoid violence and access jobs. Based on my last two years of research on cities **all** across the **country**, here **are** three **examples**:

BOSTON

Rev. Eugene F. Rivers III, Rev. **Jeffrey** Brown, and other black Christian clergy, in partnership with the leaders of **several local** synagogues and the **Catholic** Archdiocese of Boston, have been working diligently on a &h-based, take-to-the-streets "**Ten-Point** Plan." The plan was devised **through conversations** the clergy had with a local drug kingpin. To save neighborhood youth, he told them, they must get out on the streets and fight the battle up **close**: "I'm there, **you're** nor, I win, you lose."

The clergy determined to be them, 24-7-365: to reclaim the public spaces of Dorchester from drug dealers, thuggers and muggers; to improve the educational and employment prospects of the city's most truly disadvantaged children; and to provide an up-close, personal and spiritual presence in the lives of toddlers and teenagers who have few, if any, other caring, responsible adults present in their everyday lives.

Joined by church-ed young black professionals like Eva Thome, a Ph.D. candidate in political science at MIT, the ministers fashioned real working partnerships with local police antigang units and probation authorities, developed after-school 'latch-key learning' programs, and ran summer camps for neighborhood children. Partly as a result of their work, Boston has had only one gun-related juvenile homicide in over two years, and rams of teen violence, teen pregnancy and other problems have fallen in Dorchester. Journalists including George F. Will, Bob Herbert and Joe Klein have celebrated their success. Eager to learn how they might replicate the Boston effort, clergy from cities all across the country have been meeting with Brown, Thome and others under the aegis of the Dorchester ministers' National Ten-Point Leadership Foundation since last May.

Even now., however, Rivers and company are struggling to meet everyday expenses and consolidate their early successes via initiatives big and small. Big initiatives include "Operation 2006," a church-anchored plan for putting a caring, responsible adult next to every single at-risk child in Dorchester before the year 2006 while implementing a multi-faceted neighborhood economic redevelopment project. Small initiatives include "Operation Christmas," which once again this winter holiday season put presents beneath the trees of poor preteens in Dorchester.

Noting Boston Police Department projections that the number of black male residents of the city between the ages of 14 and 24 will soar by the year 2005, Rivers pleads:

Many of these children are now the four-to fourteen-year-olds running around at night on our streets... We're trying to reach their mothers, reconnect them with fathers, and take them on in a holistic way. But

their social force is growing at least as fast as ours... We need at least some financial or logistical help. We can't save these children alone.

PHILADELPHIA

The research clearly confirms it: America's Catholic schools do a miraculous job of cost-effectively educating non-Catholic, inner-city minority children who otherwise would be relegated to that bureaucratic limbo of expensive educational failure known as the inner-city public school system. And as is suggested by the interesting if singular example of Philadelphia's Gesu elementary school, even independent inner-city Catholic education can work.

In the early 1990s, the Archdiocese of Philadelphia decided to dose the Gesu parish and hence the Gesu elementary school in the heart of one of North Central Philadelphia's poorest, most drug- and crime-ridden neighborhoods. Over 200 K-8 students, almost all of them non-Catholic blacks, attended the school. Father George Bur, a Jesuit priest, was encouraged by the Archdiocese to seek independent financial support and keep the school open. Father Bur, with the aid of a board led by Ralph Saul, former head of the Philadelphia Stock Exchange, and Winston Churchill, a Main Line Philadelphia business leader, won just enough financial backing from Jewish, Protestant, Catholic and secular sources to keep the school open.

Today Gesu serves 417 North Central Philadelphia neighborhood children and serves them incredibly well. The school's tuition is \$1,500 per pupil (the real per pupil cost is about \$3,100), and most students receive total or partial financial aid. Almost without exception, the Gesu students read at or above grade level and go on to complete high school. Several students in each graduating class go on to attend the most academically rigorous, prestigious and competitive private and parochial schools in the Philadelphia region.

While Gesu's modest physical plant and budget are strictly no-frills, the Gesu school's enrichment programs are many and diverse. The school's choir is world-class. Led by African-American counselors and adult volunteers, its Imani (Swahili for "faith") program and dated mentoring programs teach the students about their racial and ethnic heritages, help them to contend sen-



By some estimates, there are now as many as 400 independent, faith-based inner-city "black flight" Christian academies; most of them unaccredited and run mostly out of black evangelical Christian churches.

sibly with such tough neighborhood realities as violence and drug abuse, and help -- them to work through such thorny neighborhood par-group issues as 'Is it white to study?'" Eighth-graders receive special weekly instruction in American government from yours truly. The school's science program is being helped along by Gesu board member and Temple University physical anthropologist, DL Moses Williams (who sends his own son to the school).

This past December, Gesu hosted a public forum on the prospects of faith-based inner-city education programs. The forum, held in Gesu's basement, was moderated by Tim Russert of NBC's "Meet the Press" and featured former Secretary of Education William J. Bennett, Joe Klein of *The New Yorker*, and othm The event helped to kick off the school's new development drive.

Gesu is only one model of successful faith-based inner-city education. By some estimates, there are now as many as 400 independent, faith-based inner-city "black flight Chriian academies," most of them unaccredited and run mostly out of black evangelical Christian churches (or, more precisely, church basements). There are also countless inner-city Bible studies programs, like that of North Philadelphia's Pentecostal Deliverance Evangelistic Church, where poor children who attend public schools on w&days learn to worship-and read-in the evenings or on weekends.

CAMDEN, NEW JERSEY

On one of the most desolate streets of what many consider to be pound-for-pound the most distressed city in America, Miguel Torres and his wife, Mercedes, pray, serve poor chikkn. rehabilitate (or, as they prefer, "save") drug addicts, and pray some more. Torres, a man in his 40s who speaks with a thick Spanish accent, has three visible bullet-hole scars on the back of his neck to remind him of his own drug-addiaed, violent days on the mean streets of Camden. For a dozen years he has led a community-based organization in Camden called My Brothers Keeper (MBK). MBK has no paid staff and receives not a penny in government money. Torres, an evangelical Christian, describes its mission as a "Christ-centered approach to the successful treatment of chemical dependency and homelessness."

For an estimated \$50,000 a year, most of it provided by the contributions of MBK

program beneficiaries and three local Latino churches, Torrcs, his wife, and a dedicated team of volunteers run faith-based drug-treatment shelters (a couple dozen beds each for men and women), staff neighborhood youth recreation and after-school programs, and provide a wide range of vocational and job placement services. MBK also has partnered successfully with local law enforcement. For example, for several years running, on the night before Halloween (so-called "Mischief Night" or "Devil's Night"), cars and abandoned buildings were set on fire by roving gangs of teenagers. This year, however, Camden did not burn, thanks largely to the work of Torrcs and company who, in partnership with the local police, fanned out across the neighborhoods, and ran special off-the-streets events for neighborhood children.

A few miles from MBK's headquarters is Holy Name of North Camden and its Jesuit Urban Service Team, or JUST. Led by medical doctor and Jesuit priest Father Mark Aita, JUST operates a 24-hour-a-day medical practice that manages over 7,000 patient visits per year; a social service program that specializes in crisis intervention (for example, rapid-response counseling for neighborhood children who have experienced or witnessed extreme acts of violence); Holy Name School, which offers Catholic K-8 education to 210 Hispanic and black students, and is home to an after-school and summer program for over 150 children; and, last but not least, the Holy Name Church, the largest parish in North Camden, which features liturgical and pastoral services including a myriad of church-anchored youth programs (mostly sports) that attract more than 1,200 children each year.

JUST is comprised of Father Aita, a few other priests, several Sisters of Saint Joseph, a few nuns from other orders, Jesuit Volunteer Corps workers, several other paid staff, and lots and lots of community volunteers. Holy Name Parish receives support for core liturgical, pastoral and school services from the Archdiocese of Camden. All the rest that JUST accomplishes in the way of youth and community outreach is supported by donations and various fund-raising events.

Says Sister Helen, who runs the Guadalupe program: "My dad was a Philadelphia police officer. He worries about me living here in this neighborhood... But living here gives us the connections with the kids and their

families that matter most. I can't prove it, but I think being here makes the services we deliver go further and have a bigger and better impact on the children and on the community as a whole."

As bad as it is, Miguel Torrcs wonders aloud what Camden would be like without Father Aita, who, in turn, has the same thought about Miguel Torrcs. Both men wonder how much they could yet accomplish if they had even a bit more outside help.

THE EVIDENCE IS GROWING

In each of these three cities (Boston, Philadelphia and Camden), literally dozens of faith-based efforts are underway to help inner-city children and young adults achieve literacy, avoid violence and access jobs. Similar efforts are underway in almost every other big- and me&m-sized city in the country.

In Los Angeles, Rev. Eugene Williams has organized a network of over thirty small black congregations-known simply as Los Angeles Metropolitan Churches (LAM). LAM work with juvenile probationers in South Central L.A., sponsors ex-offenders who are returning to the neighborhood to reconnect with their families and find jobs. LAM is laying plans for a multi-year effort targeted on South Central's most at-risk youth.

In New York, the New York Theological Seminary (NYTS), led by Rev. William Howard, has over 2,000 graduates who specialize in one or another type of urban youth and community outreach ministry. NYTS is developing a plan for Full-service faith-based youth and community outreach ministries in Harlem, the Bronx, and South East Queens. Already in Queens. Rev. Anthony Nathaniel Lucas has steered the growth of the Shekinah Youth Chapel, which pastors over 1,500 neighborhood youth.

In Louisville, Rev. Kevin Cosby has organized hundreds of black clergy and church volunteers in an effort to replicate parts of the Boston-Dorchester experience

The preliminary findings of the first phase of a multicity, multiyear study by P/PV suggest that many, if not most, of the youth and community outreach efforts that matter in the lives of at-risk youngsters in Austin, Texas occur through a community-rooted, interfaith alliance of area churches and synagogues.

Such inspiring anecdotes about the spread of youth outreach ministries from Boston so Austin are broadly consistent with what can be known at present from empirical research. Scientifically credible "faith factor" studies are progressing through four separate but related literatures on the extent, efficacy, capacity and replicability of faith-based inner-city education, anti-crime, employment, and other youth and community outreach programs.

EXTENT: ARE CHURCHES REALLY OUT THERE SERVING?

The latest contribution to this growing literature is a six-city study of 131 older urban congregations, all of them occupying religious properties that date to 1940 or earlier. The study, released in November 1997 by the Brookings Institution in Washington, D.C., was commissioned by Partners for Sacred Places (PSP), a national organization dedicated to the proper care and maintenance of older religious properties and conducted mainly by Ram Cnaan, an Israeli-born associate professor of social work at the University of Pennsylvania. Among the study's key findings were the following:

- 91 percent of older urban congregations actively serve the larger community through day care, food banks, clothing drives, tutoring classes, after-school programs, health-care programs, substance-abuse counseling, and more.
- 80 percent of these beneficiaries of the programs are not themselves members of the congregation, and most are neighborhood children.
- On average, each congregation supplies the equivalent of 5,300 hours a year in community volunteer work, the equivalent of about two and a half full-time volunteers stationed year-round at each "sacred place."
- On average, it would cost government or for-profit agencies at least \$100,000 to provide the services now provided by each church and synagogue.
- On average, each congregation receives only \$10,000 from program beneficiaries.

Other studies document the extent of faith-based youth and community outreach efforts in poor urban neighborhoods. For example, a 1990 study of over 2,100 urban

black congregations across the country found that about 70 percent of the churches ran or participated directly in one or more outreach activities—staffing day-care facilities, offering drug- and alcohol-abuse prevention programs, administering food banks, serving as after-school "safe havens," and more. About 85 percent of black churches in Atlanta, according to one study, are engaged in some type of outreach program beyond liturgical, pastoral or educational services to members of their congregations. Other site-specific studies, including forthcoming studies of churches in Philadelphia and the District of Columbia, have yielded similar findings on the extent of faith-based programs in urban America.

No one, however, has yet systematically surveyed the extent of younger, smaller, more street-based outreach ministries like those of Torres in Camden or Rivers in Dorchester. Nor are there as yet any systematic baseline data on the scale or contributions of independent faith-based inner-city education programs like the Gesu school or the aforementioned "black flight Christian academics."

EFFICACY: DO FAITH-BASED EFFORTS MAKE A DIFFERENCE?

Natural scientists have made great strides in understanding the "faith factor" in relation to such outcome measures as mental health, physical health and mortality rates. Social scientists lag behind in deciphering its relation, if any, to social health, economic wealth or rates of poverty, crime or other socioeconomic outcomes.

Over the last decade a tremendous amount of scientifically credible information has been amassed on faith-based interventions in relation to various individual and public health outcomes. Some major medical schools, including Harvard's, have incorporated some or all of these new findings into their training programs.

But in the social sciences (with the exception of the literature on Catholic schools), faith is the "forgotten factor" and religion remains the great "omitted variable." Major public policy schools, think tanks and intermediary research organizations are only now beginning to admit the topic to the bar of serious consideration, research and evaluation.



"Charitable Choice" permits faith-based nonprofits that meet all federal laws regarding nondiscriminatory practices to receive federal funds for the delivery of social welfare services without having to divest themselves of their religious character and symbols.

Continued on page 31.

Jeremiah's Call

Continued from page 23.

Still, there is a small but significant body of **research** on the **efficacy** of faith-based approaches to social **ills**. For **example**, recent studies hint that faith-based prison rehabilitation and drug and alcohol-abuse Programs, and **faith-based** nursing homes **are** more **cost-effective** than strictly secular **programs** (whether primarily nonprofit, proprii or governmental) that deal, **respectively**, with prisoners, addicts and the **infirm elderly**.

Regarding at-risk urban youth and young adults, in 1985 Harvard economist Richard Freeman published a first-rate **statistical** analysis that indicated that, **other** things being **equal**, young black males from inner-city poverty tracts who regularly **attend** church are more likely to escape poverty (get jobs) and less likely to be involved in crime than their peers who did not go to church.

A forthcoming reanalysis of the Freeman data **suggests that**, for young black **males** living in the worst poverty tracts of Boston, **Chicago** and Philadelphia, church attendance has been negatively associated **with** juvenile **delinquency**, drug use, and alcohol **use**.

Still, "**faith factor**" research into socio-economic outcomes is in its toddler phase, and even as the literature matures, many key questions will remain unresolved. For **example**, **even** if there were dozens of scientifically sound studies showing that this or that set of faith-based programs were highly **efficacious** in helping at-risk **inner-city** youth to achieve **literacy**, avoid violence or access **jobs**, we would not thereby **necessarily** know much about **the** general conditions under **which** such programs succeeded, or just **how**, whether or **to** what extent the "**faith**" **in faith-based mattered** in the **programs' success**. Nor would we thereby **necessarily** know much of a general nature about how but to take **effective faith-based** programs to **scale**, either in neighborhoods, across a **given** metropolitan region or nationally.

CAPACITY: WHAT DO FAITH-BASED PROGRAMS NEED TO SUCCEED?

There is a good deal of reliable information about **faith** and philanthropy. Most private

foundations and corporations give little money directly to faith-based inner-city social programs. To the extent that they give to them at all, they do so mainly via so-called **para-church organizations**—nonprofit organizations that "**educate** and **train**" religiously motivated youth and community outreach ministers, but do not themselves monitor, mentor or minister to at-risk youth.

Government financial support for religious or **religion-affiliated community** service organizations has gone **mainly** to large national nonprofits **like** the Salvation Army and Catholic Charities. Relatively little government money goes to regional **nonprofits** like St. Francis Academy, a half-century old Mid-West Catholic organization for at-risk youth that **emphasizes** "Therapy in Christ." And virtually no public funds go to small- or medium-sized **inner-city** congregations **or** missions that, while consistently serving needy **neighborhood** people and children of every faith and no faith, are unmistakably evangelical in their religious orientation.

Over the next **few** years, the **focus** of government support for religious or **religion-affiliated** community service organizations may change in response to the "Charitable Choice" provision of the 1996 federal welfare reform law. Charitable Choice permits faith-based nonprofits that meet all federal laws regarding nondiscriminatory practices to receive federal funds for the delivery of social welfare services without having to divest themselves of their religious character and symbols. So **far**, however, Charitable Choice has not been translated into action in many cities. Most faith-based inner-city program leaders remain either unaware of the provision's existence or uncertain about how, if at all, they can or should utilize it.

Harold Dean **Trulear**, an ordained minister with a doctorate in **Sociology**, has spent two decades as a youth pastor in some of the most distressed neighborhoods of New Jersey, New York and Philadelphia. For the last eight years, he served on the **faculty** of New York Theological Seminary and now, as a vice president at **P/PV**, has recently completed a national survey of the **nation's** urban outreach ministers.

Trulear's findings make plain that most

faith-based inner-city programs are led or staffed not by seminary-educated or divinity school-trained ministers. Rather, urban youth and **community** outreach efforts in low-income, high-crime, majority-minority neighborhoods are normally led by "**certificated** ministers" who work full-time jobs, live in the neighborhood, and pastor, preach and perform services in their **20** to 40 hours a week of "spare time." Most of **these** have no paid **assistants** and no formal budget or accounts payable. In **fact**, most receive no support of any kind—neither volunteers nor dollars—from government, corporations, foundations, national church organizations or councils, larger (or richer) urban churches or denominationally kindred suburban churches.

Trulear believes that **inner-city** youth and **community** outreach ministries need at least three things to stabilize, strengthen and enhance their **capacity**:

First, money to defray the costs of everyday activities (like computer-assisted after-school "latchkey learning" ministries) and to cover emergencies (like a broken **radiators** in the basement of **the** church that houses the program).

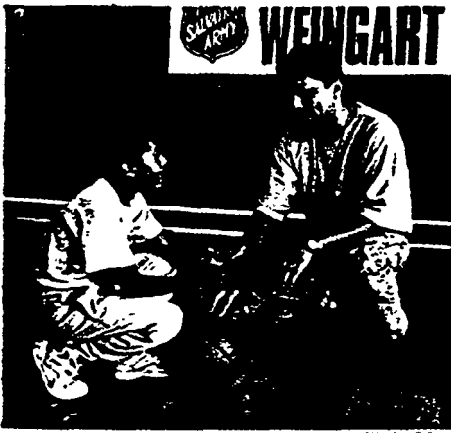
Second, core financial support to cover part-time administrators or ministers who **specialize** in youth outreach.

Third, funds to fashion meaningful, on-site instruction in the legal, budgetary and other aspects of doing youth and community development work in poor urban places (whom in city hall to call for a **local** zoning waiver, what's worked in similar neighborhoods, what's "Charitable Choice," and so on).

Trulear remarks:

"**Everyone** knows, and **research** by the Gallup organization shows, that churches supply more volunteer hours than any other part of the civil society sector—more than colleges, fraternal organizations and so forth. And inner-city churches are increasingly functioning as ... the 'paramedics of civil society' But nobody is really training these paramedics for their work, nobody is helping to pay for their services.

And yet somehow they are to expand **their** capacity to **deal with** at-risk youth and other severe social ills.... **Relative** to what major universities and such



spend, the resource needs of inner-city **ministries** are small. Still, they can't do more—and, I fear, they can't keep doing what they've been doing-without the minimum support **necessary**. And they can't do more alone—that is, without public-private partnerships, without greater corporate and philanthropic support?

REPLICABILITY: CAN EFFECTIVE FAITH-BASED PROGRAMS PROLIFERATE BY DESIGN?

It is one thing to acknowledge the growing evidence, systematic and anecdotal, that at-risk children who are church-ed and/or participate in local faith-based programs fare better than otherwise comparable children who are not church-ed and/or do not participate in such programs. But it is a leap from that belief to the hope that certain types of planned, faith-based interventions into the lives of inner-city children can also make a positive difference, if “only” for some at-risk neighborhood youth, and if “only” at the life-saving, **literacy-and-learning**, job-ready margin.

Likewise, it is one thing to acknowledge the already vast and varied extent of faith-based urban outreach efforts, to accentuate **counterfactual** realities (e.g., as bad as things are for children in these places, how much worse would they be absent the extant contributions of local **faith** communities?), and to celebrate the apparent success of, say, Dorchester's inner-city clergy in partnering with local law officials to dramatically reduce youth violence. But it is quite another thing to suppose that faith-based programs can measurably improve or extend their reach. (For example, does the aforementioned Boston ministers' **ambitious** put-an-adult-in-the-life-of-cry-at-risk-child “Operation 2006” plan for Dorchester have a prayer?) And it's another to suppose that **what worked in**, say, Dorchester can be replicated by design and in a timely, cost-effective way in **Louisville**, the Bronx or North Central Philadelphia.

The only ongoing national effort to document, test the replicability of and provide technical assistance to faith-based inner-city programs for at-risk youth and young adults is that of P/PV. With **Trulear** at the helm, P/PV is launching a multiyear study of the replicability of the Dorchester clergy's **anti-**

violence partnership. P/PV has already launched a multicity, multiyear demonstration project **focused** on the capacity of faith-based programs to provide at-risk neighborhood youth and young adults with responsible, consistent and caring adult support and **guidance**; offer “safe havens” and safe spaces; get youngsters involved in constructive activities during the “gap” periods before and **after** school, on weekends, during school vacations and summers, or while unemployed; increase the number of paid or unpaid work experiences; and mentor youth through life transitions, such as from middle school to high school, schools to jobs, and into dating, **marriage** and parenting.

INTELLECTUAL AND SPIRITUAL JOURNEY

Inner-city clergy are out there saving at-risk youth and young adults. But they need and deserve help and support from every sector of society. I have decided to devote much of the rest of my career to helping them. In the hope that it may encourage others to consider doing something of the same, let me briefly recount how and why I came to walk **this** personal and **professional** path.

I graduated with a Ph.D. in Political Science from Harvard in 1986, received tenure at Princeton in 1989, and returned home to my **working-class** family and friends in Philadelphia. I began my intellectual and spiritual journey on faith-based approaches to crime and other social problems in 1994. Several things moved me to make the journey. In retrospect, four stand out.

First, in the early 1990s, I began to shift my research and writing away from crime and social policy and toward American politics and public administration—a return, as it were, to **the** Political science subjects that had motivated my academic career. I had some success. For example, I founded the **Brookings** Institution's Center for public Management in 1993, and for the **next** three years directed **several** projects and publications on civil service reform, health care administration, in-ended relations, and policy **implementation**. During this period I also began work as **coauthor** with James Q. **Wilson** on the **sixth** edition of his classic textbook *American Government*

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ventures on
faith-based programs.*

But **even** as I researched and wrote more about **changes** in American electoral politics and issues like Medicaid administration, I was intrigued by soaring juvenile violent crime **rates**, **saddened** by the spectacle of radically **impulsive, remorseless** juvenile criminals, and troubled by the firsthand **officials who** reported being administratively and **personally** overwhelmed by hardened **repeat felons** as young as **fifteen**.

I could **neither** deny nor ignore the demographic data on the growth in **the** population of **severely** abused, neglected, fatherless, **low-income children** living in high-crime urban neighborhoods. And, **from** what I could **learn**, **there** was every reason to suppose that the only nonparental adults actually **out there** housing, monitoring, mentoring **or** otherwise caring for or working with **convicted**, probated or incarcerated juvenile **"super-predators"** were clergy or churched, religiously motivated neighborhood **volunteers**. In 1995, I wrote a brief essay on **the** nation's present and impending youth crime problem for *The Weekly Standard*. I warned that over the **next** decade America would have **"tens of thousands"** more such criminal **youth** unless more citizens supported faith-based approaches to juvenile **crime** prevention and strove, spiritually if not literally, to "build churches, not jails."

Second, statistical research that I did in the early 1990s on the criminogenic effect of **concentrating** liquor outlets in poor urban neighborhoods had yielded strong evidence of what economists term **"negative externalities."** Other things being **equal**, I found, poor urban **areas** with **lots** of liquor outlets had **more** crime and disorder than urban areas **where** liquor outlet densities **were** at or below **metropolitan averages**. Even inner-city **children** and young adults who did not **drink**, hang out **at** bars or otherwise participate in **the** neighborhood liquor trade **were** found to be more likely to succumb to violent crimes, including murder. Studies by **the** National Academy of Sciences and other **bodies reinforced** and echoed my findings **about** liquor, disorder and violent crime.

Given that the spatial concentration of **liquor outlets** increased **the incidence** of such negative social outcomes, I wondered **whether there** was any research **evidence** that a spatial concentration of **churches** or Church-anchored activities in poor urban **neighborhoods** generated "positive external-

ities"—**less** crime, lower rates of illegal drug **use**, lower rates of unemployment and so on. I found no studies that were **precisely** on point (some such studies, however, are now underway), but **from** 1994 through **1996**, I found scattered throughout a half-dozen or so disparate social science **literatures—a** good deal of evidence about the positive **social** consequences of faith-based interventions into the lives of troubled populations, including impoverished urban youth.

Third, while searching for scientifically credible **"faith factor"** studies, I began soaking and poking in inner-city churches and schools, developing contacts and **investigating** reputed examples of faith-based inner-city youth and community outreach ministries. Within the first **few** months of this effort, I dropped any pretense of doing ethnographic research and simply opened my notebook, my heart and my head to **what** I was seeing on both sides of **stained-glass** windows in North Philadelphia, in Boston and in other places.

The plural of anecdote is not data, but this experience gave me enough scholarly confidence to argue publicly that the more we learned about the extent, **efficacy**, capacity and **replicability** of faith-based approaches to social problems, the more support for such approaches could be justified even to skeptics, **secularists** and social scientists. Journalists with several magazines, newspapers, radio and television caught this part of my journey and reported on parts of it. A few, like George E. **Will** and Joe **Klein**, **even** visited a **couple** of the inner-city ministries that had attracted my attention.

As the word (dare I write **"the Word"**) got out, a number of university-based social policy programs, think tanks and foundations suddenly "got religion" too, **launching** studies, symposia and new grant-making **ventures** on faith-based programs. And in **1996**, the Congress passed and President **Clinton** signed its **welfare-reform** law (which I **steadfastly** opposed), which included Section 104, the aforementioned Charitable Choice provision (which I loudly **cheered**).

Finally, since 1994 my own **Christian** religious **beliefs** as a cradle Catholic have been progressively awakened by my interactions with a number of good people: my parish priest, Father Raymond **Himsworth**, and **Father Bur** of the **Gesu** school; lauding figures on the **Protestant** religious **Left**

like Ronald Sider (ESA) and Jim **Wallis** (Call to Renewal) and lauding figures on the Protestant religious Right like Chuck Colson and Gary **Bauer** (the Family **Research** Council); **Philadelphia's** Pentecostal preacher Pastor Benjamin Smith; first-rate, faith-friendly empirical researchers **like** George Gallup and Dr. David Larson; nationally well-known inner-city clergy like Reverends Rivers and **Trulear** and unheralded inner-city evangelists like **Torres**; foundation executives Luis **Lugo** of the Pew Charitable **Trusts** and Chuck Harper of the John Templeton Foundation; inside-the-beltway friends like Pete Wehner and William Bennett of Empower America and David **Kuo** of The American Compass; former students like Jeremy White and Mary **DeMarcellus**; nonreligious (or, as the case may be, not overtly religious) friends and **colleagues** like Gary Walker and Mark Hughes of **P/PV**, Tom Mann and E.J. Dionne of **Brookings**, Larry Mone of the Manhattan Institute, Chris **DeMuth** of the American Enterprise Institute, Jerry **Garvey** and Robert **George** of Princeton, James Q. Wilson of UCLA, Glenn **Loury** of Boston University; and others.

By palm Sunday of 1996, my rebirth of Christian conviction and commitment was complete, as was my "discovery" of how so much of what I thought to be true in **matters** of personal **morality**, family responsibility and public policy was of a piece with the Church's social teachings on abortion, divorce, concern for the poor, the role of government in a capitalist, democratic society and more. Increasingly, **my** religious **faith** has asserted itself in parts of my popular writing and social **commentary**, most pointedly, perhaps, in my recent articles in *The Weekly Standard* and essays in *National Review*.

One reporter pressed the question "What's your religion, exactly?" "Born-again Catholic," I quipped only **half** in jest.

Later he asked, "Doesn't believing in God bias your research and undercut your supposedly rational arguments about **faith-based** efforts and **social** policy?"

I replied, "Not anymore than not believing probably does, and not unless God chooses to **repeal** the laws of statistical analysis or change regression **coefficients**. **Besides**," I tried to explain, "even if I thought efforts to save at-risk inner-city

youth and young adults via churches had no **instrumental value** in avoiding violence and the rest, I would still be morally obliged to **seek** help for these fellow citizens and do my best to follow Christ's example and his comma&-

Then **followed** the **how-can-you-be-so-smart-but-say-something-like-that?** puzzled **stare** that I have **come to** know fairly well.

LIGHT A SINGLE CANDLE... HUNDREDS BY 2007

In his **December 4, 1997 Francis Boyer Award lecture** at the American Enterprise **Institute**, James Q. Wilson wisely called for the development of new local and regional nonprofit grant-making entities that would assist **corporations**, foundations and individuals in **identifying** and supporting **worthy** faith-based inner-city youth and community outreach efforts. Having **helped P/PV to launch** its crucial research and technical assistance programs on inner-city **churches**, in 1998 I am launching a program to be known as The Jeremiah Project (**TJP**) on a ten-year, four-part mission:

1. to **assist research organizations** like **P/PV** and **think tanks** like the **Manhattan**

Institute in gathering, analyzing and publicizing scientifically credible information and useful ideas about the **extent**, efficacy, **capacity** and replicability of inner-city **faith-based** education, **anti-crime** and employment programs;

2. to assist foundations, corporations and government agencies in identifying, supporting and working constructively with such **faith-based** programs;
3. to help provide direct financial support to faith-based inner-city youth and community outreach ministries, **especially**, but not exclusively ones based in **metropolitan** Philadelphia and Camden, that have proven track records and **specific** unmet program needs of whatever kind; and
4. to organize a corporate development campaign in which 500 businesses each give \$20,000 to support faith-based **inner-city** education programs, for a total of \$10 million to be distributed **dollar-for-dollar** to sustain, strengthen or expand faith-based schools and programs throughout the country.

While **TJP will represent** a unique combination of science, passion and **faith-based** moral conviction about the need to promote the welfare of **America's** most **vulnerable** inner-city youth and young adults, it merely follows the trail blazed by a small but significant cadre of **intellectual** and civic leaders who have **been out there** for years attempting to get **faith-based inner-city** programs the recognition that they deserve and the **support** that they need.

Where at-risk **inner-city** youth and young adults are concerned, over the next ten years, America's Policy elites, **Left** and **Right**, secular and religious, shall be known by their works. Both enlightened social self-interest and every moral **consideration** **counsel** all of us to heed the call of the prophet Jeremiah: "Promote the welfare of **the** city to which I have exiled you; **pray** for it to the Lord, for upon its welfare depends your own" (**Jer. 29:7**). □

John J. DiIulio, Jr., a professor at Princeton University, is a senior fellow at the Manhattan Institute.

"Promote the welfare of the city to which
I have exiled you; pray for it to the Lord,
for upon its welfare depends your own."

Jeremiah 29

Speech to Wisconsin Joint Legislative Council's

Special Committee on Faith-Based Approaches to Crime Prevention and Justice

by Andrew Peyton Thomas

January 20, 1999

Good morning.

Thank you for your kind invitation to appear before this committee, which I believe is examining perhaps the single most important issue in public policy today. Government's relationship to organized religion has always been a fundamental issue in American public life. Today, as crime rates remain stubbornly high and our nation faces an onslaught of other pathologies-including high rates of drug abuse, suicide, and teenage sexual activity-this perennial issue is, I believe, more pressing and important than ever.

As we search for new approaches to these intractable social problems, our nation's opinion leaders finally are acknowledging religion's effectiveness in fighting antisocial behavior. Last year, a cover story in *Newsweek* magazine revealed this new mindset in a cover article entitled "God vs. Gangs." The cover declared that religion has become the "hottest idea in crime fighting." The convening of this committee-the first of its kind in the nation, to my knowledge-reinforces the growing acceptance of religion as a tool for combating crime.

Religion may be a "hot" idea today, but it is, of course, a very old idea. It is an idea that has withstood centuries of intellectual assault and emerged with its ancient glory intact. The secularism of our times has made us look, sometimes a bit desperately, for

secular solutions to the crime problem. In doing so, we have joined a long and distinguished Western tradition of seeking a secular substitute for religion. The effort to replace religion with a natural ethic stripped of appeals to a punitive higher power is at least as old as Socrates, who sought to make the love of knowledge a religion-free basis of conscience. This intellectual enterprise finally blossomed in the French Enlightenment and Marxism.

But all these attempts failed. After centuries of intellectual toil devoted to replacing religion with a secular alternative, we are no closer to this goal today than when these efforts began centuries ago. The reason is human nature. Religion is vital for providing an internal, omnipresent deterrent to antisocial conduct through fear of supernatural punishment. Religion also lays the foundation for conscience.

Equally essential is religion's unique capacity to curb selfishness, which is the seed of crime and all antisocial conduct. Religion acknowledges a higher power that must be obeyed and propitiated through a taming of the otherwise predominant self-absorption that eventually nibbles away at individuals and society. In this spirit, Voltaire defended religion on the simple grounds that it made his lawyer and butler less likely to mishandle his affairs or pick his pockets. As a practical matter, it does not matter much if the religion leashing our egos is Christianity or Zoroastrianism. At minimum, however, it must prominently feature an ever-present policeman/judge who does not look favorably on man's plundering his neighbor.

How do we know that religion is irreplaceable? Common sense tells us, for starters, that the exhortation "Respect my rights" is a feeble substitute for "Love one

another.” Teaching children values divorced from religious conviction is like teaching table manners to cannibals.

But we also know from recent social science that religion works. Unfortunately, social scientists, for the most part, have declined to examine religion’s efficacy in combating crime and antisocial behavior. One social scientist, Thorlief Pettersson, reported in 1991 in the *Journal for the Scientific Study of Religion* that while “religion has not been totally neglected in criminological research,” he found only sixty studies of the relationship between religion and criminality. This is out of literally tens of thousands of criminological studies that are on the library shelves of any major university. Pettersson observed, “Most of these studies have reported a negative association between individual religiosity and criminal behavior.” He added that “there seems to be substantial empirical support for the conclusion that among those ‘attending church services frequently, there is manifestly a strong tendency . . . to commit fewer crimes.’”

A study in 1983 by Charles Tittle and Michael Welch, published in *Social Forces*, drew similar conclusions. They found sixty-five studies of the relationship between personal religiosity and criminality, drug abuse, or related behavior. Fifty-five of those, or 85 percent, reported an inverse relationship. In plain English, the greater a person’s commitment to religion, the less likely he will be to commit a crime.

The same is true of drugs. A group of researchers noted in *Youth & Society* in 1993, “Individuals affiliated with a religion have lower rates of drug use than do those not affiliated with a religion. Regardless of denomination, people who attend church regularly have lower rates of drug use than do those who do not attend regularly.”

A 1991 study of eight hundred white male adolescents in the Seattle area reached the same conclusion. According to the study in *Deviant Behavior*, adolescents who never attended religious services were almost four times as likely to use drugs as kids who attended church services weekly.

Even among prisoners, the most hardened of criminals, religion offers great hope. A 1992 study by researchers at Rutgers University concluded that inmates who were involved in religion were less likely to break prison rules and to be disciplinary problems. The study also found “two major ways that religion might help to improve adjustment to prison: dealing with the emotional strains of incarceration and dealing with the deprivations of the prison environment.”

The researchers reported, “Many religious inmates did not excuse their guilt. Instead, they seemed to accept a profound personal responsibility for their crimes and for the wrongfulness of their conduct.” Several inmates talked about how religion had turned their lives around:

--“Being a Christian, I can go and ask Jesus Christ to forgive me for my sins and to give me the strength to deal with my problems.”

--“If you talk to everyone here, they’ll tell you they’re in prison because of a mistake. Most of them, it was a bad attorney, a judge, a stupid mistake in the way they did the crime. The religious inmate, he realizes the mistake was doing the crime in the first place.”

--“I am able to live a normal life and uphold my character with dignity. The first objective of prisons is to strip you of your dignity. It takes your self-esteem, your dignity, and everything about you. Religion has helped me to regain this.”

--“I’ve seen some guys who don’t really realize that they are in prison because it is not the prison that they see, it is the walk with God. Prison doesn’t bother them anymore.”

One inmate said it best: “My faith has made me excited about when I go home. **This** person has never been on the streets before.”

The Rutgers researchers concluded, “Involvement in religion can reinforce attitudes and behaviors that circumvent the traditional hustles of prison life.” These inmates are likely to “associate with other, like-minded religious inmates, and generally surround themselves with a protective social cocoon of religion.”

Or consider the success rate of Teen Challenge. David Wilkerson and Nicky Cruz established Teen Challenge in 1962 as a religious charity devoted to ending substance abuse. The success rate of Teen Challenge has remained consistently at about 70 percent. The comparable percentage for secular treatment programs is 5 to 10 percent. There are, in addition, countless stories of hard-core criminals becoming upstanding citizens because of a religious conversion—stories that Rev. Cruz is much better qualified to relate to you than I.

The founders of our country knew the importance of religion in maintaining public order. Washington’s famous belief that religion was the indispensable prop of public morality is the best known of these epistles. Indeed, six of the original thirteen states, and seven of the fourteen that voted on the Bill of Rights, actually subsidized churches directly with tax dollars.

One need not advocate a return to this system to recognize the benefits of government affirmation of religion and support of religious-based charities.

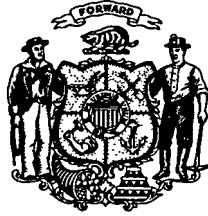
Unfortunately, many of our leaders in academia, the media, and the courts hold a different view. Supreme Court rulings handed down in the 1950s and 1960s began the modern trend toward expelling religious expression from public schools and government functions. Of course, by definition, these rulings ran counter to what the founders of our country wanted. Had the founders desired such official hostility toward religion, they would have adopted such policies right after the Constitution went into effect. Court rulings that suggest that such governmental antipathy toward religion is rooted in the Constitution, instead of the judges' own conception of justice, are intellectually dishonest and therefore deserving of condemnation. Indeed, the phrase "separation of Church and State," so often invoked in such rulings, appears nowhere in the Constitution.

Wisconsin bravely led the nation in fighting for school vouchers for parochial schools, at a time when critics argued that such policies violated the so-called separation of Church and State. The courts, as you know, were not willing to go that far. Your courage was rewarded, and the whole nation will reap the dividends. I deeply hope that Wisconsin will show the same courage in supporting government aid to charities that rely on religion in appealing to the better nature of today's criminals and would-be offenders.

Religion, to be sure, sometimes has been perverted for tyrannical purposes. We must deplore the bigotry, hidebound intolerance, and outright war that, far too often, have accompanied organized religion through the ages. Yet religion would not have been around so long-and would not be considered socially indispensable by every nation on the planet-if it did not provide an earthly as well as ethereal services. Because religion smites our very souls, it is of course a sensitive subject. However, if we are to leave no

stone unturned in searching for answers to our national plague of crime, let us give this enduring object of inquiry and reverence its due.

Thank you again for your invitation, and for your sober consideration of this extremely important issue.



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February 15, 1999

NOTICE OF COMMITTEE MEETING

COMMITTEE: SPECIAL COMMITTEE ON FAITH-BASED APPROACHES
TO CRIME PREVENTION AND JUSTICE; SPEAKER
SCOTT R. JENSEN, CHAIRPERSON

DATE OF MEETING: Thursday, March 11, 1999

TZME: 10:00 a.m.

PLACE: Room 225 Northwest, State Capitol, Madison.

SUBJECT: Presentations by invited speakers and discussion of Committee assignment.

ENCLOSURE(S): None.

A handwritten signature in cursive script that reads "David J. Stute".

David J. Stute
Director

DJS:ksm;tlu



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January 27, 1999

NOTICE OF COMMITTEE MEETING

COMMITTEE: SPECIAL COMMITTEE ON FAITH-BASED APPROACHES
TO CRIME PREVENTION AND JUSTICE; SPEAKER
SCOTT R. JENSEN, CHAIRPERSON

DATE OF MEETING: Tuesday, February 23, 1999

TIME: 10:00 a.m.

PLACE: Room 417 North (the G.A.R. Room), State Capitol, Madison.

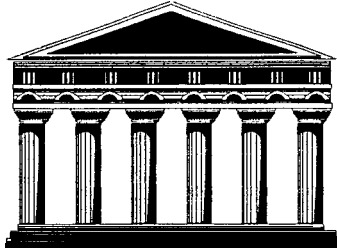
SUBJECT.- Presentations by invited speakers and discussion of Committee assignment.

ENCLOSURE(S): Materials are enclosed for those Committee members who were unable to attend the January 20, 1999 meeting.

Note: Chairperson Jensen has scheduled a subsequent meeting of the Committee for
Thursday, March 11, 1999.

David J. Stute
Director

DJS:ksm;wu
Enclosures



Mentoring & Aftercare Network - Teaching - Leading - Equipping

To Representative Jensen and honorable members of this panel. I am Thorn McMahan, Assistant Correctional Services Director for the Salvation Army of the Wisconsin and Upper Michigan Division. I want to thank you and Mary Steppe for inviting me here today, it is an honor.

My association, although brief, with Mary has been one of admiration and kinship, as we both are deeply interested in 'aftercare' for the men & women returning to our communities from prison. Working with Mary has proven one thing, she is indeed a 'verb' in a world of 'adjective's'. That is she works at it and says little.

When she asked me to come and speak to the issue of 'faith based aftercare', I was pleased to do so because the time has come for us to acknowledge, to any who will listen, that the present system is at best failing. While there are in the prison system many bright spots, for the most part the public sees them darkly, if at all. In the opinion of this speaker continuing with the present 'lock'em up' policy, absent of 'faith based programs', will in the end produce little more than additional prisoners and more prisons. My wife (Jan) and I, are not inmate advocates, rather, if they do the crime, they do the time. But with saying that we also feel that once the time is served, it is our responsibility as 'faith people' to assist in their transition back into the community.

There are studies that tell us that men and women entering prison lose approximately 180 choices per day. > (208 to 20). If the loss of these choices and the unfamiliar surroundings create 'culture shock.' Then common sense should also tell us that entering back into society (20 choices to 200) would also create 'culture shock'. At the entry level the 'faith' community has proven its value in the criminal justice system. They've forged a partnership that is profitable for both the D.O.C. practitioner and the inmate. At the exit level, however, the 'faith' community's value has yet to be recognized on any scale. It is at this level we choose to serve.

A few years ago, we along with others in corrections ministry began discussing the state of the church inside the 'razor wire'. We concluded that much of what is done in prison benefits the men and women, but unfortunately some of these lessons won't fly after release. To many times we've heard, "living as a Christian in prison is not the same as it is out here." There are many reasons for this, "too many distractions" being the most common response. The question we asked each other then was; 'if these 'distractions' cause them to fail after release then what is wrong with their belief system? After all belief by definition means that the mind agrees with the truth of a declaration, or "we should walk what we talk."

It's been said that no man can get lost on a straight road, so if while in prison they profess to have a solid relationship with the Lord; and when others are asked about that declaration; they reply in the affirmative, then how can these men and or women so quickly lose their

Mantle Workshops

way once they are out? Some how what they said about what they believed disconnected, or it was never connected in the first place. Many in corrections ministry, as well as fellow inmates, involved in the chapel programs would say they had conned us. And while that can happen, the frequency with which these men and women stumble after they're released would indicate that what they've learned in the chapel does not equip them for dealing with the 'issues of life', and or we all criminal justice practitioners, volunteers and inmates alike) are not equipped to discern this deception. That being the case, then we are in trouble. Not because we're inept at judging the intentions of their heart, but because what we teach inside the 'razor wire' apparently allows this trickery to occur. How can this be?

Teaching the precepts of the Word has and will always bring right results if these biblical principles are applied to the 'issues'. Over time we discussed what we were teaching; we examined the settings we taught it in; the men we taught it to; the methods we used to teach it and concluded that that was being presented to them as solutions to difficult problems, work inside as well as outside the 'razor wire'. So what is the problem?

Two years ago I sat in a group at one of the institutions discussing how to deal with the 'life issues' of prison. I ran through the example of lost choices (200 to 20); explaining to the men that this would create stress and it was the churches responsibility to help others through that time. They agreed. We continued talking about preparing themselves for going home and went through (20 choices back to 200) and discussed how stressful that transition would be. "Imagine one day 20 choices and the next day 200." Immediately one of the men said, 'Yea, and 180 of them were bad.' When I looked up at the man, who in my opinion was the most stable of the bunch, there was fear written all over his face. I asked him what's wrong and he said he was scared. He explained that he had learned to make right choices, which for him were new choices, for life inside the 'razor wire', but making new choices after release scared him. All the choices he'd made before incarceration were bad, would his new understanding keep him out of prison. Another young man out a year said it best "I knew how to live a Godly life inside prison, but outside it was not the same." "What I believed inside and how I applied what I believed, helped me get through it, but the unknown was how do I apply these principles on the outside, I was scared."

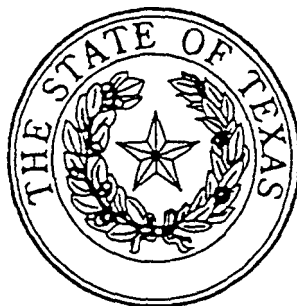
That day with those men changed our lives forever. Up to that time we were satisfied with our involvement in 'faith' activities, but after hearing again and again the same response from men and women concerning the fear of making right choice upon release, we had to do something. We had to help them apply what they'd learned inside the 'razor wire'. We had to be there when they came out

Most Respectfully

Thorn McMahan

FAITH IN ACTION . . .

A NEW VISION FOR CHURCH-STATE COOPERATION IN TEXAS

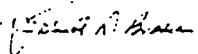



**GOVERNOR'S ADVISORY TASK FORCE
ON FAITH-BASED COMMUNITY SERVICE GROUPS**

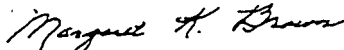
**FULL REPORT
DECEMBER 1996**

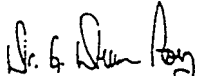
MEMBERS OF THE GOVERNOR'S ADVISORY TASK FORCE

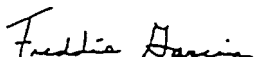
The Task Force Members support
the recommendations contained in **this** Report*:



Rev. Msgr. Den-not N. Brosnan



D.R. "Duke" Millard III*



Margaret K. Brown Dudar

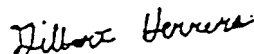

Dr. G. Dean Posey

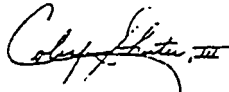

Rev. Freddie Garcia



Mary Como Randall

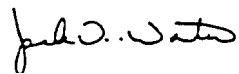

Brother Cecil Hawkins

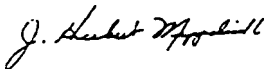

Elizabeth Darling Seale

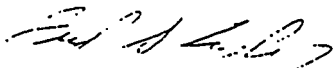

Chaplain Gilbert Herrera

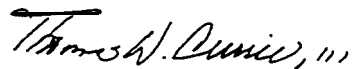

Rev. Coby Shorter III

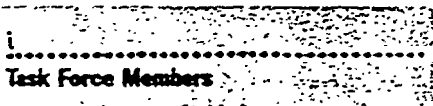

Gerald Jimenez


Lt. Colonel Jack Waters


J. Herbert Meppelink

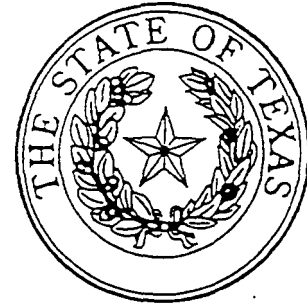

Fred S. Zeidman


Dr. Thomas W. Currie III, Chairman


Task Force Members

* Task Force member **Delton Brazell** supports the recommendations contained in this Report as to publicly-funded providers, but would prefer complete exemption from state licensing and oversight for religious **social** ministries that receive no public funds. Mr. **Brazell** believes that licensing is tantamount to state **sovereignty**, does not necessarily ensure quality care, and unduly subordinates the church to government control. Mr. Millard **also** supports the substance of this Report (*i.e.*, the First Principles, recommendations, and policy options). He takes no position with regard to the remainder of the Report.

GOVERNOR'S ADVISORY TASK FORCE ON FAITH-BASED COMMUNITY SERVICE GROUPS



December 1996

The Honorable George W. Bush
Governor of Texas
State Capitol
Austin, Texas 78711

Dear Governor Bush:

On behalf of the Governor's Advisory Task Force on Faith-Based Community Service Groups, it is my high honor to present you with the Task Force's final report, *FAITH IN ACTION: A New Vision for Church-State Cooperation*.

The plight of needy Texans poses an urgent challenge for our State. Empowering faith-based charities should be an indispensable component of Texas' ongoing efforts to meet that need. The Task Force agrees with you that churches should not be viewed as appendages of the state. The strength of the faith community is its ability to instill values and alter behavior, not its ability to be a conduit or surrogate for government social programs.

What ails our distressed neighbors demands better prescriptions than greater funding or programmatic tinkering. We must think anew about first principles, because only a fresh and renewed understanding of society's building blocks - individuals, mediating institutions, and government-can lead to accurate understanding and fruitful reform.

In addressing the important items raised in your executive order, our 16-member Task Force held four meetings, heard from hundreds of Texans via phone, letter, and public testimony, and engaged in intense study and discussions, all aimed at determining "how Texas can best create an environment in which these organizations can flourish."

The following Report was a collaborative effort. Every member of this Task Force -each bringing expertise and a unique perspective - was part of a team dedicated to finding better ways to help their fellow Texans. The Report certainly does not embody 100 percent convergence of opinions. What the Report does embody is people of faith involved in deep and serious discussion with one another. Our wrestling was not designed to produce pat answers, but a new direction.

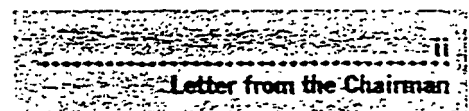
This Report is only a beginning. We hope our efforts will be a springboard for continued reflection on today's urgent public questions. We also hope that this Report will serve as an illuminating guide to other states as they, like Texas, strive to render effective compassion.

We applaud you for your leadership on this critical issue, and thank you for the honor of letting us serve our fellow citizens of this great State.

Respectfully submitted,

A handwritten signature in cursive script that reads "Thomas W. Currie III".

Thomas W. Currie III
Task Force Chairman



ACKNOWLEDGMENTS

The Governor's Advisory Task Force on Faith-Based Community Service Groups gratefully acknowledges all those who provided information, observations, and prayer to aid our deliberations.

The Task Force received thoughtful assistance from countless individuals and many organizations throughout Texas and, indeed, across the nation. Obviously, to highlight some would inevitably mean neglecting others; however, we do wish to offer our sincere thanks to many people whose insights proved to be invaluable contributions to this Report. Without such assistance, a project of this importance and scope would have been much tougher.

We offer our sincere gratitude to:

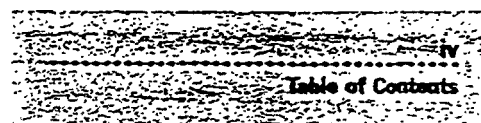
- the numerous Texas citizens and organizations who wrote letters, sent faxes, and made phone calls bringing their concerns to the Task Force;
- the state agencies who followed the Task Force's work, offered expert testimony, and assisted in analyzing the issues;
- Professor Marvin-Olasky of the University of Texas at Austin;
- Professor Stephen V. Monsma of Pepperdine University;
- Professor Carl Esbeck of the University of Missouri Law School;
- Tom Kemper, Director of the Oklahoma Commission Children and Youth, who served as facilitator for the Task Force;
- Stanley Carlson-Thies and The Center for Public Justice;
- the Texas Commission on Volunteerism and Community Service for design and layout of this Report, and the Texas Workforce Commission for printing the Report; and
- the various other organizations, experts, and others across Texas - and the nation - who provided thoughtful suggestions and technical expertise.

The Task Force also extends its special appreciation to the many interested citizens who attended the meetings of the Task Force . . . and *especially* to all of those who participated in the public hearing to share their personal stories and testimonies with the Task Force members.

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Appendix



Government can hand out money, but it cannot put hope in our hearts or a sense of purpose in our lives. It cannot bring us peace of mind. It cannot fill the spiritual well from which we draw strength day to day. Only faith can do that.

In the final analysis, there is no overcoming anything without faith — be it drugs or alcohol or poverty or selfishness or flawed social policy.

Governor George W. Bush



Patch II

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Legislative **Council-JLC**



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INTRODUCTION: A VITAL ROLE. FOR RELIGIOUS SOCIAL MINISTRIES

One person alone cannot do everything. But one person alone can do something. We must all - each and every one of us - be that one person, doing that something. As I travel Texas, I sense we are ready.... People are seizing the moment. They are not waiting for a government committee to meet. They are helping each other, finding their own solutions to the problems plaguing [their] communities.

- GOVERNOR GEORGE W. BUSH

The Failure of Traditional Government-Intensive Answers to Social Problems

Today's welfare system has fallen short of its original purpose. Since the 1960s, America has spent 55.4 trillion on human service programs. Yet, we have endured a 30-year rise in illegitimacy of 500 percent, watched violent crime increase by 600 percent, and seen the number of children on the welfare rolls swell from 3.3 million in 1965 to 9.6 million in 1993. After three decades of unintended consequences, it is time to shift our focus from compassionate intentions to compassionate results.

More than 20 years after Richard John Neuhaus and Peter Berger wrote *To Empower People* and first urged policymakers to encourage society's "mediating structures" (e.g., families, churches, voluntary associations, neighborhoods, etc.), Texas is heeding the call to energize those "civilizing" institutions that are neither market-driven nor government-run. More and more, today's social policy debate revolves around what Edmund Burke called "the first principle . . . of public affection," civil society, the "little platoons" that do the heavy lifting of shaping good citizens and that act as a buffer against cultural disintegration.

Congress' New Model of Welfare Delivery: New Challenges, New Opportunities

Congress' decision to *fundamentally* reform the nation's welfare system portends an even greater need for robust cooperation between government and religious social ministries. For some time, policymakers have been grappling with how to use nonprofit, faith-based groups to help confront society's most pressing and intractable problems. The issue has taken a new urgency with the passage of the new welfare reform bill, the Personal Responsibility and Work Opportunity Act of 1996.

The Act contains a visionary "charitable choice" provision that invites the privatization of welfare through private and religious charities. No longer is government, as a Catholic leader once complained, "seeking to confine the 'church' to only those activities carried on in a building with a steeple on the roof."

By one estimate, some 67 percent of all federal welfare spending never reaches the poor.

— BEACON HILL INSTITUTE

There is a growing consensus that a declining civil society undermines both civility and society.

— U.S. Sen. DAN COATS

Our nation, and state, are seeking a *new* approach rooted in the belief that everyone in society - "all people of good will" - should help our neediest citizens. This virtue, which rests at the heart of the Second Commandment's call to love your neighbor, is inseparable from the call to love God. It is direct, personal, immediate; not something that can be farmed out. Like the Good Samaritan, we are called to "suffer with" our broken brothers and sisters, not to sub-contract with paid professional substitutes. 'We are a land of citizens, not merely taxpayers.

By intervening directly and depriving society of its responsibilities, the social assistance state leads to a loss of human energies and an inordinate increase of public agencies which are dominated more by bureaucratic ways of thinking than by concern for serving their clients and which are accompanied by an enormous increase in spending.

— POPE JOHN PAUL II

By any objective measure, one-on-one private and religious charities (what Dr. Marvin Olasky calls "downstairs philanthropy"), are often more effective, efficient and compassionate than government programs at shaping and reclaiming lives. Why?

- They're free to assert the essential connection between responsibility and human dignity by requiring changed behavior in return for help.
- Their approach is personal, not bureaucratic. Their service is not primarily a function of professional background, but of individual commitment.
- They inject an element of moral challenge and spiritual renewal that government programs cannot duplicate.

Co-Responsibility:.. The Shared Duties of the State and Civil Society

What it means to be a compassionate people is a serious question. Not too long ago, people believed that government had no meaningful role to play in addressing social needs. Later voices urged the opposite view, that government and a "therapeutic elite" should bear total responsibility for the poor; the public was merely to keep the checks coming. We think both views are wrong.

In our view, Texas' social institutions have *shared* responsibilities. Government cannot divest itself of all responsibility, but neither should it cling to the statist belief that it has exclusive jurisdiction for the poor. The view that *relimiting* government is sufficient to renew society is unrealistic. When civil society is atrophied, as today, we must respect the danger of social dislocation. On the *other* hand, the "nanny state" view - that government is the poor's primary resource - weakens society's character-molding institutions. People in distress are not exclusively (or even primarily) government's responsibility, and the faith community should - as prescribed by both the Old and New Testaments - tend to people's temporal as well as heavenly needs. Cultural revival must largely take place in our homes, churches, classrooms, associations, and communities.

We recognize that our impoverished neighbors are not just members of the political community; they're also members of several other *communities*, such as families, neighborhoods, churches, schools, etc. that lie between a distant government and isolated individuals. Government may be the largest community geographically speaking, but it's hardly capable or expansive enough to satisfy all our human needs; it's extensive, not intensive. Non-government communities enjoy their own unique purposes and abilities to meet human needs, and the political community's common good is affected by the good of these other communities.

Society's pluralistic nature, therefore, must guide our efforts to think

What we are seeking is a new way. Between the excessive individual laissez-faire and the excessive collectivism of social democracy, there remains to be discovered a new "third way" — a welfare society whose pivot is less the state than the civil society; and in which the state's method of operation is indirect by way of strengthening civil society, rather than direct by way of repressing it.

— MICHAEL NOVAK

anew about the state's proper role in social welfare matters. Put differently, as policymakers re-limit government, they must leave enough social space for civil society to re-enter. They must aggressively take the side of people and institutions that perform the tough, noble work of restoration. While government **cannot** cure societal malfunction, it *can* help lay the groundwork for recovery.

A New Vision: Government's Key Role as an "Enabler" of Faith-Based Groups

Government shares responsibility for Texas' needy with civil society's other institutions. **Faced with** the threshold question - "what is government's proper role?" - we respectfully offer this suggestion: a cardinal mission should be to facilitate these "mediating structures" (e.g., families, schools, congregations, civic groups, voluntary associations) and better enable them to serve society.

Texas now has greater leeway to fashion a welfare system that best serves Texas. But devolution must mean more than just shuttling power from Washington to Austin. Devolution and smaller government are **necessary**, but insufficient, steps toward reforming society. Knowing government's limits is no proxy for substantive policy. Structural reform is fine, but **we must ultimately** seek to reform the *recipients* of welfare by fostering what philosopher T.H. Green called the "best self" of a person.

We must move **beyond** "devolution" — merely parsing duties between different levels of government - and embrace genuine reform that sparks cooperation between government (at whatever level) and the institutions of civil society. We must think anew about the relationship between government and non-government, and, ultimately, vest power *beyond* government back to individuals and social institutions. We must offer a vision of rebuilding - and **remoralizing** - distressed communities, not through government, but through the ideals and civilizing institutions that nurture lives and transmit values.

Texas faces an important mission in trying to help, not displace, the institutions of civil society. Dynamic cooperation **between** government and faith-based **charities**, far from offending our principles, does much to honor our **time-honored** spirit of religious liberty. Ignoring this principle of co-responsibility does immense harm both to the institutions of civil society and to the intended "beneficiaries" of social programs. This is about letting churches, **synagogues**, mosques, etc. do what Scripture requires - to feed the hungry, clothe the naked, and heal the sick.'

A generation of inertia means that society's crucial institutions won't magically spring forth reborn. Usurped community resources, like physical ones, **become** depleted when they're not used. Government may have helped **undermine** civil society, but its retreat cannot alone resurrect it. Well-considered measures must help coax and nurture these institutions back to health. It's easy to talk about what government shouldn't do, but quite **another** to outline a vision of how to replenish and enable our State's rich untapped resources.

At a minimum the state should adopt as its own the first law of medicine: First, do no harm. Here perhaps we could borrow a page from the area of environmental policy and require that all welfare legislation be accompanied by an Institutional Impact Statement that aims to ascertain the legislation's possible negative impact on the social ecology.

— Luis E. Lugo

The distribution of power within government is less important than the redistribution of power beyond government.

— DR. WILLIAM J. BENNETT
U.S. SEN. DAN COATS

* The Task Force recognizes that the faith community is a diverse one that includes all major religions. As used in this Report, the word 'church' is a general term to include all places of worship (e.g., synagogues, mosques, etc.).

Principles of Fruitful Church-State Cooperation

As we try to reawaken effective compassion -not only in welfare policy, but also in education, health care, drug treatment, and family matters - we need a clear understanding of what we should and should not expect from faith-centered charities.

The following principles should inform our efforts to foster church-state cooperation:

- **Government should not woo faith-based nonprofits into aiding the poor just because they're socially useful.** Churches should not be viewed as mere appendages of the state. Such an attitude, says Father Neuhaus, "is, in fact, a kind of blasphemy." Faith-based institutions have their own distinct mission and should never be looked upon as mere annexes of the state.

- **Churches cannot save all Texans from poverty or be the sole safety net supplier.** Religious groups don't have a monopoly on improving people's lives, nor the resources. They cannot be expected miraculously to fill a huge government-shaped void. Over-reliance invites disappointment.

- **The faith community should reject the mindset that the poor belong exclusively to the government.** The role of religious charities is front-and-center, not merely auxiliary to whatever government does.

- **Cooperation cannot mean enlisting faith-based groups in ways that merely replicate the weaknesses of government aid.** Once government acknowledges the notion of co-responsibility, it must likewise acknowledge a notion of cooperation that respects charities institutional integrity and unique identity.

The unique value of faith-based ministries comes not just in delivering services more efficiently than government, but in delivering services more *effectively* than government. Religious ministries aim for *inner conversion* and inject spiritual and moral resources that are beyond government's know-how. In this effort, the faith-based community must recognize that it is not merely a government contractor; it is an equal partner. And to make those contributions, it must be vigilant in guarding its religious character.

Religious charities need to recognize, though, that where they direct public money, public accountability must follow. **The challenge is this: how to fashion reasonable oversight while respecting the charity's religious identity and without conzpting and secularizing its work.**

Texas has enjoyed a certain cooperation between government and non-profit service groups, including faith-based ones. But the legal and policy landscapes are anything but clear; providers sometimes have to navigate legal tightropes. In Houston last year, the health department reportedly tried to shut down Carol **Porter's** ministry of providing sandwiches to the city's homeless because her kitchen didn't have a separate mop sink.

True, there's often a story of smooth cooperation for every example of a frustrated Good Samaritan. Nonetheless, countless would-be providers have been afraid - and often perceptively so - of joining government's

Loving our neighbors as we love ourselves ranks second only to loving God entirely, according to Jesus' summary of the Law of God (Matthew 22:37-40). God's people in the Old Testament are continually reminded that even as God had come to their aid when they were oppressed, they are to be merciful to the needy around them. Serving those who need help is such a central aspect of truly knowing God that Proverbs can say, "kindness shown to the poor is an act of worship" (14:31). Similarly, in the New Testament we are instructed that taking care of "orphans and widows in their distress" is an important aspect of "pure and faultless" religion (James 1:27). Throughout the Bible, helping the helpless is a central theme, a bright thread.

— STANLEY W. CARLSON-THIES

In some cases, the best thing government can do is get out of your way and let you do what you do best — provide loving, nurturing help to those who need it most.

— GOVERNOR GEORGE W. BUSH

battle against society's ills for fear of excessive regulations and having to sacrifice their religious identity. While many faith-based groups happily operate without incident, others fear government "surveillance" and demands to alter not just their physical facilities, but also their very religious nature, the nature that spurs them to serve in the first place.

A submerged iceberg of religious groups thus exercise what Luis Lugo has termed "preemptive capitulation," skittish because they fear surrendering their religious identity and feel a distinct lack of protection when it comes to, for example, personnel practices (preferring streetwise volunteers to "professionals"), setting behavior standards of employees and clients (rejecting spiritual indifference), incorporating religious aspects into their **service/treatment, etc.** They fear that helping hands often end up as choking hands. As one pundit put it, "theshekels come with shackles." So they step back, and government steps in.

Religiously-inspired social action embraces strategies that often elude "professionals." No alternative approach to the cultural crisis we face holds greater promise. Faith-anchored institutions offer values and moral belief. They work at a deep, redeeming level. They appeal to matters of the heart and soul. They renew human connections and replace often-distant bureaucracies with individual commitment. They give **people** what they need spiritually to lead lives of dignity and self-reliance. These valuable groups must be, as Berger and Neuhaus put it, "imaginatively recognized."

The Governor's Advisory Task Force: A First Step Toward Constructive Reform

We applaud Governor Bush's decision to **appoint this Task Force.** There are few matters more important than **recrafting** the relationship between government and faith-based charities.

Governor Bush's effort to forge a better model of government/social ministry relations is, as far as we know, the first comprehensive effort of its kind in the nation. What he seeks to attain - what we seek - is emphatically not some sort of favored **or** preferential treatment for religious nonprofits. Rather, we seek a level playing field that treats **faith-based** groups no worse than secular groups and that respects their religious identity. We seek a government that isn't-needlessly meddlesome and whose bureaucracy doesn't strangle the efficacy of faith.

We regret not having the time to explore our important charge more exhaustively. Limited time forced us to channel our efforts, but, as a sage once noted, "Self-limitation is the mark of mastery." We sincerely hope that our modest efforts - though a crude beginning - will help Texas begin to forge a new path, and urge us all to play our individual roles **as** citizens in renewing our great State.

[C]ompassion can't be measured in dollars and cents. It does come with a price tag, but that price tag isn't the amount of money spent. The price tag is love, being able to see people as they can be and not as they are.

— CONGRESSMAN J.C. WATTS

FAITH IN ACTION . . .



A NEW VISION FOR CHURCH-STATE COOPERATION IN TEXAS

FIRST PRINCIPLES: GOVERNMENT'S ROLE IN TEXAS' RELIGIOUSLY DIVERSE SOCIETY*

Principle 1 Each person is created in God's image with inherent worth and diverse talents, and each of us is bound together in various social relationships and responsibilities.

Principle 2 We each bear a responsibility to do justice and love our neighbors, a responsibility that **comes** from God.

Principle 3 Government can do some things, but it cannot reach deep into the human character. **Some** of our worst social pathologies (e.g., illegitimacy, crime, poverty) can be solved if people experience spiritual transformation; if the hearts of parents are turned toward their children; if respect is restored for human life and property; if a commitment is renewed to care about our neighbor and our **community**.

Principle 4 Texas is blessed by a rich diversity of people and institutions - families, houses of worship, private and **religious** charities, schools, voluntary associations, local grassroots organizations-able to champion virtuous ideals and restore hope. Armed with love, individual responsibility and spiritual values, these **character-**building institutions of civil society perform miracles of renewal and restoration.

Principle 5 Every single one of Texas' social problems, no matter how severe, is today being addressed somewhere and somehow, by some-faith-based or community group. This a great and untold story.

Principle 6 A responsibility of government is "fruitful cooperation" with mediating institutions that are meeting the needs of Texans in crisis. Government policy must bolster, not weaken or displace, people and organizations that are carrying out their vital responsibilities and getting things done.

Principle 7 The urgent public mission of enhancing Texas' civil society requires a fresh definition of compassion, one that focuses on the consoling hand and word of someone who "suffers with" and who invests himself or herself.

Principle 8 The members of this Task Force see the First Amendment as a vital protection against **unreasonable** government interference. Government should not exclude **religious** expressions or concerns **from** the public square nor grant privilege to secular programs or solutions. Government's treatment of faith-based **organizations** should be one of benevolent and positive neutrality.

Principle 9 State and federal law, rules, and regulations should not **discriminate** against Texans eligible to benefit from government financial assistance for human services (e.g., job training, health care, shelter, **child** care, education, counseling, drug and alcohol rehabilitation) simply because they choose to receive those services from faith-based service groups. Such groups, on an equal footing with non-religious groups, should be permitted to serve beneficiaries of government-funded services - and without having to "secularize" their distinct religious character or self-governance.

Principle 10 We see no conflict with, or threat to "promot[ing] the general welfare" when government cooperates or contracts with faith-based social service organizations **on the same** basis as it does with non-religious organizations in seeking to fulfill this purpose.

* This Statement of Principles is drawn in part from various items published by The Center for Public Justice (CPJ) and from materials provided by the office of U.S. Sen. Dan Coats, which have been revised to reflect the consensus of the Task Force.

For I was hungry, and you gave Me something to eat; I was thirsty, and you gave Me drink; I was a stranger, and you invited Me in; naked, and you clothed Me; I was sick, and you visited Me; I was in prison, and you came to Me.

* * * * *

Truly I say to you, to the extent that you did it to one of these brothers of Mine, even the least of them, you did it to Me.

MATTHEW 25:35-36, 40

1 THE NEW "CHARITABLE CHOICE" ACT

Enlisting religious groups in Texas' anti-poverty battle

The centerpiece of the American welfare system - AFDC, the federal cash entitlement benefiting unmarried poor mothers - is gone. In its place, Congress has opted for a \$16.4 billion lump-sum 'block grant' to the states. Now the states, including Texas, can use this money to design, finance and administer welfare programs that best fit their needs.

A key provision of the federal welfare bill - the "charitable choice" provision - invites states to enlist the help of charitable and faith-based organizations in delivering welfare services to needy Americans. If Texas continues using non-government providers to serve the poor - and we hope it does - religious-based groups would be free to compete for contracts or participate in voucher programs

What Does the "Charitable Choice" Provision Do? Passed in August 1996 as part of Congress' sweeping welfare reform bill, Missouri Senator John Ashcroft's "charitable choice" provision empowers states to utilize faith-based social service agencies on *the same basis as secular agencies* in anti-poverty efforts. Importantly, religious providers aren't required to "sanitize" their programs in order to compete for contracts or participate in voucher programs; they can maintain their unique ecclesiastical nature and retain control. "over the definition, development, practice, and expression of its religious beliefs." This visionary proposal - an idea long supported by Governor Bush - is a historic event and has the power to transform fundamentally the character of our welfare system.

Senator Ashcroft's "charitable choice" provision explicitly provides that

- States may provide welfare services through contracts with charitable, religious, or private organizations, and/or give beneficiaries vouchers that are redeemable with such groups.
- Religious groups may participate "on the same basis as any other nongovernmental provider *without impairing the religious character of such organizations*, and without diminishing the religious freedom of beneficiaries of assistance."
- States may not discriminate against a religious provider "on the basis that the organization has a religious character."

The goal? To encourage the religious sector to get more involved by protecting their rights as well as those of the people they serve. By enabling them to expand their services via government funding while guaranteeing that they don't have to "secularize" their property or betray their religious character, the new "charitable choice" act will help move people toward independence and self-reliance.

For more detailed discussion on this and other congressional efforts to revive civil society, see:

• Report Appendix pp. 22-27

America's faith-based charities and nongovernmental organizations, from the Salvation Army to the Boys and Girls Clubs, have been successful in moving people from welfare dependency to the dignity of self-reliance. Government alone will never solve our welfare problem. We need to enlist our charitable institutions in the war on poverty.

— U.S. SEN. JOHN ASHCROFT

Detroit's Joy of Jesus job-training program was so successful at placing unemployed workers that Michigan officials offered state funding. The catch? The Bible studies and prayers had to go. The result? Absent the faith orientation, Joy of Jesus endured noisy, disinterested enrollees and saw its 60 percent placement rate drop to near zero. Last December, Joy of Jesus returned the money.

"Can charities fill the gap?" I don't know. But, what I do know is that missions work every day to expand their programs to meet the demand for their services. There are a lot of people at risk of falling off the welfare rolls and I am confident that missions will help fill that gap.

— REV. STEPHEN E. BUNGER,
EXECUTIVE DIRECTOR OF THE INTERNATIONAL
UNION OF GOSPEL MISSIONS

Vouchers vs. Contracting: Within the charitable choice framework - which permits either direct contracts with providers or vouchers to recipients - the Task Force prefers a voucher-oriented delivery system that would spur a market for the charity "business."

Using vouchers (a.k.a. certificates, redemption coupons) redeemable at a range of private, charitable, or religious providers will:

- provide choice and autonomy to the recipient
- stimulate healthy competition and efficiency among providers
- Simplify monitoring
- lower administrative costs
- provide better matches between the client's preferences and the services sought
- cleanly sidestep First Amendment challenges

Restoring choice by **privatizing** charity also restores dignity. As Booker T. Washington recognized, "Few things help an individual more than to place responsibility upon him, and to let him know that you **trust** him." The recipient **is** no longer the passive recipient of delivery-line service, but the proactive owner of a voucher. He or she can use it anywhere, at a wide range of providers, and not necessarily from a government program, but from a caring neighbor - through a **church**, a **synagogue**, or a community group around the corner.

The legality of client-directed aid enjoys strong support. As Justice Thurgood Marshall recognized in Witters v. Dep't of Washington Services for the Blind:

Any aid provided that ultimately flows to religious institutions does so only as a result of the genuinely independent and private choices of aid recipients. The decision to support religious education is made by the individual, not the state.

The utilization of faith-based charities can occur at the same time that the **religious** liberty of beneficiaries **is** honored. How? By ensuring that beneficiaries have the right not to be coerced into religious practices/beliefs and that they have a voice in choosing their provider. Those choosing a religious provider can be expected to **follow** the group's program without **violation of their rights**. **The law, therefore**, shouldn't pressure faith-based groups to secularize their programs, but rather assure beneficiaries a **choice among various religious and nonreligious** providers.

NOTE: Religious providers have, of course, a duty to adhere to the highest possible conduct, to abide Paul's injunction to be "above reproach." Striving for sterling character — such that critics have nothing to say — is a principle that all faiths share, and that norm of stewardship is absolutely crucial.

RECOMMENDATION

The Task Force, in light of Congress' historic passage of the "charitable choice" provision, encourages Texas policymakers to design a "voucherized" welfare delivery system.

Policy Options for Consideration

1. Craft a "voucherized" delivery system that allows needy Texans to redeem certificates for welfare services (e.g., job training, day care, etc.) at participating private and faith-based providers providing comparable services.
2. Enact legal provisions guaranteeing religious liberty safeguards that assure would-be providers that their distinct religious character, program, and beliefs need not surrendered or "secularized" as a price of participation in the voucher system.
3. Insert religious liberty protections into all of the State's contracts/agreements, whether or not for services under the federal welfare reform bill, with participating faith-based service providers.

This is our special duty, that if anyone specially needs our help, we should give him such help to the utmost of our power.

CICERO

How wonderful it is that nobody need wait a single moment before starting to improve the world.

ANNE FRANK

2 STATE LICENSURE AND CONTRACTING GENERALLY

Recognizing private accreditation in lieu of state licensure and regulation

As we approach the next millennium, Texas is looking at completely new issues (i.e., block grants, managed care, third-party administration of services). As our State government strives to become leaner and smarter, policymakers should turn their attention to our traditional licensing, regulatory, and contracting practices.

Licensure and "Alternative Accreditation"

Texas currently requires the licensure, registration and/or certification of all the 30,003 or so facilities that provide out-of-home child day-care, residential care, and child placement.

A brief glimpse at the scope of one agency's licensing activities

The 401-person licensing staff of the Texas Department of Protective and Regulatory Services (DPRS) - 336 of them handling day-care - issues about 4,200 new licenses, certificates, and registrations each year. Expenditures for FY 1995 are estimated at \$13.7 million. In FY 1995, the agency conducted 35,269 inspections - which are required of licensed facilities at least once per year - to check compliance with minimum standards. Each child-care licensing representative handles about 81 cases. Each residential child-care licensing representative handles about 21 cases.

Besides the various child-care facilities, Texas has dozens of other service areas involving children, expectant mothers, the elderly, substance abusers, the disabled, etc. All these areas require a state-issued license from one agency or another.

Many important programs in Texas are operated and/or sponsored by faith-based groups (e.g., children's homes, nursing centers and hospitals, etc.). Many facilities, though - *and not just faith-based ones* - have clashed with *state rules* and regulations that many describe as silly and unnecessarily meddlesome.

Is Accreditation Available? Virtually *all* of Texas' service areas that are now licensed can be accredited:

- residential treatment for youth
- day treatment
- foster care and day care services for children
- vocational and employment services
- adoption services
- family preservation services
- runaway and homeless youth services
- outpatient mental health and substance abuse services
- therapeutic foster care
- residential care for mentally ill adults

The Council on Accreditation (COA) is a national nonprofit that accredits over 4,000 social service and behavioral healthcare programs that meet standards of high service.

By Fall 1996, COA will have standards for over 50 different services. In Texas, 21 providers - usually multi-service providers - had achieved COA accreditation as of April 1996.

Almost half the states, to some degree or another, formally recognize the value of COA accreditation (i.e., accepting accreditation in lieu of licensing or other state requirements). COA is sponsored and supported by several groups, including the Child Welfare League, the National Council for Adoption, Catholic Charities USA, etc.

For more information on COA, call (212) 714-9399.

Other established entities offer accrediting, too:

The Joint Commission on Accreditation of Healthcare Organizations (JCAHO): the oldest and largest accrediting body - which accredits hospitals, nursing homes, mental health programs, etc.

The Commission on Accreditation of Rehabilitation Facilities (CARF), which accredits sheltered workshops, rehab units in hospitals, mental health and substance abuse facilities, and a range of services to people with disabilities.

The Accreditation Council on Services for People with Disabilities, a behavioral health care accreditor that works in the field of developmental disabilities.

Father Flanagan's Boys Town recently published, with the help of prominent child-care and treatment experts, National Performance Standards for Residential Care.

Importantly, these core standards focus not on program process, but on program performance — the impact of programs and practices on the lives of children. The performance standards are for long-term residential group care programs such as group homes, residential programs, residential treatment centers, long-term psychiatric care facilities, corrections facilities, and youth boot camps.

Boys Town urges organizations to adopt these concrete performance standards — as a complement to accrediting systems that measure “process” standards — in the hope of gauging effectiveness and elevating the overall quality of care.

Info.:

13603 Flanagan Blvd.

Boys Town, NE 68010

(800) 282-6657

btpress@boystown.org

- day care services for the elderly
- services for victims of domestic violence
- services for persons with developmental disabilities

Is Accreditation Useful? For providers weary (or afraid) of government oversight, accreditation helps meet our three-part goal:

- protecting the public interest by ensuring appropriate care and oversight;
- protecting the religious character of participating organizations; and
- protecting the religious freedom of beneficiaries.

Accreditation's value is hard to overlook. As stated by the Council on Accreditation, accreditation carries these benefits:

- identifies agencies in which consumers can have confidence
- generates knowledge upon which an effective agency referral system can be built
- identifies agencies worthy of public and private funding support
- protects agencies and boards against pressure to lower standards
- increases program effectiveness
- good risk-management strategy
- stronger competitive position in a managed care environment
- demonstrates accountability in management of resources
- builds staff morale
- one accreditation review covers all services - a plus for multi-service delivery systems

Why Accreditation? Accreditation by a well-respected and -credentialed entity would inspire confidence in the quality of service and eliminate the need for government licensure and oversight. The credential of accreditation means something. Accordingly, it is increasingly recognized by several states as equivalent to state licensing or certification requirements. Some states and other entities add other practical and tangible value to accreditation via various incentives (e.g., insurance reimbursement for accredited facilities).

Moreover, as discussed above, it's a useful way to begin re-engineering the state's regulatory machinery and focusing government's efforts on trouble areas.

A partial list of accrediting bodies focused on early childhood education is provided in the Appendix to this Report. Nothing in this Report should be construed as an endorsement of any particular organization.

In all its licensing and contracting activities, Texas should protect the religious integrity of faith-based groups in at least four ways:

- **Personnel:** Faith-based groups should enjoy autonomy in personnel matters (*i.e.*, hiring people who share their religious views, disciplining those who engage in certain conduct, etc.)
- **Environment:** Faith-based providers shouldn't be required to dilute their religious environment (*i.e.*, symbols, scriptures, icons, etc).
- **Content:** Religious groups should be free to help clients in a distinctly religious manner (*i.e.*, using religious language and styles of service). Often, assistance cannot be easily classified as either "secular" or "sectarian." For example, counselors may urge clients to seek a "higher power" to gain **strength** and resolve, or urge those being **mentored** to participate in a church's internal life. These religious emphases *improve* the quality of services. Government's sole aim should be that people overcome their problems and are restored to society, not that social services be stripped of religious content.
- **Financial Accountability:** In holding religious groups fiscally accountable, government should stay clear of policies and practices that aren't directly involved in the program. The law should recognize a "firewall" permitting groups to segregate their program funds and limiting audits to that account. This provision will **guard** against any improper entanglement.

RECOMMENDATION

To promote high-quality care, Texas should allow for an alternative oversight mechanism for faith-based providers who, while committed to providing valuable service, believe a non-governmental entity can better credential and accommodate their program. Also, our State should, while ensuring responsible stewardship of public dollars, take care not to crowd out the contributions of faith-based providers via excessive contracting regulations.

Policy Options for Consideration

1. Authorize as an alternative to state licensure accreditation by an established and recognized accrediting body committed to high-quality care and whose standards meet or exceed state minimums.
2. Urge insurance plans to include in their authorized provider pool facilities that are recognized as offering high-quality care by a well-respected accrediting organization.
3. Recognize the value of accreditation by waiving/easing the State's contracting requirements on accredited providers from whom the State purchases services.
4. Texas law should reemphasize and re-affirm the State's commitment to religious liberty. All Texas statutes governing licensing - and all related regulations, contracts, documents, agreements, etc. - should prominently (i) bear language similar to that set forth in § 42001 of the Human Resources Code (which governs child-care facilities) . . . that religious freedom is inviolate and beyond government's regulatory reach, and (ii) describe the State's provision for variances and waivers.
5. Enact legal provisions guaranteeing religious liberty safeguards that assure would-be providers that their distinct religious character, program, and beliefs need not be surrendered or "secularized" as a price of contracting with the State.
6. Insert religious liberty protections into all of the State's contracts/agreements with participating faith-based service providers.
7. Periodically review and revise any new State contracting provisions and regulations to ensure that they don't unnecessarily discourage the cooperation of Texas caregivers.

The fruit of silence is prayer.

The fruit of prayer is faith.

The fruit of faith is love.

The fruit of love is service.

The fruit of service is peace.

MOTHER TERESA

3 TEXAS CHILDREN: VALUING OUR GREATEST ASSET

Using 'Alternative Accreditation' to encourage faith-based child care providers

Our children are the faces of our future. And the childhood we give them today will determine the society they give us tomorrow.

- GOVERNOR GEORGE W. BUSH

Helping Ease the Child Care Trap

Background: Texas has endured a profound shift in childrearing. Most Texas children spend significant time in the care of non-parents. And as we better understand the lasting importance of children's early experiences, we see that child-care's implications for children - emotionally, physically, cognitively - are enormous.

Child-care has the capacity to nurture children's bodies, minds, and souls. To thrive, children require a delicate blend of love, guidance, acceptance, encouragement, and discipline. Child care cannot be a place where children are warehoused with apathetic (or worse) staff and in substandard facilities.

Quality child-care is a must for working Texas families - parents need suitable options, and children need suitable care. But finding reliable and affordable child-care poses a tough dilemma for working parents. Without it, access to the workforce is blocked. And put simply, there are holes in Texas' child-care market (our State's third-fastest growing industry).

Texas companies such as the Austin Diagnostic Clinic and IBM are pooling resources to form child-care consortiums that address their employees' child-care woes. Such "child-friendly" cooperative efforts (i) plug holes in the area market, (ii) boost performance by reducing attrition and absenteeism, and (iii) help workers meet work commitments without sacrificing family needs. The faith community can join together to do the same.

The Added Effect of "Workfare": Texas requires welfare moms to work. Fortunately, the federal welfare reform bill grants Texas about \$350 million for child-care programs over the next six years. That helps, but there persists a very real issue: who will look after the children of low-income, working moms when the moms can't? How can they hold onto their jobs? What happens when family and work responsibilities collide? The work requirements in the federal bill mean Texas will need affordable child care more than ever. The key: more providers.

The need for good care is paramount, but it won't sprout overnight. Stringent regulations and liability concerns often dissuade would-be providers.

For more detailed discussion, see:

• Report Appendix pp. 4-8

• As of 1993, 9.9 million children under age 5 were in need of care while their moms were at work.

• Roughly 1.6 million of these children lived in families with monthly incomes below \$1,500.

• An additional 22.3 million children ages 5-14 had working moms, many of whom required child care during nonschool hours.

• Over half of all infants under age 1 are enrolled in some form of non-maternal care, most for 30 hours or more per week.

— BUREAU OF THE CENSUS, 1995

Among the factors that encourage low-income mothers to seek and keep jobs... affordable child care is a decisive one.

— U.S. GENERAL ACCOUNTING OFFICE

Complying with applicable teacher/child ratios — usually a day care center's single greatest expense (around 70 percent on average) — can possibly be eased by the new federal welfare bill.

The law requires recipients to perform community service at charities or public agencies if they're unable to find a paying job. This option gives Texas more opportunities to place welfare recipients in work environments, including placing trained recipients in child-care centers.

Moreover, says Carrie Moffitt, Executive Director of the Houston Volunteer Center, volunteering at nonprofit agencies and charities is a good way to develop work skills.

The Unique Status of Religious Providers: Religious-based caregivers face unique concerns. While Texas benefits from numerous faith-based providers who provide topnotch care, countless other would-be caregivers give in to “preemptive capitulation.” Why? Because they often perceive public agencies as less interested in serving children than in punishing those who don't succumb to state control. Requirements have crept from health, fire, sanitation, and safety into sensitive areas like personnel, program, funding, etc. Many fear being turned into a quasi-government agency via excessive state regulation, and losing their religious distinctiveness in the bargain.

This view may seem exaggerated to some, but it nonetheless acts to discourage many religious agencies who fear government's “fatal embrace” and believe they will have to sandpaper down their religious vitality for the pleasure of rendering service.

Governor Bush has encouraged Texas' faith community to offer quality child-care, like Task Force Chairman Tom Currie's church does for welfare moms who are either working or completing their education. Given our State's need for affordable, accessible care, and some would-be providers' good-faith aversion to government interference, we must try to enlist their help.

What to do? How can the State be less ‘intrusive into religious affairs yet still fulfill their bona fide role in ensuring health, safety, fire and sanitation safeguards? Roughly nine states have **struck** a balance by carving out, in one fashion or another, state licensing exemptions for religious child-care providers. Each state **makes** its own provisions for assuring itself that fire, health and safety requirements **are** met, that children are protected from potential abuse via screening and reporting requirements, and that parents remain involved in their children's care.

A three-page analysis of how eight states have accommodated religious child care, prepared by the Christian Law Association, is provided at pages 4-5 in the Report Appendix. The Task Force, constrained by time, was unable to study exhaustively these alternatives, but invites Texas policymakers to examine and take advantage of this information.

Florida embraces a unique alternative to state licensure: “alternative accreditation.” So long as programs are accredited by a respected body that requires compliance with published health and safety standards, they **are** exempt from state licensure.

The Valid Need For Accountability Generally: The faith community welcomes accountability and oversight. On this point, **Scripture** provides a clear admonition: people of faith are to be “above reproach” and a sterling example of good deeds. As one minister-law professor has said, “Christ came to Save us, not exempt us.” All **religions agree** that **caring** for children, the most vulnerable members of our society, is a sacred **trust**.

Because the **Task** Force recognizes an overwhelming burden of responsibility toward the **children** of Texas, it **knows** that any proposed alternative to licensing must demonstrate a commitment to stewardship that is absolutely impeccable.

The Virtues of “Alternative Accreditation”: Alternative accreditation is a terrific alternative for providers, whether faith-based or not, and provides a conspicuous mark of excellence. Whether you're a parent look-

ing for good care for your child or an employer trying to support your employees' child care needs, accreditation identifies high-quality programs that benefit *all* Texans.

Alternative accreditation addresses our goals:

- ensures protection for Texas children by providing a benchmark for quality;
- assists parents in their search for high-quality programs;
- provides valuable professional development experience for teachers and directors;
- assures donors of a solid investment;
- provides professional and public recognition for high-quality programs; and
- promises greater sensitivity to the religious autonomy and identity of providers.

There's an added bonus, too: A credible alternative to state licensure provides a novel opportunity to re-tool the State's regulatory apparatus and conserve finite resources. There were over 22,000 licensed, certified, and registered day-care facilities in Texas as of August 31, 1995. If Texas defers more to the private sector for oversight, public employees can better focus their energies on problem areas.

A brief description of various accrediting bodies is provided in the Appendix. The Task Force, however, presents this material for informational purposes only; no endorsement is intended.

RECOMMENDATION

Texas should provide an alternative oversight mechanism for faith-based providers who, while committed to providing quality care, believe a non-governmental entity can better accommodate and credential their program.

Policy Options for Consideration

1. Adopt an "alternative accreditation" model that would permit faith-based providers to seek accreditation by a well-respected body whose standards meet or exceed state minimums. Such accredited providers would be deemed eligible to compete for public contracts and/or voucher programs.
2. Texas officials should embrace a philosophy of 'benevolent neutrality' toward faith-based providers wishing to remain licensed by the State. This philosophy should inform the state's funding decisions and also the state's oversight and compliance efforts (i.e., requests for waivers and variances).
3. Encourage on a private, associational basis, accredited faith-based providers to form (or join) a peer self-study process to identify "best practices" and performance standards, support training/technical assistance initiatives, etc.

To give and not
to count the cost;
To fight and not
to head the wounds;
To toil and not
to seek for rest;
To labour and not
ask for any reward
Save that of knowing
that we do Thy will.

IGNATIUS LOYOLA

We are caught in an inescapable network of
mutuality, tied in a single garment of destiny.

DR. MARTIN LUTHER KING JR.

4 COMBATING CRIME AND SUBSTANCE ABUSE

Enlisting the "faith factor" to promote a safer Texas

Without God, anything [everything] is permitted.

- FYODOR DOSTOYEVSKY

The church, as an institution, is society's most effective weapon in saving children from alcohol abuse, illegal drugs, violent crime, sexual- promiscuity, illegitimacy, and dependence.

- THE HERITAGE FOUNDATION

Freeing Faith-Based Adult Chemical Dependence Programs

The Crisis of Drug Abuse: Two just-released studies underscore the severity of our drug crisis. Teen drug use had hit its lowest point in 1992 after a decade of decline, but the National Household Survey on Drug Abuse reports that teen drug use - which portends more violent crime - has risen sharply:

- overall drug use increased among 12- to 17-year-olds by 78 percent from 1992-95, 24 percent from 1994-95 alone;
- 10 percent of teens now use drugs on a monthly basis;
- monthly cocaine use spiked up 166 percent between 1994-95;
- marijuana use increased 105 percent from 1992-95, 37 percent since 1994;
- monthly use of LSD/hallucinogens rose 183 percent from 1992, 54 percent from 1994-95

Much of our drug war is waged on the "supply" side of the equation, with government trying to stem the flow of drugs across our borders. But there would be no flow to stem were it not for America's steady demand. The federal government has certainly stumbled in its duty to guard our borders, but Texas must do better, too, at squeezing demand.

The Proven Efficacy of the "Faith Factor": Treating addicts, of course, is a vital part of our anti-drug efforts. And studies consistently show that faith-based addiction programs are often superior to other programs.

A study published in the *American Journal of Drug and Alcohol Abuse* found that participants attending religious programs were nine times more likely to report abstinence from opium-based drugs like heroin for one year after completing the program. A review of 20 published studies on substance abuse found that 19 of them - 95 percent - reported that

For more detailed discussion, see:

• Report Appendix p. 13

[[The] role of religious commitment and religiously oriented treatment programs can be significant factors which ought to be considered and included when planning a mix of appropriate treatment alternatives. . . .

Perhaps the greatest advantage of religious programs is their recourse to churches as a support system. Religious treatment programs are not suitable for everyone. For those men and women who can accept the creeds, rituals, and commitments required of such programs there seem to be certain advantages.

— DUKE UNIVERSITY

RESEARCH PSYCHIATRISTS

The most frequent crime leading to prison is drug-related.

Boys who regularly attend church are 50 percent less likely to engage in crime than boys of similar backgrounds who don't attend church.

They are also 54 percent less likely to use drugs and 47 percent less likely to drop out of school.

— RICHARD FREEDMAN, HARVARD UNIVERSITY

A 1996 poll in USA Today found that 56 percent of Americans believe that faith helped them recover from an illness.

A review of 212 medical studies examining faith and health found that roughly 75 percent of the studies showed health benefits for patients with "religious commitments."

[Faith-based treatment programs] just [want] to be left to do [their] work . . . but . . . officials . . . insist you've got to be certified by the state and comply with rules like having a 36-inch door rather than a 34-inch door. . . . The government officials cling to their regulations, and kids who might be rescued are sleeping in crack houses or under bridges.

— ROBERT L. WOODSON Sr., PRESIDENT,
NATIONAL CENTER FOR NEIGHBORHOOD
ENTERPRISE

religion plays a significant role in preventing alcoholism. The review also noted that people who didn't use drugs shared a consistent trait: a strong religious commitment.

Additional data on the "Faith Factor"

- A 1988 study noted that religious beliefs were related to both the incidence and prevalence of marijuana use, theft, and vandalism.
- A review of 20 studies found that drug abuse is related to a person's lack of religious commitment. "Serious commitment was a strong predictor of those avoiding drugs."
- Studies show that alcohol abusers rarely have a strong religious commitment; 89 percent say they lost interest in religion during their teens.
- The two most reliable predictors of teen drug avoidance are optimism about the future and regular church attendance.

Government's Aversion to Faith-Based Treatment: Unfortunately, current Texas law crowds out valuable faith-anchored programs by failing to take into account their unique nature and philosophy. By exhibiting a strong sense of "credentialism" and dismissing religious volunteers as "amateurs," Texas has a history of brushing aside religious efforts as unprofessional and unsystematic. Said one former TCADA executive: "Outcomes and outputs are not an issue for us." As a result, many addicts - with lives often marked by criminal behavior, lack of health insurance, welfare dependence - are denied a proven way to escape their destructive lifestyle.

Texas law: Anyone purporting to offer drug treatment must have a state-issued license, which requires licensed counselors with a requisite amount of "medical model" academic training, clinical expertise, etc.

Results Matter: In launching this Task Force, Governor Bush put it well: "The state should not be so process-oriented that it stifles good programs that produce results." Just as we respect results, we should respect the methods that achieve them. Unfortunately, Texas law has threatened to snuff out some life-changing success stories:

Victory Fellowship: Not long ago, TCADA threatened to shut down Victory Fellowship, a faith-based haven for hard-core substance abusers staffed by former addicts and alcoholics.

7k Philosophy: A relationship with God provides meaning and direction for life. "We don't use drugs or psychiatrists or any of that, only Bible study," says addict-turned-Outreach founder Freddie Garcia. "We believe that sin is the reason why people take drugs. . . . the drug addict is a slave to sin, not to drugs. We believe that drug addiction is a spiritual problem, and that Jesus Christ is the solution."

* February 1996 brought new bureaucratic hassles, courtesy of the U.S. Department of Housing and Urban Development, led by former San Antonio mayor Henry Cisneros (who, while mayor, praised Outreach founder Freddie Garcia as a 'benefactor of the community' who 'can work wonders'). HUD requirements - \$5,000/year in rent, costly insurance coverage, etc. - threatened to shut down Garcia's 'drop-in' center for troubled teens, operated for free in San Antonio's public housing projects. (Secretary Cisneros recently waked the rent requirement, but insisted on the other requirements for Garcia to continue offering his free services to penn members, addicts, abused kids, etc.)

The Results: A reported "cure" rate for abusers of crack, heroin, and alcohol of about 70 percent (compared with single digits for many secular programs). An average cost of \$25-30/day (compared with several hundred dollars per day at other facilities). Over the last three decades, more than 13,000 people have reaped sobriety and spiritual renewal at Victory Fellowship, which has roughly 70 satellite centers across the country and around the world.

• **Teen Challenge:** Like Victory Fellowship, Teen Challenge — the largest faith-based treatment network with 120 centers nationwide - is a rehab program that boasts great success. It, too, was almost shut down because it didn't embrace the "medical" - a/k/a/ "addiction is a disease" - model of treatment. Instead, it embraced a "religious" model that views addiction as the result of underlying spiritual troubles that are eminently curable through moral teaching. (California recently hired the University of California to determine whether its federally-funded treatment programs actually work).

The Philosophy: Addiction is the result of moral choices, a manifestation of larger problems brought about by sin and ill-fated attempts to find meaning in life. Teen Challenge provides residential social care, offers a home environment, teaches work ethics, helps clients secure their GED (if needed), teaches biblical principles, etc.

Tk Results: Reported "cure" rates of 70-86 percent, and for a fraction of the cost of other treatment (sometimes only four percent of other local programs).

What About Cost? Drug treatment sponsored by taxpayers is no bargain. According to federal drug czar Barry McCaffrey, the federal government will spend \$5 billion in 1997 treating mostly poor and criminal addicts. The annual per-person costs of most residential treatment programs is between \$17,000-22,000. In 1992, the National Drug and Alcohol Treatment Utilization Survey noted that 945,000 clients were participating in federally-funded drug treatment programs. And the cost of that treatment has spiraled. From 1989 to 1994, federal money more than doubled - increasing 119 percent, or \$1.3 billion - but while treatment demands have increased, the number of persons treated has gone down.

America's Drug Treatment Industry At a Glance:

drug and alcohol treatment centers:	11,800
Americans who need treatment:	7.1 million
# who received treatment in 1994:	1.85 million
# of people in custody of correctional agencies also in a treatment program:	944,208

Effective Drug Treatment = Less Crime: This, too, is clear: effective treatment yields tremendous results for law-abiding society. Every day of proven treatment reaps a financial return to the state because social costs - mostly crime - decrease as people escape their addictions. One study noted that graduates of religious programs were three times more likely to be married and far less apt to be on parole/probation.

Recovered addict Dyrickeye Johnson says his state-approved center was "a nice place" with his own room, a schedule, and no work he had to do. "You were told to focus your mind and your willpower. The only problem is that a drug addict doesn't have any willpower." He was back on crack within three months. After leaving Teen Challenge, he's clean, married with two small children, and a counselor at a local housing project.

There is no single appropriate treatment for addiction any more than there is for diabetes, hypertension, or depression. These populations are diverse. Some need medication, some need psychological help, some need lifestyle change. It is critical to match the individual with the appropriate treatment.

— HERBERT D. KLEBER,
DIRECTOR, DIVISION OF SUBSTANCE ABUSE,
COLLEGE OF PHYSICIANS AND SURGEONS

I believe there are people and groups in America with answers, [people who are] winning the war on poverty and addiction, one individual at a time.

— U.S. SEN. DAN COATS

One size doesn't fit all, and faith-centered programs may not work for everyone. But Texas needs a diverse mix of treatment alternatives, including low-cost programs rooted in faith. Their impressive success merits them a place of respect. As Texas looks for programs that work, it should (i) applaud no-nonsense ministries like Victory Fellowship and Teen Challenge that have a long history of saving lives, and (ii) do as other states have done and dismantle the secular bias that crowds out such valuable programs.

RECOMMENDATION

Modify existing law to better enable faith-anchored chemical dependence programs to reach adult Texans suffering from drug and/or alcohol addiction..

Policy Options for Consideration

1. Exempt from licensure requirements rehab or treatment programs operated by a religious institution or social **ministry** that employs spiritual or religious methods of treatment and whose primary purpose is to propagate the organization's religious beliefs. Such facilities should not be crowded out by a co-opted definition of the words "treatment" or "rehabilitation," or fall within TCADA's purview.
2. Require exempt facilities to:
 - provide the name and address of the facility and satisfactory proof of its status as a church or nonprofit religious organization;
 - not provide medical care, medical detoxification, or medical withdrawal services, and to refer persons needing such care to an appropriate medical facility (unless the exempt facility ordinarily provides such care);
 - comply with all local fire, health and safety codes, along with applicable state incorporation laws and **financial** accountability standards set forth in nonprofit corporate statutes and IRS guidelines; and
 - include in **all** advertising and program **literature** a statement noting its exempt status as a religious nonprofit organization.
3. Recognize that individuals should not be precluded from receiving federal or state benefits merely because they are participating in a **faith-based** residential **treatment** program.
4. Consider faith-based programs on the same basis as any other nonprofit private organization when recommending or referring would-be participants.
5. Permit faith-based programs (perhaps based on specific outcome criteria) to receive TCADA funds and provide services on the same basis as any other nonprofit private entity, and forbidding the state from (i) interfering with the definition, practice, or expression of a provider's religious beliefs, (ii) **requiring** that a faith-based provider alter its form of internal governance or remove religious art, scripture, etc., or (iii)

requiring funded programs to jettison their requirement that employees adhere to the organization's religious and moral beliefs.

6. Recognize the legitimacy and effectiveness of proven faith-based programs such that insurers are urged to include them within their authorized provider pool.

7. Reevaluate any education and credentialing standards that act to deny federal drug treatment funds to faith-based facilities. Such standards should be removed so long as (i) the program has provided effective drug treatment for a reasonable period of time (i.e., at least three years), and (ii) the requirements for education and training of personnel effectively bar the group from receiving federal funds.

8. Urge faith-based programs to form, on a private, associational basis, a peer self-study and accrediting process to identify "best practices" and performance standards, support training/technical assistance initiatives, etc.

Faith-based correctional facilities

Religion is the forgotten factor. . . . We use pet therapy, horticulture therapy, acupuncture in prisons, but if you mention God, there's a problem.

- BYRON JOHNSON, LAMAR UNIV. CRIMINOLOGIST

Government's **First Duty**: If government can master one thing in order to help re-energize civil society, it must restore security, protection, order to our neighborhoods. There can be no civic engagement when front porches attract random gunfire, or public parks attract drug addicts and prostitutes. A flourishing civil society is impossible if we have communities imprisoned by violence and fear.

Texas, which runs the nation's largest prison system - now housing **132,000** inmates - could certainly benefit from ways to break the cycle of criminal behavior.

Crime and Religion -Age-Old Enemies: A growing body of scientific evidence shows that religion can curtail or cure deep socioeconomic problems and help curb crime and recidivism. Policymakers worried about crime cannot be indifferent about the difference that makes the most difference in people's lives.

The rehabilitative efficacy of faith-based treatment programs for inmates is no longer open to serious dispute. A recent study examined the impact of religion on hundreds of inmates from 20 prisons in 12 states, and found that the "truly religious":

- were better able to handle personal problems;
- learned to deal with guilt;
- came to accept personal responsibility for their crimes; and
- tended to become model prisoners.

Chuck Colson's Prison Fellowship, which works with convicts throughout the U.S. and in about 60 other countries, joined the Federal

In 1993, Americans suffered over 43 million criminal victimizations.

10 million were violent attacks, 25 percent of them murders, rapes, aggravated assaults, robberies, and other injury- or fatality-causing attacks.

Each year, violent crime costs society over \$400 billion in economic losses and long-term health and other costs.

Between 1980-94, the nation's state and federal prison population more than tripled, from 319,598 to 999,808. Over the same period, the number of criminals on probation or parole swelled by a similar proportion, from 1.3 million to 3.7 million.

On any given day, for every three persons who were incarcerated, seven convicted offenders were on the streets with little or no supervision.

— JOHN J. DIJULIO

Prison Fellowship has run the Humanita Prison in Sao Paulo, Brazil, for the past two decades, "offering a decidedly moral alternative to basic prison life."

The recidivism rate is 4 percent, compared with the general Brazilian rate of 75 percent. (The U.S. rate is about 75 percent, too.)

What cannot be denied is that religion is a topic that should be of interest to those concerned with the field of corrections.

— TODD R. CLEAR (WRITING FOR THE NATIONAL COUNCIL ON CRIME AND DELINQUENCY)

Almost every account we have from psychologists of the moral development of the child emphasizes reinforcements and imitation. Children acquire rules of conduct by having compliance with those rules rewarded and violations punished and by observing and imitating the behavior of their parents and friends.

— JAMES Q. WILSON, UCLA

Bureau of Prisons to study recidivism in religious former inmates. The study - which measured recidivism for up to 14 years after release - found that the recidivism rate among religious former inmates was significantly lower than the rate among non-religious ones. Religious instruction played a key role in boosting the prospects for successful long-term rehabilitation. A more demanding follow-up study found similar drops in recidivism for inmates who attended prison Bible courses.

Dr. David Larson, a former researcher with the National Institutes for Health and now with Duke University Medical Center, has spent several years researching the beneficial relationship between religiosity and recidivism. A recent survey found over 30 studies showing a correlation between religious participation and being crime- and drug-free. (Larson bemoans the neglect that religion - as well as the value of inmate participation in volunteer programs, such as Prison Fellowship or alternative correctional facilities - has received among many criminologists.) Byron Johnson of Lamar University agrees: "Religion in the forgotten factor."

Civil society needs guardrails, some moral consensus that dissuades deviant behavior. Religion, unlike government transfer payments, provides it. Transforming people from the inside out, it gets under the surface, re-molding beliefs and behavior. Religion fills man's moral vacuum. It provides hope, faith, and answers to life's great questions; it offers deep meaning and purpose; it gives people a reason to say "no," to persevere, to live lives of responsibility, kindness, mercy, benevolence, and virtue.

Religion's Effect on Would-be Juvenile Delinquents: *Washington Post* columnist William Raspberry writes often on the explosion in juvenile violence and what he sees as the "consciousnessless" among our youth:

children who have reached adolescence and beyond without having internalized any important sense of right and wrong, who have no internal brakes on their behavior, who can maim, destroy and kill without remorse.

Religion's power to curb juvenile delinquency - a term that used to mean stealing apples, playing hooky, and joyriding - is no longer open to serious question. Liberals and conservatives alike tout the virtue of faith. Says criminologist John DiIulio, "It's remarkable how much good empirical evidence there is that religious belief can make a positive difference." A recent study in Criminology concluded that there is significant empirical evidence that religion "serves as an insulator against crime and delinquency."

The fact that church attendance is a better predictor of who will escape drugs, poverty, crime, etc. *than any other single variable bears serious attention* from Texas policymakers. After all, Texas' prison population grew 127 percent from 1990-95, the sharpest jump in the nation. Texas also has the nation's highest rate of incarceration.

Policy analyst and former Pentagon official Robert Maginnis has surveyed the pertinent data on religion's power to curb delinquency:

- Church attendance deters juvenile crime. Twelve of 13 published studies summarized in two reviews found that religious commitment - especially church attendance - played a key role in reducing delinquency.
- An unpublished 1994 study of college students concluded that involvement in religious activities in the preceding two years

was, far and away, the most important predictor of lower crime.

- A 1993 study noted that religiosity reduced delinquency in both highly and marginally religious settings even when adjusted for peer and family influence.
- A 1985 study noted that religious black men living in poor areas are more likely than nonreligious black men to leave the areas and avoid crime and drug abuse.

“Faith-Based” Prisons and Rehab Programs? In Texas, there exist religious groups fully prepared to operate private correctional facilities (as well as operate faith-based rehabilitation programs within existing State prisons). These groups - who see a bold new mission field rather than a place of despair and antisocial values - would be filled by adult inmates nearing release (i.e., one or two years from parole eligibility or mandatory release) who voluntarily choose to participate in the faith-based programming.

Such public-private partnerships - privately financed and accredited by the American Correctional Association - would emphasize:

- community responsibility;
- strong moral and family commitments;
- classroom instruction;
- counseling and peer support; and
- on-site vocational training.

The aim is change the basic attitudes of inmates, and to help them re-enter society as contributing, self-sufficient citizens. And by paying the inmate a prevailing wage, as some initiatives envision, the inmate can contribute to his room and board, help support his family, make restitution to his victim(s), etc.

The inmate, who agrees to stay at least one year and fully participate in all programs, services, and employment, would spend his last bit of incarceration in a facility (i) dedicated to habilitation and reintegration, and (ii) animated by moral and social values. Moreover, the programs offer post-prison care for new “outmates,” such as mentoring and linking the inmate with a church family.

Programs of this nature have received accolades from leading law enforcement and criminologists, business and religious leaders, advocates for both inmates and victims, and government officials at all levels.

Texas also boasts hundreds of other criminal justice ministries designed to help ex-offenders find a spiritual base and re-enter society as responsible, contributing citizens. “Out, But Not Free,” for example, is a Dallas faith-based, after-care program offering job training, family counseling, educational assistance, and other support services. This post-release care and nurturing program also brings together educational institutions, businesses, churches, and the larger community to support ex-offenders “by bridging the gap between prison and the free world.” OBNF leaders say their goal is “to help former offenders successfully reintegrate into society and become spiritually whole, supportive of their families at home and productive citizens at work” OBNF and hundreds of other effective ministries are committed to ensuring that ex-offenders remain ex-offenders.

Children ages 10-18 who don't attend church are a third to a half more likely to exhibit anti-social and dysfunctional behavior.

— HERITAGE FOUNDATION

Our nation's youth crime problem — males ages 14-24 are only 8 percent of the population, but make up more than 25 percent of homicide victims and nearly 50 percent of murderers — threatens to get worse. The number of children arrested for violent crimes will more than double by 2010.

Texas spends \$300 million a year on rehabilitation programs with very little success to show for it.

State Senator John Whitmore, chair of the Senate Criminal Justice Committee, says “It's time to start spending that money better — and smarter.”

Some of these children are now still in diapers, and they can be saved. So let our guiding principle be, “Build churches, not jails” — or we will reap the whirlwind of our own moral bankruptcy.

— JOHN J. DIBLINO,
PRINCETON UNIVERSITY CRIMINOLOGIST

One faith-based program, the Texas Association of X-Offenders, is launching an Inmates Children's Fund, a year-round Angel Tree-type program that provides structured support to high-risk children of convicted felons. By reaching the children of prisoners, TAX is committed to "blocking the front end of the juvenile crime pipeline."

RECOMMENDATION

The Task Force urges Texas officials to permit faith-based organizations to play a more significant role in the rehabilitation of criminal inmates.

For more detailed discussion, see:

- Report Appendix pp. 13-16, 19-21

The Criminal Justice Ministry Network of North Texas is an interdenominational networking group that aims "to motivate, educate, and equip the church to develop local criminal justice ministries." CJMN hopes to link the over 110 criminal justice ministries that now operate in 64 North Texas counties.

CJMN wants to involve 1,000 North Texas churches in the network and to provide a God-directed message of hope to offenders, ex-offenders, criminal justice professionals, victims, and families through a variety of programs — mentorship, volunteer chaplains, literacy training, congregational aftercare, counseling, ex-offender and victim support, etc.

Info.:

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cjmn@intur.net

<http://www.intur.net/cjmn>

Second Chances: Mentoring Criminal Offenders

Today, when Texas criminals are freed - often not for the first time - they're generally given a bus ticket, \$200, and the name of their parole officer. More often than not, they'll commit more crimes, return to prison, get released . . . and then repeat the cycle again.

Law-abiding Texans deserve better than a criminal population shuttling back and forth between society and jail (which many call "graduate schools" for criminals). As for violent criminals, jail is where they should be. Punishment ought to be swift, severe, and certain.

But in an age when it costs a small fortune to send someone to prison - and when most inmates will someday be back on our streets - non-violent offenders need to get **changed**, not just released. Anger at criminals is understandable. But we must act smartly if we want a less ominous future for Texas.

Offenders need strong role models, moral guidance, the accountability of personal relationships, and a community that cares. Faith communities, as we know, have the resources not only to lend assistance, but to transform lives.

Courts should have the option to include a church-based mentoring program as part of the offender's sentence.

One Program Worth Examining: "One Church - One Offender"

One Church-One Offender, an Indiana nonprofit, provides alternatives to incarceration for nonviolent offenders through voluntary placement with committees of local church members. In short, trained community volunteers "adopt" and work one-on-one with nonviolent offenders to help them become productive citizens and achieve a better life.

Goals: The goals are three-fold:

- to offer nonviolent offenders an alternative to overcrowded, expensive jails - namely, a re-adjustive program of community-based advocacy, education, and spiritual nurture

- to encourage positive behavior and provide an environment conducive to the growth of confidence, independence, self-reliance, and hopefulness
- to reduce crime and recidivism by intervening in offenders' Lives to encourage healthy behaviors that are useful to the community

Results: The program is only five years old, but early results are promising:

- 50 churches and 475 volunteers have been trained since the program's inception
- 112 of 775 individuals requesting participation have been accepted because of their willingness to abide by program requirements
- the program has a recidivism rate of 15 percent compared with a recidivism of 50 percent for the local county jail, and the 65 percent rate nationally for probation departments
- costs of incarceration in Allen County are 514,600 and 520,805 for men and women, respectively, while the annual program cost per client is \$3,138

Texas could benefit from creative public-private partnerships between congregations and the criminal justice system. All too often, released inmates have a tough time finding work. Dependent on relatives and "old friends," they usually resume destructive habits and a life of crime, often graduating to more serious and violent offenses. A structured, non-jail program that builds into the program accountability, follow-up, and personal staff support bears all the hallmarks of what Dr. Olasky calls "effective compassion" - It's challenging, personal, and spiritual.

The Task Force doesn't specifically endorse the One Church-One Offender program, nor any other initiatives discussed in this Report, but does urge policymakers to explore such programs for ideas beneficial to Texas. Also, many of the innovative programs and efforts mentioned in this Report, such as One Church-One Offender, are discussed in more detail in the Appendix.

A collaborative effort between trained volunteers, professional staff, and motivated clients - including, wherever possible, the client's family - certainly merits a try. Perhaps Texas could re-tool the One Church-One Offender model to make it a voluntary part of post-incarceration sentencing so that released persons experience a sense of structure and community.

Texans weary of crime need not fall for the false choice of being "hard" or "soft" on crime - we can instead be "smart" and "effective." Whether we think anew about changing, not just releasing, nonviolent criminals is a choice that will affect every Texan.

The transforming power of the religious congregation is the best hope for helping nonviolent offenders escape the destructive cycle of courts, jail, probation, and repeated offenses. The clergy, law enforcement officials, educators, and business people agree that too often the criminal justice system fails to reform the offender. [The legal system [should] give the churches a chance to make a difference.

— ONE CHURCH-ONE OFFENDER

For more information:

One Church-One Offender
227 E. Washington Blvd.,
Suite 205
Fort Wayne, IN 46802-3137
(219) 422-8688

Not surprisingly, the presence and interaction with fellow criminals after leaving prison is one of the chief predictors of recidivism.

— THOMAS P. O'CONNOR (WRITING FOR THE
AMERICAN CORRECTIONAL ASSOC.)

Many innovative initiatives help reduce recidivism:

The Crime Prevention Institute, funded by the state, has brought 328 employers into Texas prisons to help coach inmates for job interviews through its Project Re-Enterprise program.

Companies like Dell Computer, HEB, IBM, and Exxon send employees to teach interviewing techniques to inmates slated for release.

Rotary Clubs and other service groups like the Girl Scouts conduct programs where volunteers try to steer an inmate away from the direction his bad decisions are taking him.

The National Reform Association helps church groups set up job readiness programs for the homeless.

RECOMMENDATION

In an effort to transform lives and break the expensive cycle of criminal recidivism, Texas should examine and consider implementing church-based "mentoring" programs, either in lieu of incarcerating nonviolent offenders or as part of post-incarceration sentencing.

I don't know what your destiny will be, but one thing I know:

The only ones among you who will be really happy are those who have sought and found how to serve.

ALBERT SCHWEITZER

5 HEALTH CARE

Increasing access by protecting *medical* volunteers

The effect of faith on the health of individuals is significant, but its potential impact on the health of communities is astounding.

- FORMER PRESIDENT JIMMY CARTER

Increasing Access by Protecting Medical Volunteers

Many of our rural and urban neighbors find it difficult or impossible to access medical care. It's estimated that some 1.3 million Texas children are not covered by health insurance. Often, these children aren't from low-income families, but from working blue-collar homes that simply cannot afford insurance. The Texas Health Commissioner estimates that it would cost close to \$1 billion to provide health benefits to all of Texas' uninsured youngsters.

Unless a physician volunteers, financial reality often deprives care to patients unable to afford it. Doctors and nurses who volunteer their services, though, increase their exposure to malpractice claims, thus boosting their insurance premiums dramatically. Professionals willing to help simply cannot afford to take the risk. Sadly, many Texas caregivers find it easier to serve the poor abroad than they do in our own neighborhoods.

Doctors and nurses who volunteer their expertise should be commended, not threatened with unreasonable lawsuits. By protecting them, Texas would encourage the noblest impulses of medicine by making it easier for doctors and nurses to provide charitable care.

Texas could certainly benefit from community outreach programs designed to provide preventive check-ups and other medical care to low-income families.

Everyone benefits from such common-sense efforts:

- *the families* - Parents don't have to miss work to stay home with sick, uninsured children, who missed 500,000 more school days in illness-related absences in 1994 than kids who were insured. In 1994, working Texans lost an estimated \$22 million in wages and productivity to care for sick, uninsured children.
- *the taxpayers* - By stressing preventive medicine and regular check-ups, it saves money down the road and reduces costly ER room visits. In 1995, the direct costs just to Texas' 11 major metropolitan hospitals of providing uncompensated care to kids 12 and under exceeded \$100 million. Smaller area hospitals and clinics, funded by local taxpayers, contributed millions more. Lack of health insurance is a drag on Texas' economic development.
- *the volunteers* - By bringing health screening and immunizations directly to peoples' homes, medical student-volunteers could get valuable practical training.

Liability premiums are a substantial factor in determining whether medical care is accessible. Higher premiums in turn lead to higher health care costs.

Obstetrical services are particularly hard-hit. By 1992, over 12 percent of OB-GYNs had left the field, and over 22 percent decreased the level of high-risk care they provided. In some rural states, less than half the counties have a practicing obstetrician.

Many rural and urban residents find it difficult or impossible to access medical services.

Low-income health services in Texas: three worthwhile efforts

- One initiative in Houston is The Health Buggy Health Care in the Home program. Operated by the nonprofit Kid-Care Inc. and the University of Texas-Houston Health Science Center — which supplies volunteers via a new elective course for fourth-year medical students — the Health Buggy effort provides free in-home health screening, immunizations, etc. for the needy. Kid Care (which also offers a meals-on-wheels program for needy children) operates its “house call” program solely from private donations. Carol Porter, director of Kid-Care, says “One of my goals was to bring health care directly to the children, and this is with no additional taxpayers’ dollars.”
- Manos de Cristo is a Presbyterian ministry that runs Austin’s largest dental clinic for poor residents. In 1995, the clinic treated 4,300 people; for 1996, the estimate is 6,000.
- El Buen Samaritano Episcopal Center, aside from providing hot meals to the homeless, also offers a family health clinic. In 1995, the center served about 5,000 poor Austinites. This year, it will likely surpass 6,000.

In 1992, some Los Angeles medical professionals opened a clinic to provide medical care to the poor. LA County covered the volunteers with malpractice insurance. Now 200 area doctors and nurses staff the clinic.

One local official noted the volunteers’ important role: “The doctors at county health facilities are often busy with inoculations and other preventive medicine. But bringing low-cost primary care services to this area, the clinic has been a big help in filling the gaps in our coverage.”

The founder of the Azusa Evening Clinic, Dr. George Ferenczi, recalls, “Initially, the county was shocked. They couldn’t believe that doctors and nurses would want to work for free.”

The faith community is a powerful vehicle for reaching vulnerable and distressed populations, and the interest in health and faith partnerships is growing stronger. In Maryland, the Heart, Body & Soul program links 250 churches in East Baltimore that operate a model of neighborhood care wherein clergy and neighbors provide outreach and screening services, often going door-to-door in a region that has poor health statistics. Another interfaith effort is the Health and Faith Coalition of Los Angeles, which sets up health education and screening programs within local churches. Volunteers persuade thousands of their at-risk neighbors to be tested for conditions like diabetes and hypertension, attend information workshops, get immunizations for their children, etc. Says Executive Director Joni Goodnight:

These are places where the church is a much-trusted and respected institution. Once a beloved pastor or priest becomes involved with a disease prevention or health promotion program, credibility grows and health behaviors begin to change.

The Interfaith Health Program (IHP) of The Carter Center in Atlanta seeks to strengthen the health-faith movement and serves as a clearing-house of “best practices” of interfaith partnerships. IHP recently launched a Web site to promote its ministry strategies: <http://www.interaccess.com/ihpnet/>. Medical training coupled with religious commitment is a powerful prescription for better health.

RECOMMENDATION

Texas should provide legal protections to medical professionals who provide charitable care to needy Texans who otherwise lack access to quality medical services.

Policy Options for Consideration

1. Provide greater legal protections for any licensed health care professional who volunteers free medical services to a medically underserved person.
2. Encouraging malpractice insurance companies and other employer-insurers to cover such volunteer activities at no extra cost.

Most people with serious mental and physical disabilities live at home, often struggling with life's everyday basics.

The Robert Wood Johnson Foundation supports about 400 interfaith coalitions that are providing informal, long-term care to the 35 million Americans with chronic health conditions. For years, RWJF has built powerful health-faith partnerships, "in which the nation's churches, synagogues, mosques and other houses of worship recruit, train and mobilize volunteers of all denominations as a 'ministry of caregiving' to their neighbors in need."

The effort (i) identifies those needing help, and (ii) mobilizes caring volunteers to step in.

Also, the National Federation of Interfaith Caregivers provides assistance and technical expertise to communities wishing to start "ministries of caregiving."

Nothing worth doing is completed in our lifetime; therefore, we must be saved by hope. Nothing true or beautiful or good makes complete sense in any immediate context of history; therefore we must be saved by faith. Nothing we do, however virtuous, can be accomplished alone; therefore we are saved by love. No virtuous act is quite as virtuous from the standpoint of our friend or foe as from our standpoint. Therefore, we must be saved by the final form of love which is forgiveness.

REINHOLD NIEBUHR

6

“SELF-HELP” INITIATIVES AND COMMUNITY DEVELOPMENT CORPORATIONS

*Strengthening and empowering
neighborhood self-help groups*

One more government program, one more cop on the street is not going to work. . . . The community needs to take responsibility and initiative that develop at the grass roots level to reclaim the neighborhood and intervene in the lives of its youth. We need a whole neighborhood philosophy.

- JOAN WAGNON, KANSAS STATE LEGISLATOR

Research shows something important. Low-income people facing crises do not turn first to government (rightly “the institution of last resort”). Rather, they resort first to family, a neighborhood group, a congregation, or some other close-by resource. These “local institutions of first choice,” as Robert Woodson calls them, should be the axle around which our efforts to aid the poor revolve.

BRIDGES: One example worth exploring

The Michigan Neighborhood Partnership (MNP) is a nonprofit group formed “to strengthen the capacity of community-based organizations in the Detroit area to improve the quality of life in the neighborhoods they serve. The partnership encourages new initiatives requiring cooperation and support from the larger community. The initiatives focus on economic development and support the self-sufficiency of individuals and families, including business creation, job training and placement, youth enterprise and community development.”

In 1993, MNP started BRIDGES — Building Relationships Increases Detroit’s Growing Economic Stability — Detroit’s faith-based empowerment network.

• **Mission:** To assist Detroit’s faith-based groups in their neighborhood outreach efforts to nurture children, strengthen families and revitalize neighborhoods.

• **History:** Launched in 1993 as a collaborative of faith-based groups in partnership with other neighborhood organizations, government, business, educational and religious institutions. BRIDGES resulted from the October 1995 Clergy Summit, called by Governor John Engler at the request of clergy leaders. In January 1996, MNP was contracted to assist churches in their post-Summit, and BRIDGES was born.

♦ **Information:** (313) 872-0195

We need to harness self-help initiatives to revitalize distressed communities. We need to celebrate the local “mediating structures” that people in crisis so often choose for themselves. As writer Michael Novak puts it, these civilizing institutions must be “the North Star of a new bipartisan agenda” to restore economic, social, and spiritual health to low-income neighborhoods.

For more detailed discussion, see:

• Report Appendix pp. 16-19

We believe the best strategy to community development is a community-driven, comprehensive approach which coordinates economic, physical, environmental, community, and human needs.

— ROBERT PUTNAM, HARVARD UNIVERSITY

The act of conversion is empowering in ways that simply feeding the hungry, clothing the naked, and housing the homeless are not.

— ANTHONY A. PARKER,
SOJOURNERS MAGAZINE

Many religious groups serve as catalysts for community development.

In Austin, Ebenezer Baptist Church and four other African-American churches have begun revitalizing their community's dilapidated commercial district. In 1988, they launched the East Austin Development Corporation, which boasts a day care center, a senior center, housing for the elderly, commercial space, etc.

The contributions of time and money from church members have, in turn, leveraged outside financial support.

Texas could benefit from a coordinated effort to highlight and demonstrate the vital importance of successful neighborhood groups. Low-income neighborhoods need to be at the policymaking table, they need training and technical assistance, they need synergistic, novel, and market-based partnerships between area businesses and service providers. In short, they need an empowerment agenda that will do - not just study - at least three things: (i) strengthen and empower self-help groups that are beating poverty and leading people to self-sufficiency, (ii) stimulate enterprise, investment, and job creation in poor communities, and (iii) strengthen families and individuals. Grassroots leaders who have been trained in "the emergency rooms of civil society" merit a prominent place in the community-based battle against poverty.

Like the BRIDGES network in Detroit, a local faith-based "clearing-house" could:

- offer technical assistance and program development support to religious groups
- help such groups get access to training in community and economic development
- nurture partnerships between various state agencies and church bodies
- implement a computer communications network to provide access to information
- share the power and theology of faith-based development
- provide resources to religious programs that strengthen families and restore communities.

"Voice of Hope"

"Voice of Hope" is based in a poor, black area of West Dallas. It bears all the usual trappings of a government-run "community development" welfare program: job training, health clinic, home rehabilitation and construction, thrift store, clean-up campaigns.

But Voice of Hope emphasizes the Bible and parental involvement. Children who attend Bible classes also begin job training at the age of nine. Teens and their parents are offered classes to learn computer skills, music, math, bookkeeping, and art. In 13 years, the ministry has grown to a more than \$700,000/year endeavor that will change the lives of 140 families in West Dallas this year.

Those changes won't all be comfortable for their clients, says founder Mrs. Dudley. "The intensity of the way we work with our families is very high," she says. "We work with a family for six months in our housing program, helping them to set up a budget, helping them to start a savings account. We help them overcome credit problems, write letters to creditors. We don't do it for them; we do it alongside them. The key is to build people, not just houses."

Public Housing Specifically: Public housing developments ought to be safe and hospitable environments for raising children. Local community development corporations (CDCs) are uniquely positioned to rehabilitate, preserve and manage housing for low and moderate income people. These grassroots groups recognize the imperative need not for dependent renters, but for responsible owners who have a stake in their communities.

Housing assistance should not dilute the human spirit of helpless tenants; it should encourage them to save and dream. CDCs, which serve as economic development incubators, are doing this every day.

Today's public housing environment needs wholesale transformation. Consider:

- Public housing residents are three times more likely to be victims of violent crime than the average of households nationwide.
- 42 percent of public housing residents in one survey said they had heard gunfire nearby. Nearly half of residents say their neighborhoods are troubled by drug trafficking.

The Neighborhood Reinvestment Training Institute offers symposia on ways to mobilize the faith community to achieve local redevelopment goals.

1325 G St. N.W., Suite 800
Washington, D.C. 20005
(202) 376-2642

RECOMMENDATION

Texas should craft and embrace initiatives for low-income communities that empower grassroots organizations, stimulate economic activity, strengthen families, and foster self-sufficiency and independence.

Policy Options for Consideration

1. Build and expand upon the work of this Task Force by inviting established "self-help" experts to help Texas research, design and implement a bold legislative and regulatory agenda that achieves genuine reform and empowerment for low-income neighborhoods.
2. Convene a "State Clergy Summit" to demonstrate the State's commitment to collaborate with and support faith-based groups in their efforts to strengthen families and revitalize neighborhoods.
3. Encourage the donation or sale of land, homes, and commercial/industrial structures to neighborhoods, community development corporations, etc. for public purposes such as low-income housing.
4. Urge state and local governments, wherever possible, to offer properties for sale (on a cost recovery basis) to local CDCs that provide housing opportunities to low-income families.
5. Review liability insurance and complex administrative hurdles that now represent service entry barriers to community service organizations seeking to use public housing units.

The world is moved along, not only by the mighty shoves of its heroes, but also by the aggregate of the tiny pushes of each honest worker.

HELEN KELLER

7 CONGREGATIONS IN ACTION:

*Innovative programming
that makes a difference*

Thousands of congregations and faith-based agencies across Texas are already performing *daily* feats of service and restoration. A detailed list of the often-heroic ways they serve their fellow Texans would go on and on, and still omit quite a few.

- battling child abuse
- mentoring at-risk children and nonviolent offenders
- attacking poverty, hunger, and homelessness
- combating substance abuse
- moving families off welfare
- building strong communities
- counseling criminal offenders
- strengthening marriages and families

These invaluable efforts certainly merit our applause.

It's true that congregations, like their individual members, have

A fuller description of **some initiatives that came to the Task Force's attention** is provided at **pages 10-22** of the **Report Appendix**. The **Task Force encourages** the Texas **faith community** to study these programs' and, where **possible** and where **needed**, to do **so, consider** adopting **similar efforts**.

diverse talents and vocations. Some may have a knack for mentoring troubled teens while others may excel at battling drug abuse. There are countless opportunities for service, and members of the faith community must focus their energies on where they can be most effective. More and more ministries are seeking outside guidance and support.

Religious Volunteer Coordinators: Some congregations are appointing church members to serve as point-people for service opportunities in the area. Coordinators of congregation-based volunteer efforts sometimes convene across the country. The membership associations meet regularly, elect officers, and provide various professional development programs.

Leadership Training Network

A group called Leadership Training Network (LTN) provides training and technical assistance to religious leaders.

- **Contact Information:** Association of Religious Volunteer Leaders, c/o Judy Jacks, VP Membership, 13137 Tahoe Drive, Dallas, Texas, 75240. Or contact LTN's sponsor, Leadership Network, at (800) 765-5323.

Outside Financial **Support:** Faith-based programs hoping to expand their services (and bracing for more clients) are increasingly turning to corporations and foundations for support. One such resource is the

For more detailed discussion, see:

- Report Appendix pp. 10-22

The time is right.

— DR. MARTIN LUTHER KING JR.

Now is the time in our country for a renaissance of caring. There are so many disconnects among people — where is our common bond?

We cannot afford to fail.

BARBARA JORDAN

Members of churches, synagogues and other communities of faith are more likely to contribute free time to help needy people. Among those who regularly attend church, 63 percent volunteered; among those not attending church, 44 percent volunteered; among the general population, 58 percent volunteered.

— BARRA RESEARCH GROUP, 1991

Changes in the welfare system along with the harsh realities of life among the poor, especially the children, challenge us to step up our efforts to build genuine community in the heart of the city. Every aspect of our ministry must grow [listing the ministry's job-training, food pantry, health clinic, tutoring and nutrition programs] As the federal government forces the needs of people closer to home, people of faith, goodwill and a sense of God's call must meet the challenge and see a opportunity. Most of all, people long for hope. I know that working together we can supply it.

— LARRY JAMES (WRITING TO FRIENDS AND PARTNERS OF CENTRAL DALLAS MINISTRIES)

Robert Wood Johnson Foundation's Faith in Action program.

Faith in Action programs offer a wide array of volunteer services, such as respite care for families caring for people with Alzheimer's and AIDS, or providing transportation to the disabled. The Foundation, which provides start-up grants of \$25,000 for each program, has noticed today's increased interest in non-government funding. In 1984, 25 Faith in Action programs got off the ground; now there are 300 programs in 35 states. *The Austin area, with 11 programs, has more than any other area in the nation.*

The Lilly Endowment provides grants for religious partnerships with community development initiatives. Other organizations, like the Neighborhood Reinvestment Training Institute, offer workshops on how to recruit time, talent, and money from regional and national bodies, foundations, and government.

At day's end, we are optimistic. True, religious social ministries face formidable challenges, and they cannot do it all. We're not suggesting they should. But as the welfare landscape changes in Texas, every Texan - particularly those inspired by their faith - should make a personal and renewed investment in the lives of their neighbors and communities.

RECOMMENDATION

Given the impressive efforts of the faith community across Texas to meet critical needs - combating child abuse, mentoring at-risk youth, moving families off welfare, strengthening marriages, supporting case-workers, etc. - we respectfully encourage our fellow citizens to examine these groups' diverse, important programming and consider adopting similar efforts where possible. Moreover, Texas should take active and ongoing steps to facilitate the work of private social service providers, including faith-based ones.

Policy Options for Consideration

1. Designate an "ombudsman" in state government who can intervene and troubleshoot when private providers run into bureaucratic and other obstacles. Providers often need someone to turn to for help, information, and advocacy.
2. Urge the creation of an "information clearinghouse" on private social service providers. Such a clearinghouse could, for example, publish a list of programs that private providers might be able to participate in, publish regular newsletters, consult with individual providers, distribute various publications (such as the resource guide *Faith Communitifies* prepared by the U.S. Department of Health and Human Services Substance Abuse and Mental Health Services Administration), etc. The clearinghouse could also, among other things, develop and inventory profiles of successful faith-based models across Texas.

3. Publish - perhaps at the county level - a comprehensive, up-to-date directory of private and faith-based resources that would be disseminated to public welfare officials, community leaders, businesses, criminal justice officials, recipients, police and neighborhood associations, etc. This information could serve at least two purposes:

- Serve as a handy resource of participants in Texas' "charitable choice" voucher system.
- Provide a list of referral agencies to which public officials and others could direct people needing assistance; this aid could be rendered *before* the applicant seeks and receives publicly-funded benefits.

4. Link faith-based leaders and volunteers through the upcoming TxServe on-line computer network (TxServe is an interactive telecommunications network linking volunteer and community service leaders across Texas and providing state-of-the-art information in volunteer management and service delivery.)

5. Urge Texas to convene a summit among practitioners across Texas to highlight the vital role of religious nonprofits and where faith-based providers could share "what works and why" ideas, approaches, and processes about "how to set up a service initiative," etc. Participants could share information, discuss barriers, and make further recommendations for policy innovations as well as the development of a peer validation system.

6. Incorporate into the Governor's annual Volunteer Leadership Conference regular programming of particular interest to faith-based providers.

7. Designate special recognition and achievement awards to successful faith-based providers and other effective self-help community initiatives as part of the ongoing Governor's Volunteer Leadership Awards and the Governor's Volunteer Awards for Outstanding Service.

8. Urge creation of a special fund to which would-be providers could apply for seed money, either to start a new agency or to start a new program. The emphasis of this fund - which could be funded from voluntary individual and business contributions (perhaps with business tax incentives) - would be upon new, creative, innovative programs dealing with persistent social problems.

9. Consider business tax incentives to spur greater charitable involvement with effective low-income community initiatives.

In August 1996, James Griggs received the Governor's Volunteer Leadership Award for excellence in community-based volunteerism.

Griggs is the co-founder and director of the largest nonprofit, all-volunteer corporation and provider of food, clothing and other ministries in Taylor County. He recruits and supervises about 150 volunteers daily, and nobody — including Griggs — receives a salary for the services they render.

As director of the Abilene Baptist Association Social Ministries, Inc., Griggs recruits and coordinates volunteers from 33 churches. Since its inception, Social Ministries has provided assistance to over 30,000 families, roughly 110,000 people. It has grown at the rate of 80 families a month each year.

Do all the good you can,
By all the means you can,
In all the ways you can,
In all the places you can,
At all the times you can,
To all the people you can,
As long as ever you can.

JOHN WESLEY

If there be any truer measure of a man than by
what he does, it must be by what he gives.

ROBERT SOUTH

APPENDIX

Governor Bush's Executive Order 2-3

Religious Child-Care Exemption Chart

Prepared by the Christian Law Association 4-5

Partial List of Early Childhood Education Accrediting Bodies 6-8

Innovative Programming Now Making a Difference in the Faith Community

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Information on Congressional Efforts to Revive Civil Society

The Project for American Renewal 22-25

Saving Our Children: The American Community Renewal Act of 1996 25-27

Life is a place of service, and in that service one has to suffer a great deal that is hard to bear, but more often to experience a great deal of joy.

Tolstoi

EXECUTIVE ORDER
BY THE
GOVERNOR OF THE STATE OF TEXAS

THE STATE OF TEXAS
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
AUSTIN, TEXAS

EXECUTIVE ORDER
GWB 96-5
Relating to Faith-Based Community Service Groups

WHEREAS, the State of Texas seeks to create an environment which permits the growth of community-based organizations that effectively meet the needs of its citizens;

WHEREAS, the State of Texas has a long history of community outreach by churches, synagogues, and other faith-based organizations that offer assistance to persons in need;

WHEREAS, faith-based organizations continue to provide focused and effective aid to persons in a wide variety of crisis situations;

WHEREAS, state laws and regulations, while ensuring that basic health and safety standards are met, should not unreasonably restrict the charitable activities of these faith-based organizations;

WHEREAS, other states have formally recognized, through statute and administrative rule, the benefits that faith-based groups bring to communities in need; and

WHEREAS, Texas has no existing statute that explicitly recognizes or specifically accommodates the work of faith-based community organizations.

NOW, THEREFORE, I, George W. Bush, Governor of Texas, under the authority vested in me, do hereby create and establish the Governor's Task Force on Faith-Based Programs to serve in an advisory capacity to the Governor. This Task Force shall: (i) examine the role of faith-based programs in Texas and determine how Texas can best create an environment in which these organizations can flourish and most effectively help those in need; (ii) determine which state laws, regulations, or procedures impede the effectiveness of such organizations; and (iii) provide specific recommendations as to how Texas law could best accommodate the programs and activities of the affected community organizations. The Task Force will have no final action authority.

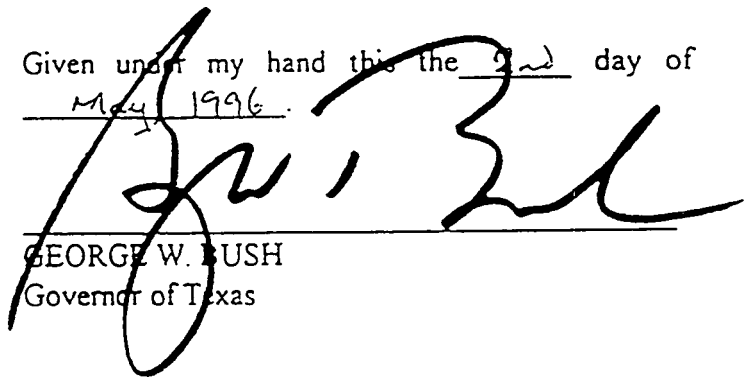
The Task Force shall include members of religious organizations, persons affiliated with faith-based programs, and community volunteers. The Task Force shall convene at the earliest practicable time after appointment and shall accomplish its charge by September 1, 1996. It shall submit to the Governor a written summary of its findings and recommendations.

The Task Force shall meet as frequently as necessary upon call of the Chair. A majority of the membership shall constitute a quorum for the purpose of conducting the business of the Task Force.

The members of the Task Force shall serve without salary. Reasonable and necessary travel and per diem expenses may be reimbursed when such expenses are incurred in direct performance of official duties; but such reimbursement shall not exceed \$80.00 per day as permitted by Article IX, Section 33, of House Bill 1, of the Texas General Appropriations Act.

This Executive Order shall be effective immediately and shall remain in full force and effect until modified, amended, or rescinded by me.

Given under my hand this the 2nd day of
May 1996.



GEORGE W. BUSH
Governor of Texas

2077.

ANTONIO O. GARZA
Secretary of State



FILED IN THE OFFICE OF THE
SECRETARY OF STATE

MAY 02 1996

Filed in the Office of
Secretary of State
MAY 2 1996
Statutory Filings Division
Statutory Documents

ANALYSIS OF ALTERNATIVES TO STATE LICENSING OF CHILD CARE

STATE	ALTERNATIVE OF LICENSING	FIRE, HEALTH, SAFETY	PARENTAL RESPONSIBILITY	EMPLOYER SCREENING	CHILD ABUSE REPORTING	CORPORAL DISCIPLINE
<i>Alabama</i>	Preschool programs which are an integral part of a local church ministry or a religious nonprofit elementary school, and are so recognized in the church or school's documents are EXEMPTED from regulation.	required	required	Bill introduced this year proposing that church child-care facilities have the option of compliance	required	permitted
<i>Florida</i>	REGISTRATION of a religious organization: (1) which does not receive government funding; and (2) which is certified by a statewide child-care organization which publishes, and requires compliance with, its standards.	required	required	required	required	permitted
<i>Indiana</i>	A day nursery operated by 501(c)(3) religious organization is EXEMPTED provided it is REGISTERED with the State Fire Marshal and State Board of Health	required	required	required	required	no provision
<i>Missouri</i>	Child-care facilities operated under exclusive control of a religious organization - EXCEPTED - from licensure	required	required	no provision	required	permitted
<i>North Carolina</i>	Church day-care facilities must file a NOTICE OF INTENT to operate a child-care facility and an annual report of compliance with minimum standards	required	required	required	required	permitted

Religious Child-Care Exemption Chart
 A-1

ANALYSIS OF ALTERNATIVES TO STATE LICENSING OF CHILD CARE

S-J-ATE	ALTERNATIVE TO LICENSING	FIRE, HEALTH, SAFETY	PARENTAL RESPONSIBILITY	EMPLOYEE SCREENING	CHILD ABUSE REPORTING	CORPORAL DISCIPLINE
<i>South Carolina</i>	No church congregation or established religious denomination or religious college or university which does not receive government assistance may operate a child day-care center or group day care home unless it complies with REGISTRATION and inspection requirements	rcqu i red	no provision	required	required	permitted
<i>Utah</i>	Child-care provided by parochial child-care insrucions are EXEMPTED.	no provision	no provision	not required	required	permitted
<i>Virginia</i>	EXEMPTION for child-care centers (less than 24-hour care) operated under the auspices of a religious institution."	required	required	required	required	permitted

¹ This is true whether the program is operated separately or as a part of religious nonprofit elementary school unit, secondary school unit or institution of higher learning under the governing board or authority of the local church or its convention, association, or regional body to which it may be subject; provided that notice is filed by the governing board or authority of the church or school with the department that the church or school meets the definition of a local church ministry or a religious nonprofit elementary school.

² Unscheduled visits by a custodial parent or guardian shall be permitted at any time n child-care ministry is in operation.

³ With regard to a child-care facility maintained or operated under the exclusive control or a religious organization, Missouri specifically temoves from the jurisdiction of the department of health or any other government entity the authority:

- (1) to interfere with program, curriculum, ministry, teaching or instruction offered in a child-care facility;
- (2) to interfere with the selection, certifikntion, minimal formal educational degree requirements, supervision or terms of employment of n facility's personnel;
- (3) to interfere with the selection of individuals sitting on any governing board of a child-care facility;
- (4) to interfere with the selection of children enrolled in a child-cnte facility; or
- (5) to prohibit the usc of corporal punishment. However, the department of health may require the child-care facility provide the parent ot guardian enrolling a child in the facility a written explanation of the disciplinary philosophy and policies of the child-care facility. M.R.S. Q210.258.

⁴ Also requires facility to meet immunization, staff/child ratios, parental access, and capacity requirements. N.C.G.S. § t 10-91

⁵ Permitted in church day-care facilities if(i) the facility files with the Department a notice that corporal discipline is a part of the religious training of its program, and (ii) the church day care facility states in its written policy of discipline that corporal discipline is a part of the religious training of its program.

⁶ On-site inspections by the Commissioner of Social Services nre permitted to assure compliance with staff/child ratios, health of staff, criminal history record checks, and reporting of suspected cases of child abuse nnd neglect.

PARTIAL LIST OF EARLY CHILDHOOD EDUCATION ACCREDITING BODIES

There are many child care accrediting bodies that help ensure quality service, including:

National Academy of Early Childhood Programs (The Academy)

The **Academy** is a national, professionally-sponsored, voluntary accreditation system for all types of preschools, kindergartens, child care centers, and school-age child care programs. The Academy, founded in 1985, is administered by the National Association for the Education of Young Children (NAEYC), the nation's largest organization of early childhood educators. As of Fall 1995, The Academy's effort to improve the quality of care and education for young children had extended to more than 4,500 early childhood programs in all 50 states (over 360 in Texas alone). Another 8,000 programs were undergoing the accreditation review process. About 15-20 percent of them are church-related.

The three-part NAEYC accreditation process - self-study, validation, and decision - examines *the total* program, but places the greatest emphasis on the quality of interactions among staff and children and the developmental appropriateness of the curriculum . . . the nature of the child's experience. And programs may apply whether they're full- or part-time, profit or nonprofit. Cost varies depending on the number of children enrolled in the program.

The Academy: (202) 328-2601

NAEYC: (800) 424-2460

The Ecumenical Child Care Network: Promoting Excellence in Religious Child Care

The Ecumenical Child Care Network (ECCN) is a national membership organization for child-care and Head Start programs housed in or related to religious congregations.

Over the past seven years, faith-based child-care programs have found a way to strengthen relationships and their shared commitment to serve families. ECCN has created "Congregations and Child Care," a self-study process that promotes high-quality care by involving early childhood professionals and congregations in rigorous self-study. Congregations and Child Care can be used by any child-care program housed in or run by a religious group.

The recognition process of Congregations and Child Care complements the accreditation conferred by the National Academy of Early Childhood Programs (The Academy), a division of the National Association for the Education of Young Children (NAEYC). Congregations and Child Care builds on accreditation by providing a forum in which to discuss the complex issues that impact the quality of programs related to religious congregations. While the self-study may be used by any child care program, ECCN awards recognition only to programs accredited by The Academy.

The ECCN process underscores the critical importance of high-quality education and care. In the past two years, ECCN has systematized the self-study process in a National Council on Recognition (NCR). Today, NCR coordinates a Mentor Assistance Program that provides trained skilled mentors to self-study participants, reviews and evaluates completed self-study portfolios, and awards ECCN recognition to the congregations and early childhood programs that successfully meet the goals and criteria of Congregations and Child Care and are accredited by The Academy,

For info. about membership services, publications, and the self-study recognition program:

ECCN
1580 N. Northwest Hwy., Suite 115
Park Ridge, IL 60068
(708) 298-1612

Texas Association for the Education of Young Children (TAEYC)

TAEYC and local affiliates such as the Dallas Association for the Education of Young Children, work in conjunction with NAEYC to promote quality child-care through (i) voluntary accreditation via standards that state officials concede are "much higher than Licensing's minimum standards," and (ii) training of child-care professionals.

As parents make the extremely important choice of out-of-home care, they must feel confident that their child is getting quality care and education. The above-listed and other recognized systems help by stamping a mark of approval on high-quality providers.

TAEYC: (214) 387-3533

Central office: (512) 451-2392

National Association for Family Child Care (NAFCC) Accreditation

NAFCC is a professional organization representing family and group home child care providers that recognizes and encourages high-quality care for children in family child care settings. Since 1981, NAFCC has offered recognition to providers who have demonstrated a commitment to standards of excellence in seven areas: safety, health, nutrition, interacting, learning environment, outdoor environment, and professional responsibility. More than 1,400 providers in 41 states and the District of Columbia have achieved accreditation through NAFCC.

NAFCC: (800) 359-3817

National Early Childhood Program Accreditation (NECPA)

NECPA - developed by the National Child Care Association - is an independent, voluntary accreditation program focusing on early childhood care and education programs. Since 1992, NECPA has awarded accreditation to 44 centers in 10 states. As of July 1996, there were 11 NECPA-accredited programs in Texas. The staff at Kiddie Kampus I and

II in Texas said, "The NECPA self-study reinforced a good self-image among staff and management concerning our programs and schools as a whole. However, we did discover a few **areas** which need a little polish. Together, we buffed 'em to a lovely shine. Needless to say, **all** benefited."

NECPA: (800) 543-7161

National Accreditation Council for Early Childhood Professional Personnel and Programs (NACECPPP)

The Council is a national nonprofit that supports private-licensed, center-based, and ecumenical early childhood programs under the sponsorship of the Child Care Institute of America. Since it began in 1992, NACECPPP's three-step review process - self-study, validation, and decision - has accredited **80** programs in five states..

National System for Improvement and Accreditation of School-Age Care Programs

A system is being developed through the collaboration of the National School-Age Child Care Alliance (NSACCA) and the **School-Age** Child Care Project (SACCP) of the Center for Research on Women at **Wellesley** College. The system will be piloted this Fall in over **40** programs.

SACCP: (617) 283-2547 -

NSACCA: (202) 737-6722

National Association for Family Day Care (NAFDC)

NAFDC: (800) 359-3817

National Family Day Care Home Accreditation Association

If we do not lay out ourselves in the service of
mankind whom shall we serve?

ABIGAIL ADAMS

INNOVATIVE PROGRAMMING THAT MAKES A DIFFERENCE

Child Abuse: Protecting Texas Children

Some have rightly described child abuse as the most devastating betrayal of the-closest human relationship -parent and child. Preventing abuse is vital to children's futures, and to ours, too. A child who suffers abuse/neglect is 40 percent more likely to become delinquent.

Every year in America, there are millions of reports of suspected child abuse and neglect. A child dies in America from abuse every four hours. According to DPRS, there were 168,612 reports of child abuse/neglect in FY 1995 (about 70 percent of investigations went unconfirmed that year). The Alliance for Children of Fort Worth estimates that abuse/neglect investigations cost about \$420 million in 1995. DPRS estimates that fully 25 percent of Texas' children - 13 of 5.3 million - have been abused/neglected or may be at risk of it. From FY 1991-95, the recidivism rate for abuse/neglect victims is about 34 percent.

While we all share the responsibility to ensure a safer world for children, the faith community is uniquely positioned to help prevent abuse. Many effective interventions to safeguard children rest with churches and other religious groups. Several churches are weighing in. At Riverbend Church in Austin, the Angels Afoot program raised almost \$12,000 in two Sundays to buy playground equipment for a program serving abused and neglected children. In April 1996, 40 church volunteers built a play area. Chairwoman Verda Ben-y's response was simple: "As needs arise, we will just take care of them as they come."

One impressive effort to combat child abuse is the Child Abuse Prevention Coalition of Dallas (CAPCO), a group comprised of individuals and 18 agencies and churches. In May 1996, CAPCO published a resource book for faith communities, *Child Abuse: Everybody's Business*, in order to (i) inform people where to turn if they suspect child abuse, and (ii) educate the religious community on steps it can take to protect children.

CAPCO's extensive resource book contains a notable 10-point plan describing what the faith community can do, either as an outreach to others in the community or to fellow church members, to protect the physical and emotional safety of Texas' most vulnerable citizens.

Below is a near-verbatim recap of CAPCO's impressive 10-point plan describing what the faith community can do, either as an outreach to others in the community or to fellow church members, to protect the physical safety and emotional well-being of Texas' most vulnerable citizens:

1. **After-School Programs** - Research shows that having a safe place for children after school can reduce the stress for the working parent and enhance the life of the child. An after-school program can consist of homework help, crafts, games, field trips, and other learning-for-life activities. The number of children accepted depends on the space available.

TRUUBLING FACTS AND FIGURES:

● One of six children is at risk of abuse/neglect.

● Abuse/neglect cases doubled from 1986 to 1993, from 1.4 million to 2.8 million. The number of children "seriously injured" from mistreatment quadrupled from 143,000 to nearly 570,000 over the same period.

Kids who grow up in violent homes are:

- 6 times more likely to commit suicide
- 24 times more likely to commit sexual assaults
- 74 times more likely to commit crimes against the person
- 50 times more likely to abuse alcohol or drugs

Child abuse and neglect is the leading cause of juvenile delinquency.

● Increasing the chance of arrest as a juvenile by 53 percent; 38 percent as an adult.

● 13% of the Dallas Co. Juvenile Department's 1993

● 67 percent of those juveniles reported being abused

— TEXAS COMMISSION
ON CHILDREN AND YOUTH; U.S. DEPARTMENT
OF HEALTH AND HUMAN SERVICES

We believe that the faith community can play a major role in providing support when abuse occurs and in working to reduce the number of children hurt by abuse.

— CAPCO

There are many organizations that can help set up after-school programs. For more information, contact the Greater Dallas Injury Prevention Center: (214) 590-4461.

2. **Day Care** - Some children are left at home alone or with an inappropriate caretaker while the parents work because affordable or accessible day care is not provided.

Many faith communities already provide day care. A helpful idea would be to provide some scholarship money for those who cannot afford the price of day care. Local community centers can help to identify families who would need your help with day care.

Through day care centers, important information can be given to parents on child abuse prevention. Workers at the center can be trained on recognizing and reporting child abuse.

The Child Care Group is a nonprofit agency specializing in child care: (214) 630-7911.

3. **Respite Care for Parents** - Parents of mentally, emotionally, or physically impaired children need some time away to regenerate their energy. Often times there is nobody who is able or willing to care for a special needs child. Congregations can provide one night once or twice a month which is a respite night for these parents. Trained volunteers or paid professionals can provide a safe haven for the children while the parents are out.

For more information, contact the Greater Dallas Injury Prevention Center.

4. **Crisis Nursery** - Some children are left alone or neglected when a crisis occurs to which the parents need to attend. Sometimes a parent is at the stress point that they cannot stand another hour with the child. A crisis nursery is a place where the parent can go to leave the child until the emergency passes. A congregation can provide such a nursery because many already have a nursery for children during worship.

For more information, contact the Greater Dallas Injury Prevention Center.

5. **In-home Visitors** - Research shows that one of the most effective programs is one that starts in the hospital as the child is born. Trained volunteers get to know the parents in the hospital and then continue to visit in the home. The mentor provides insight on parenting, answers the hard questions, gives encouragement, and is a resource of information on how to access agencies for further help. This is especially helpful when there is no grandparent available to give guidance.

For more information, contact the Greater Dallas Injury Prevention Center.

6. **Parents Anonymous** - Parents Anonymous is a national organization that allows parents the opportunity to talk to each other. Comfort comes in knowing others are having similar experiences. Insight comes from hearing one another's perspective. Release comes from being able to ventilate about emotional issues. We know that Parents Anonymous works.

A congregation could sponsor a P.A. group in their building or in the

community. For more information, contact Parents Anonymous of Texas: (800) 252-3048.

7. Educational Campaign on Child Abuse - An intentional campaign to help folks know what is abuse and what is appropriate discipline is needed in each congregation and throughout the city. Many people do not realize the impact their actions or lack of action has on the child. Some do not know creative ways to discipline a child that keeps the esteem of the child intact. **Classes**, information, children's **sermons**, Bible studies, bulletin boards, and hand-outs can all be used to reinforce these points.

Some helpful handouts that can be reproduced are available in CAPCO's resource book. Space could be designated as a Parents Comet to provide helpful hand-outs and other reading resources on a permanent basis. For further help with proper discipline, contact The Chance Center: (214) 351-3490.

If your congregation would like to develop and sponsor a city-wide campaign, contact the Greater Dallas Injury Prevention Center.

8. Parenting for All Ages - Congregations can provide parenting classes for the members by contacting one of the many organizations listed in the **Parenting Education Programs in Dallas** County guide provided in CAPCO's resource book. Congregations may want to play a role in getting local business and corporations to sponsor **worksite** classes.

It is important to start parent education when a child is in elementary school. Attitudes and ideas are most easily formed at **this** age. Children can become aware of abuse and help peers recognize when they need help with an abusive situation.

The most effective parenting classes are those that have follow-up in the home.

9. Teaching Congregational Volunteerism - Each member of the congregation who volunteers to work with children should be trained in recognizing and reporting child abuse. Each member should also be trained in effective, non-abusive ways to discipline.

CAPCO's resource book also describes countless ways people can volunteer on behalf of children.

For training on recognizing and reporting child abuse, contact the Dallas Children's Advocacy Center: (214) 8X-2600.

10. Advocacy - One of the important continual roles of the faith community is to advocate for children's rights and for ways to protect children. Two groups can help to guide the congregation:

- . Greater Dallas Community of Churches: (214) 824-8680
- . North Texas Coalition for Children: (214) 640-7790

The resource contains a wide array of useful materials (i.e., how to identify child abuse, guidelines for safely using volunteers, volunteer opportunities aimed at preventing child abuse, a prevention resource directory, pertinent worship materials, etc.).

CAPCO is eager to assist any group with education about child abuse and how to best organize prevention efforts and can be reached through the Greater Dallas Injury Prevention Center at (214) 590-4461.

Drug and Alcohol Abuse: The "One Church - One Addict" Program

I feel that One Church-One Addict is a natural outgrowth of One Church-One Child. People are much more sympathetic to kids than to addicts. But I tell people that I'm not excusing or defending addiction. We say, "Love the addict, hate the addiction."

— FATHER GEORGE CLEMENTS

If Jesus was walking around today, he'd be working in the area of substance abuse. Jesus lived on the cutting edge and helped others. We must do the same.

— FATHER CLEMENTS

In 1980, Father George Clements launched from his Chicago parish a program called One Church-One Child. His vision - for every church family to place a homeless child - has blossomed into a national program that's found homes for more than 50,000 children. Father Clements even adopted four youngsters himself. The Vatican supported his controversial move, and a 1987 television movie told his compelling story.

In 1994, Father Clements - weary of despair-filled drug tones - joined with the American Alliance for Rights and Responsibilities (a non-profit based in Washington, DC.) to tackle an even thornier problem: helping recovering drug addicts and alcoholics find support in their religious communities.

All faiths are urged to do something about drug addiction and/or alcoholism in their communities. Counseling and support are provided by trained volunteers, who meet with clients one on one and teach them how to Live abundantly without drugs or booze. The clients - most of whom enter the program after leaving a rehab center or clinic - receive support for about nine months . . . although there's no rigid time limit.

Since its 1994 inception, more than 700 churches in over 30 states have signed on, and 2,000-plus people have found solid support network in their fight against substance abuse.

For more information on One Church One Addict, write Dept. P, Suite 250, 46 19th St., N.W., Washington, D.C. 20036, or call (800) 942-2771.

Austin Metropolitan Ministries, comprised of about 140 congregations and organizations, serves the Austin community by partnering with the Travis County Juvenile Court to provide mentors for first-time offenders. (AMM has also rehabilitated over 400 homes in East Austin since 1990.)

In Houston, Covenant House provides free emergency shelter and myriad other services — mentoring, education, health care, counseling, sanctuary, child care, etc. — for homeless, runaway, at-risk and "throwaway" youth.

Mentoring At-Risk Youth

in Texas, it costs around \$30,000-35,000 a year to detain one juvenile in state custody. Reaching at-risk youngsters is critical.

The Need-for Role Models: This is a timeless truth: moral responsibility and character are keys both to individual success and social order. Mark Fleisher, an urban ethnographer, reports that an "abundance of scholarly evidence shows that antisocial and delinquent tendencies emerge early in the lives of neglected, abused and unloved youngsters, often by age 9."

Several mentoring groups - such as Big Brothers/Big Sisters (75,000 matches strong), 100 Black Men, etc. - are dedicated to reinforcing the character of children, and they've shown extraordinary success in reclaiming young lives:

- A recent study looked at 959 10-16-year-olds in the Big Brothers/Big Sisters program: over 60 percent were boys; more than half were minorities, mostly black; over 80 percent came from poor households; 40 percent from homes with a history of substance abuse; and nearly 30 percent from homes with a history of serious domestic violence.
- The results were startling: the addition of a Big Brother or Big

Sister to a youngster's tie for one year cut first-time drug use by 46 percent, lowered school absenteeism by 52 percent and reduced violent behavior by 33 percent.

-Participants were much less likely to start using alcohol; less likely to assault someone; more likely to do well in school; and far more apt to relate well to others. The effects held across races for boys and girls.

The Impact of Religion Specifically: Studies consistently show that choosing religious peers has a tremendous influence on youngsters' behavior. The Justice Department's national youth study concluded that friends who misbehaved or abused drugs wielded great influence over their friends, influence that grew over time.

Other studies report similar results:

- Three published studies found that the best predictor of youth drug use is associating with drug-using peers.
- A 1983 study found that one's religious views affect the selection of friends and enhances family stability -two variables closely linked with reduced delinquency.
- A 1981 study showed that when youngsters enjoy a religious "friendship network," spiritual concerns are more prominent and more part of everyday interaction.

Mentoring programs can play a key role in rescuing children before they become trouble. The character-building work of such programs is among the most important in the process of cultural renewal. It's essential that we reach at-risk children in Texas.

Mobilizing Churches Against Gangs and Youth Violence

It's either barbed wire and more black juvenile superpredators, or civil society and more black churches. It's that simple.

- REVEREND EUGENE RIVERS

The urban crisis demands "higher" assistance. Well-intentioned government programs are, by definition, unable to tackle the spiritual poverty that often besets the poor and dispossessed. Those lacking faith and hope, says sociologist Orlando Patterson, suffer a "social death" that is fundamentally spiritual.

As mentioned in the Report, faith-anchored programs are particularly good at insulating kids from various temptations. A powerful anti-violence and restoration effort is underway in Boston. Rev. Eugene Rivers of the Azusa Christian Community and other black clergy in inner-city Boston have launched a 39-church network to serve troubled and drug-addicted youth, perform neighborhood patrols, and counsel youngsters on probation. The answer, they see, isn't just in protecting ourselves from dangerous predators, but in rescuing those who are at risk. To do so, churches must "go through Samaria," through the mean streets that "proper" religious folks often sidestep.

The Study Connection Program, an Indiana mentoring program, boasts impressive results — 1,000 students meet weekly with a volunteer mentor. Results from the 1993-94 school year show students with greater academic achievement, higher self-esteem, better behavior, and increased attendance.

Another study of school-based mentoring programs found that it measurably increases the odds that children will enjoy success in school (i.e., academics, attendance, attentiveness, and overall performance).

There is enormous potential for school-based mentoring ... [and expanding such efforts] will greatly enhance the opportunities for implementing effective programs throughout the country which will help thousands of children and youth develop into responsible and caring adults.

— THOMAS M. MCKENNA, NATIONAL EXECUTIVE DIRECTOR, BIG BROTHERS/BIG SISTERS

The key to all these efforts is the willingness to move our faith into the streets. Neither big steeple churches nor storefront congregations can afford to wait on young people to come in their doors. We must go to them. . . . In the face of escalating urban violence, we begin with the work of prayer and the fervent conviction that our children are worth fighting for.

— JIM WALLIS, SOJOURNERS MAGAZINE

This is our time. It is a time for the church.

— JEAN SINDAR,
CO-CHAIR CHICAGO ANTI-GANG NETWORK

The centerpiece of Rev. Rivers's vision is a 10-point proposal (also the work of criminologist John DiIulio) that is designed to mobilize area churches in a way to "bring the peace of God to the violent world of our youth."

Below is the gang intervention plan, as described in *Sojourners* magazine, of the Ten Point Coalition:

1. To establish four or five church cluster-collaborations that sponsor "Adopt a Gang" programs to organize and evangelize troubled youth. Inner-city churches would act as drop-in centers providing sanctuary for at-risk youth.
2. To commission missionaries to serve as advocates for troubled juveniles in the courts. Such missionaries would work closely with probation officers, law enforcement officials, law enforcement officials, and youth street workers to assist at-risk youth and their feelings. To convene summit meetings between school superintendents, principals of public middle and high schools, and clergy to develop partnerships that will focus on the youth most at risk. Churches would do pastoral work with the most violent and troubled youth and their families. This is seen as a rational after-native to ill-conceived proposals to suspend the principle of due process.
3. To commission youth evangelists to do street-level one-on-one evangelism with youth involved in drug trafficking. These evangelists would also work to prepare these youth for participation in the economic life of the nation. Such work might include preparing for college, developing legal revenue-generating enterprises, and acquiring trade skills and union membership.
4. To establish accountable community-based economic development projects that go beyond "market and state" visions of revenue generation. Such economic development initiatives will include community land trusts, micro-enterprise projects, worker cooperatives, community finance institutions, consumer cooperatives, and democratically run CDCs.
5. To establish links between suburban and downtown churches and front-line ministries to provide spiritual, human resource, and material support.
6. To initiate and support neighborhood crime-watch programs within local church neighborhoods. If, for example, 200 churches covered the four corners surrounding their sites, 800 blocks would be safer.
7. To establish working relationships between local churches and community-based health centers to provide pastoral counseling for families during times of crisis. The proposal also initiates abstinence-oriented educational programs focusing on the prevention of AIDS and sexually transmitted diseases.
8. To convene a working summit for Christian men in order to discuss the development of Christian brotherhoods that would provide rational alternatives to violent gang life. Such brotherhoods would also be charged with fostering responsibility to family and protecting houses of worship.
9. To establish rape crisis drop-in centers and services for battered women in churches. Counseling programs must be established for abusive men, particularly teenagers and young adults.
10. To develop an aggressive minority history curriculum, with an additional focus on the struggles of women and poor people. Such a curricu-

lum could be taught in churches as a means of helping our youth to understand that the God of history has been and remains active in the Lives of all peoples.

The IO-point plan urges church communities across America to combat the material and spiritual sources of despair. Other anti-violence support networks have already sprung up in cities like Chicago and Kansas City. The **ultimate** goal is more ambitious: to organize 1,000 inner-city churches, SO in each of the nation's **20** largest **cities**.

Many Texas congregations do much to combat youth violence. The 10-point plan mentioned above may offer new ideas. Some faith-based groups, however, find that state regulations hamstringing their efforts to reach these **troubled** kids. For example, the **Task Force** heard testimony that faith-based groups cannot offer emergency sanctuary for at-risk youth unless they submit to state licensing and, regulations.

RECOMMENDATION: *The Task Force urges relevant state agencies - those dealing with children, criminal justice, licensing, etc. — jointly to identify and modify restrictions that would preclude recognized faith-based programs from effectively intervening to prevent gang activity and youth violence or to offer emergency aid to at-risk kids.* Such faith-based programs 'should be allowed to provide temporary, emergency sanctuary to persons who come to them in crisis, and Texas law should aid, not hinder, such lifesaving intervention.

Battling Poverty - and Building Strong Communities

The Numbers: About 750,000 Texans - mostly those in single-parent households headed by women - receive basic welfare grants. Some 26 million get food stamps. Of Texas' 4.8 million children, about one in eight rely on welfare for **food**, clothing, and shelter.

The Need to Help "Smartly": The faith community merits a rightful place on the front lines of our anti-poverty efforts. But we should help "**smartly**," as Peter noted in **Acts 3**. The Bible - a timeless poverty-fighting **manual** - nowhere instructs us to redistribute wealth **indiscriminately** to every poor person who asks, no matter how idle he may be. When a **lame** beggar asked for a handout, Peter didn't do the kindhearted (but weak-minded) thing **and give** him money. Nor, as Dr. **Olasky** points out, did he proffer a job, "the secular conservative solution" (work alone cannot redeem, either). Instead, he addressed the deeper problem and told the man to arise and walk in Jesus's name. The man did, and was transformed. The Good **Samaritan** of Luke 10 suffered with the mugging victim, bandaging his wounds; he didn't picket the capital demanding government action.

Welfare-Avoidance Efforts: To its credit, Texas has embraced a pilot welfare **avoidance** project designed to steer people away from public assistance altogether. By providing emergency grant money as a fit option, followed by various other services, Texas hopes to divert people from welfare entirely. This approach is working in **Wisconsin**. Under their "diversion instead of intake" approach, the number of **inquirees** signing onto welfare has fallen from 80 to 19 percent.

Earlier this year, 252 clergy in Austin — representing 210 churches in over 30 denominations — formulated and signed a "Community Marriage Statement" that requires would-be couples to meet rigorous standards of pre-marital preparation and marriage enrichment.

Nationwide, church communities in about 50 cities have shaken off their "blessing machine" role and adopted such covenants aimed at forming more perfect unions.

No cultural institution is more vital to promoting committed marriage than the church.

.....

Maryland's new "Welfare Innovation Act"

In May, Maryland — one of 43 states that have overhauled their public assistance programs since 1992, when Congress signaled its approval for state-level reforms — overwhelmingly passed the Welfare Innovation Act of 1996.

Under this welfare-avoidance legislation — which replaces AFDC with the Family Investment Program — Maryland gives every county the flexibility to create their own tailor-made welfare program. The new legislation converts local social service departments into job placement centers and authorizes cash benefits after all else has failed. The goal is this: to emphasize job training and placement and, after assessing each family's specific needs and resources, provide temporary cash assistance only as a last resort. The law requires recipients to work and has converted welfare into services to help families gain independence. The bill, in short, enables families to escape poverty by becoming connected to the working world.

Poor families can seek emergency relief — "welfare avoidance grants" — to avoid welfare entirely. (Such grants resemble a pilot welfare reform project in place in Fort Bend County, Texas.) Families needing more must promise to start work or to prepare for a job, cooperate to secure child support, and agree to tap family and community resources. Thus, poor individuals would first be steered to non-government help that will help them avoid government assistance entirely. Next comes government-supplied employment services and voucherized child-care benefits. Temporary cash assistance would be, in the statute's words, "a last resort."

The bill also features an integral role for nonprofit groups, including religious charities. Churches should be invited to expand their social outreach and cooperate with social programs. Where a family fails to uphold its side of the welfare agreement, cash benefits should be paid to a nonprofit group that will provide intensive services to help free the family from welfare. The state also invites nongovernmental groups to help design innovative demonstration projects that involve (I) case management programs, (II) cooperative living initiatives that include child care, job assistance, and intensive mentoring in lieu of cash assistance, and (III) school-based programs.

The federal welfare reform bill, by removing the federal entitlement, frees state to set their own eligibility standards. Maryland's new bill is worth examining.

Family Pathfinders: In June, Texas launched its Family Pathfinders program, a public-private partnership designed to link welfare families with religious, civic, and business groups in hopes of moving the families toward self-sufficiency. How? By doing whatever takes — providing child care, clothing or transportation for job interviews, moral encouragement, budgeting tips, etc. As of mid-September 1996, 70 families had been linked statewide.

The program — modeled after Mississippi's Faith and Families program — is intended to nurse low-income families back to economic health. We applaud it, and encourage more and more organizations to participate in this one-on-one effort.

You can plug into the Family Pathfinders program by calling 1-800-355-PATH.

Ideally, it's best if families receive "welfare-avoidance" services *before* they start getting public assistance. We should ultimately be about steering people away from welfare, not just removing them from it. Texas policymakers, for example, could explore requiring welfare applicants at any of Texas' 28 local workforce development boards across the State - the centralized "one-stop" shops where people go for everything from food stamps to Medicaid to job training to welfare be diverted to an array of community- and church-level providers as a pre-condition to receiving public assistance.

Maryland's new legislation provides a model worth considering. It requires-would-be recipients to explore family and community resources *before* getting government help. Direct public assistance aid should be the last, not the first, resort.

LIFE A Non-Governmental, Church-Based Response Worth Examining

The Christian Research Institute for Social and Economic Strategies ("CRISES") has recently launched an antipoverty and discipleship initiative called LIFT ("Labor with Integrity, Faith & Thrift"). The LIFT Project envisions a network of churches that utilize trained church volunteers to free the poor from government assistance "in ways that do not encourage dependency, and that strengthen the family structure instead of weakening it." LIFT, which Dr. Marvin Olasky serves as senior adviser, is a distinctively non-governmental response that supports "how churches served the poor before the government was involved," namely with an approach that was challenging, personal, and spiritual.

You can learn more about LIFT by calling 1-512-926-0519.

Another Holistic Model Worth Noting: Oak Cliff Bible Fellowship (Dallas):

Texas benefits from many churches engaged in battle against poverty. Oak Cliff Bible Fellowship (OCBF) is a 3,000-member church in Dallas that offers a range of services designed to help low-income residents. The church's effectiveness is impossible to deny, even among skeptics.

OCBF provides:

- GED and job-skills programs -to help prepare people for independence.
- Free child care - which makes it easier for people to attend classes.
- an "alternative adult education" program - offering instruction in computers, literacy, business math, and communications.
- a "KEYS to Personal and Professional Success" Class - a 10-week course required of *all* students enrolled in the church's "alternative adult education" program. KEYS is a Bible study focusing on the importance of work, authority, integrity, responsible stewardship of time and money, and communication. According to writer Amy Sherman, "KEYS is at the heart of OCBF's efforts to 'renew the minds' of students with Bible centered 'alternative thinking.'"

Some clients haven't budgeted for three years have gotten motivated now and they're getting training. . . . [The church] is so warm and friendly [and has made people] feel like they belonged. . . . [They] love the KEYS class. They tell me, "I needed to hear this stuff." . . . I believe we have to have the spiritual part included (in outreach programs). . . . [Government-sponsored programs are] so boring that many people drop out.

— SHARON TAYLOR,
DALLAS HEADSTART CASEWORKER

No member of this church is to be on welfare.

— SENIOR PASTOR TONY EVANS

Getting an individual to think the way God thinks is the key to having an impact. The world has one way of thinking and the church has an alternative way.

— LAFAYETTE HOLLAND,
OUTREACH PASTOR AT OCBF

We're teaching moral values. We've got to change the moral thinking of this community.

— ROBERTA JONES, PROGRAM DIRECTOR

The neighborhood Village Oaks apartment complex has seen a transformation, too. Gone are the crack houses and staccato gunfire. The difference, to be sure, has resulted from many factors, including more police and tough apartment management. But OCBF enjoys credit, too. In 1991, Sherman writes, three church members moved into Village Oaks and began offering Bible studies and counseling. They also opened a thrift store and ministry office. Church members began visiting the complex, and OCBF started after-school tutoring programs, weekend recreational events for kids, and special summer programs.

"The church has been very, very helpful. There's a visible difference. . . Now, you can walk around alone," says Village Oaks manager Pat Holmes. OCBF has teamed with TRC Staff Services to provide local companies with temporary employees earning \$7-10 per hour; 80 percent of the temps become permanent within a few months, gaining raises and full benefits. TRC interviews applicants at OCBF's outreach centers.

Church volunteer and financial planner James Talley is designing a multi-part, Bible-based course for welfare recipients to help renew minds and foster self-sufficiency. The course will emphasize personal budgeting, job training, basic life skills, and "consumer savvy."

"CAM" — An effective relief effort in San Antonio

Christian Assistance Ministries (CAM) of San Antonio — a cooperative ministry formed in 1977 and supported by 52 churches across 11 denominations — assisted about 35,000 people in 1995. Its 250-plus volunteers provide immediate assistance (food, clothing, financial aid, budget and nutrition training, job information, referrals, etc.) to clients in an effort to prevent homelessness and move people toward independence.

Development Director Natalie Musgrave Ingram explains the ministry this way: "The majority of our clients do not want a hand out. They need help getting through a crisis in their lives. They are on the edge. They need someone to believe in them, to show them a path and sometimes to pray with them. We can do all that because we have the personal contact with people that is lacking in so many big programs. By talking with them and helping them to develop a plan, we keep them off the streets, we keep their children in school and we move them closer to independence. I have yet to see a greater motivator than God! He is truly working through CAM."

Congregations like OCBF are staking their claim as the neighborhood's academic, economic, cultural, social, and spiritual cornerstone. Comprehensive, holistic ministries like OCBF offer no-nonsense, "empowerment" programming that helps keep families off welfare and restores communities. Such efforts merit our applause, our help, and the sincerest form of flattery, imitation.

"One Church - One Offender"

Below is a fuller description of the One Church-One Offender program, as described in materials provided by the program's headquarters.

Overview: One Church-One Offender, an Indiana nonprofit born in 1991, provides an alternative to incarceration for nonviolent offenders through voluntary placement with committees of local church members.

In short, trained committees of community volunteers work with a non-violent offender to help him become a productive citizen. This ecumenical program rests on (i) the willingness of local churches to become involved, (ii) the courts' determination to avoid prison overcrowding and incarceration that does little to change behavior, and (iii) the offender's desire to change and work for a better life.

History of the Program: Rev. Clyde Adams grew weary of watching the nonviolent become violent, hardened criminals after serving time in prison. He grew tired, too, of seeing destructive habits take root in kids he had watched grow up.

In 1984, Rev. Adams acted. He quickly found pastors, lay people, and law enforcement officials who shared his frustration. A core group of concerned citizens met regularly to develop an innovative response. Their study and in-depth discussions resulted in One Church-One Offender, a nonprofit funded through support from businesses, churches, foundations, individuals, and religious organizations.

Goals of the Program: The goals are three-fold:

- to offer nonviolent offenders a better alternative than overcrowded, expensive jails - namely, a re-adjustive program of community-based advocacy, education, and spiritual nurture
- to encourage positive behavior and to provide an environment conducive to the growth of confidence, independence, self-reliance, and hopefulness
- to reduce crime and recidivism and to intervene in offenders' lives to encourage healthy ways of life that are useful to the community

Approach of the Program: Trained volunteers use their own knowledge base and an array of community resources to (i) work one-on-one with clients, (ii) support his educational, medical, emotional, and physical needs, and (iii) satisfy all court mandates.

- Clients who volunteer for the program - as an alternative to traditional incarceration - are matched with a local church committee trained by the staff of One Church-One Offender, Inc. The client and the sponsoring church committee agree to a covenant of expectations.
- The covenant includes expectations for the client's participation, behavior and accomplishments. It also spells out the committee's responsibility to the client in dealing with daily needs, job training and employment, counseling, etc.
- The committee and client grow into a steady, dependable, and extended community family that shares fellowship, concerns, and prayers.
- The staff of One Church-One Offender monitors the matches between clients and church committees on a regular basis, recommends needed changes in the covenant of expectations, and terminates matches that aren't working out. **Clients not working in good faith to fulfill the covenant are referred to the traditional criminal justice system.**

Our clients are nonviolent, non-hardened offenders, who, with our treatment, supervision and support, have the best chance of changing their lives. This program effectively and efficiently addresses the multitude of issues that brings and returns individuals to the judicial system. This program brings the attention of a group to the readjustment of one person. If the person can take advantage of the rope that One Church-One Offender throws, the whole community can benefit. This program not only touches the lives of offenders, it involves and educates community leaders, church committees, as well as criminal justice representatives. Our program is bringing isolated constituencies together to positively change attitudes and individual lives.

— ONE CHURCH — ONE OFFENDER

For more information:

One Church-One Offender
227 E. Washington Blvd.,
Suite 205
Fort Wayne, IN 46802-3137
(219) 422-8688

Results of the Program: The program is only five years old, but early results are promising:

- 50 churches have been trained since the program's inception, resulting in 475 volunteers
- of 775 individuals requesting participation, 112 have been accepted because of their willingness to abide by program requirements
- the program has a recidivism rate of 15 percent compared with a recidivism of 50 percent for the local county jail, and the 65 percent rate nationally for probation departments
- costs of incarceration in Allen County are \$14,600 and \$20,805 for men and women, respectively, while the annual program cost per client is 53,138

“Adopt a Caseworker” and “Adopt a Nursing Home”.

Many churches and community volunteers link with DPRS to “adopt” and provide support for caseworkers responsible for abused and neglected children.

Through the Community Partners program at DPRS, churches and other groups meet the needs of children by providing cribs, formula, eye-glasses, school supplies and clothes, birthday presents, uniforms for sports and band, etc. Nancy Tasin, Travis County coordinator for the program, says “as the tax dollars shrink. . . it's going to become up to us as government entities to reach out to whatever community resources are available.”

Caseworkers could be matched with churches or other community groups, who would provide support for the caseworker. How? By helping to meet the needs of abused and neglected children with formula, eyeglasses, school supplies, birthday presents, uniforms for sports and band, etc.

For more information on the Community Partners program, contact the Texas Department of Protective and Regulatory Services at (512) 438-4800.

The Texas Department of Human Services runs the Adopt-A-Nursing program (motto: “Caring is Ageless”), which matches groups of volunteers with nursing homes to help combat loneliness and enrich the quality of life for residents.

TDHS estimates that about 50 percent of Texas nursing home residents don't have families, and about 60 percent have no regular visitors. Through the program, groups of at least three members - from any sort of group (religious, civic, business, school, friends, scouts, etc.) - commit to help with resident activities at least four times a year. The program staff also offer high-quality workshops on issues pertinent to caring for older Texans, such as the unique needs of Alzheimer's residents, how to conduct an oral history, etc.

For more information on the Adopt a Nursing Home program, contact the Texas Department of Human Services at (800) 889-8595.

MORE CONGRESSIONAL EFFORTS TO REVIVE CIVIL SOCIETY

Aside from the "charitable choice" act, there are two other major packages of legislation aiming to enlist faith-based agencies in the battle against our social ills. Both bills **challenge** some basic assumptions about government and spring from the neighbor-centered belief that needs are best understood and met by people closest to them.

-The Project *for American Renewal*: This is the granddaddy of Congress' reform efforts. This set of 15 bills aims to sharpen and refine America's thoughts on **devolution** and government's proper role in re-energizing the character-building institutions of civil society. Senator Dan Coats and Rep. John Kasich have introduced a package of bills covering three broad categories - Effective Compassion, Community Empowerment, and Fathering, Mentoring and Family - that together help move authority and resources to families, religious and community groups.

Saving *Our Children: The American Community Renewal Act of 1996*: This ambitious package, sponsored by Representatives J.C. Watts and James Talent, aims to spur moral renewal and economic activity in America's most poverty-stricken areas. Through regulatory relief, creative school reform projects, and serious tax and home ownership incentives, the legislation would help families in urban and rural areas enmeshed in a web of crime, illegitimacy, and poverty. The bottom-line? Enhancing support for healthy social institutions.

The Project for American Renewal*

It is the guiding principle of the Project for American Renewal that government act in ways that strengthen the web of institutions that create community. . . . If this is "social engineering," it makes every taxpayer into an engineer.

- U.S. SEN. DAN COATS

On June 25, 1996, Senator Dan Coats and Rep. John Kasich introduced a bold new definition of public compassion that has helped drive an important shift in our political debate about social policy. Their 16-point package is rooted in the **truth** that legislation -even great legislation - can only do so much to meet OUT social and moral challenges.

The Project isn't a government program to rebuild civil society. It is an effort to support people and groups that are rebuilding their own communities.

The government takes my (tax) money, gives it to Health and Human Services, which gives it to the Salvation Army, which contracts with service providers, all of whom have to follow rules and regulations that make it impossible to do what they do best. Why not let me give my money directly to the faith-based groups that have proven their worth?

— ROBERT L. WOODSON SR.

* The Task Force extends its warm thank to the office of Indiana Sen. Dan Coats for sharing its materials, from which this section of the Report is, with permission, largely drawn.

When asked this question — "If you wanted to devote some of your money toward helping the poor, would you give it to local, privately-run charities, or would you give it to the local welfare department? — the answer is always the same.

— U.S. Sen. Dan Coats

I. Effective Compassion

- **The Charity Tax Credit Act** - This is the centerpiece of the Project. This bill would give about 5-8 percent of federal welfare spending to private poverty-fighting charities through a tax credit to donors. (Taxpayers can now deduct charitable gifts against their total income, but a credit is a direct reduction in taxes owed.)

- **The Compassion Credit** - This measure gives a small \$500 tax credit to people opening their homes to care for our neediest citizens, including battered women, abused women with children, women in crisis pregnancies, the homeless, and hospice care patients (including AIDS and cancer patients).

- **The Medical Volunteer Act** — The prohibitive cost of liability insurance dissuades many health care providers from volunteering their services to the poor. This bill would extend federal malpractice insurance coverage to medical volunteers providing free help to the poor.

Congress passed a version of this bill as part of its health care reform efforts.

- **The Community Partnership Act** - Like Mississippi's Faith and Families Program, the model for Texas' Family Pathfinders, this bill encourages states and communities to match welfare families and nonviolent offenders with churches, synagogues and mosques committed to helping them achieve independence.

II. Community Empowerment

- **The Educational Choice and Equity Act** - Despite ever-increasing spending, poor children are often trapped in violent and low performing schools . . . denied the quality educational choices that more affluent families now enjoy. Low-income parents deserve child-centered alternatives. Several privately-funded choice programs exist throughout Texas, and the waiting lists demonstrate the urgent need for options. This bill would fund demonstration projects in low-income school choice, in effect expanding the fell Grant and G.I. Bill programs that have opened doors for millions of college students. As others have noted, the folks living at 1600 Pennsylvania Avenue shouldn't be the only people who live in public housing who are able to send their children to private school.

- **The Restitution and Responsibility Act** - Criminals violate not just the law, but also victims and communities. Restitution enforces accountability and holds them responsible for their damage. This measure encourages states to establish effective programs to order, collect and enforce restitution payments to crime victims. Texas currently has no statewide program to go after deadbeat defendants, instead leaving the follow-through to counties. We should join the eight or so states that have launched debt collection efforts. The money brought in - other states have collected millions - could fund several initiatives to benefit Texas.

- **The Assets for Independence Act** - Government often seems to penalize the aspects of good character that lead people toward self-sufficiency and promote stable communities: savings, home ownership, entrepreneurship, etc. Instead, we should focus on saving and building assets. This proposal would reward individual savings by poor Americans.

Community programs matching those **savings** with private **contributions** and local funds would be matched, in turn, by the federal government. Building **assets** promotes family stability, gives people a stake in their **communities**, and inspires responsibility, hope and independence. Policy should urge people to plan for the future, not live for the moment.

- **The Urban Homestead Act** - Poor Americans need more than temporary shelter; they need to have a stake in their communities, to be responsible owners, not just dependent renters. **This** bill would turn over vacant and substandard housing stock owned by the federal government to local community development corporations on a two-year deadline. Housing that government hasn't managed would be turned over to communities to **be renovated** by private and religious groups, creating new neighborhoods of homeowners, and renewing **communities**.

- **The Maternity Shelter Act** - Many women need support and shelter during **crisis** pregnancies, not just cash benefits. **This bill** would encourage the creation of private and faith-based maternity group homes to provide refuge, parenting education and advice on adoption to pregnant women in need. These homes offer a supportive environment in which young women can receive **counseling**, housing, education, **medical** services, nutrition, and job and parenting training. Whether she chooses to parent her **baby** or place it for adoption, she **will** receive important care, training, and life management **skills**. It sets the stage for the baby to receive better care, too. Mothers in difficult straits need the help of compassionate Texans.

III. Fathering, Mentoring and Family

- **The Family Housing Act** - Public housing suffers an **absence** of stable families and male role models. Many kids grow up not only lacking a dad, but never knowing anyone who has one. This measure would set aside 15 percent of public housing units for intact families. Government should help ensure that children - especially teenage boys - have the **restraining** influence and example of responsible men, and responsible marriages, in their community.

- **The Responsible Parenthood Act** - The **\$3.3 billion** the federal government has spent on "**family planning**" since the early **1970s** has **failed** to purchase **responsible** parenthood. Funding has **soared**, but so have out-of-wedlock births (by **400** percent). Abstinence-centered programs have been found to be effectively reduce teen pregnancies (e.g., the year before San Marcos Jr. High School (Calif.) adopted its abstinence-only curriculum, **147 girls became** pregnant; two years later, only **20** girls became pregnant). Government should be **unequivocal** that delaying **sexual activity is a vital part** of **responsible** living and parenting. This proposal would **require that** every **dollar** spent by the federal **government** on family planning be matched by **a dollar** spent on abstinence education and adoption services.

- **The Character Development Act** - Realizing the importance of role models to an individual's **success**, **this bill links** public **schools** with **mentoring** groups to give kids one-on-one support.

- **The Family Reconciliation Act** - Children suffer profound emotional and economic consequences from divorce. Sadly, divorce is sometimes **unavoidable**. **This measure** would encourage states to provide incentives

for family preservation, via a braking mechanism for divorces involving young children, waiting periods, counseling, etc. Government has a huge interest in honoring marriage as serious and binding, not “notarized dating,” particularly when vulnerable children are involved.

• *The Mentor Schools Act and the Role Models Academy Act -Again,* boys need strong, male role models. Moral and emotional growth that’s been stunted by the absence of good role models portends often violent consequences for them and society. The Mentor Schools Act clarifies that single-sex academies, or mentor schools, are a legal educational **altern**ative for public schools. The Role Models Academy Act creates a model residential **academy** **along** similar lines. Government cannot provide a father for every child, but it should help encourage mentors and role models exemplify responsible make behavior.

• *The Kinship Care Act* - The best option for abused or neglected **chil**-**dren** needing care sometimes isn’t foster care, but finding a relative willing to provide a home. This **bill** urges states to seek adult relatives of children in need of foster care as the first placement.

The moral vision animating the Project for American Renewal - that a robust civil society can strengthen society in a way government cannot - must be lodged deeply in the minds of Texas policymakers. It provides a solid intellectual framework for leading our great State.

Conclusion: The Texas congressional delegation should support, either in this Congress or the next, the Project for American Renewal as described above. Moreover, Texas state **policymakers** should examine and consider replicating, wherever possible, these initiatives on the state level. The **social** and political philosophy underlying the Project - that government should help regenerate, not undermine, **civil** society - provides a valuable guide for state **policymakers**, who should evaluate all laws, rules, regulations, etc. by this bold principle of “**subsidiarity**.”

Saving Our Children: The American Community Renewal Ad of 1996”

The Community Renewal Act is a broad federal package aimed at helping those who **live** in America’s poorest communities. . . areas of pervasive crime, poverty, unemployment, welfare dependency, and low-performing schools. **Through** tax incentives and serious regulatory relief - together with education reforms and incentives to **boost** home ownership - the Act aims to:

- improve job creation;
- increase the formation and expansion of **small** business;
- promote moral renewal;
- broaden educational opportunities;
- improve private efforts to aid the poor; and
- **facilitate greater participation** by **religious** groups in serving the poor

Why Do We Need The Bill? Helping America’s povertystricken communities demands a new approach. A 1989 study noted that 81 percent of families in poverty face several barriers **to** becoming self-sufficient. . . some economic and some **moral/social**. The broken lives and economies

of these areas need lasting and genuine reform. Impoverished communities need comprehensive reform, not the piecemeal approach that scurries from one issue to the next. Indeed, studies show that a *broad* approach to community development works best. Moreover, policymakers are seeing that local community-based programs - which empower citizens to become active, hands-on decisionmakers in their families' lives - do a better **job** of attacking problems.

What Does the Bill Do? There are five primary elements. The first two initiatives apply **only** to the 100 "renewal communities," economically depressed areas **created** by the bill. The other three reforms apply nationwide.

1. Creation of 100 "Renewal Communities"

Through regulatory reform, tax relief, and savings incentives, this reform would help restore economic vitality to our nation's poorest communities and reduce urban unemployment by:

- Giving federal, state, and local regulatory relief such as (i) a 100 percent capital gains exclusion on qualified assets held within a renewal community for five years or more, (ii) a tax credit for revitalization efforts in distressed areas, (iii) streamlined government requirement and regulations, (iv) anti-crime strategies, (v) encouraging the donation or sale of land and other property to local organizations, (vi) repealing or suspending non-health and -safety regulations, etc.
- *Creating* mechanisms to encourage residents to save money for higher education or **buying** a home.
- *Improving* local government services by urging privatization and other measures to boost efficient delivery.
- Encouraging banks and other financial institutions to stay and invest in renewal areas.

2. Education Opportunity Scholarships for Poor Children

Low-income parents would receive scholarships empowering them to choose the school that best meets their child's unique needs. Like affluent parents, they would be free to select from a broader range of primary and secondary schools, such as alternative public schools, charter schools, private schools, and parochial schools. As a result, parents would be **re-enfranchised**, and the quality of education would be improved. The locality would allocate scholarships and transportation aid to eligible parents on a first-come, first-served basis.

Religious schools are included not because it's the role of government to advance religion, but because it's government's role to fund the education of children, whatever the geography of the schoolhouse may be. And it's because, as former Education **Secretary William Bennett** puts it, "Education is the architecture of the **soul**."

Creating a solid moral foundation is - or at least *should be* - a vital part of every child's education. That moral upbringing is vital to solving our social ills is a simple and uncomplicated truth. Like Texas beneficiaries under the federal G.I. Bill and the Texas Pell Grant program, the children of Texas - particularly low-income children trapped in poor schools - deserve a host of educational options.

Studies have shown that initiatives to revitalize communities work best when the residents are involved, investing their own resources and aware of their own needs in such a way that they are able to bring about change and foster community pride and ownership.

— THE HERITAGE FOUNDATION

Children **attending** religious schools are **two-thirds less likely to drop out** than are **nearly identical children attending non-religious school.**

3. Charitable Contribution Tax Credit

More and more Americans are agreeing that government anti-poverty efforts - to the tune of nearly \$400 billion annually (55.3 trillion over the past 30 or so years) - have largely left poor communities in worse shape now than they were before.

To boost charitable giving to private-sector institutions that directly help the poor, **donors** would receive a tax credit refunding 75 percent of their **contributions**. The credit - applicable to a maximum contribution of \$200 for single filers and \$400 for joint filers — **would flow** to **all tax filers**, whether they itemize their deductions or not.

This provision's guiding **tenet** is that individual **taxpayers, who are closer to their communities' needs, are** better equipped to direct funds to programs that work. Giving taxpayers **more** say-so carries the additional virtue of encouraging community involvement and fostering a **stronger** sense of civic duty.

4. prevention and Treatment of Substance Abuse

This provision would amend the Public Health Service Act to:

- allow faith-based treatment facilities to receive federal funding;
- **prohibit discrimination against such facilities;**
- **facilitate the** selection of faith-based treatment by persons receiving taxpayer funds; and
- **protect** the rights of individuals by ensuring that nobody can be required to accept faith-based treatment and guaranteeing alternative treatment from secular providers.
- **allow** religious treatment facilities to receive federal drug rehabilitation funds without having to compromise the religious integrity of their program.

The Act would lift also unnecessary **credentialing** requirements that **now** bar such programs from **receiving** federal funds.

5. Work Opportunity Tax Credit

Given the high level of teenage unemployment - nearly 20 percent - this provision offers employers tax incentives to hire welfare recipients, high-risk **youth**, low-income veterans, ex-felons, or others whose backgrounds make it tough for them to get a job and get a fresh start.

Cunclfusion: Congress should seize this chance to chart a new course for American social policy. **Those** closest to the challenge **are** best equipped to meet it. By respecting the self-help **choices** of poor Americans and leveraging the experience and initiative of local community organizations, the Community Renewal Act embodies a fresh **strategy** to combat the social ills that plague **our inner cities**.

We urge the Texas congressional delegation to support, either in this Congress or the next, the **American** Community Renewal Act as described above. Moreover, Texas **state** policymakers should also examine the Act and consider replicating, wherever possible, elements of this **federal legislation on the state level**.

1998 CRIMINAL JUSTICE MINISTRY CONFERENCE



Bernie DeCastro, President
of Time For Freedom, Inc.



"The greatest social problems in America are not drugs, AIDS, single parent families, racism, or immigration. The greatest social problem is that there are 50 million Americans who consider themselves active Christians but at the same moment are absolutely afraid to touch anyone that doesn't look like them."

Emmet Solomon
Keynote speaker at 1998 FCJM Conference

The First Statewide Florida Criminal Justice Ministry Conference plans to be one of the most exciting events that will happen in Florida in 1998. Mark your calendars now and plan to be in Ocala on March 20th & 21st, 1998.

Emmet Solomon, Executive Director of I.N.F.O.R.M.S. ministry, one of the leaders in the Criminal Justice Ministry Network in Texas, will be our keynote speaker. Texas is leading the way in terms of Criminal Justice Ministry and Emmet Solomon is one of the most knowledgeable men in America regarding this mission field.

Emmet and a group of other ministry leaders recently formed the Texas Criminal Justice Ministry Network. Together, they are using some truly innovative and collaborative methods to make positive and pro-active changes in their criminal justice system.

Just this year, Texas opened the first ever Christian prison in America! This prison is modeled after a Christian prison in Brazil that has been operating for the past twenty

years with a 4% rate of recidivism! That's right. I said 4%! Compare that to the national average in America between 60% & 75%. (The figures vary according to whose numbers you are using).

Also, Texas Governor George W. Bush recently commissioned a six month study to determine the effectiveness of "Faith Based" organizations in delivering human services. The study determined that "Faith Based" organizations were not only more effective than governmental bureaucracies, but much more cost effective as well.

The Lord is truly raising up some men and women in Texas with vision and boldness to step into the enemy's camp and take back what he stole. Vision and boldness to step out of our comfort zones is certainly the order of the day, but just as importantly is the spirit of unity that exists among the ministries in Texas. Unity is the key to their effectiveness. Of course a sermon could be read here somewhere without even looking too hard. It's called "Divide and Conquer." That has been the most effective tool in the

enemy's arsenal and he has used it well against the Church.

From the conversations I have had in recent months with other ministry leaders in Florida regarding the 98 Conference, I have discovered hunger and excitement at the thought of coming together in unity to learn and grow together, to work and network together and to sharpen each other personally and make our ministries more effective. I, for one, believe that this is going to be one of the most exciting events that has ever happened in this State.

Adolph Coors IV, Founder of the Adolph Coors IV Evangelistic Association, will be doing a 90 minute workshop on Forgiveness. When he was 14 years old, Adolph's father (who was the CEO of Coors Beer) was kidnapped and brutally murdered. Adolph will be sharing about carrying hate, unforgiveness and bitterness in his heart for seven teen years! Until he met Jesus Christ! One of the first things that the Lord did for Adolph was to show him the need to forgive his father's murderer and then to give him the grace to do

PLEASE SEE Conference ON PG.

Conference

Continued from pg 1

so. I have heard this teaching on audio cassette, and it is powerful. If you know anyone that has been the victim of a crime and they are struggling with hate, unforgiveness and bitterness, you will want to personally bring them to hear this man's testimony/teaching.

Other speakers include Bill Preston of Restorative Justice who will be doing a workshop on the Biblical idea of "Restorative Justice" which includes Victim Offender Reconciliation. Johnny Moffit of Worldwide Voice in the Wilderness, will be doing a workshop on Marriage Seminars in the prisons. John Glenn of Alpha Ministries and Pastor James Young of Abundant Life Christian Assembly, will do a joint workshop on the S.T.A.R.T. curriculum. Ike Griffin of Kairos, Inc. will do a workshop on the effectiveness of small groups within the penal environment. Debbie Key of P.A.C.T. (Parents and Children Together) received an award last year from Texas Governor Bush for her work with inmates and their families. She will be doing a workshop on strengthening inmate family relationships. State Representative, Allen Trobillion, chairman of the House Committee on Corrections, will also be speaking.

If you fit into any of the following categories, then you should attend this conference:

Victims & Families
Victims Advocacy Groups
Clergy
Chaplains
Law Enforcement
Ex-offenders & Families
Related Organizations

Families of Inmates
Judiciary
Criminal Attorneys
Parole & Probation
Corrections
Faith-Based Criminal Justice

A time for discovery

Prison outreach programs strive for spiritual freedom

By MARIAN RIZZO
STAFF WRITER

Kimberley Young of Ocala, knows what it's like to lose a close relative in a merciless killing.

Her older brother was murdered two years ago by an acquaintance. Despite the loss, Young is encouraging her husband to go into prisons and minister to criminals. Young said her husband's ministry is very important to the men, to their families and to the community.

7 support it wholeheartedly, she said - He deals with men, and the men need to be taught. These men in there - they need someone who cares for them on the outside. Some are going to get out, and they need to change before they do."

While serving as pastor of Abundant Life Christian Assembly in Ocala, James Young developed a 12-hour course to help men deal with personal and family issues. He'll be speaking about his "Manhood Series" during a statewide Criminal Justice Ministry Network conference in Orlando on March 20-21. The conference is open to criminal justice professionals, chaplains, pastor & volunteers involved in restorative ministry, victims of crime and rehabilitated offenders.

Most of the time, when a man has broken the law, it's because they don't know what manhood is about, said Young. He has offered the Bible-based study to churches and, through a grant from Promise Keepers, has been taking the course into the prison system for about two years.

The ultimate goal is for men to discover who they are, what their purpose is, and to be able to fulfill all that God has created them to be," Young said. We have seen tremendous results."

Other prison outreach programs have been equally successful, said Bernie DeCastro, founder and president of Time for Freedom Inc., a faith-based ministry in Ocala for 10 years, and host of the Orlando conference.

Convicted in 1976 as a violent, habitual criminal, DeCastro received a sentence of life plus 30 years. It was through a Christian outreach program that he changed his life.

Because of its restorative aspect, DeCastro wants to title the proposed statewide program "Restorative Justice Ministry Network." The purpose is not to get people released, but to help prevent crime through restorative measures, DeCastro said.

"The vision statement is, 'Biblical solutions to criminal justice problems,'" he said. "Our country was founded on biblical principals, and if we're going to use a biblical model of criminal justice, it's restorative, not retributive."

DeCastro referred to a successful Texas program that was

patterned after a prison ministry in Brazil, South America. The Brazil prison has been operating for 20 years with a Christian curriculum, DeCastro said. A 10-year study showed that the recidivism (return to prison) rate was less than 4 percent. DeCastro is setting the same goal for Florida.

The recidivism rate in Florida is around 30 percent, according to state Rep. Allen Trovillion, chairman of the state Corrections Committee. After spending 12 hours a day for four days at Jester II, the Texas prison that has a Christian ministry, Trovillion came away convinced that Florida needs a similar program.

Prisons in Florida that already have a Christian ministry have reduced the recidivism rate to 20 percent, and when there is follow-up in the community, it is reduced to 16 percent, Trovillion said.

"My hope is that we will have such an effective educational ministry program that we will cut down on our recidivism," he said. "I'd like to cut it in half, at least."

Trovillion feels there is a need for more chaplain care in Florida prisons. A budget was passed by the House of Representatives on Tuesday that appropriated a chaplain's secretary for each of the 56 prisons in the state. If the Senate passes the budget, this will be the first time a prison chaplain in Florida has ever had a secretary.

"We're working hard to make sure that happens," Trovillion said. "What that means is, these chaplains will be freed up to do the job they were hired to do."

Depending on meetings in Tallahassee, Trovillion is hoping to address the gathering in Orlando next week. One of the key speakers will be Adolph Coors IV, who will share his testimony concerning the 1960 death of his father, the late Adolph Coors III, former chief executive officer of the Adolph Coors Co.

After being kidnapped and held for a \$500,000 ransom, Adolph Coors III was found brutally murdered. The killer was apprehended within a year and received a life sentence but has already been released, Coors IV said.

"I honestly feel that a prisoner needs to pay for the crime that he has committed," Coors said. "However, that does not negate the fact



PHOTOS BY JANNET WALSH KLOHNSDORF-BANNE

Top: Time for Freedom founder James DeCastro holds his prison photo. Right: Pastor James Young and DeCastro have organized a statewide criminal justice conference later this month.

that while they're in prison we need to share the love of Christ with them, so when they do get out they'll be changed individuals. The only way they're going to change is from the inside out. The only way they're going to change is through a heart change. Prison is not going to do that for them."

Despite his grief, Coors made several attempts to contact his father's killer. He also sent a Bible and a letter asking forgiveness for having hated him.

"It was the hardest thing I had to do in my entire life... Coors said it was impossible for me to do apart from Christ."

Kimberley Young can relate to Coors' struggle to forgive his father's killer. She said her brother's murderer is still in prison and she does not feel he should be released yet.

"When a family member is murdered everybody loses," Kimberley said.

"My family lost out; his family lost out," she said. "They lost him to prison; we lost out to death."



2010

Religion Behind Bars: A report on the extent to which prisoners exercise their First Amendment right to freedom of religion.

I. Introduction

The First Amendment to the United States Constitution states in part that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.”⁽¹⁾ Traditionally, the Supreme Court has considered the free exercise of religion a highly cherished right and, in most cases, has granted it full constitutional protection.⁽²⁾ In certain limited circumstances, however, the Court has recognized that the state may restrict this fundamental right. @

Prison inmates are not stripped of all constitutional rights once inside the prison gate. Prisoners’ rights, however, are subject to a much greater degree of intrusion than is allowed outside the prison gate.⁽⁴⁾ In other words, prisoners are not wholly deprived of their First Amendment rights even though the value and purpose of the penal environment necessarily precludes many of the rights and privileges enjoyed by the ordinary citizen. Pursuant to the Free Exercise Clause of the First Amendment, courts have upheld certain rights for prison inmates. Courts, however, recognize that important penal objectives such as institutional security, deterrence of crime and rehabilitation of prisoners require necessary and reasonable limits on religious exercise.⁽⁵⁾

Court decisions have developed and defined the law of religious freedom over many years.⁽⁶⁾ A related yet distinct line of decisions regarding the First Amendment rights of prisoners has emerged as well.⁽⁷⁾ Tension between the needs of the state and the rights of the individual perhaps most clearly stands out in the prison context.0 Unfortunately, this tension and its attendant controversies have produced inconsistent guidelines for courts deciding prisoners’ free-exercise claims. Recent federal legislation may provide consistency and uniformity that has been absent from this area of penal jurisprudence.⁽⁹⁾

This report will document the extent to which prisoners are free to enjoy their First Amendment right to exercise religion. Part I introduced the concept of prisoners’ rights. Part II will discuss the history and origins of prisoners’ free-exercise claims and provide some early prisoners’ religious-rights cases. Part III will discuss several methods of evaluating religious claims by prisoners which include the following: defining religion, the applicable standard of review, and constitutional considerations such as problems with the Equal Protection Clause and the Establishment Clause of the Fourteenth Amendment. Part IV will discuss the specific religious practices of inmates that have led to litigation. Part V will present data compiled from a survey of over one hundred state and federal prisons. Part VI will conclude with a brief recap of the most important developments in this area and a few predictions of what is to come.

II. Background

In 1879, the United States Supreme Court laid the foundation for deciding all free-exercise claims in *Reynolds v. United States*.⁽¹⁰⁾ In this case, the Court upheld a federal law that prohibited polygamy, even as an element of religious practice. ⁽¹¹⁾ The Court concluded that although Congress was not permitted to legislate over mere opinion or beliefs, Congress was empowered to “reach actions which were in violation of social duties or subversive of good order.”⁽¹²⁾ For the first time, the

Court acknowledged a distinction between the freedom of belief and the freedom to exercise religion. Sixty years passed before the Court specifically dealt with this crucial distinction.

*In 1940, Cantwell v. Connecticut(13) reemphasized the distinction between the absolute freedom of belief protected by the Free Exercise Clause and the freedom to exercise religion which could be regulated by the state. Following Reynolds, the Court concluded that unlike the freedom to believe, the freedom to act is not **absolute**.(14) The Court held that, to protect society, the state could regulate the freedom to act. However, the state could not exercise this regulatory power in such a way as to infringe unduly upon protected religious exercise.0*

The Supreme Court's decisions in *Reynolds* and *Cantwell* laid the foundation for drawing more specific distinctions relating to prisoners' religious rights. The Court also began to use a variation of the clear-and-present-danger test to determine when and if curtailment of religious practices was **permissible**.(16) The test, originally formulated to apply to restrictions on free expression, allows restrictions on religious freedom only if the restrictions are clearly and immediately necessary to protect an interest far more important to democratic society than the unrestricted exercise of religion.0

A. Early prisoners' religious-rights cases

*Ho Ah Kow v. Nunan(18) was one of the first cases that addressed the issue whether prisoners had the right to exercise religion. In this case, a Chinese national, incarcerated in a jail in San Francisco, claimed that his jailers had violated his rights by cutting off his *queue*, a long braid of hair. He claimed that the *queue* was a symbol of his religious beliefs and that its absence indicated disgrace under the terms of his **religion**.(19) His jailers justified cutting his hair as necessary to maintain security, ease of identification, and hygiene. Although the inmate prevailed on equal-protection grounds, the court acknowledged that the jail's hair-style regulation possibly violated the inmate's free-exercise rights. The court noted that the regulation, like a regulation requiring an Orthodox Jewish prisoner to eat pork, would be an "offense against . . . **religion**."(20)*

*In Price v. Johnson,(21) a 1947 case, the Supreme Court stated that lawful incarceration brings about the necessary withdrawal or limitation of many privileges and rights. The Court concluded that the considerations underlying the penal system **justify such a retraction**.(22) Nearly forty years later, the Court reiterated this belief stating:*

*the curtailment of certain rights is necessary as a practical matter, to accommodate a myriad of institutional needs and objectives of prison facilities, chief among them which is internal security... these restrictions or retractions also serve, incidentally, as reminders that, under our system of justice, deterrence and retribution are factors in addition to **correction**.(23)*

Accordingly, the Court justified restrictions on prisoners' freedom to exercise religion by citing concerns regarding internal security and the goal of achieving the other objectives of incarceration.0

B. Cruel and unusual punishment

The Court was inevitably obliged to consider whether the denial of religious freedom constituted cruel and unusual punishment under the Eighth Amendment.0 Traditionally, courts have prohibited punishment that, although not physically barbarous, involves unnecessary and wanton inflictions of pain because these punishments lack penological **justification**.(26)

The Supreme Court has decided that prison regulations of religious activity that restrict an inmate's access to religious services are not prohibited by the constitutional ban against cruel and unusual punishments.⁽²⁷⁾ Restrictions on religious beliefs are to be upheld when the restrictions are reasonably necessary to protect important societal interests.⁰ By holding to this line and applying a deferential reasonableness standard when reviewing prison regulations, the Court has effectively eliminated the Eighth Amendment as a possible remedy for prisoners claiming unconstitutional infringements of the right to free exercise of religion.

III. Evaluating religious claims by prisoners

Given this background in the case law, consider the following issues: What constitutes a valid religion in the eyes of the courts? Which standard(s) have the courts used to evaluate religious-exercise claims? What are the constitutional implications of prison rules, regulations and practices relating to religious exercise by prisoners? What practices are permitted by prison administrations?

A. Defining religion

To protect the exercise of valid religious beliefs, a court must distinguish religious-based activities from actions that do not arise from religious beliefs.⁰ Prison inmates have claimed to practice both traditional and alternative religions. Consequently, the courts have addressed the issue of validity on a case-by-case basis because of the many existing belief systems. The only alternative to this individual case approach would require courts to adopt one of two extreme positions: (1) that prisoners deserve no constitutional protection for **free** exercise of religion in prison, or (2) that all belief systems of an allegedly religious nature are deserving of full protection.⁰ The courts have embraced neither of these **extremes**.⁽³¹⁾ Consequently, it has been necessary to devise a test and criteria to evaluate **religious** claims. Generally, the courts have been lenient in qualifying a belief as a bona fide religion under the First Amendment.⁰

The courts use many tests and criteria to determine whether to **classify** a given set of ideas as religious beliefs deserving of First Amendment protection. Two threshold criteria, however, must be satisfied: (1) the prisoner must be a sincere adherent of a belief **system**,⁽³³⁾ and (2) the beliefs must constitute a **religion**.⁽³⁴⁾ These questions are essential to determining whether a prisoner's free-exercise claim is valid. The courts, however, have been reluctant to address the issue of what constitutes a valid religious belief out of concern that a secular belief will be wrongly characterized as a valid religion and deserving of First Amendment **protection**.⁽³⁵⁾

1. Sincerity of belief

Sincerity of belief is the threshold inquiry.⁰ Although this inquiry is one of the most difficult tasks facing a court, a number of guidelines are available.⁰

Courts will often begin this process by holding hearings to evaluate an individual prisoner's **beliefs**.⁽³⁸⁾ After taking the testimony of witnesses, including that of the inmate, the court must make a subjective determination of the sincerity of the asserted beliefs.⁰

Second, courts must be careful not to confuse an inmate's sincerity of religious beliefs with the truth or falsity of the inmate's belief. The latter is not a question for the **courts**.⁽⁴⁰⁾ The courts should only consider whether the claimant sincerely adheres to a set of beliefs, regardless of the truth of the **beliefs**.⁽⁴¹⁾

Third, the inmate need not belong to an organized church.⁰ Membership in a religious organization is not a prerequisite to establish sincerity of belief.⁰

Fourth, sincerity does not require an inmate to perfect his or her practice of a particular religion.⁽⁴⁴⁾ Although evidence of non-observance is pertinent to the issue of sincerity, it is not determinative.⁰ Many, if not most civilians do not possess impeccable records of observance. Courts cannot reasonably require an inmate to achieve a spotless record of observance.

Fifth, prisoners need not demonstrate that their religion mandates that the practice in question is absolutely required by their religion in order for them to be adjudged sincere in their desire to practice.⁰ Sects of the same faith may engage in different practices. The practice in question need only have roots in the religious beliefs of the parent belief system.⁰

Finally, a court familiar with the tenets of the professed faith is helpful to the prisoner.⁽⁴⁸⁾ This knowledge of the religion enables the court to evaluate more thoroughly the inmate's claim of sincere adherence to the faith.⁽⁴⁹⁾ The inmate's claim is weakened, however, if the inmate has no reasonable basis for his or her belief or if the inmate's testimony reveals his or her ignorance of fundamental aspects of the claimed faith.⁽⁵⁰⁾

2. Nature of beliefs: What constitutes a valid religion

After the court evaluates an inmate's sincerity of belief, it must then determine whether the inmate's beliefs constitute a valid religion. Not every belief system forms a religion. Purely moral, political, or secular beliefs are not generally understood to constitute a religion.⁽⁵¹⁾ In addition, false belief systems and doctrines formed solely to avoid otherwise valid governmental regulation of conduct are not religions.⁰ The task, especially problematic in the prison context, is to distinguish those beliefs that are secular or fraudulently conceived **from** those that are genuinely religious in nature.⁽⁵³⁾

The Supreme Court has taken several different approaches to this problem but has yet to establish a clear test. Belief in a Supreme Being who controls the destiny of man is one approach,⁽⁵⁴⁾ but it is not required for a set of beliefs to qualify as a religion.⁽⁵⁵⁾ Discrimination against unfamiliar or unconventional faiths has not been accepted.⁰ Moreover, the Court has refused to consider the alleged truth or falsity of belief unless the religion was falsely conceived for the purpose of avoiding otherwise valid regulation of prisoner conduct.⁽⁵⁷⁾ Additionally, although the First Amendment does not protect secular belief systems, a religious faith may have beliefs that involve secular concerns.⁽⁵⁸⁾

Case history establishes that a belief may constitute religion even if the asserted belief does not include faith in a Supreme Being and regardless whether it is **unconventional**.⁽⁵⁹⁾ The lack of a clear Court-enunciated standard, however, has compelled the lower courts to fashion and apply their own tests. The two tests most commonly applied are **the** Third Circuit's "objective test" and the Second Circuit's more "subjective test."

The objective test, originally applied by the Third Circuit in *Africa v. Pennsylvania*, sets out three conditions to determine whether a given belief constitutes religion.⁽⁶⁰⁾ To qualify as a religion under the *Africa* test, a set of beliefs must: (1) "address fundamental and ultimate questions having to do with deep and imponderable matters"; (2) "be comprehensive in nature"; and (3) have certain "formal and external signs."⁽⁶¹⁾ The objective test requires that the asserted belief have similar generic qualities to that of more traditional and widely accepted religions. If the belief has no such

qualities, it fails the test and will not be considered a **religion**.⁽⁶²⁾

The Second Circuit's subjective test examines an inmate's state of mind and inward attitude toward a belief system.⁽⁶³⁾ In *Patrick*, the court acknowledged that to delve into the innermost reaches of an individual's mind would be exceedingly difficult. Notwithstanding the hardship of the task, however, the court noted that the First Amendment requires such an "expansive conception of religious belief" if the Constitution is to safeguard such important rights.⁰

Both the *Africa* test and the *Patrick* test recognize that non-traditional and non-theistic beliefs may 'constitute religion. Thus, both fall within the limits of First Amendment protection ⁽⁶⁵⁾ These are the only similarities, however, between the two tests.

Although the *Patrick* test is more difficult to apply, it allows the courts to consider more than the externalities of a given set of beliefs. Ideas that hold a place in the mind of the believer that are similar to those held by persons who adhere to traditional religious beliefs are as worthy of constitutional protection as ideas which form more traditional religious beliefs.⁰ Some courts choose to apply either or both of the tests. The *Patrick* test, however, more closely complies with Supreme Court precedent and appears to be the preferable approach.⁽⁶⁷⁾

B. The standard of review

The standard of review applied to prisoner free-exercise claims is perhaps the most important component of constitutional review. In the past, courts have adopted a variety of standards to review prison regulations. These standards range from a very strict scrutiny standard to a deferential reasonableness standard. While the strict scrutiny standard requires any regulation of prisoner religious conduct to further a compelling state interest in the least restrictive way possible, the reasonableness standard affords prison officials great latitude in deciding how to administer their prisons and regulate their inmates. As in most cases involving review of restrictions on civil liberties, the applicable standard of review in prisoner free-exercise cases will usually determine whether a court will find for the prisoner or the prison. This section will discuss the development of the *compelling interest* and *reasonableness* standards as they relate to prisoners' religious claims.⁽⁶⁸⁾ It will conclude with a discussion of the recently enacted Religious Freedom Restoration Act and the Act's impact on the case law to date.⁰

1. The compelling interest standard

The compelling interest test requires the government to demonstrate a compelling state interest to justify regulations that burden the free exercise of religion.⁰ This standard also requires the state to use the least restrictive means available to **further** that compelling interest.⁰

The Supreme Court first used the compelling interest test in *Sherbert v. Verner*⁽⁷²⁾. In *Sherbert*, a member of the Seventh-Day Adventist Church was terminated from her state job because she refused to work on Saturday, the Sabbath day of her **faith**⁽⁷³⁾. The state also denied the former employee unemployment compensation due to her failure "without good cause ... to accept suitable work when offered."⁽⁷⁴⁾ The state justified the termination and denial of unemployment compensation by citing the prevention of fraudulent claims that might dilute the unemployment-compensation fund and hinder employers who require their employees to work on Saturday. The Court characterized these asserted interests as "doubtful" rather than **compelling**.⁽⁷⁵⁾ In addition, the state did not demonstrate that it used the least intrusive means to further state policy.⁽⁷⁶⁾ Consequently, the state action failed the compelling interest test.⁽⁷⁷⁾

In *Wisconsin v. Yoder*,⁽⁷⁸⁾ the court applied the *Sherbert* compelling interest test to a state law that required parents, under threat of criminal punishment, to enroll children above the age of fourteen in secondary education programs. The petitioners in this case were an Amish couple who wished to provide their children with a traditional Amish education. Typical secondary-education programs taught subject matter that the Amish people considered to be contrary to their religious beliefs. The Court held that this law substantially burdened the free exercise of religion.⁽⁷⁹⁾ Furthermore, the law did not sufficiently serve the state's interest in "universal compulsory formal secondary education to age sixteen."⁽⁸⁰⁾ The Court went on to refine the test by stating that "only those interests of the highest order and those not otherwise served can overbalance legitimate claims to the free exercise of religion."⁽⁸¹⁾

2. The hands-off approach

Despite the Court's apparent high regard for claims of religious liberty, it has justified government restrictions in certain **circumstances**.⁽⁸²⁾ Prior to the 1970s, federal courts were largely unreceptive to prisoners' allegations of constitutional **violations**.⁽⁸³⁾ Courts offered a variety of reasons for denying prisoners' claims. Some courts viewed prisoners as "slaves of the state."⁽⁸⁴⁾ Others courts concluded that the courts were not equipped to evaluate the decisions made by prison administrators whose expertise in the field far exceeded their **own**.⁽⁸⁵⁾ Others based their decisions not to intervene on the grounds that federal courts should not interfere with the administration of state institutions.⁰ As a result, the extent of religious activities for prisoners were largely dependent upon the discretion and good will of prison **administrators**.⁽⁸⁷⁾

In the 1970s the Supreme Court began to end this hands-off approach to **prisoners' religious-rights claims**.⁽⁸⁸⁾ The Court began to give these claims greater attention and granted more inmates access to the courts. The Court, however, did not enunciate a clear standard by which to evaluate these claims until 1987.⁽⁸⁹⁾

Prior to 1987, however, the case law established four principles. First, prison inmates retain certain First Amendment rights that are not inconsistent with their status as **prisoners**.⁽⁹⁰⁾ Second, federal courts would no longer ignore prisoners' First Amendment claims.⁰ Third, courts would continue to accord substantial deference to the decisions of prison administrators and corrections **experts**.⁽⁹²⁾ Fourth, although burdens on prisoners' First Amendment rights might not require the strictest of scrutiny, a legitimate penological interest alone does not outweigh First Amendment protections.⁽⁹³⁾ With these general guidelines, lower courts were left to develop their own standards.⁰

3. The *Turner/O'Lone* standard

In 1987 the Supreme Court finally delivered a single standard by which to review all free-exercise claims of prisoners. In *Turner v. Safley*, inmates challenged two prison regulations on First Amendment grounds.⁰ The first regulation limited inmate-to-inmate correspondence except between family members **or** correspondence concerning legal matters.⁰ The second regulation permitted inmates to marry only under compelling circumstances and only with the permission of the prison administration.⁰ The appeals court upheld the decision to **strike** down the regulations, holding that neither regulation was the least restrictive means available to the **prison**.⁽⁹⁸⁾

Writing for the Supreme Court, Justice Sandra Day O'Connor issued a new test to evaluate claims regarding prisoners' rights to **free** speech. Her opinion noted that prisoners do retain some constitutional rights.⁰ The **Court**, however, also noted the importance of deferring to the expertise

and institutional wisdom of prison officials.(100)

The new test requires that prison regulations that burden prisoners' constitutional rights need only be "reasonably related to legitimate penological interests."(101) Under this test, four components are relevant in determining whether a challenged regulation is reasonable: (1) The prison administration must show a "valid, rational connection between the prison regulation and the legitimate governmental interest put forward to justify it;"(102) (2) reasonableness depends in part on the availability of "alternative means of exercising the right;"(103) (3) the courts should consider "the impact [that] accommodation of the prisoners' asserted constitutional right will have on guards and other inmates, and on the allocation of prison resources generally;" and (104) (4) the existence of easy, obvious alternatives at little cost may indicate that the regulation is unreasonable.(105)

Applying this test, the Court upheld the regulation of inmate-to-inmate correspondence.(106) The Court, however, struck down the regulation of inmate marriages, finding questionable the state's position that the restriction was reasonably related to the prevention of "violent love triangles."(107) Furthermore, prison officials were unable to demonstrate that inmate marriages had led to security problems in the past.(108)

In the same term, the Supreme Court applied the *Turner* analysis to the free-exercise claims in *O'Lone v. Estate of Shabazz*.(109) In *O'Lone*, inmates who were adherents of the Islamic faith challenged a New Jersey state prison policy that had the effect of preventing them from attending a weekly Muslim religious rite.{ 110} These prisoners were classified as "minimum restrict" and were sent to outdoor work duty every Friday afternoon.(111) Prison officials would not permit these prisoners to return to the chapel on Friday. As a result, they were not able to attend services.(112) In defense of the prison policy, the state argued that the "minimum restrict" work details were supervised by only one guard. To escort the Muslim prisoners back to the main prison for services, all the prisoners would have to return.0

Sitting en *banc*, the Third Circuit held for the prisoners.(114) Applying heightened scrutiny to the challenged prison policies, the court concluded that although the policies served the "important penological goal of security," a more reasonable method could accommodate the prisoners' religious rights without creating security problems.(115)

The Supreme Court reversed the Third Circuit and applied *Turner's* four-part reasonableness test.0 The Court also concluded that it was inappropriate to change the degree of scrutiny applied because of the presumed danger of a particular religious activity or the degree of deprivation of a restricted religious practice .(117)

Applying the *Turner* test, the Court found that the challenged prison policies withstood constitutional review. First, the legitimate concern for "institutional order" justified the requirement of the outside work detail on Fridays that kept Muslim inmates from attending services.(118) Second, the Muslim prisoners had alternative means of exercising their religion despite their inability to attend Friday services.{ 119} Third, accommodating this particular religious request would adversely impact the effective administration of the prison.(120) Fourth, no "obvious, easy alternatives" to the challenged policies existed.(121)

4. Application of the *Turner/O'Lone* standard

The effect of extending the *Turner* reasoning for the treatment of prisoners' free-speech claims to free-exercise cases was the creation of a single, consistent, four-part test by which *all* prisoners' First

Amendment claims were to be decided. In the years following these decisions, the lower courts have taken a systematic approach to denying many prisoner free-exercise claims and upholding a variety of restrictions of these rights.⁰

The first step in evaluating the reasonableness of a challenged prison regulation is to determine whether the regulation serves a “legitimate penological interest.”⁽¹²³⁾ The courts that have applied this test have generally agreed that legitimate objectives include prison security, deterrence of crime, and prisoner rehabilitation.⁽¹²⁴⁾ At least one of these concerns must be the motivating force behind the regulation. Additionally, the prison administration must not be acting arbitrarily.⁰ Furthermore, the institutional objective need only be based on a “probable” rather than “actual” concern.⁽¹²⁶⁾ In practice, the courts have not usually required any more than a showing by prison officials that they are legitimately motivated.⁰

The second element of the *O’Lone* test factor is the availability of an alternative means of religious exercise.⁽¹²⁸⁾ Courts have generally been satisfied if an alternative means of worship adequately compensates for the limitation or restriction of a particular form of worship.⁽¹²⁹⁾

The third *O’Lone* element is the cost of accommodating the prisoners’ religious requests.⁽¹³⁰⁾ The concern is the potential “ripple” effect from making allowances for a particular religious practice.⁽¹³¹⁾ Once a prison administration allows certain practices, it would have to accommodate all similar reasonable requests or face claims of favoritism and unequal treatment for certain religious groups.⁽¹³²⁾ Furthermore, the cost of the extra security required may overtax the limited resources of the prisons.⁽¹³³⁾

Finally, courts that have applied the fourth element of the *O’Lone’s* test have made clear that prison officials need not prove that their policies are the least restrictive means available of achieving institutional objectives.⁽¹³⁴⁾ The existence of “obvious, easy alternatives” is simply a factor to be considered when evaluating the reasonableness of a challenged regulation.⁽¹³⁵⁾ Moreover, the courts have indicated that the prisoners have the burden of proving that a less burdensome alternative is available.⁽¹³⁶⁾ Although some courts have been willing to review burdensome regulations, others have required the prisoner to fully establish that a regulation is unduly burdensome and suggest a reasonable alternative.⁰

The Turner/O’Lone test has settled the inconsistency among the lower courts regarding prisoners’ free-exercise claims. By choosing the lowest standard of review available, the Court has sent the message that reasonable restrictions on religious expression will not offend the First Amendment.⁽¹³⁸⁾ The strict scrutiny standard is no longer available to the courts when reviewing these claims, and the courts need no longer consider whether a given prison regulation is the least restrictive means available.⁽¹³⁹⁾ Alternatives to the challenged regulation are relevant but not determinative.⁰ Prison officials need not adopt alternatives if the alternatives would require the prison to expend substantial resources. The *Turner/O’Lone* standard requires only easily available alternatives that can be enacted with *de minimis* effort.⁰ The prisoner must prove that the connection between the challenged regulation and its asserted goal is so remote that the policy is arbitrary or capricious. In addition, the prisoner must show that easily available alternatives exist.⁽¹⁴²⁾

5. *Oregon Employment Division v. Smith*⁽¹⁴³⁾

In 1990, the Supreme Court expressly denied the use of the compelling-interest, or strict-scrutiny, standard of review except in unemployment-compensation cases.⁰ In *Smith*, two Native

American drug-rehabilitation counselors admitted to taking part in a religious ceremony that included the consumption of peyote as a sacrament. (145) Consequently, the counselors were fired from their jobs with a private organization and denied unemployment compensation. Peyote is regulated by the Oregon controlled-substance laws. Consumption of peyote is cause for dismissal under the policies of the Oregon Employment Division. (146) The Native Americans filed suit over the denial of unemployment benefits and challenged the constitutionality of Oregon's controlled-substance law on the grounds that the criminalization of peyote violated their right to the free exercise of religion. (147)

The Oregon Supreme Court held that the prohibition of the sacramental use of peyote violated the Free Exercise Clause. (148) The United States Supreme Court reversed the Oregon Supreme Court, holding that neutral laws of general application need not be justified by a compelling interest even though they effectively burden the free exercise of religion. (149)

The Court expressly refused to apply the *Sherbert* analysis. *Smith* limited the use of the strict-scrutiny test to two circumstances: (1) when the government regulation at issue burdened a constitutional right in addition to the free exercise of religion, and (2) when state unemployment-compensation rules conditioned the availability of benefits on an applicant's willingness to work under conditions forbidden by his/her religion. (150) The Court concluded that these situations were more easily reviewed on a case-by-case basis. Thus, the compelling-interest test was more appropriately applied in these contexts. (151) The Court went on to state that to apply the compelling-interest test outside these limited contexts would inappropriately permit courts to make judicial determinations of the centrality of religious beliefs. (152)

As a result of *Smith*, courts have applied the rational relationship test to facially neutral laws of general applicability that incidentally burden the exercise of religion. The rational relationship test is the *lowest* level of scrutiny available to the courts. This test merely requires the challenged law to be rationally related to a legitimate state interest. (153) By lowering the level of scrutiny and constitutional protection for religious practices, the *Smith* decision has created a climate in which the free exercise of religion may be significantly restricted by the state, both within and without prison walls. Following *Smith*, both federal and state governments have been free to deny claimants the religious liberty that they otherwise would have enjoyed. (154)

6. The Religious Freedom Restoration Act of 1993

Congress enacted the Religious Freedom Restoration Act of 1993 (*RFRA*) to overturn *Smith* and restore the *Sherbert* compelling-interest/least-restrictive-means analysis to regulations that impact upon citizens' free-exercise rights. (155) The statute responds to *Smith* and *O'Lone* by imposing a statutory ban on governmental action that substantially burdens religious exercise. A rule of general applicability will be subject to the statutory ban, unless the government demonstrates that the action is the least restrictive means of furthering a compelling governmental interest. (156)

The case law prior to *Smith* clearly indicates that only governmental actions that place a substantial burden on the free exercise of religion must meet the requirements of the compelling-interest test. (157) *RFRA* does not require such justification for every government action that incidentally impacts on religious freedoms. (158) Moreover, strict scrutiny does not apply to government actions involving only the management of internal government affairs or the use of the government's property. (159) *RFRA* restored the compelling-interest test to its original use in free exercise cases. Accordingly, the test is neither more strict nor more lenient than it was prior to *Smith*. (160)

Notwithstanding *O'Lone* and *Smith*, the Supreme Court has concluded that prisoners do retain First Amendment rights, including the right to exercise religion while incarcerated.(161) *O'Lone* severely undermined the right to religious exercise. RFRA, as applied in the prison context, was intended to restore the traditional protections for these **rights**.(162) Congress did not intend for RFRA to impose a more rigorous standard that could greatly complicate the difficult business of operating a prison in a safe, secure manner.0 Moreover, Congress has made clear that the courts, in applying the standard set forth in RFRA, should continue to give due deference to the institutional expertise of prison **administrators**.(164) These officials still have broad powers to maintain the order, security, and discipline that is essential in a prison **environment**.(165)

Congress's bold move in expressly overruling the Supreme Court did not go unchallenged. Groups interested in preserving their authority to impose restrictive regulations on religious exercise objected to RFRA. The most strenuous objection to this legislation was made by a coalition of state attorneys-general and corrections officials. This group believed that to reimpose the compelling-interest test on prison regulations that directly or incidentally interfered with prisoners' religious exercise would be **disastrous**.(166) They argued that prisoners' free-exercise claims should receive a lesser degree of scrutiny than that applied to society at large.(167) If inmates were to receive the same religious protections as the general public, prison safety would be jeopardized and the courts would be flooded with frivolous **claims**.(168) The coalition also argued that this legislation would force the states to re-litigate nearly every kind of claim brought by inmates to **date**.(169)

Despite these objections, a proposed amendment excluding coverage for inmates was not part of the bill that President Clinton signed into law in November 1993.(170) The amendment was defeated in the Senate by a 58-41 vote and was never even considered in the House, where RFRA was approved by voice **vote**.(171)

The successful RFRA **advocates**(172) maintained that the compelling-interest test would adequately address the legitimate concerns of the correctional officials. **The** test had provided an effective and equitable means of resolving inmate religious liberty claims for twenty **years**.(173) They also challenged the assumption that inmate litigation would flood the courts if RFRA included **prisons**.(174)

Several prisoners' rights cases have cited RFRA, or at least made reference to it. The most recent cases were decided in April and May of 1994. In *Campos v. Coughlin*, the federal district court for the Southern District of New York granted an inmate's request for an injunction prohibiting prison **officials** from banning the use of religious **artifacts**.(175) The court, however, expressly refused to apply RFRA because of the penological interests **involved**.(176) Under a much less demanding standard of review, but nevertheless holding for the inmates, the court concluded that the New York Department of Corrections Services had not provided persuasive evidence that wearing religious beads under clothing posed a real security risk. No legitimate penological interest **existed**.(177)

In *Rust v. Clarke*, a federal court in Nebraska granted the inmates declaratory and injunctive relief.0 Inmates at the Nebraska State Penitentiary alleged that the amount of money provided by the penitentiary to religious groups was unfairly distributed and discriminated against adherents of the Asatru **faith**.(179) The inmates also claimed that they were allotted less time for worship than other religious **groups**.(180) Although the Eleventh Amendment barred the claim for money damages against the penitentiary, the inmates stated sufficient facts to proceed on the merits under the standard of review called for by RFRA.(181)

Other cases have been decided in the several months since RFRA was signed into law. Some have held for the inmates;⁽¹⁸²⁾ others have held for the state.⁽¹⁸³⁾ An approximately equal number of cases has been decided on both sides of the issue. Consequently, no discernible trend is apparent. RFRA's more stringent standard of review will possibly yield some consistency in the holdings and greater protection of prisoner's religious activity. Whether RFRA will result in more claims brought against prisons, more requests for religious items, or more requests for religious services, however, is unclear.

C. The equal protection problem

The inmate's right to equal protection is crucial when determining what religious activities must be accommodated by prison officials.⁽¹⁸⁴⁾ A common complaint of prisoners who are adherents of minority or less traditional religions is that their religion has been singled out for unfair or unequal treatment relative to the treatment afforded other religious groups in the prison.⁽¹⁸⁵⁾ As a result, the Fourteenth Amendment is particularly important in cases involving the practice of minority religions in prison.⁰

The Supreme Court held in *Cruz v. Beto* that each prisoner is entitled to "a reasonable opportunity of pursuing his faith comparable to the opportunity afforded fellow prisoners who adhere to conventional religious precepts."⁽¹⁸⁷⁾ Although all prisoners are entitled to equal protection, however, prison officials cannot be expected to duplicate every religious benefit.⁽¹⁸⁸⁾ The Court stated that a "special chapel or place of worship need not be provided for every faith regardless of size; nor must a chaplain, priest or minister be provided without regard to the extent of the demand."⁽¹⁸⁹⁾ Accordingly, the Court did not mandate identical treatment for all religions.

Although the courts have allowed limitations on religious activities within prisons, they have carefully scrutinized potentially discriminatory classifications.⁽¹⁹⁰⁾ Without clear and substantial grounds for doing so, prison officials cannot limit activities or provide special treatment for members of select religions.⁽¹⁹¹⁾

The courts have distinguished between fundamental religious activities that prison officials must permit⁽¹⁹²⁾ and those activities that prison officials are obliged to provide as aids to the exercise of religion.⁽¹⁹³⁾ Activities included among the former group are generally regarded as absolutely protected.⁽¹⁹⁴⁾ Activities in the latter group may be more easily regulated.⁰ This distinction between what prison officials must permit and what they must provide has led courts to rule that when members of one faith are permitted to meet to practice their religious beliefs or to use the prison religious facilities, equivalent opportunities must be made available to members of all other faiths.⁰ Prison officials, however, need not provide separate facilities or state-provided clergy for each religious group.⁽¹⁹⁷⁾ Prison administrators may meet their duty if all prisoners are allowed to meet and to worship with their own clergy from outside the prison.⁽¹⁹⁸⁾

D. The establishment-of-religion problem

In addition to free-exercise and equal-protection concerns, the exercise of religion by prisoners often raises problems with the Establishment Clause of the First Amendment.⁽¹⁹⁹⁾ The tension between the Free Exercise Clause and the Establishment Clause is often clearly revealed in the prison setting.⁽²⁰⁰⁾ Prisoners are deprived of their liberty and freedom of movement upon incarceration. Those wishing to practice their religion must rely heavily on state help.⁽²⁰¹⁾ At issue is whether the state is endorsing religion by providing religious facilities or personnel for inmates of particular

faiths.

The Supreme Court has held that the First Amendment requires that state action neither hinder nor help religion.⁽²⁰²⁾ A strict application of this holding in the prison context, however, would most likely deprive prisoners of their right to free exercise.⁽²⁰³⁾ When the government imprisons citizens, the government effectively deprives them of their right to freely exercise religion. To avoid problems with the Free Exercise Clause, the government may provide limited substitutes for the exercise of religion.⁽²⁰⁴⁾

1. Provision of clergy

The inherent conflict between the Free Exercise Clause and the Establishment Clause is perhaps most evident when prison officials hire or are asked to hire clergy persons.⁰ The Third Circuit highlighted this problem in *Gittlemacker v. Prasse*,⁽²⁰⁶⁾ concluding:

The requirement that a state interpose no unreasonable barriers to the free exercise of an inmate's religion cannot be equated with the suggestion that the state has an affirmative duty to provide, furnish, or supply every inmate with a clergyman or religious services of his choice. It is one thing to provide facilities for worship and the opportunity for any clergy to visit the institution . . . But to go further and suggest that the Free Exercise Clause demands that the state not only furnish the opportunity to practice, but also supply the clergyman, is a concept that dangerously approaches the jealously guarded frontiers of the Establishment Clause.⁰

In addition to this constitutional problem, prison officials and courts must consider other administrative concerns. The state must provide programs for the physical, mental, and spiritual health of inmates.⁰ Providing religious clergy is one method. Due to the substantial expense and administrative inconvenience, however, prison officials cannot maintain religious personnel, either part-time or full-time, for each religious group at every correctional institution.⁽²⁰⁹⁾ The prevailing view seems to be that these state-employed clergy people are hired to attend to the spiritual needs of all inmates rather than inmates only of the particular clergy person's faith. Thus, government employment of these clergy persons does not violate the Establishment Clause.⁽²¹⁰⁾

When the state hires chaplains for a particular faith only it may run afoul of the Establishment Clause by appearing to favor one religion over another. The courts, however, have been relatively consistent in holding that the state cannot be required to hire chaplains of a faith with only a few adherents in the prison.^{ 2 11}

2. Administrative action designed to encourage religious activities within prison

In addition to providing chaplains, prison officials may violate the First Amendment by encouraging or condoning religious proselytization. Religion is believed to have a calming and rehabilitative effect on prisoners.⁽²¹²⁾ Prison officials have attempted to use religion to promote discipline, order, and rehabilitation and to enhance internal security.⁽²¹³⁾

Despite apparent good intentions, administrative rules that sanction rewards for inmates who engage in approved religious activities by providing these prisoners with the best work details, good-time credit, or early parole release violate the Establishment Clause.⁽²¹⁴⁾ These regulations have the practical effect of sponsoring religion or favoring one religion over others.⁽²¹⁵⁾ Moreover, the State cannot promote religion in ways unnecessary to satisfy the free-exercise rights of prisoners.⁽²¹⁶⁾ Accordingly, any prison rule or practice that directly or indirectly rewards inmates for practicing

administratively approved religions violates the Establishment Clause.⁽²¹⁷⁾

IV. Religious practices

Prisoners often request permission to engage in specific religious practices. These practices may conflict with prison rules, triggering free-exercise claims. Most of the cases addressing these requests have followed *O'Lone's* deferential standard of review. As a result, courts have disallowed or severely restricted many religious practices on the grounds that the practices were contrary to the institutional objectives of order, security, and rehabilitation.

If the Religious Freedom Restoration Act had been in effect, many of these cases might have been decided differently. RFRA was intended to apply retroactively. Consequently, these cases have the potential to be re-litigated with significantly different results.

A. Personal appearance and clothing

Inmates commonly challenge prison rules that do not allow for religious requirements or restrictions on dress and appearance. When religious codes conflict with prison regulations that proscribe long hair, beards, or religious head coverings, inmates have often claimed Free Exercise Clause violations.

In the years prior to the *O'Lone* decision, the lower courts applied different standards of review to these cases, producing mixed results. After *O'Lone*, however, the courts have generally upheld prison rules that regulate personal appearance.

1. Hair length and beards

Inmates whose religions require them to retain long hair or uncut beards have challenged regulations governing hair and beard length.^(218) In *Fromer v. Scully*,⁽²¹⁹⁾ an Orthodox Jewish inmate challenged a prison rule that required inmates to trim their beards to a length not to exceed one inch. The prisoner claimed that this rule violated the tenets of his faith, which required him to wear a full-length beard.⁽²²⁰⁾ In this pre-*O'Lone* decision, the district court ruled in the inmate's favor, and the Second Circuit affirmed.⁽²²¹⁾ The case was appealed to the Supreme Court, which remanded it to the lower courts for reconsideration in light of *O'Lone*.⁽²²²⁾ On remand, the Second Circuit upheld the prison rule.⁽²²³⁾

The Second Circuit held that the hair-or-beard-length rule was rationally related to legitimate penological interests. The state claimed that the rule made identification of prisoners easier, aided in the control of contraband, improved prison hygiene, and provided the safest and most equitable rules for prison life.^(224) The Second Circuit found "a logical, if not obvious, connection between beard length and ease of identification," which remained even if the defendant permitted short beards.^(225)

The court also held that the regulation was rationally related to the goal of keeping contraband out of the prison. Although no evidence existed that contraband had ever been found in an inmate's beard, prison officials could legitimately anticipate these security problems.⁽²²⁶⁾ Finally, the court concluded that the inmate had alternative means by which he could practice his religion other than wearing a full-length beard.⁽²²⁷⁾ The state also suggested that, by accommodating his claim, prison officials would run the risk of creating a possible confrontation between prisoners and guards and the appearance of favoritism by prison officials for Orthodox Jews.⁰

This case is an excellent example of the difference between pre- and **post-*O'Lone*** reasoning regarding prison hair-grooming regulations.(229) Before *O'Lone*, this rule was unconstitutional; afterwards, it was **constitutional**.(230) Other courts deciding cases regarding hair and beard length, as well as prisoners' free-exercise rights in general, have adopted this hands-off **approach**.(231)

In interviews conducted with prison officials from various states, interviewees have described different policies regarding hair-and-beard-grooming regulations. Some prisons allow inmates to choose how they wish to wear their hair or beards. Inmates in these prisons, however, must keep their hair clean and neat. For example, inmates with long hair are encouraged or required to keep the hair pulled back in a ponytail. Other prisons require inmates to keep their hair cut short and forbid them from wearing beards or facial hair of any kind.

These regulations vary from prison to prison and state to state. Significant factors include where the prison is located and whether the prison has a substantial number of inmates whose beliefs require adherents to maintain long hair or beards. For example, several prisons in southern states with very few Native American inmates have restrictive regulations that require close-cut hair and forbid inmates to wear beards. A prison official from one of these prisons stated that the prison in which he worked did not allow inmates to maintain long hair or a beard. He asserted that this regulation did not cause problems because the inmates at this facility preferred to have short hair.

Prisons in some western and plains states with greater numbers of Native American inmates, however, do not have these restrictive grooming regulations. Inmates housed in prisons in these states are generally permitted to wear their hair as they wish, provided that the hair is kept neat and clean.

2. Head-coverings

Inmates frequently challenge rules that ban the use of religious head-coverings. These inmates usually claim that the rules interfere with legitimate religious **practices**.(232) Prison officials typically cite security and sanitation concerns when defending challenges to these **rules**.(233)

In *Young v. Lane*,(234) inmates in an Illinois prison challenged a rule that prohibited the wearing of yarmulkes. The Jewish faith requires orthodox men to wear this religious head-covering. The prison did permit, however, the wearing of baseball caps at all times.⁰ The inmates argued that, by allowing secular head-coverings, the prison had effectively invalidated the rule prohibiting **yarmulkes**.(236) The Seventh Circuit upheld the rule, citing the strong interest in uniform dress regulations as a legitimate penological objective. The court concluded that the rule was legitimately designed to eliminate the effectiveness of gangs "by restricting the variety of available **headgear**."(237) Although the link between wearing yarmulkes and encouraging the development of gangs is unclear, this holding is in accord with other cases relating to this **topic**.(238)

3. Wearing of medallions

Although many prison systems allow inmates to wear religious **jewelry**,(239) courts have upheld rules prohibiting the use of medallions by inmates when the medal could conceivably be used as a weapon. For example, in *Hall v. Bellmon*,(240) the court held that a regulation banning the possession of a religious, sharp beartooth necklace was valid, as long as the necklace could be used as a weapon.

Under *O'Lone*, the courts have generally been reluctant to overturn prison grooming **rules**.(241) If

the record shows that prison officials have not offered a valid reason for the regulation, or if easier alternatives to the challenged restriction exist, courts will strike down prison dress or grooming codes.⁰ Courts will also invalidate these rules if the rules lack a factual basis or are applied in a discriminatory **manner**.⁽²⁴³⁾ Moreover, under RFRA's compelling-interest standard, the states will have to demonstrate more than a rational relationship between the regulation and the prison's legitimate penological objective. Instead, the state will have the burden of proving that the grooming regulation uses the least restrictive means to further a compelling governmental interest.

B. Meals

Many religions require adherents to follow rigid dietary **codes**.⁽²⁴⁴⁾ Although a number of prison systems now provide for special diets, many refuse to accommodate these requests. ⁽²⁴⁵⁾

Whether the First Amendment requires prisons to provide special religious diets is a difficult issue. Courts must balance the prisoner's sincere desire to observe religious laws with the prison's budgetary and administrative **realities**.⁽²⁴⁶⁾

Until the **mid-1970s**, courts took a hands-off approach with most of these **claims**.⁽²⁴⁷⁾ Opinions denying unequal-treatment claims stressed the costs and security risks of providing special **foods**.⁽²⁴⁸⁾ Prison administrators successfully argued that the individual treatment of food could lead to smuggling and claims of favoritism if certain inmates were granted special **privileges**.⁽²⁴⁹⁾

In 1975 *Kahane v. Carlson*⁽²⁵⁰⁾ ended this trend. In this case, the Second Circuit permitted an Orthodox Jewish rabbi to maintain a kosher diet while incarcerated.⁽²⁵¹⁾ The court noted that Jewish **dietary** laws were an integral part of an Orthodox Jew's **religion**.⁽²⁵²⁾ As a result, the court enjoined the prison from unnecessarily preventing the rabbi from observing his dietary **obligations**.⁽²⁵³⁾ The court also noted that the prison had only about a dozen Orthodox Jews and that other prisons in the state were able to provide the required diet. Thus, the administrative problems of providing a kosher diet for Kahane were not **insurmountable**.⁽²⁵⁴⁾ The court allowed the prison discretion to decide how to provide the required food, as long as the prison provided a "diet sufficient to sustain the prisoner in good health without violating the Jewish dietary **laws**."⁽²⁵⁵⁾

Pursuant to *Kahane*, inmates have the right to a religious diet unless the cost is prohibitive or administratively **unfeasible**.⁽²⁵⁶⁾ If the prison can accommodate the inmate's request without significant administrative costs, prison **officials** should provide the religious **diet**.⁽²⁵⁷⁾ If the costs involved are exorbitant or the administrative burdens overwhelming, however, prison **officials** may deny the request for a religious **diet**.⁽²⁵⁸⁾

Equal-protection considerations also prohibit unequal treatment in the availability of religious **diets**.⁽²⁵⁹⁾ For example, if kosher food is available to Jewish inmates, then prison officials must make a reasonable attempt to accommodate the requests of Muslim inmates for meals that do not contain pork but do contain a suitable protein **supplement**.⁽²⁶⁰⁾ Prison officials who attempt to provide a religious diet to prisoners will not be held liable for a single instance of denying such a meal.¹²⁶¹⁾ Also, when religious holidays require special meals, the prison may meet its obligation by permitting inmates to purchase provisions at their own **expense**.⁽²⁶²⁾ Finally, inmates may not be punished for refusing to handle or work with food that they are forbidden to handle.⁰

To prevail in a claim for a religious diet, an inmate must show sincerity of belief and the desire to adhere to religious dietary laws.⁰ The religion must actually require the requested **diet**.⁽²⁶⁵⁾ In addition, the cost, administrative burdens, and security concerns associated with providing the meal

must not be excessive.(266) Furthermore, the prison must show that, without the diet, the prisoner cannot obtain proper nutrition while complying with religious laws.0

C. Religious services

Group services are an integral part of religious worship.12682 In the prison environment, prison officials have encouraged these services because of the recognized rehabilitative value of religious teachings and the historical religious roots of American **prisons**.(269) In addition, regular services can actually enhance prison security.

Despite the apparent benefits of allowing inmates to congregate and exercise their religious preferences, religious services have posed problems for prison **administrators**.(270) In a prison setting, any **group** activity of inmates can raise concerns about violent altercations, illicit transactions, and, in some cases, **rioting**.(271)

Prison **officials** may have a variety of concerns, including the following: (1) the belief that inmates will use religious gatherings as a pretext for planning or attempting to escape, (2) the fear that the services of some religions will incite or constitute a threat to prison security because of the ideas expressed there or because the services are officiated by inmates serving as leaders, and (3) logistical problems with getting a small number of inmates of a given faith together for worship.

Early prison cases clearly established the broad right of general-population prisoners to attend regular group religious **services**.(272) Some religious faiths, however, particularly the Black Muslim faith, have given prison officials and the courts cause to hesitate before granting privileges comparable to those given to adherents of other faiths.0 These cases have raised questions about the nature and extent of the right to worship in group religious **services**.(274)

1. Inmate-led services

One of the first questions to arise was whether inmates have the right to self-officiate at congregational services. The courts have decided that when outside clergy are available to lead services, inmates do not have the right to displace **them**.(275) The courts cited the institutional concern that when prisoners gain authority over other prisoners, especially administration-sanctioned authority, significant security and safety problems may arise.0

If the prison allows inmates of some faiths to lead religious services, it may constitutionally withhold similar permission for inmates of other faiths if the tenets of their faith are potentially **threatening**.(277) Prison officials may make this distinction without violating the Equal Protection **Clause**.(278) The distinction, however, must be rational.0 Moreover, prison **officials** cannot enforce a ban on inmate-led services in a discriminatory or arbitrary manner.0 If the prison forbids these services, it must make reasonable efforts to arrange for outside clergy to come into the prison and lead the services./281)

2. Inmate meetings in the yard

Whether inmates have the right to gather informally for worship in the prison yard presents a similar question. The courts have generally denied inmates the right to engage in informal group activities on the basis of their **religion**.(282) Unsupervised, informal, group prayer meetings can give **rise** to a potentially dangerous inmate-leadership **structure**.(283) Inmate perceptions are very important in a prison environment. Prison authorities ordinarily avoid the appearance of favoring one group of

inmates over others. Moreover, inmates must understand that the authority lies with the prison administration.

Prison authorities can prohibit group prayer and permit other group activities such as discussion groups, basketball, and boxing.(284) This distinction does not raise equal-protection problems.(285) The permitted activities do not involve “an organized, functioning alternative authority structure among inmates.” An inmate-only prayer meeting in the prison yard might present this type of authority structure.(286)

‘3. Services offered

Courts have also considered whether prison officials should discriminate among individual groups or sects within groups when providing the opportunity to hold religious services.(287) For example, prison officials have questioned the need to provide separate services for each Christian sect represented in the prison population.(288) Generally, the courts have found that a broadly defined service is sufficient as long as a reasonable relationship exists between the service and the specific teachings of the sect.(289) A large number of religious groups are represented in prison populations. Providing separate services or facilities for each is logistically impossible because of security, staffing, and space concerns.(290)

Satanist, White Supremacist, and WICCAN(291) inmates have had the most trouble in establishing themselves as valid religious groups. Prison officials have been reluctant to **permit** these groups to engage in congregational worship. Many prisons simply refuse to recognize these groups and do not allow them to meet at all. Under RFRA, however, this may change. One prison official noted that inmates who belong to these groups are generally familiar with or are becoming familiar with RFRA. Consequently, inmates who profess to belong to these groups will presumably file more lawsuits now that prison regulations must withstand a higher degree of scrutiny.

4. Segregated inmates

Separate issues arise when inmates are confined to segregated living, The purposes of congregational worship directly conflict with the objectives of segregation. Prison officials use segregation to punish or protect inmates by separating them from the rest of the prison **population**.(292) Allowing segregated inmates to attend group religious services compromises these goals. Segregation, however, does not restrict or terminate a prisoner’s right to religious **exercise**.(293)

Disciplinary segregation may be imposed to punish, but depriving prisoners of their right to worship cannot be a component of this punishment.0 The courts have not applied a **uniform** policy with regard to disciplinary inmates.(295) Some courts have allowed prisons to deny segregated inmates’ requests to attend group services.(296) These opinions have focused on available alternative methods of **worship**.(297)

Another line of cases holds that a universal denial of constitutional rights to all inmates in disciplinary segregation, without some sort of inmate-by-inmate determination, is **impermissible**.(298) In these cases, the courts have required an individual determination as to the necessity of an inmate’s exclusion from group services.(299)

Protective-custody inmates differ **from** disciplinary inmates. Although both are separated from the general prison population, these inmates are placed in segregation to protect them from other inmates.(300) Prison **officials** use segregation to punish disciplinary inmates. Moreover, unlike most

disciplinary inmates who spend a finite time in segregation, these inmates may be segregated indefinitely or until they are released. (301) As a result, the courts have examined each of these cases carefully to determine whether any reasonable alternative exists to preventing protective-custody inmates from attending group services.

The courts have taken a more aggressive approach in these cases to develop measures that permit protective-custody inmates to attend religious **services**. (302) They have required prison officials to offer meaningful alternatives to group religious services when inmates cannot attend regular group services for safety or security reasons.0 When the record indicates that a protective-custody inmate's presence at group religious services would present serious security or safety concerns, the courts have reluctantly upheld **restrictions**. (304) These restrictions, however, can remain only so long as required by legitimate security **concerns**. (305) In these cases, the courts have strongly emphasized the necessity of providing inmates with an alternative form of **worship**. (306)

D. Name changes

Religious prisoners, particularly Muslim prisoners, often change their names when converting to a new religion. This serves as a sign that they have converted to a new faith and no longer want to be known as their former selves.0 Although these name changes are often associated with Muslims, especially in the prison context, this is a not a process peculiar to the Muslim **faith**. (308)

Unfortunately, prison **officials** have often refused to honor name changes, insisting on a "committed-name **policy**." (309) Under this policy, the only name that an inmate may go by is the name that the inmate had when entering the prison **gate**. (310) Given the level of control that prison **officials** have over their charges, the refusal to honor a name change can have serious consequences. Prison officials may refuse to use the new name when addressing the inmate, deny mail delivery to the inmate, deny access to the law library or deny the inmate access to sick **call**. (311) Some inmates have been punished for insisting that prison **officials** address them by their new **names**. (312)

When a prisoner's religiously motivated name change conflicts with prison policies, courts are faced with the task of determining the extent to which the name change merits constitutional protection. Courts have held that an inmate's adoption of a new name for religious purposes is "part of the practice of [the inmate's] religious **faith**." (313) The courts, however, must balance the prisoner's First Amendment interests against the institutional needs and objectives of the **prison**. (314)

Prison **officials** have justified their refusal or reluctance to recognize inmate religious names or name changes with a variety of institutional **concerns**. (315) Prison administrators have argued that their policies are administratively convenient, prevent misidentification of inmates, combat fraud, and avoid confrontations between inmates and corrections **staff**. (316) The courts have uniformly rejected these arguments as overly broad when used to justify a policy that gives no recognition to an inmate's new name. (317) Although, a blanket committed-name policy sweeps too broadly, however, the courts will examine individual applications of this policy to determine whether the application is **justifiable**. (318)

Taking this case-by-case approach, the courts have held that prisons may not withhold benefits that would otherwise have been available but for the prisoner's decision to adopt a new religious **name**. (319) For example, a prison may not fail to deliver mail to an inmate because it is addressed to a new name or deny an inmate a visitor because the visitor refers to the prisoner with the new name.0 In addition, prisoners cannot be denied access to the law library, sick call, commissary, religious services, or notary services solely because they have requested these services in their new **name**.0

Some courts have gone further and held that the prison administration may not punish an inmate for failing to acknowledge the use of his/her old name or for refusing to perform a task that would involve an acknowledgment of a religiously offensive name.⁽³²²⁾ These courts have made clear that an inmate can still be punished for disregarding an order or for acting disrespectfully toward prison staff.⁽³²⁴⁾

1. Prison records

Prison records and name tags have caused the most trouble with regard to prisoner name changes.⁽³²⁵⁾ Prison officials have refused to change records to reflect new names. Altering records would pose administrative burdens and inconvenience. In addition, record changes would complicate prison record-keeping and impede other law-enforcement organizations from effectively using them.⁰

The courts have attempted to address the concerns on both sides of this issue by adopting a compromise. This compromise neither requires prisons to totally reorganize prison files nor permits the prison to ignore the prisoner's new name.⁰ The policy that many courts have adopted would:

alter the 'committed-name policy' by an 'also known as (A/K/A)' designation to the records of each inmate who changed his name for religious reasons during incarceration. Thus, instead of deleting the committed names from the records and uniforms and replacing them with new names, . . . the prison instead would add the new names as A/K/A's to the current files and name tags.⁽³²⁸⁾

This policy does not require prison officials to totally reorganize their files or add the inmate's new name whenever it is found in the file.⁰ The policy requires the prison to supplement the files and the tags by adding the new name. These additions make clear to anyone who reviewing the records that the inmate has taken a new name. Although this policy imposes administrative burdens, the burdens are not **unwieldy**.⁽³³⁰⁾ Moreover, this policy complements the standing policy of most law-enforcement agencies by recording all aliases of each inmate.⁰ Finally, the A/K/A policy does not make records hard to find or use if they are needed by other law enforcement agencies.⁽³³²⁾

2. Name tags

The courts have taken a similar approach to name tags. *In Salaam v. Lockhart*, the Eighth Circuit held that fears of confrontation and misidentification were insufficient reasons for prison officials to refuse to alter or append name tags.⁽³³³⁾ The court concluded that the A/K/A alternative could help guards **identify** inmates by providing the names that these inmates preferred and to which the inmates would most likely respond. By using the "proper" name, the guards could minimize the risks of misidentification and **confrontation**.⁽³³⁴⁾ Although the court required the prison to add new names to the name tags, it limited the scope of its holding by refusing to order the guards to address these inmates by their religious names.⁰ The court also held that prison guards could continue to use an inmate's committed name.⁽³³⁶⁾

E. Access to clergy

A prison need not hire clergy of all faiths, or even of a particular faith.⁽³³⁷⁾ Inmates of less conventional or minority faiths, however, will still usually require the assistance of clergy to practice their religions during their incarceration.⁰ When a prison does not retain a clergy member of a particular inmate's faith, the prison typically meets free-exercise needs by providing clergy from

outside the prison.⁰ Prison officials often permit volunteer clergy to visit inmates and conduct services, unless it can be proven that their presence poses a clear and present danger to the safety or security of the prison or inmates.⁰ Prison officials may mitigate this danger by requiring visiting clergy to submit program statements that describe the “time, place, and nature of the services to be conducted and identifying the clergy who will conduct them.”⁽³⁴¹⁾ Furthermore, as with other visitors, prison officials may search for weapons and **contraband**.⁽³⁴²⁾ The courts have made it clear, however, that prison officials may not “harass” visiting clergy to discourage further visits.⁽³⁴³⁾

1. Visiting clergy

A **difficult** issue is whether prisoners can compel the prison administration to provide visiting clergy. If a particular prison does not permit prisoners to conduct their own services, then the “reasonableness of the ban on inmates conducting their own religious services is related to the availability of substitutes, whether chaplains employed by the prison, or ministers invited on a visiting **basis**.”^(344) If prison authorities do not permit inmate-led services, then the prison administration must provide clergy or give a compelling reason why provision is ‘unfeasible. When prisons have failed to provide a paid prison chaplain to conduct services, the courts have required the prison to arrange for visiting clergy to **officiate**.^(345)

2. Segregated inmates

Segregated inmates have a special need for access to clergy. Prison officials often do not permit these inmates to attend congregate **services**.⁽³⁴⁶⁾ Consequently, segregated inmates need access to clergy if they are to have meaningful exposure to religion or the opportunity to worship.⁰ Depriving these inmates completely of access to clergy would raise serious First Amendment concerns. Accordingly, the courts have been careful to order prisons to provide these inmates with clergy v i s i t s . 0

In addition, the courts have concluded that, for “meaningful spiritual counseling” to take place, meetings between clergy and segregated inmates should be held in private.⁰ Due to the security concerns inherent in segregation units, however, the courts have permitted prisons to impose greater restrictions on access to clergy than those imposed on inmates in the general-population as long as access is permitted in a significant **way**.⁽³⁵⁰⁾

F. Access to religious mail and publications

1. Correspondence with outside clergy

A related but distinct issue **from** access to clergy is the right to correspond with outside **clergy**.⁽³⁵¹⁾ The same standards that govern the receipt of all mail govern the receipt of religious **mail**.⁽³⁵²⁾ Pursuant to prison rules and regulations, all incoming and outgoing inmate mail, religious or otherwise, may be opened and read to determine whether a particular piece of mail constitutes, or indicates the possibility of, a threat to prison **security**.^(353) If incoming mail does not pose a threat, it must be delivered to the addressee **inmate**.⁽³⁵⁴⁾ Although religious mail is subject to ordinary inspection, it is not to be subjected to intrusive searches or treatment more restrictive than that given to ordinary **mail**.⁽³⁵⁵⁾

2. Receipt of religious literature and publications

Religious literature and publications from outside the prison often allow inmates to practice faiths

that are not accommodated on the inside. **Official** attempts to censor or prevent the entrance of this literature have arisen most frequently with regard to religions that make racial **appeals**.⁽³⁵⁶⁾ The explanation offered for policies excluding this material is that the literature either appeals to racial hostility or makes claims of racial **superiority**.⁽³⁵⁷⁾ Prison officials argue that these claims and teachings are inimical to institutional security.⁰

The courts have uniformly rejected bans on religious publications that sweep too **broadly**.⁽³⁵⁹⁾ The Ninth Circuit has stated that “prison authorities have no legitimate penological interest in excluding religious books . . . merely because they contain racist **views**.”⁽³⁶⁰⁾ Because inmates have the constitutional right to believe in whatever they wish, prison officials may not ban religious publications because they disagree with the ideas contained therein.⁰

The courts have consistently ruled that restrictions on religious publications “must be limited to those materials that advocate violence or that are so racially inflammatory as to be reasonably likely to cause violence at the **prison**.”⁽³⁶²⁾ Unless prison officials can establish that a particular religious publication poses a serious threat to institutional safety or security, the prison administration cannot confiscate the publication or punish inmates possessing the literature.⁰

Prison **officials** from several states answered questions regarding the availability of religious publications in their prisons.. Whether the prison administration of a particular prison recognizes the religious group or individuals requesting religious material is an important issue. If the prison administration recognizes the religion, the inmate will more likely be permitted to obtain and possess the requested material. Satanists, White Supremacist groups, **WICCANS**, and Black Muslim groups have requested religious texts that have not been permitted at many prisons. Some of these requests have been denied because of the inflammatory or hateful content of the literature. Other requests have been denied because of specific information contained therein.

For example, a prison **official** in Alaska noted that **WICCA** is growing and is beginning to be recognized as a religion. Security concerns at this prison, however, compelled prison officials to reject requests for certain literature. The **WICCANS** at this particular prison requested a book of witchcraft that detailed wine-making and knife-making techniques. Prison officials did not honor this request nor did they allow these inmates to meet and practice their faith in congregated meetings.

The Satanists and White Supremacist groups have caused the most problems for prison officials considering this issue. Most of the prison officials interviewed stated that their prisons do not recognize Satanism as a religion. Although some prisons recognize Satanism as a religion, most do not permit inmates to obtain Satanic Bibles or the Book of Mass. Similarly, prisons generally do not permit White Supremacist texts that advocate racial hatred and separatism. More discrete material that does not openly advocate these themes, however, is sometimes permitted. One prison **official** noted that the White Supremacist prisoner groups had purposefully taken on particular religious themes to circumvent or fall within the boundaries established by prison rules.

G. Access to religious accouterments

The use of religious items in prisons raises safety and security concerns. Religious items or jewelry often are used to symbolize an individual’s belief in a particular faith or to carry out the rituals of the adherent’s faith. As a result, prisoners who wish to worship in prison often want to do so with the trappings of their faith.¹³⁶⁴¹ Prison officials often accommodate these requests because many of the items are seen as **harmless**.⁽³⁶⁵⁾ In addition, prison officials view observance of religion and the accompanying rites as rehabilitative **tools**.⁽³⁶⁶⁾ Occasionally, however, prisons must deny the use of

certain articles because the presence or use of these items may endanger prison **security**.(367)

In balancing the right of prisoners to use these items against the need of the prisons to restrict the items for security reasons, the courts have considered the physical characteristics of the items.⁰ If the inherent physical qualities of a religious item render it potentially dangerous or threatening to institutional security, the prison may ban the item from prison **use**.(369) Prisons may also prevent prisoners from possessing or using items that could easily be used as **weapons**.(370)

Inmate followers of less traditional religious faiths have requested a wide variety of religious items. Native American inmates have requested headbands, buffalo bones, eagle feathers, medicine **bags**, medicine wheels, wolf hair, a lock of their wife's hair, and a rock. Followers of Santeria have requested live chickens for sacrifice. Inmates of the Asatru, or Odinist faith, have requested fire rings in which to sacrifice red meat, swords, carving knives, and swastikas. WICCAN inmates have requested tarot cards, bells, candles, daggers, incense, and black, hooded robes. Satanist inmates have requested Satanic Bibles, black candles, and red satin pillows. One inmate requested to be artificially inseminated. Adherents of CONS, or Church of the New Song, have requested steak and wine as communion in their ceremonies. Finally, Christian groups have requested wine for communion, rosaries, crosses, and the other familiar accouterments of **the** various Christian sects.

To be permitted to possess and use religious articles, an inmate must show that the item is genuinely needed for the practice of the religion.⁰ The prisoner must also prove that the religious article lacks physical properties that are inherently threatening to prison **security**.(372) If the inmate is successful, prison officials should permit the inmate to retain the item during **imprisonment**.(373) Finally, even if the religious item is permissible, the prison has no affirmative obligation to supply the inmate with the **item**.(374) The inmate, however, may purchase the item.⁰

V. Analysis

Questionnaires were sent to wardens and chaplains at 100 state and federal prisons. The questionnaires were created at the Freedom Forum First Amendment Center. They were mailed first class in hand-stamped envelopes with hand-stamped return envelopes to maximize response.

The questionnaire asked prison wardens and chaplains to respond to a number of questions pertaining to the extent to which prisoners in their prisons are free to exercise religion. The survey also asked the respondents to provide their opinion of the Religious Freedom Restoration Act and what, if any, impact the Act has had on their religious programming.

The number of questionnaires received were substantially complete. Seventy-six **percent**(376) of the state prisons responded; forty-four **percent**(377) of the federal prisons responded.⁰

Although the response rate from the federal prisons was lower than desirable, those responding to the questionnaire represent a good nationwide cross-section of members of a universe rather than a random sample drawn from a much larger group.

In any survey, the opinions of those who did not respond can never be assessed but are quietly assumed to be identical to those of the actual respondents. With censuses, even when non-respondents are excluded, there is still no margin of error because the remainder, assumed to reflect the views of the non-respondents, do not form a random sample.

1. Facilities for worship -- All of the prisons surveyed provide some kind of facility in which

prisoners can worship. Forty of the 67 respondents reported that their prisons provide a chapel for worship. Nineteen reported synagogues, and 20 reported mosques.

Many of those answering this question on the survey reported that their facility provided a multi-purpose religious facility. When asked about these facilities in interviews, prison officials provided a variety of descriptions. Some of the newer prisons actually provide an area that has been specifically designed as a multi-denominational facility. Religious accouterments are brought in or stored in the facility itself. Inmates of any recognized faith can generally use these facilities. (379)

The older prisons simply use the original chapel but allow prisoners from all denominations to use it. For inmates whose religious beliefs preclude them from using facilities that contain religious symbols or the trappings of other faiths, prisons provide classrooms or gymnasiums for group worship.

Thirty-three respondents reported that their facilities provide sweat lodges for Native American religious ceremonies. Several prison systems in the western and plains states have sweat lodges at each prison in the state. Many prisons in eastern and southern states do not have sweat lodges. Officials from prisons in these states noted that providing these facilities would not be economically practical because their prisons had few or no Native American inmates,

2. Religious diets -- Sixty-five of 67 respondents reported that their prisons provide prisoners with special religious diets. Two prisons do not offer these diets. Some prisons offer non-pork and vegetarian meals. Others offer alternative non-pork or vegetarian entries that are served with the standard prison meal. A few have eliminated pork items from their menus altogether. A number of prisons offered Kosher meals for their Jewish inmates. (380)

3. Hair and beard -- Sixty-one of 67 respondents allow inmates to wear their hair and facial hair as they wish, provided that the hair is clean and does not pose a health or safety risk. As mentioned above, prisons with a substantial number of inmates whose religions require adherents to maintain long hair or a beard are less likely to have restrictive hair or grooming regulations. Inmates housed in federal institutions are permitted to have long hair and wear beards.

4. Possession of religious items -- Sixty-six of 67 respondents permit inmates to possess crosses or rosaries. Sixty-five respondents permit inmates to possess religious head coverings, for example, yarmulkes, kufis, and headbands. As mentioned above, the determining factor when deciding whether an inmate may obtain or possess a particular religious item is whether, by doing so, the inmate poses a health or safety risk to him or herself or other inmates.

The final four questions pertain to RFRA and the Act's actual or expected impact on the respondents' prison systems. Most of the federal officials who responded to the questionnaire neglected to answer these questions. (381)

1. Lawsuits -- Eleven of the 67 respondents answered that more inmates will file or have filed more lawsuits against their facilities as a result of RFRA. Thirty-seven responded that RFRA had not had such an effect, and 19 replied that they could not predict the Act's impact on future lawsuits filed.

2. Requests for religious items -- Twenty-four of the 67 respondents reported that inmates have made more requests for religious items. Thirty-five reported no change in the number of requests, and eight did not know of the Act's impact on these requests.

3. Service requests -- Sixteen of the 67 respondents reported that inmates have made more requests for religious services. Forty-three reported no change, and seven did not know of the Act's impact on the number of these requests.

4. Opinion of RFRA -- When asked what they thought of RFRA, four respondents stated that they strongly approved, and nine answered that they approved. Sixteen respondents reported that they were neutral. Fourteen respondents reported that they disapproved of RFRA, and eight strongly disapproved.

VI Conclusion

Incarceration necessarily precludes many of the rights and privileges enjoyed by ordinary citizens. Prisoners are not, however, wholly deprived of their First Amendment rights. The courts have applied several different standards of review to prisoners' religious rights cases. In 1987 the Supreme Court finally attempted to provide a guideline by which the lower courts could evaluate these prisoner claims. The *Turner* and *O'Lone* decisions provided this guidance and the courts began to restrict prisoners' religious freedoms under a deferential standard of review.

When Congress enacted RFRA in 1993, it restored the compelling-interest test as the prevailing standard of review for *all* state regulation of religious exercise. On its face, the bill furthers an important and legitimate governmental objective by safeguarding one of the most cherished of constitutional rights. RFRA's valid purpose notwithstanding, by guaranteeing strict scrutiny for any regulation of religious exercise, Congress has put a much heavier burden on prison **officials** to justify prison policies and regulations that impact on the religious exercise of prisoners.

Opponents of the bill cite safety concerns and the fear that RFRA and its intended retroactive application will flood the courts with frivolous lawsuits. Presently, prisoner lawsuits constitute 22 percent of the cases on the federal docket. Prisoners are commonly known to be a litigious group. The **prison** grapevine keeps interested inmates well apprised of new laws that can be used to an inmate's advantage. Whether RFRA will result in even more inmate lawsuits is unknown. As noted above, only 11 of 67 prison **officials** responding to the questionnaire reported that prisoners had filed more lawsuits since RFRA was passed in November of 1993. When asked this question in interviews, however, the great majority of prison **officials** noted that, although they could not predict the Act's impact, most expected RFRA to increase the number of inmate lawsuits against the prison.

The vast majority of the cases cited in the text above were litigated and decided pursuant to the *O'Lone* decision and corresponding deferential standard of review. As a result, prison rules and regulations that infringe upon the right of free exercise have often been upheld as rationally related to the legitimate institutional objectives of promoting safety, security, and order in the prisons. Congress intended RFRA to have a retroactive effect. Consequently, many of these cases could and may be relitigated. Under RFRA's demanding standard of review, prison **officials** will have a much harder time justifying prison regulations that impact on religious exercise. For example, simply citing safety and security concerns as a legitimate penological objective for restrictive regulations will no longer be **sufficient**. Prison officials now have the burden of demonstrating that regulations that affect religious exercise use the least restrictive means available of furthering a compelling governmental interest.

Cases decided under the compelling-interest standard may differ significantly from the same cases decided under the *O'Lone* standard of review. For example, in *Young v. Lane*, the Seventh Circuit upheld a regulation of religious head-coverings on the grounds that the prison had a legitimate

penological objective in uniform dress regulations. Similarly, in *Benjamin v. Coughlin*, the Second Circuit upheld a prison regulation that prevented Rastafarians from wearing loose-fitting crowns because of the danger of inmates concealing contraband in the head-coverings. Under RFRA's compelling-interest test, these regulations will have to withstand the strictest of judicial scrutiny. Prisoner litigants will undoubtedly concoct less restrictive, alternative means of furthering the goals of the prison administration. Moreover, in a case like *Young*, for example, courts may not find a prison's interest in uniform dress regulations to be a compelling state interest.

The Religious Freedom Restoration Act has the potential to change the way in which courts deal with inmate free-exercise claims. Although most prison officials interviewed cannot foresee whether RFRA will have the tremendous impact that the bill's opponents fear, many of those interviewed stated that they are not concerned, because their programs have always provided inmates with considerable religious freedoms. Other prison programs, however, are not as accommodating of prisoner religious concerns. These prisons will have a much harder time withstanding the scrutiny of the courts under RFRA's demanding standard of review.

A prisoner's right to exercise religion, or any other constitutional right, will always be circumscribed by safety and security concerns. Generally, most prisons permit inmates to exercise religion as they wish, provided that the religious beliefs are sincerely held and do not implicate these concerns. Prisoners are a litigious group and will always be willing to challenge regulations that they perceive to be unreasonably restrictive. In the future, prison officials will have to take special care when drafting prison regulations that restrict religious exercise. When balanced against this cherished constitutional right, the extra effort will be well spent.

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1. U.S. CONST. amend. I. The Free Exercise Clause of the First Amendment to the United States Constitution is extended to the states by way of the due process clause of the Fourteenth Amendment.

2. Linda G. Roberts, *Prisoners' Rights to Free Exercise of Religion: Closing the Gap Between Theory and Reality*, 27 AMER. CRIM. L. REV. 545 (1990).

3. The courts have limited the right to exercise religion in three areas: claims against the military, claims by police **officers**, and claims by prisoners. This report will focus on prisoners' claims. For a further discussion of the remaining areas see Marc J. Bloostein, *The "Core" - "Periphery" Dichotomy in First Amendment Free Exercise Clause Doctrine: Goldman v. Winberger, Bowen v. Roy, and O'Loone v. Estate of Shabazz*, 72 CORNELL L. REV. 827 (1987).

4. 12 A.L.R.3d 1276 (Supp. 1993).

5. Mary A. Schnabel, *The Religious Freedom Restoration Act: A Prison's Dilemma*, 29 WILLAMETTE L. REV. 323 (1993).

6. *Id.* at 323.

7. *Id.*

8. Barbara Knight, *Religion in Prison: Balancing the Free Exercise, No Establishment, and Equal Protection Clauses*, 26 J. CHURCH & ST. 437-99 (Autumn 1984).

9. See *infra* notes 155 -183 and accompanying text for a discussion of The Religious Freedom Restoration Act.

10. 98 U.S. 145 (1878).

11. *Id.*

12. *Id.* at 166.

13. 310 U.S. 296 (1940) (overturning the convictions of two Jehovah's Witness ministers for inciting a breach of the peace).

14. *Id.*

15. *Id.*

16. The clear-and-present-danger test was first used to determine when it was permissible to regulate speech or expression. This test, most commonly associated with the prohibition against yelling "fire" in a crowded theater, justifies a restriction on freedom of expression only if it is clearly necessary to protect interests far more important (e.g. safety of citizens) to society.

17. Fred Cohen, *Law of Prisoners' Rights: An Overview*, 24 CRIM. L. BUL. 321-49 (July/Aug. 1988).

18. 12 F. Cas. 252 (C.C.D. Cal. 1879) (No. 6,546).

19. *Id.* at 253.

20. *Id.* at 255.

21. 334 U.S. 266,285 (1948).

22. *Id.*

23. *Hudson v. Palmer*, 468 U.S. 517 (1984).

24. *I.e.* deterrence, retribution, and incapacitation.

25. The Eighth Amendment to the United States Constitution states, “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”

26. See *Rhodes v. Chapman*, 452 U.S. 337 (1981).

27. 51 A.L.R.3d 111; see *also* *McBride v. McCorkle*, 130 A.2d 881 (N.J. 1957).

28. 51 A.L.R.3d 111.

29. *Knight*, *supra* note 8, at 438.

30. *Id.*

31. *Id.*

32. *Id.*

33. See *Therault v. Carlson*, 339 F. Supp. 375 (N.D. Ga. 1972), **vacated**, **495 F.2d** 390 (5th Cir. 1973), *cert. denied*, 419 U.S. 1003 (1974); *Africa v. Commonwealth of Pennsylvania*, 662 F.2d 1025, 1032 (3d Cir. 1981).

34. Objective criteria that have been commonly employed are the age and history of the religious group, see *Wisconsin v. Yoder*, 406 U.S. 205,216 (1972); *Cruz v. Beto*, 405 U.S. 319,322 (1972) and whether the asserted religion shares fundamental characteristics generally associated with traditional, more generally recognized religions, see *Remmers v. Brewer*, 361 F. Supp. 537 (S.D. Iowa 1973), *aff'd*, **494 F.2d** 1277 (8th Cir. 1974), *cert. denied*, 419 U.S. 1012 (1974); *Fulwood v. Clemmer*, 206 F. Supp. 370 (D.D.C. 1962); Other recent case law has emphasized different criteria: a religion must address fundamental and ultimate questions having to do with deep and imponderable matters; it must be comprehensive in nature, consisting of a belief system rather than an isolated teaching; and it presents certain formal and external signs.

35. MICHAEL MUSHLIN, *INDIVIDUAL RIGHTS SERIES: RIGHTS OF PRISONERS* 276 (2d ed. 1993).

36. *Id.* at 277.

37. *Id.*

38. *Id.* Most courts will not accept more objective tests of sincerity such as requiring a claimant to submit references from unbiased reputable individuals.

39. *Id.* at 278.

40. *rd.*

41. *Id.*

42. *Id.*

43. See *Mosier v. Maynard*, 937 F.2d 1521 (10th Cir. 1991).

44. *MUSHLIN*, *supra* note 35, at 278.

45. See, e.g., *Reed v. Faulkner*, 653 F. Supp. 965,971 (N.D. Ill.1987), *rev'd*, 842 F.2d 960 (7th Cir. 1988) (holding that a Rastafarian inmate's failure to adhere to every tenet of his faith did not render him insincere).

46. *MUSHLIN*, *supra* note 35, at 278.

47. See, e.g., *Thomas v. Review Bd.*, 450 U.S. 707 (1981) (holding that a Jehovah's Witness's claim that he could not work at a plant engaged in the manufacture of war materials due to religious convictions despite other workers at the plant of the same faith continuing to work was not determinative of the issue of sincerity).

48. *MUSHLIN*, *supra* note 35, at 278.

49. *Id.*

50. *Id.* An inmate, however, need not demonstrate a mastery of the theology of his or her faith.

51. *MUSHLIN*, *supra* note 35, at 279.

52. See *Therriault v. Carlson*, 495 F.2d 390,395 (5th Cir. 1973) In this 1970 case, an inmate professed to be the founder of a new religion, the Church of the New Song or CONS. Hem-y William Therriault, an inmate at the federal penitentiary in Atlanta, Georgia, obtained a mail-order divinity degree and conceived of CONS as a game, parodying other religions in prison. Although he admitted that the religion was originally intended to be a game, "Bishop Therriault" maintained that he became a serious believer as the religion developed and acquired more followers.

53. This problem has arisen often in the prison environment. In the past, inmates who wished to avoid certain prison regulations or who were simply bored with prison life put forth dubious belief systems as religion, claiming that the tenets of the religion render them exempt from certain rules and regulations.

54. *Fulwood v. Clemrner*, 106 F. Supp. 370(D.C.C. 1962).

55. See *United States v. Seeger*, 380 U.S. 163, 167 (1965) (holding that a belief that occupies "a place in the life of its possessor parallel to that filled by the orthodox belief in God" is a religious belief).

56. *Africa v. Pennsylvania*, 662 F.2d at 103 1; see *also* *Patrick v. LeFevre*, 745 F.2d 153 (2d Cir. 1984) (concluding that the First Amendment provides for exploration of diverse religious beliefs).

57. See *United States v. Ballard* 322 U.S. 78, 86 (1944) (holding that the truth or falsity of belief should not be scrutinized as "men may believe what they cannot prove").

58. See *Murphy v. Missouri Dep't of Corrections*, 814 F.2d 1252, 1255 (8th Cir. 1987) (holding that a belief with political or secular aspects may be religious in nature).

59. *MUSHLIN*, *supra* note 35, at 280.

60. *Africa*, 662 F.2d at 1025; In this case, a member of the MOVE creed, imprisoned at Holmesburgh Prison in Pennsylvania, claimed that MOVE was a religion. MOVE, which was founded by John Africa, is a group without a governing body or official hierarchy; all members of the group are considered to be equal. No written guidelines establish the group's beliefs. No official codes of religious worship or any formal church services exist. Adherents to this "religion," however, agree that members should be committed to a "natural," "moving," "active," and "generating" way of life. Members abhor organized civilization or anything perceived to be artificial. In following with this teaching, members consume a diet consisting mainly of raw vegetables and fruits.

61. *Id.* at 1032.

62. The Third Circuit held that MOVE did not qualify as a religion because it did not have a theology that addressed fundamental and ultimate questions. MOVE, therefore failed the first prong of the test. MOVE failed the second prong of the test because it appeared to adhere only to one distinct belief rather than to a system of beliefs. Finally, the court held that MOVE failed the test's third prong because "it lacked all of the formal identifying characteristics common to most recognized religions."

63. *Patrick v. LeFevre*, 745 F.2d 153,159 (2d Cir. 1984).

64. *Id.*

65. *MUSHLIN*, *supra* note 35, at 283.

66. *Id.* at 284.

67. *Id.*

68. Bloostein, *supra* note 3, at 834; Seven distinct tests have been used to evaluate prisoners' religious claims and prison rules affecting such claims: (1) The clear and present danger test; (2) the substantial interference test; (3) the *Procurier v. Martinez* (416 U.S. 396 (1974)) test; (4) the reasonableness test; (5) the *ad hoc* balancing test; (6) the **Braunfield v. Brown** (366 U.S. 599 (1961)) test; and (7) the compelling interest test. For the purposes of this report, only the compelling interest test and the reasonableness test will be discussed at any length.

69. See S. 578, 103d Cong., 1st Sess. (1993); H.R. 1308, 103d Cong., 1st Sess. (1993) [hereinafter referred to as *RFA*.]

70. *Sherbert v. Vemor*, 374 U.S. 398,403 (1963).

71. *Id.* at 406-407.

72. *Id.* at 399.

73. *Id.*

74. *Id.*

75. *Id.*

76. *Id.*

77. *Id.* at 407 (citing *Shelton v. Tucker*, 364 U.S. 479 (1960)).

78. 406 U.S. 205 (1972).

79. *Id.*

80. *Id.*

81. *Id.* at 228.

82. *See supra* note 3.

83. Geoffrey S. Frankel, *Untangling First Amendment Values: The Prisoners' Dilemma*, 59 *THE GEO. WASH. L. REV.* 1614 (1991).

84. *Id.* at 16 19; see *Ruffin v. Commonwealth*, 62 Va. (2 1 Gratt.) 790,797 (1871).

85. Frankel, *supra* note 83, at 1619; see, e.g., *Williams v. Steele*, 194 F.2d 32, 34 (8th Cir.), *cert. denied*, 344 U.S. 822 (1952) (concluding that “since the prison system of the United States is entrusted to the Bureau of Prisons, . . . the courts have no power to supervise the discipline of the prisoners nor to interfere with their discipline”).

86. Frankel, *supra* note 83, at 1619; see, e.g., *Siegel v. Rogen*, 180 F.2d 785,788 (7th Cir.), *cert. denied*, 339 U.S. 990 (1950) (concluding that “the government of the United States is, not concerned with, nor has it the power to control or regulate the internal discipline of the penal institutions of its constituent states”).

87. *Id.*

88. *Id.*

89. See, e.g., *Turner v. Safley*, 482 U.S. 78 (1987) discussed *infra* at note 94 and accompanying text; *O'Loone v. Estate of Shabazz*, 482 U.S. 342 (1987).

90. See, e.g., *Pell v. Procunier*, 417 U.S. 817, 822 (1974) (noting that the end of the “hands-off era” did not necessarily indicate the beginning of the prisoners’ rights era. The Court went on to state that the criteria for assessing the validity of a challenged prison regulation included “the institutional objectives furthered by that regulation and the measure of judicial deference owed to corrections officials.”).

91. See, e.g., *Procunier v. Martinez*, 416 U.S. 396,405 (1974) (concluding that “when a prison regulation or practice offends a fundamental constitutional guarantee, federal courts will discharge their duty to protect constitutional rights”).

92. See, e.g., *Jones v. North Carolina Prisoners' Labor Union*, 433 U.S. 119, 127-128 (1977) (upholding prison authorities’ prohibition of mail solicitation of inmates to join the Labor Union because prisoners only retain those rights that do not conflict with their status as prisoners).

93. *See, e.g., Martinez*, 416 U.S. at 412 (concluding that censorship of prison mail “must further an important or substantial governmental interest unrelated to the suppression of expression”).

94. *Frankel*, *supra* note 83, at 1620; *see also Bloostein*, *supra* note 3. The lower courts have applied several standards and combinations of standards to review prisoners’ free-exercise claims. For example, some courts required only that a challenged regulation rationally relate to a legitimate penological interest. Other courts have applied strict scrutiny and/or intermediate scrutiny to these claims. Another approach has been to focus on whether alternative forms of regulation were available that would achieve the same result without burdening the prisoner’s free-exercise rights. Finally, some courts have applied a least-restrictive-means test without requiring prison officials to show a compelling interest.

95. 482 U.S. 78 (1987).

96. *Id.* at 81; Inmate-to-inmate correspondence not of the two types aforementioned above was permitted only if it was considered to be in the best interests of the parties.

97. *Id.* at 82.

98. *See supra* note 92 and accompanying text.

99. *Turner*, 482 U.S. at 84.

100. *Id.* The Court justified this deference on familiar grounds, *i.e.*, the courts are presumed to be ill-equipped to deal with problems relating to prison administration and reform. The Court also stated that substituting the Court’s judgement for that of an “expert” state agency may raise separation of powers problems.

101. *Id.* at 89.

102. *Id.* (citing *Block v. Rutherford*, 468 U.S. 576, 586 (1984)). This prong of the test also requires that the regulation operate in a generally neutral fashion, without regard to the content of the expression.

103. *Id.*

104. *Id.*

105. *Id.* The Court clearly noted that this fourth factor did not impose the least-restrictive-means requirement on prison officials.

106. *Id.* The Court justified regulating the flow of inmate-to-inmate correspondence on the grounds that such correspondence could lead to potential escape attempts. A regulation that imposed restrictions on communication between prisoners and free persons (a question that was addressed in *Martinez*), however, would have to meet more rigorous scrutiny.

107. *Id.* at 97.

108. *Id.* at 98.

109. 482 U.S. 342 (1987).

110. *Id.* at 345. The service, known as Jumu'ah, is essentially a weekly Sabbath celebration that occurs each Friday after the sun reaches its zenith, but before the daily afternoon prayer.

111. *Id.* at 346.

112. *Id.*

113. *Id.*

114. *Shabazz v. O'Lone*, 782 F.2d 416 (3d. Cir. 1986) (en banc), *rev'd sub nom.*

115. *Id.* at 420.

116. *Id.*

117. *Id.* at 349 n.2.

118. *Id.* at 351.

119. *Id.* The Court concluded that the Muslim prisoners had adequate alternative means of exercising their religion, *i.e.*, Muslim prisoners could congregate at other times, they had access to a state-provided imam, and they were provided with diets that were consistent with religious restrictions.

120. *Id.* at 352. The Court spoke of the danger of creating the perception that Muslim prisoners received preferential treatment.

121. *Id.*

122. Frankel, *supra* note 83, at 1630.

123. *O'Lone v. Estate of Shabazz*, 482 U.S. at 348.

124. Frankel, *supra* note 83, at 1631; see *also* *Ah v. Dixon*, 912 F.2d 86, 88 (4th Cir. 1990).

125. Frankel, *supra* note 83, at 1631; see *also* *Iron Eyes v. Henry*, 907 F.2d 810 (8th Cir. 1990) (holding that a regulation relating to hair length, as applied to a Native American inmate, was necessary for prison security).

126. Frankel, *supra* note 83, at 1631; see *also* *Hadi v. Horn*, 830 F.2d 779 (7th Cir. 1987) (concluding that “prison **officials** need not wait for a problem to arise before taking steps to minimize security risks“ in upholding prison regulations that made it impossible for the plaintiff inmates to attend Jumu'ah services).

127. Frankel, *supra* note 83, at 163 1.

128. *O'Lone v. Estate of Shabazz*, 482 U.S. at 351.

129. Frankel, *supra* note 83, at 1633; see, e.g., *Allen v. Toombs*, 827 F.2d 563 (9th Cir. 1987) (upholding a prison regulation that refused Native American inmates the right to practice the Pipe Ceremony and the Sweat Lodge Ritual); see *also*, *Iron Eyes v. Henry* 907 F.2d 810,815 (8th Cir. 1990) (concluding that “the ‘right’ in question must be viewed sensibly and expansively . . . Accordingly, the actual ‘right’ in this case concerns the ability to freely practice his religion . . .

although several of the practices important to his religion are not permitted”).

130. *O’Lone v. Estate of Shabazz*, 482 U.S. at 353.

131. Frankel, *supra* note 83, at 1633.

132. See *Hadi v. Horn*, 830 F.2d 779,786 (7th Cir. 1987) (stating that “if the prison officials allowed Muslim inmates to lead Jumu’ah services, they would also have to extend this right to other religious groups which most likely would demand equal treatment”). For a discussion of the Equal Protection problem *see infra* notes 184 - 198.

133. MUSHLIN, *supra* note 35, at 260.

134. *O’Lone v. Estate of Shabazz*, 482 U.S. at 353 (citing *Turner v. Safley*, 482 U.S. 78, 93 (1987)).

135. Frankel, *supra* note 83, at 1634. See also *Walker v. Sumner*, 917 F.2d 382,385 (9th Cir. 1990) (concluding that the absence of ready alternatives may suggest that the regulation is reasonable, although the existence of such alternatives may be evidence of the opposite).

136. See, e.g., *Friedman v. State of Arizona*, 912 F.2d 328,332 (9th Cir. 1990) (rejecting the prisoners’ suggestion for an alternative method of serving the prison administration’s legitimate penological objectives as imposing more than a *de minimis* cost).

137. See *Hadi v. Horn* 830 F.2d 779,788 (7th Cir. 1987) (requiring the prisoner to provide evidence of realistic alternatives to the challenged prison regulation that burdened free-exercise rights).

138. *O’Lone v. Estate of Shabazz*, 482 U.S. at 349.

139. *Id.* at 349 n.2.

140. *Id.* at 350.

141. *Id.* at 352.

142. *Id.* at 350.

143. *Oregon Employment Division v. Smith*, 494 U.S. 872 (1990).

144. *Id.*

145. *Id.* at 874.

146. See OR. REV. STAT. § 475.992(4) (1987).

147. *Smith*, at 878.

148. The state of Oregon has amended OR. REV. STAT. §475.992 to allow the affirmative defense of religious purposes to a drug charge of peyote use. OR. REV. STAT. § 475.992(5) (1991) provides:

In any prosecution under this section for manufacture, possession or delivery of that plant of the genus *Lophophora* commonly known as peyote, it is an affirmative defense that the peyote is being used or is intended for use:

- (a) In connection with the good faith practice of a religious **belief**;
- (b) As directly associated with a religious practice; and
- (c) In a manner that is not dangerous to the health of the user or others who are in the proximity of the user.

149. *Smith*, 494 U.S. at 878-90.

150. For an excellent discussion of the Court's holding in *Smith* and RFRA, see S. REP. NO. 103-111, 103d Cong., 1st Sess. (1993).

151. *Smith*, 494 U.S. at 883.

152. *Id.* at 888.

153. *Id.*

154. Peter Steinfelds, *New Law Protects Religious Practices*, N.Y. TIMES, Nov. 17, 1993, at A13. RFRA supporters allege that some 50 to 60 cases of government infringement on religious practices have been justified in the courts on the basis of this ruling. For example, churches have been zoned out of commercial areas; local governments have dictated how churches will be designed, regardless of the stated preferences of those who wish to attend the church; and Jewish people have been compelled to allow their deceased relatives to undergo autopsies, a violation of the tenets of orthodox Judaism.

155. See S. 578, 103d Cong., 1st Sess. (1993); H.R. 1308, 103d Cong., 1st Sess. (1993);

Section 2: Congressional Findings and Declaration of Purpose:

(a) FINDINGS - The Congress finds that -

(1) The Framers of the Constitution, recognizing free exercise of religion as an unalienable right, secured its protection in the First Amendment to the Constitution;

(2) Laws "neutral" toward religion may burden religious exercise as surely as laws intended to interfere with religious exercise;

(3) Governments should not substantially burden religious exercise without compelling justification;

(4) In *Oregon Employment Division v. Smith* the Supreme Court virtually eliminated the requirement that the government justify burdens on religious exercise imposed by laws neutral toward religion; and

(5) The compelling-interest test, as set forth in prior federal court rulings, is a workable test for striking sensible balances between religious liberty and competing prior governmental interests

(b) PURPOSE - the purposes of this Act are:

(1) To restore the compelling interest as set forth in *Sherbert v. Verner* . . . and to guarantee its application in all cases where free exercise of religion is substantially burdened; and

(2) To provide a claim of or defense to persons whose religious exercise is substantially burdened by

Patch II

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Legislative **Council-JLC**



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government.

Section 3: Free Exercise of Religion Protected

(a) **IN GENERAL** - Government shall not substantially burden a person's exercise of religion even if the burden results **from** a rule of general applicability, except as provided in subsection (b).

(b) **EXCEPTION** - Government may substantially burden a person's exercise of religion only if it demonstrates that application of the burden to the person

(1) is in furtherance of a compelling governmental interest; and

(2) is the least restrictive means of furthering that compelling governmental interest.

(c) **JUDICIAL RELIEF** - A person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under Article III of the Constitution.

156. *Id.*

157. See *Oregon Employment Division v. Smith*, 494 U.S. 872,897 (1990) (O'Connor, J., concurring in the judgment).

158. See S. REP. NO. 103-111, at 1898. For example, **RFRA** does not prohibit neutral and compelling land-use regulations, such as fire codes, that may apply to structures owned by religious institutions but that do not substantially impact on religious practices.

159. See *Bowen v. Roy*, 476 U.S. 693 (1986) (holding that the manner in which the Government manages its internal affairs and uses its own property does not constitute a cognizable burden on an individual's exercise of religion).

160. S. REP. NO. 103-111, at 1898.

161. *O'Lone v. Estate of Shabazz*, 482 U.S. 342,348. (1987).

162. S. REP. NO. 103-111, at 1899.

163. *Id.*

164. *Id.* at 1900.

165. *Id.*

166. Mark Hansen, *Religious Freedom Act Worries AGs*, A.B.A. J., Feb. 1994, at 20.

167. *Id.*

168. *Id.*

169. *Id.* This claim may prove to be true. In *Lawson v. Dugger*, 844 F. Supp. 1538 (S.D. Fla. 1994) the court, holding for the plaintiff inmates, concluded that RFRA was intended to apply retroactively.

While RFRA does not use the actual term “retroactive,” it is abundantly clear from the language that it applies to this case. This case unquestionably is an “implementation of [federal and state] law, . . . statutory or otherwise, . . . adopted before . . . the enactment of RFRA.

See *also* Smith v. Elkins, 19 F.3d 29, 1994 U.S. App. LEXIS 12177 (9th Cir. March 2, 1994) (concluding that “Congress clearly intended to apply RFRA retroactively”).

170. Steinfelds, *supra* note 154, at A13.

171. Hansen, *supra* note 166, at 20.

172. This group was comprised of a surprising coalition of supporters, including the following: The National Association of Evangelicals, The Southern Baptist Convention, The National Council of Churches, The American Jewish Congress, The National Conference of Catholic Bishops, The Mormon Church, The Traditional Values Coalition, and the ACLU.

173. Hansen, *supra* note 166, at 20.

174. *Id.* Robert Peck of the ACLU characterized the arguments of the amendment’s proponents as “uninformed” and “terribly overblown.” He regarded many of the statements made as “patently untrue” and pointed at the broad support of religious and public-interest groups.

175. ___ F. Supp. , No. 94 Civ. 1057 (SS), 1994 U.S. Dist. LEXIS 5721 (S.D.N.Y. 1994).

176. *Id.* Curiously, the court cited the “penological interests involved” in determining that strict scrutiny under RFRA was *not* applicable. In light of the extensive treatment given the issue as to whether RFRA should apply in the prison context, arguably the court should have found that strict scrutiny *did* indeed apply; see S. REP. NO. 103-1 1.

177. *Id.*

178. ___ F. Supp. ___, No. 4:CV 92-3107, 1994 U.S. Dist. LEXIS 5663 (D. Neb. 1994). The court granted the defendant penitentiary’s motion for summary judgment on the issue of money damages, but then allowed the case to proceed on the merits for declaratory and injunctive relief

179. *Id.* According to the inmates, Asatru is an “Icelandic word/term for the ancient religion of the Teutonic people of Northern Europe, and is also known as ‘Odinism’ or ‘Troth.’” The faith calls for worship of its deities by the sacrifice of meat.

180. *Id.*

181. *Id.*

182. See, e.g., Allah v. Menei, 844 F. Supp. 1056 (E.D. Pa. 1994) (holding that defendants’ “bald allegation” of interest in maintaining order and discipline was insufficient to support a motion for summary judgment); see *also* Canedy v. Boardman, 16 F.3d 183, 1994 U.S. App. LEXIS 2120 (7th Cir. Feb. 8, 1994); Lawson v. Dugger, 844 F. Supp. 1538 (S.D. Fla. 1994); Rust v. Clarke, 1994 U.S. Dist. LEXIS 5663 (D. Neb. April 21, 1994); Campos v. Coughlin, 1994 U.S. Dist. LEXIS 572 1 (S.D.N.Y. May 3, 1994); Rodriguez v. Coughlin, 94 Civ. 2290 (SS), 1994 U.S. Dist. LEXIS 5832 (S.D.N.Y. May 3, 1994).

183. See, e.g., Brown-El v. Harris, 1994 U.S. App. LEXIS 14379 (8th Cir. June 13, 1994) (refusing

to consider the “new standard of review” under RFRA because the inmate failed to raise his claim under RFRA and failed to show that the prison’s policy restricted his religious freedom); see also *Jackson v. Coughlin*, 1994 N.Y. App. Div. LEXIS 5620 (N.Y. App. Div. May 26, 1994); *Merritt-Bay v. Delo*, 1994 U.S. App. LEXIS 14892 (8th Cir. June 17, 1994); *Messina v. Mazzeo*, 1994 U.S. Dist. LEXIS 7054 (E.D.N.Y. May 24, 1994); *Scarpino v. Grosshiem*, 1994 U.S. Dist. LEXIS 7161 (S.D. Iowa April 13, 1994).

184. Knight, *supra* note 8, at 448.

185. MUSHLIN, *supra* note 35, at 271.

186. The Fourteenth Amendment to the United States Constitution states, “Nor shall any state . . . deny to any person within its jurisdiction the equal protection of the laws.” U.S. CONST. amend. XIV.

187. 405 U.S. 319 (1972) (holding that prison officials discriminated against a Buddhist inmate by denying him a reasonable opportunity to pursue his faith comparable to that offered other inmates adhering to conventional religious precepts); see *also* *Newton v. Cupp*, 474 P.2d 532,536 (Or. App. 1970) (holding that if members of one faith can practice their religious beliefs and possess religious materials, equivalent opportunity must be available to members of other faiths).

188. For further discussion of which religious practices are permitted, see *infra* notes 214-361.

189. *Cruz*, 405 U.S. at 322.

190. Knight *supra* note 8, at 448.

191. *Id.*

192. No activity is absolutely protected in the prison environment. Clear reasons amounting to a compelling interest (e.g., relating to prison security, order, discipline, or rehabilitation) may override a prisoner’s claim to even the most fundamental of religious activities.

193. *Id.* at 448.

194. *Id.*

195. *Id.*

196. *Id.*

197. *Id.*

198. For a good illustration of the Equal Protection problem, see *Maguire v. Wilkinson*, 405 F. Supp. 637 (D. Conn. 1975) (holding that a prison regulation giving prisoners the right to wear beards on the basis of religious convictions only if they had beards at the time of incarceration violated both the First and Fourteenth Amendments).

199. U.S. CONST. amend. I.

200. MUSHLIN, *supra* note 35, at 272.

201. *Id.*

202. *Lemon v. Kurtzman*, 403 U.S. 602 (1971).

203. Knight *supra* note 8, at 445. This holding would also deprive prison officials of a sometimes effective rehabilitative tool.

204. *Id.*; see also *Sch. Dist. of Abington Township v. Schempp*, 374 U.S. 203 (1963) (Brennan, J., concurring).

205. *MUSHLIN*, *supra* note 35, at 273.

206. 428 U.S. F.2d 1, 4 (3rd Cir. 1970).

207. *Id.*

208. Knight *supra* note 8, at 446; see also *Theriault v. Carlson*, 495 F.2d 390,395 (5th Cir. 1973).

209. *Id.*; see also *Gittlemacker v. Prasse*, 428 U.S. F.2d 1, 4 (3rd Cir. 1970) (holding that the state was not required to hire a Jewish chaplain for a prison with only two or three Jewish inmates); *Reimers v. Oregon*, 863 F.2d 630 (9th Cir. 1988) (holding that Pentecostal inmates do not have a right to a Pentecostal minister in prison); *Allen v. Toombs*, 827 F.2d 563 (9th Cir. 1988) (holding that the state had no affirmative duty to provide a Native American inmate with a spiritual counselor of his choice); *but cf.* *Northern v. Nelson*, 315 F. Supp. 687 (N.D. Cal. 1970), *aff'd*, 448 F.2d 1266 (9th Cir. 1971) (holding that the state had to pay for the services of a Muslim imam. In *Gittlemacker*, the prison had only two or three Jewish inmates. In *Northern*, however, the prison had many Muslim inmates. Moreover, the state had already hired Christian chaplains).

2 10. Many of these clergy people could likely function as spokespersons for their own faith.

211. See, e.g., *Card v. Dugger*, 709 F. Supp. 1098 (M.D. Fla. 1988), *aff'd*, 871 F.2d 1023 (11th Cir. 1989) (holding that no Establishment Clause violation existed, even though all the prison chaplains were Southern Baptists, when the majority of the prison population was Protestant, the chaplains were instructed to attempt to meet the needs of all inmates or secure the services of volunteer clergy, and the position of chaplain was open to any qualified clergy without regard to religion).

212. Knight *supra* note 8, at 447.

213.1~4.

214. *Id.*

215. *Campbell v. Cauthron*, 623 F.2d 503,509 (8th Cir. 1980); see also *Pamell v. Waldrep*, 511 F. Supp. 764 (W.D.N.C. 1981) (holding as violative of the Establishment clause the practice of only permitting inmates to use Bibles and little Christian tracts); *Reimers v. Oregon*, 863 F.2d 630 (9th Cir. 1988) (holding as violative of the Establishment Clause a state statute that requires the hiring of a Catholic chaplain, but not chaplains of other faiths).

2 16. *MUSHLIN*, *supra* note 35, at 274.

217. Knight *supra* note 8, at 448. Any rule, regulation, or practice that punishes an inmate for failing to practice administratively approved religions or for practicing “unsanctioned religions” also violates the Establishment Clause.

218. Many religions have strict rules regarding hair or beard length. For example, male orthodox Jews are required to wear beards; Rastafarians and members of various Native American tribes are forbidden to cut their hair.

219. 874 F.2d 69 (2d Cir. 1987), *rev'g*, 693 F. Supp. 1536 (S.D.N.Y. 1988).

220. *Id.*

221. 649 F. Supp 512 (S.D.N.Y. 1986), *aff'd*, 817 F.2d 227 (2d Cir. 1987).

222. 484 U.S. 909, 108 S. Ct. 254 (1987).

223. *Fromer*, 874 F.2d at 69.

224. *Id.* at 71.

225. *Id.* at 74.

226. *Id.*

227. *Id.* at 75.

228. *Id.*

229. **MUSHLIN**, *supra* note 35, at 287.

230. *Id.*

231. *Id.*

232. *Id.* at 288. Muslim, Rastafarian, Jewish, and Native American faiths are examples of religions that require the head to be covered with a prescribed hat or cap.

233. *Id.*

234. 922 F.2d 370 (7th Cir. 1991).

235. *Id.*

236. *Id.*

237. *Id.* at 376.

238. **MUSHLIN**, *supra* note 35, at 289; see, e.g., *Benjamin v. Coughlin*,

(holding that Rastafarians can be prevented from wearing loose fitting crowns because of the “ease with which contraband can be secreted” in them).

239. See, e.g., *Lawson v. Dugger*, 840 F.2d 781,784 (11th Cir. 1987), *vacated*, 490 U.S. 1078 (1989).

240. 935 F.2d 1106 (10th Cir. 1991).

241. **MUSHLIN**, *supra* note 35, at 289.

242. *Id.*

243. *Id.*

244. A number of religions require adherents to observe strict diets. Two of the most familiar, and consequently, most litigious groups, are the Jews and the Muslims. Jewish law mandates strict observance of Kosher laws, and Muslims may not eat pork. In addition, other less well-known religions have dietary laws that are impossible to follow if the adherents are limited to standard prison food.

245. **MUSHLIN**, *supra* note 35, at 290.

246. *Id.*

247. *Id.*

248. *Id.* at 291.

249. See, e.g., *Walker v. Blackwell*, 411 F.2d 23 (5th Cir. 1969).

250. 527 F.2d 492 (2d Cir. 1975).

251. *Id.* at 495.

252. *Id.*

253. *Id.*

254. *Id.*

255. *Id.* at 496. The court refused to order the prison to provide Kahane with frozen dinners.

256. See *Benjamin v. Coughlin*, 905 F.2d 571,579 (2d Cir. 1990).

257. **MUSHLIN***supra* note 35, at 291.

258. *Id.*

259. See *supra* notes 182-195.

260. *United States ex rel Wolfish v. Levi*, 439 F. Supp. 114 (S.D.N.Y. 1977), *aff'd*, 573 F.2d 118 (2d Cir. 1978), *rev'd on other grounds sub nom, Bell v. Wolfish*, 441 U.S. 520 (1979).

261. *Muhammed v. McMickens*, 708 F. Supp. 607 (S.D.N.Y. 1977).

262. *Al-Almin v. Gramley*, 926 F.2d 680 (7th Cir. 1991) (permitting Muslims to purchase, at their own expense, commercially prepared and packaged food for Ramadan and the feast of Eid-Ul-Fitr).

263. *Champman v. Pickett*, 586 F.2d 22 (7th Cir. 1978).

264. *Johnson v. Moore*, 926 F.2d 921,923 (9th Cir. 1991) (holding that a claim for religious diet was properly dismissed when plaintiff showed no proof that his vegetarianism was "rooted in religious belief").

265. Benjamin v. Coughlin, 905 F.2d at 571 (dismissing a Rastafarian inmate's claim for a religious diet because plaintiff failed to show the "exact nature of the dietary request").

266. Id.

267. MUSHLIN, supra note 35, at 293.

268. Id. at 294.

269. Prison officials have readily given this encouragement to prisoners who adhere to conventional faiths. Officials, however, have not been as willing to encourage those inmates who wish to practice less traditional faiths. In addition, inmates who have been segregated in disciplinary or protective-custody units have not received the same treatment as general-population inmates.

270. MUSHLIN, supra note 35, at 294.

271. *Id.*

272. **Hadi v. Horn**, 830 F.2d 779, 787 (7th Cir. 1987). The occasional failure to hold services is not actionable, if for example, the failure results from the prison's reasonable attempt to meet the religious, social, and recreational needs of all the prisoners in a given facility.

273. Although the courts have ruled that adherents of the Black Muslim faith may congregate for the purposes of worship, two conditions must be met: (1) services must be monitored by prison authorities, and (2) services can be canceled if the authority of the institution is defied at the service. These conditions were found to be necessary because the teachings of this particular faith advocate separatism and hatred of "white" peoples.

274. MUSHLIN, supra note 35, at 294.

275. Hadi, 830 F.2d at 779.

276. **Id.** For example, conflicts may arise because self-proclaimed inmate religious leaders may lack the necessary experience or knowledge to resolve issues or concerns that arise during religious meetings. In addition, prisoner-led services could possibly be used as a pretext for gang meetings or for the "dissemination of views interfering with order in the prison."

277. **Hobbs v. Pennell**, 754 F. Supp. 1040 (D. Del. 1991).

278. **Johnson-Bey v. Lane**, 863 F.2d 1308, 1312 (7th Cir. 1988).

279. Id.

280. Id

281. **Id.** Inmates may not be denied access, and prison officials may not delay or refuse to arrange for outsiders to conduct services.

282. **Cooper v. Tard**, 855 F.2d 125, 129 (3d Cir. 1988).

283. Id

284. MUSHLIN, supra note 35, at 296.

285. *Cooper*, 855 F.2d at 130.

286. *Id.*

287. *MUSHLIN*, *supra* note 35, at 296.

288. *Id.*

289. *Clifton v. Craig*, 924 F.2d 182 (10th Cir.1990), *cert. denied*, 112 S. Ct. 97 (1991) (holding that prison officials could not be required to provide separate church services for members of the Church of Christ when services were available for Christians); see also *Matiyn v. Commissioner Dep't of Corrections*, 726 F. Supp. 42 (W.D.N.Y. 1989) (holding that Sunni Muslims were not denied free-exercise rights when permitted to attend services with Shia Muslims).

290. *Clifton*, 924 F.2d at 185.

291. Practitioners of Wicca are also known as witches.

292. *MUSHLIN*, *supra* note 35, at 297.

293. *Id.*

294. *Beck v. Lynaugh*, 842 F.2d 759,761 (5th Cir. 1988).

295. *MUSHLIN*, *supra* note 35, at 297.

296. See, e.g., *Matiyn v. Henderson*, 841 F.2d 31, 37 (2d Cir. 1988) (holding that the exclusion of inmates in punitive segregation from congregate religious services is reasonably related to valid penological goals); *Aliym v. Miles*, 679 F. Supp. 1 (W.D.N.Y. 1988) (holding that the denial of congregate religious services to a prisoner who is sentenced to one year in disciplinary segregation is reasonable).

297. *McDonald v. Hall*, 579 F.2d 120 (1st Cir. 1978).

298. *LaReau v. MacDougall*, 473 F.2d 974,979 (2d Cir. 1972), *cert. denied*, 414 U.S. 878 (1973)

299. *MUSHLIN*, *supra* note 35, at 298. *Mushlin* considers this to be the better reasoned approach to this problem. This approach requires the courts to analyze and evaluate each case separately rather than applying blanket prohibitions without regard for individual determinations.

300. *Id.*

301. *Id.*

302. *Young v. Coughlin*, 866 F.2d 567,570 (2d Cir. 1989) (stating that prison authorities should afford prisoners every reasonable opportunity to attend religious services).

303. See, e.g., *Williams v. Lane*, 851 F.2d 867, 877 (7th Cir. 1988) (holding that a single non-denominational service provided in the protective-custody unit was “an inadequate and needlessly inferior alternative” for meeting the inmates’ free-exercise needs).

304. See, e.g., *Stroud v. Roth*, 741 F. Supp. 559 (E.D. Pa. 1990) (upholding the denial of access to

religious services for a protective-custody inmate placed in segregation after attacking the inmate imam and receiving threats from other inmates).

305. *Termunde v. Cook*, 684 F. Supp. 255,263 (D. Utah 1988).

306. See, e.g., *Griffin v. Coughlin*, 743 F. Supp. 1006 (N.D.N.Y. 1990) (holding that inmates are entitled to private, meaningful religious meetings with religious advisors in a private meeting room).

307. MUSHLIN, *supra* note 35, at 299. Prisoners who convert to Islam change their names because they find their given names “religiously offensive . . . as a sign or mark of a spiritually unenlightened state which they have transcended.”

308. *Id.*

309. *Id.* at 300.

310. *Id.*

311. *Id.*

312. *Id.*

313. See, e.g., *Masjid Muhammed-D.C.C. v. Keve*, 479 F. Supp. 1311, 1323 (D.Del. 1979); *Salaam v. Lockhart*, 905 F.2d 1168 (8th Cir. 1990) (“Salaam II”); *Ali v. Dixon*, 912 F.2d 86, 90 (4th Cir. 1990) (“The First Amendment protects an inmate’s right to legal recognition of an adopted religious name.”).

314. MUSHLIN, *supra* note 35, at 301.

315. *Id.*

316. *Id.*

317. *Barrett v. Virginia*, 689 F.2d 498 (4th Cir. 1982) (striking state law that prohibited inmates from obtaining court-ordered name changes); *Masjid-Muhammed-D.C.C.*, 479 F. Supp. at 13 11 (striking blanket prison “committed-name” policy as unconstitutional).

318. MUSHLIN, *supra* note 35, at 301.

319. *Id.*

320. See, e.g., *Salaam v. Lockhart*, 905 F.2d 1168, 1170 (8th Cir. 1990) (holding that mail must be delivered if addressed to an inmate with his new name).

321. See, e.g., *Ali v. Dixon*, 912 F.2d at 86 (holding that a Muslim prisoner with a new name cannot be required to use his old name to withdraw funds from his prison account); *but c.f.* *Felix v. Rolan*, 833 F.2d 517 (5th Cir. 1988) (holding that prison records must contain the new name, but prison officials can continue to require that the inmate use his committed name as a method of identification when he seeks to use the law library).

322. *Azeez v. Fairman*, 604 F. Supp. 357,364 (CD. Ill. 1985).

323. *Masjid-Muhammed-D.C.C. v. Keve*, 479 F. Supp. 1311, 1325 (D.Del. 1979).

324. *Azeez*, 604 F.Supp. at 364. Prison officials, however, cannot discipline a Muslim inmate for failing to acknowledge his or her non-religious name.

325. *MUSHLIN*, *supra* note 35, at 302.

326. *Salaam*, 905 F.2d 1168, 1172 (8th Cir. 1990)

327. *Salaam v. Lockhart*, 856 F.2d 1120, 1122 (8th Cir. 1988) (“*Salaam I*”).

328. *Id.*

329. *MUSHLIN*, *supra* note 35, at 302.

330. *Salaam*, 905 F.2d at 1173 (“*Salaam II*”).

331. *Id.* at 1174.

332. *Id.* at 1173.

333. *Id.* at 1168.

334. *Id.* at 1175

335. *Id.*; see also *Ali v. Dixon*, 912 F.2d 86, 90 (4th Cir. 1990) (noting the “obvious” difficulties posed by requiring prison staff to memorize a second name after having made the effort to memorize the first).

336. *Id.* The *Salaam* court did reserve the power to order prison guards to address inmates by their religious names, noting that a court order of this type would be a *de minimis* intrusion into the prison administration’s authority. The court cited the danger of allowing guards to deliberately “bait” inmates by refusing to address inmates by their chosen names.

337. See, e.g., *Gittlemacker v. Prase*, 428 F.2d 1 (3rd Cir. 1970) (holding that the state was not required to hire a Jewish chaplain for a prison with only two or three Jewish inmates); see also *Reimers v. Oregon*, 863 F.2d 630 (9th Cir. 1988) (holding that Pentecostal inmates do not have a right to a Pentecostal minister in prison); *but see Northern v. Nelson*, 3 15 F. Supp. 687 (N.D. Cal 1970), *aff’d*, 448 F.2d 1266 (9th Cir. 1971) (holding that the states must hire and pay for the services of a Muslim imam).

338. *MUSHLIN*, *supra* note 35, at 304.

339. *Johnson-Bey v. Lane*, 863 F.2d 1308, 1310 (7th Cir. 1988).

340. *Cooper v. Pate*, 382 F.2d 5 18 (7th Cir. 1967); *Saleem v. Evans*, 866 F.2d 13 13 (11th Cir. 1989) (holding valid plaintiffs claim that the prison refused to allow entry to a Muslim imam of the Nation of Islam but allowed entry to an imam of the American Muslim Mission); *Johnson-Bey*, 863 F.2d at 13 11 (holding that the state could bar entry to a Muslim cleric because, as a convicted felon, his presence at the facility constituted a threat to security).

341. *Johnson-Bey*, 863 F.2d at 13 11.

342. *Id.*

343. See, e.g., *Finney v. Hutto*, 410 F. Supp. 251 (E.D. Ark 1976), *aff'd*, 548 F.2d 780 (8th Cir. 1978).

344. *Johnson-Bey*, 863 F.2d at 13 11.

345. *Id.* at 1308; see also *SapaNajin v. Gunter*, 857 F.2d 463 (8th Cir. 1988) (holding that the state may provide a rotation system for different medicine men to fulfill the needs of the maximum number of inmates). Whether the prisons should pay for these clergy people is unclear. *Mushlin* suggests that, because this problem will usually only arise with regard to small minority sects, the courts should require at least minimal reimbursement if that is the only practical way to induce outside clergy to visit inmates.

346. *Sweet v. South Carolina Dep't of Corrections*, 529 F.2d 854, 863 (4th Cir. 1975).

347. See, e.g., *Peterkin v. Jeffes*, 661 F. Supp. 895 (E.D. Pa 1987), *aff'd in part, vacated in part*, 855 F.2d 1021 (3d Cir. 1988), *aff'd on remand*, 953 F.2d 1380 (3d Cir. 1992) (upholding, in part, restrictions on congregate services for inmates on death row because the outside clergy were allowed to visit these inmates).

348. Note, no reported decisions exist in which a prison has taken the position that to permanently deny segregated inmates access to clergy would be constitutionally permissible.

349. See *Griffin v. Coughlin*, 743 F. Supp. 1006 (N.D.N.Y. 1990) (holding that, because protective custody inmates could not attend group services, they were entitled to have private, unmonitored meetings with clergy and religious advisors in a private room available in the unit); see also *Card v. Dugger*, 709 F. Supp. 1098 (holding that death watch, or "eyeball" inmates, were permitted to have private, although non-contact visits with clergy).

350. *McClafilin v. Pearce*, 743 F. Supp. 1381, 1385 (D. Or. 1990) (upholding delay in providing access to a Catholic priest when the delay was brought about by a policy change that limited meetings between segregated inmates and clergy to those clergy who were on the prison staff, even though general-population inmates were permitted to visit with outside clergy. "Non-essential elements of a religion may be withheld from inmates in a disciplinary segregation unit, even though they are provided in the general population.>").

351. See, e.g., *Murphy v. Missouri Dep't of Corrections*, 814 F.2d 1252 (8th Cir. 1987).

352. *Woods v. O'Leary*, 890 F.2d 883, 885 (7th Cir. 1989).

353. *Murphy*, 814 F.2d at 1256.

354. *MUSHLIN*, *supra* note 35, at 306.

355. *Valiant-Bey v. Morris*, 829 F.2d 1441, 1444 (8th Cir. 1987) (upholding plaintiffs' claim of religious discrimination alleging that officials singled out and delayed delivery of mail sent by Moorish Science Temple).

356. *MUSHLIN*, *supra* note 35, at 307. For example, literature of both the Black Muslims and the Aryan Nations Church contains language that exhorts followers to communicate and associate only with those of the same faith and color.

357. *Id.*

358. *Id.*

359. See, e.g., *Lawson v. Dugger*, 840 F.2d 781 (11th Cir. 1987), *vacated*, 490 U.S. 1078 (1989) (regarding the admittance of publications relating to the Jewish faith).

360. *McCabe v. Arave*, 827 F.2d 634,638 (9th Cir. 1987).

361. *Lawson*, 840 F.2d at 784 n. 1.

362. *Murphy v. Missouri Dep't of Corrections*, 814 F.2d 1252, 1257 (8th Cir. 1987); see *also McCabe*, 827 F.2d at 634 (concluding that “literature advocating racial purity, but not advocating violence or illegal activity as a means of achieving this goal, and not so racially inflammatory as to be reasonably likely to cause violence at the prison, cannot be constitutionally banned as related to rehabilitation”). Although prison officials cannot ban religious material that does not raise a “clear and present danger,” short delays in obtaining or reviewing the material are not actionable.

363. See, e.g., *Valiant-Bey v. Morris*, 829 F.2d 1441, 1444 (8th Cir. 1987) (holding unconstitutional the confiscation of non-inflammatory religious material).

364. MUSHLIN, *supra* note 35, at 308.

365. See, e.g., *Ross v. Coughlin*, 669 F. Supp. 1235 (S.D.N.Y. 1987) (allowing Jewish prisoners to possess a wide variety of religious items).

366. *Id.*

367. MUSHLIN, *supra* note 35, at 308.

368. *Id.*

369. For example, Rastafarian inmates have been denied the possession and use of marijuana for religious ceremonies, *L'Aquarius v. Maynard*, 634 P.2d 13 10 (Okla. 1981). Prisoners have been denied the possession and use of sharp, beat-tooth necklaces because the teeth can be readily used as weapons, *Hall v. Bellmon*, 935 F.2d 1106, 1113 (10th Cir. 1991). Prisoners have been denied the use of candles because they can be used to start fires, *Childs v. Duckworth*, 509 F. Supp. 1254 (ND. Ind. 1981), *aff'd*, 705 F.2d 915 (7th Cir. 1983) (concluding that candles could be banned because of the danger of fire, as well the potential for wax to be used to form key molds. The court also held that incense could be banned because it could be used as an intoxicant and to cover the odor of illegal drugs and alcohol).

370. *Hall v. Bellmon*, 935 F.2d 1106, 1113 (10th Cir. 1991).

371. See, e.g., *Holloway v. Pigman*, 844 F.2d 365 (8th Cir. 1989) (holding that the inmate had not borne the burden of making a particularized showing that sweet grass and sage were necessary for the practice of religion).

372. MUSHLIN, *supra* note 35, at 310.

373. *Id.*

374. rd.

375. Frank v. Terrell, 858 F.2d 1090 (5th Cir. 1988) (holding that Jewish inmates may buy religious items, but prisons need not supply the items).

376. Thirty-eight responses out of 50 questionnaires sent.

377. Twenty-two responses out of 50 questionnaires sent.

378. We were not aware that we had to submit a written proposal to the Office of Research and Evaluation of the U.S. Department of Justice, Federal Bureau of Prisons in order for the federal prisons to respond to our questionnaire. We wrote and faxed a research proposal to the Office of Research and Evaluation the same day that we were made aware of the government's requirements. Unfortunately, several weeks elapsed before the appropriate federal officials signed off on the proposal. Once we complied with their protocol, the Bureau allowed its employees to respond. Unfortunately, the Federal response rate was under 50% . Moreover, prison officials from the federal institutions generally did not respond to the questions pertaining to RFRA.

379. One prison official stated that his facility made every effort to allow any bona fide inmate religious group to use the chapel. Because a large number of inmate groups often request the use of these facilities, scheduling can be problematic. Inmates who belong to groups with very few members are often compelled to use alternative facilities for group worship. Vocational classrooms are often used under these circumstances.

380. A prison official noted that these Kosher "TV dinners" taste even worse than common prison fare. He also stated that these meals were very expensive to obtain for the inmates.

38 1. In the process of submitting a research proposal to the Office of Research and Evaluation, I was told that federal officials would not be permitted to answer questions that asked for an evaluation of federal legislation.

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Mission field at the door of the Church!

the **Criminal Justice Missions Connection**

provided by the
Restorative Justice Ministries Network
of Texas

A criminal justice missions volunteer church response program via
Internet



The new Criminal Justice “Home Mission” field



“Criminal Justice Missions” is defined as the last frontier on the home missions field. It was only recently identified and is being defined through the evolution of prison and jail ministries within the category of Criminal Justice Ministries. The root of this mission field begins with arrested or convicted individuals, and immediately branches out to include their family structures, as well as victims and their families, and the criminal justice professionals and their families. Today, one out of five people are affected by this mission field. It has no social/economic or religious/denomination boundaries. It has no age, race, or nationality. It simply represents “people in crisis”. Over 3.5 million people are in this mission field in Texas.

ROLES AND RESPONSIBILITIES

Society has charged governments with protecting its citizens. Criminals are arrested and tried for their crimes. When convicted, they are incarcerated to pay their debt to society. Criminal justice institutions concentrate on the offenders, but no system or institution of government support is available for the families of offenders, victims and their families, and criminal justice professionals and their families.

All government agencies have their particular criminal justice systems. - i.e., Federal, State, County, Youth, and Juvenile. Their role is to capture and punish offenders. Their role at one time was to also rehabilitate people to prepare them to re-enter society. Government no longer takes the responsibility for rehabilitation!

Education’s role is undefined and ineffective. Prevention programs obviously are not working, as crime is increasing. Drugs are the source of 60 % of the crimes, but the programs and rehabilitation structure are not effective or do not exist.

The church is slowly moving into this mission field through jail and prison ministries. Now, the ultimate opportunity is on the doorstep of the church. The church, through its volunteer ministry structure has the opportunity and responsibility to mobilize and utilize the resources that are available in the churches mission outreach to respond to this mission field. The Christian church community can and should show the world that it cares about people in crisis, - and provides the spiritual, life-changing solutions that only a relationship with Christ and the Church accomplishes,

LEVERAGING THE RESOURCES

Over 550 criminal justice ministries and 25,000 churches of all denominations exist in Texas. Thousand of lay volunteers work daily in this mission field.

However, resources are not leveraged. Programs are not coordinated. Churches and Denominations do not work together. Volunteers do not know each other. Church staffs do not know that their own members (one out of five) are in crisis and a part of this mission field.

The opportunity exists to engage the resources of the church to respond to this “God-sized” mission field. Criminal Justice Missions is the new home mission field, and churches can and must respond.

Restorative JUSTICE “MINISTRIES” NETWORKS

Restorative Justice Ministries Networks are being formed in the State of Texas and other states. The Restorative Justice Ministry Network of Texas, established in 1995 is supported (not financially) by the chaplaincy department of all institutions and all CJ ministry leaders. All Christian denomination headquarters are involved, and the local church is the complete basis of the network. Awareness programs are being presented to the church and volunteers are being recruited and trained to join in the CJ ministries or start new CJ ministries.

The CRIMINAL JUSTICE MISSIONS CONNECTION

One of the goals of the Restorative Justice Ministries Network is to establish a trans-denominational structure of 1000 church volunteers in Texas to become the foundation for this mission field. Each individual church will appoint a representative to be connected to RJMN via “Internet” and receive E-Mail related to the activities and needs of the ministries or family members.

The church volunteer will also be connected to the resources of all members of the criminal justice mission “Internet” system, including the RJMN network headquarters, church denomination headquarters, and thousands of local churches. The “Internet and E-mail” will become the standard technological connection.

Restorative JUSTICE MINISTRIES NETWORK STRUCTURE

The Restorative Justice Ministries Network of Texas was founded in 1995 as a non-profit 50 1 (c)(3) approved corporation. It has an advisory board of 54 members representing all institutions, ministries, associations, and denominational leaders. It has a trans-denominational board of directors and a full time executive director.

For additional information, call Ladd Holton, Executive Director.

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Goals and Objectives

- 1. Maintain the standard of Jesus Christ in communications and representations of all we do. Relay the message that Jesus Christ is the only solution in changing a persons nature, pointing offenders, ex-ofenders, criminal justice professionals, victims, and all their families toward the solutions that can only be found in Him.
- 2. Develop an trans-denominational networking organization representing all criminal justice ministries in the counties of Texas.
- 3. Create an ecumenical structure to support the activities for all Christian denominations to use to **unite** and work together in this mission field.
- 4. Encourage and support the development of criminal justice ministries in the local church. Our goal is to involve 1000 churches in the network in 1998.
- 5. Encourage and support the development of ministries that especially impact the Hispanic, African-American, and other ethnic minorities communities.
- 6. Encourage and develop volunteer support from each of the ethnic minority communities.
- 7. Emphasize the recruiting and training of volunteers from churches to join existing ministries, or to form new ministries.
- 8. Establish a network of resource information related to the activities of every criminal justice ministry operation in Texas. Provide this information to any church or volunteer for the purpose of “showcasing” the ministries.
- 9. Support the existing criminal justice ministries by publicizing their mission and purpose through ail forms of publicity.
- 10. Maintain a high level of visibility, with very active media relations, newsletters, “Internet”, Fax on Demand, and various levels of communications. Maintain a booth at regional and state conventions, Promise Keepers, Churches, etc.
- **11.** Sponsor or host criminal justice awareness meetings, seminars, retreats, workshops, in the region on a regular basis.
- 12. Maintain a master schedule of activities of all ministries. Provide this schedule to anyone needing this information.
- 13. Develop and maintain a centralized data base of information related to the requests for assistance from families, victims, criminal justice professionals, offenders and ex-offenders. Communicate these requests to the appropriate ministry or church for action.
- **14.** Maintain a listing of resources related to legal or advocacy requests. Forward any request

for assistance to the appropriate entity. (Note: we will not become directly involved, other than a source for referrals)

- 15. Support all chaplains in all institutions (Juvenile, Youth, County, State, Federal, and Private). Assist them in the recruiting of volunteers, and publicize their needs throughout the network.
- 16. Maintain standards of professionalism in relationships with all institutions, and develop rapport with warders, chaplains, prison and jail administrators, and all levels of the institutional system. We are here to make their job easier, not harder. Maintain respect for any and all levels of security.
- 17. Assist in the developing and support of Criminal Justice Ministry Centers in local communities, particularly in cities over 50,000.
- 18. Participate in and support the State Criminal Justice structure (INFORMS) and other regional Criminal Justice networks.
- 19. Encourage the development of new and/or stronger programs in areas identified as weak or lacking in programs. Target the victims of crime, Juvenile, Youth, Aftercare and Family support area as high priorities for involvement.
- 20. Identify the voids in the existing mission field and develop specific strategies to fill these voids.

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Criminal Justice Missions

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Restorative Justice Ministry Overview

• I. Ministry to **VICTIMS** of Crime

- o A. Personal Counseling
- o B. Victim/offender reconciliation program
- o C. Victim support group

• II. Ministry to **OFFENDERS**

- A. Juvenile
 - o 1. Evangelism
 - o 2. Discipleship
 - o 3. Mentor
 - o 4. Volunteer Chaplaincy
 - o 5. Literacy Ministry
 - o 6. Supervised Tours of Prison
- B. Adult
 - 1. Jail/Prison
 - o a. Evangelism
 - o b. Discipleship
 - o c. Mentor
 - o d. Volunteer chaplaincy
 - o e. Literacy Ministry
 - 2. Aftercare
 - o a. Volunteer Chaplaincy with Probation
 - o b. Volunteer Chaplaincy with Prole
 - o c. Mentor
 - o d. Congregational sponsorship of an ex-offender
 - o e. Ex-offender support groups
 - o f. Residential aftercare

• III. Ministry to **CRIMINAL JUSTICE PROFESSIONALS**

- A. Chaplaincy for CJ Professionals
 - o 1. Police Chaplaincy
 - o 2. Sheriff Department Chaplaincy
 - o 3. Correctional Staff Chaplaincy
 - o 4. Parole/Probation Staff Chaplaincy
- B. Recognition Events for CJ Professionals
- C. Recreational Events for CJ Professionals

- D. Discipleship Training for CJ Professionals

. Ministry to **FAMILIES**

- A. Families of **Victims**
 - o 1. Family counseling
 - o 2. Support Groups
- B. Families of **Criminal Justice Professionals**
 - o 1. Chaplaincy to CJ Professionals
 - o 2. Family Counseling
 - o 3. Family Picnics
- C. Families of **OFFENDERS**
 - o 1. Chaplaincy ministry in the court room
 - o 2. Visting Room Hospitality Ministry
 - o 3. Hospitality House
 -
 - o 4. Family Visitor Center
 - o 5. Organization of public transportation for families
 - o 6. Angle Tree - Christmas gifts for Children

Restorative Justice Ministry Opportunities

Jail/Court Ministry

Every person in Texas has a jail nearby. This ministry offers opportunity for affecting society in a positive way. Often the intervention of a redemptive person is needed in the life of a family who is embarrassed, anxious, or angry as the result of a family member being arrested and accused of a crime. **REgular** visitation by a Christian volunteer demonstrates the credibility of ones life and gives the opportunity for assisting the famaily in coping with the difficulties they encounter. Contact the Jail Chaplain or the chief administrator of the detention facility to determine what ministry is needed there.

Literacy Ministry

Literacy Ministry is a very practical and needed ministry in Criminal Justice settings due to a high population of persons unable to read, write, or speak the English language. Local jails and detention centers are the place to offer this ministry. Contact the chaplain or **cheif** administrator of the facility.

Discipleship Training

The Life and Life Way discipleship courses are very apporprate to teach to small groups of inmates. Approach the chaplain or chief administrator with materials in hand and offer to teach these courses. Utilize volunteers who have gone through this discipleship training in the church. Experiencing God, Search for Significance, Making Peace with Your Past, and Masterlife are all very appropriate to

teach inmates.

Mentor Ministry

A state prison near you will have a Mentor Program managed by the chaplains. Offer to organize a carload of volunteers to drive to the nearest state prison once a month to visit. The chaplain will match each with an inmate who will likely leave prison within the next two years and who receives no visits from his family. This is friendship evangelism. The mentor can become very important to the inmate. This is the most powerful of the Criminal Justice Ministries.

Volunteer Chaplaincy

Person who has extended time in which to do ministry may take the Volunteer Chaplaincy Training and then assist a chaplain at a prison as much time as he/she wants. This ministry and schedule will be worked out with the chaplain.

Family Support Ministry

When a person is incarcerated the family goes into crisis. The church has traditionally paid little attention to this large but unseen group of sufferers. Offer to host a visiting room at a prison, detention center, or jail. You will meet families of prisoners and learn first hand of their needs. This is primarily a women's ministry. Your church can participate in Angel Tree at Christmas time and help families of prisoners. The chaplain can be asked to help find inmates families with needs.

Crusade Ministry

A favorite way for many people to be initiated in CJM is to be a lay-witness volunteer with a ministry that conduct prison crusade ministry. Bill Glass, Prisoner's Bible Institute or Mike Barber are such ministries, Typically a volunteer will go with a group to one institution and share their faith to the residents of that institution during a weekend (Friday evening, all day Saturday and Sunday morning.)

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Executives and Directors

Criminal Justice Network Ministry of North Texas formed

x)

Ladd Holton

Forty six years ago Ladd Holton gave his life to Christ. His Grandfather, A.R. Holton, a life long minister in the Church of Christ, baptized Ladd into Christ while he and his family were living in southern California. Ladd's father, Robert W. Holton, a well known radio and television actor, is best remembered for his portrayal of Christ in two feature length films, "I Beheld His Glory" and "Day of Triumph". He was also the first to read the New International Version Bible on cassette tape.

Ladd returned to Texas in 1958 to attend the University of Texas in Austin on a football scholarship. He was in the first class recruited by coach Darrell Royal. During his stay in Austin, he met and married one of his classmates, Susie Wischer. Ladd and Susie raised two girls, Diana and Amy. They now enjoy five grandsons. After graduating from UT, Ladd taught secondary school in Corpus Christi for two years before joining Science Research Associates, an educational publishing company. During the next twelve years, Ladd and his family lived in Midland, Austin, Amarillo, San Antonio, and finally, Fort Worth working with School Districts all over the state. In 1977, he left SRA and went to work for the Speed Fab-Crete International, a design-build construction company. For the next ten years he helped build schools, churches, and commercial buildings primarily in north Texas.

In 1988, Ladd started his own company, BAC Group, Inc. BAC Group is the franchisee for Guardian Interlock, the largest breathalyzer

As the owner of Guardian Interlock of Texas, Ladd has had the opportunity to work with Judges and other law enforcement agencies in most of the state. In addition, he has helped write and pass Ignition Interlock legislation for the past eight years. This broad knowledge of the criminal justice system and the legislative process has prepared Ladd for service as the Executive Director for the Restorative Justice Ministries Network of Texas. Ladd also serves as a Board Member of INFORMS newspaper and Prison Fellowship-North Texas Area.

Ladd has served the Lord's Church all his adult life. He has taught bible classes from Kindergarten to Adult. He served as a Deacon at the Altamesa Church of Christ and for ten years he served as the volunteer Youth Minister at that congregation. In 1988, Ladd became interested in criminal justice ministry because of the extraordinary increase of incarceration taking place in Texas and the inordinately high rate of recidivism that occurs. Ladd counts the most disturbing statistic in the criminal justice system to be that 80% of men and women involved in prison Chaplaincy programs do not get connected with a church when they are released. He believes that it is untenable that "Brothers and Sisters in Christ are not being welcomed and disciplined by the faith community when they are released, and that individual congregations must get involved in the problem solving process or else the seed of the kingdom, planted in the hearts and minds of ex-offenders, will be choked out by the problems they face in the free world."

manufacturer in the nation. Ladd's company installs and services the Guardian Interlock device in over twenty service centers in Texas. The device is required by law to be installed in the vehicle of a repeat DWI offender as a condition of bail, of probation, and in order to receive an occupational driver's license. Drivers must blow a breath test every time **they** start their car. If any alcohol is detected in their lungs, their car will not start.

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Matt Harness	Chaplain - Seagoville Federal Prison

Ministries:

Emmett Solomon	Director INFORMS Ministry, Coordinator of Criminal Justice Ministry, BGCT
Murray Batt	Exec. Director - East Texas Criminal Justice Network Ministries
David Umfreveille	Dir. Of Prison Ministries, First Baptist Dallas International Prison Ministry
Kent Lucas	Associate Prison Director - Bill Glass Ministries
Johnny Moffitt	Director - Worldwide Voice in the Wilderness
Sam Pollinzi	Director - EXODUS
John Leonardson	Regional Director - Prison Fellowship
Steve Ochs	Chairman - KAIROS Prison Ministries
Alice Barron	Founder - IMPACT Support Groups
Frank Graham Jr.	Founder - Chapels of Hope, Inc.
Virginia Hutto	Founder - Womens Criminal Justice Network Ministry
Glen Wierich	Director - East Texas Criminal Justice Ministry Center
Roger Woods	Director - Out, But Not Free
Paul Carlin	Founder - Texas Assoc. Of X-Offenders, Inc.
Maureen Fryer	Christ for the Nations Institute
Harold Ellis	J.A.I.L. Ministry, Inc.
Andy Matthews	Kenneth Copeland Ministries
Ken Dutton	Mike Barber Ministries

Associations:

Miifred Minatrea	Baptist General Convention of Texas
Don Gibson	Texas Baptist Men
Holsey Hickman	Greater Dallas Community of Churches
I s a a c J o h n s o n	Coalition of Churches - Prison Ministry
Jana Young	Dallas Baptist Association
Bobby Cox	Tarrant Baptist Association

Church Demoninations:

Major Ron Kerley	The Salvation Army
Jim Williams	United Methodist Church, North Texas Conference
Rev. Paul Gray	All Saints Catholic Church
Hillery Motsinger	Church of Christ Representative
Dean Philip Duncan, II	Saint Matthew's Cathedral (Episcopal) - Dallas
Rev. Morris Ivey	Assemblies of God, North Texas
	Presbyterian Church, North Texas Region
	Lutheran (ELCA)
	Christian Church of the Southwest (Disciples of Christ)

Churches:

Weldon Fox	First Baptist - Dallas
Dick Abernathy	Prestonwood Baptist - Dallas
David & Bonnie Scott	Hillcrest Church - Dallas

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Operation Help

[Questions and Answers | Family Support Project]

Questions and Answers

Q: What is the Restorative Justice Ministries Network?

A: The Restorative Justice Ministries Network is a network of criminal justice ministries, institutions, and churches in Texas. The network covers over 25,000 churches, 550 criminal justice ministries, and over 200 criminal justice institutional locations, including the County Juvenile Detention Centers, Texas Youth Commission, County jails, State jails and prisons and Federal prisons. It is a Christian organization, working through the Chaplain programs in all institutions, and the State Victims Services Division.

Q: When was it formed?

A: It was incorporated October 3, 1995 in the State of Texas as a 501-C3 non-profit Corporation.

Q: Why was it formed?

A: It was formed for the purpose of joining together the Christian community, Christian volunteers, and the criminal justice ministries of Texas with the mission of providing a God-directed message of hope and life changing experiences to offenders, ex-offenders, criminal justice professionals, victims and families of all groups.

Q: Where did the idea for the network come from?

A: The genesis of the network comes from the state wide criminal justice ministry founded by Emmett Solomon, based in Huntsville, Texas, called INFORMS (Inmate Family Organization Relationship Management System.) RJMN is the first to launch a totally comprehensive structure covering all institutions , ministries and categories of people. Over 550 ministries currently exist and are or will be participants in the network. This is the first network of its kind and scope in the nation.

Q: What is the organizational structure?

A: The network is structured with a Board of Directors, with an Executive Director serving as the operations manager. The strength of the organization lies with the Advisory Board which consists of 42 representatives from four categories: Institutions, Ministries, Church Associations and Church Denominations. The Advisory Board serves and supports the Executive Director in the execution and implementation of the goals and objectives of the network.

Q: What is the purpose of the network?

A: The purpose of RJMN is to motivate, educate and equip the church to develop local criminal justice ministries. These ministries are directed toward five categories of people: offenders, ex-offenders, criminal justice professionals, victims of crime and families of all groups. Most churches do not have a criminal justice outreach, therefore, formal volunteer structures have not been established. Over 550 ministries are currently operating independently to bring evangelism, discipleship, mentoring, aftercare and family support to the criminal justice system. Our purpose is to recruit, train, and equip volunteers from all Christian denominations for these ministries. The Church

and criminal justice ministries working together can more effectively reach the more than 3.5 million people affected by crime in the Texas mission field.

Q: What are some of the goals and objectives of the network?

A: Some of the goals and objectives are:

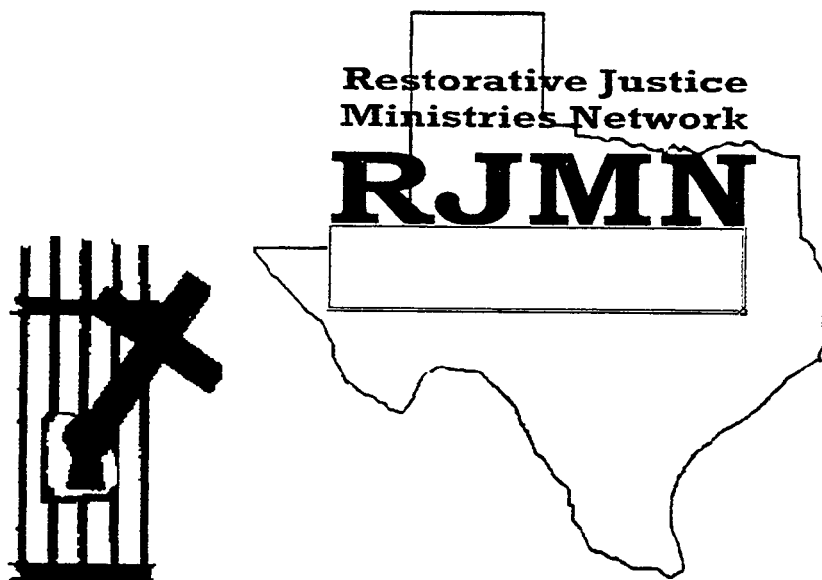
- • Develop a trans-denominational networking organization representing the criminal justice ministries in counties in Texas
- • Establish a network of resource information related to the activities of the criminal justice ministries in Texas.\
- • Encourage and support the development of criminal justice ministries in the local church. Goal for 1998 - 1000 churches participating
- • Sponsor or host criminal justice awareness meetings, seminars, retreats, workshops in the state.
- • Support all Christian chaplains in all institutions. Assist them in the recruiting of volunteers and publicize their needs throughout the network.
- • Develop and maintain a centralized data base of information related to requests from families, victims, criminal justice professional, offenders and ex-offenders. Communicate these requests to the appropriate ministry or church for action.

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Purpose

The purpose of Restorative Justice Ministries Network of Texas is to motivate, educate, and equip the church to develop local criminal justice ministries. These ministries are directed toward five categories of people: offenders, ex-offenders, criminal justice professionals, victims of crime and families of all groups. Most churches do not have a criminal justice outreach, therefore, formal volunteer structures have not been established. Our purpose is to recruit, train, and equip volunteers from all Christian denominations for these ministries. The church and criminal justice ministries working together can more effectively reach the more than 1.5 million people affected by crime in the Texas mission field.

Mission Statement

The mission of the Restorative Justice Ministries Network of Texas is to join together the Christian community, Christian volunteers, victims organizations and the criminal justice ministries in Texas for the purpose of providing a God-directed message of hope and life-changing experiences to victims of crime, offenders, ex-offenders, criminal justice professionals and families of all groups.

Our Goal is to reconcile all to God through Christ Jesus and to each other so that there may be peace in the community and the Body of Christ.

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The Restorative Justice Ministry Network

The Vision

“Biblical Solutions to Criminal Justice Problems.”

The Mission

“Networking with individuals and organizations directly impacted by crime in order to establish and implement Biblical solutions to criminal justice problems.”

The Purpose of the Network

We see God doing many great things through His people. Ministry within the criminal justice system is one of the main areas that He is currently impressing His people to do.

That ministry is rising up from the Church as a grassroots effort. It is largely a function of laity with minimal assistance from clergy. Typically, one, two or perhaps five laity from a single congregation are reaching out to the suffering people within this great mission. Very often the other members of their congregation hardly know about the ministry.

One of the main functions of the network is to become a communicator for the entire mission. Hence, the network is trans-denominational. It represents merciful ministries but is not burdened with tight affiliations with any denomination, church or ministry. Its primary aim is to become a loose knit structure which can interface with both the government and the media on behalf of the entire mission.

The network shines light on the areas of the mission field which are receiving ministry and also those neglected areas which have little mission effort exerted in their direction.

The network will be busy obtaining names and addresses of citizens who are interested in doing ministry so that it can stimulate information flow between ministry people and between ministry groups. Such information flow and interaction become very creative moments for the mission.

The network, through its publications and through the electronic media available such as Radio, Television, E-mail, and the Internet, will continue to bring further attention to this mission.

RESTORATIVE JUSTICE MINISTRY NETWORK

ACTION PLAN

The Criminal Justice Mission Field is the largest **home** mission in America. It **includes** the following groups of people.

- Social offenders
 - Victims of **crime**
 - Criminal Justice **professionals**
 - The families of each of **these** groups

In the social **offender** category **alone**, you have 1.7 **million** adult offenders in American prisons. This number **doesn't** include those in jails, juvenile detention centers, reform **schools**, drug and alcohol **rehab** centers, or those **on** parole and probation. Each of these social **offenders** are estimated to have 3.5 family members. This adds up to **5,950,000!**

Each of these prisoners has at least **one** victim and those victims are estimated to have 3.5 family members, so we have another **5,950,000**. That's almost 12 million people!

Then if you add **all** of the criminal justice **professionals**, the law enforcement **officers**, the **corrections** officers, **the** judiciary, and parole and probation plus the 3.5 family **members** of **each** of **these** **people**, you can **see** what a **huge** mission **field** this is.

if you add **the** county jail people, **juvenile detention** centers, reform schools, drug & alcohol **rehab** centers, or those on parole and **probation** the numbers **would** probably double.

The Action Plan of **the** Restorative Justice **Ministry** Network of North America is to inform, **educate**, encourage and motivate **the** individuals and organizations in these groups, as **well** as **the** church and para-church organizations.

The Action Plan **will** be implemented *over* the **next** three years in the following ways:

1. Quarterly publication of the Restorative Justice Journal
2. The R.J.M.N. web site
3. Annual **regional**, statewide and national/international conferences
4. Networking with and supporting other Criminal Justice and **Restorative Justice**, para-church organizations
5. **Speaking** in **churches**, civic **clubs** schools and **organizations**
6. Interacting with local, statewide and national political leaders
7. Interacting with the media

The Restorative Justice Ministry Network

Statement of Faith

1. We believe the Bible to be the inspired, the only infallible, authoritative Word of God.
2. We believe that there is one God, eternally existent in three persons: Father, Son and Holy Spirit.
3. We believe in the deity of our Lord Jesus Christ, in His virgin birth, in His sinless life, in His miracles, in His victorious and atoning death through His shed blood, in His bodily resurrection, in His ascension to the right hand of the Father, and in His personal return in power and glory.
4. We believe that for the salvation of lost and sinful man, regeneration by the Holy Spirit is absolutely essential.
5. We believe in the present ministry of the Holy Spirit by whose indwelling the Christian is enabled to live a godly life.
6. We believe in the resurrection of both the saved and the lost; that they are saved unto the resurrection of life and they that are lost unto the resurrection of damnation.
7. We believe in the spiritual unity of believers in our Lord Jesus Christ.

The Restorative Justice Ministry Network

MEMBER BENEFITS

- I. Have input into the Network's Agenda
- II. Inform and stay informed by:
 - A. Receiving Quarterly Newsletter as well as opportunity to submit relevant articles
 - B. . Sending and receiving E-Mail newsflashes of interest, e.g.:
 1. New pertinent policies
 2. New organizations
 3. New relevant legislation
 4. Ministry opportunities
 5. Availability of other resources, such as:
 - a. Ministry curriculum and other tools
 - b. R. J. M. N. related employed opportunities
 - C. Receiving annually updated directory of all R. J. M. N. members
- III. Member Discounts on:
 - A. Regional and Annual Meetings
 - B. Video and audio tapes and books
 - C. Workshops and Conferences
 1. Future R. J. M. N. Conferences will offer CEU's
 - D. Internet services
- IV., Fund Development
 - A. E. D. M. (Evangelical Development Ministry) Workshops
 - B. Be kept informed of new funding sources
 - C. Possibility of organizations sharing in future grant moneys that may be developed
- V. Free organizational listing in the R. J. M. N. Web Site Directory
- VI. Free video of First Statewide Florida Restorative Justice Ministry Network Conference
- VII. Network with experienced Restorative Justice Ministry Network members
- VIII. An opportunity to collaborate with other Godly men and women to help build a Restorative Justice organization that is a powerful and effective force for Godly change in our cities, states and nation

REAL JUSTICE FORUM

a conferencing newsletter

Communities across Canada and United States implement Australian conferencing

Educators, police, probation officers, youth workers, victim service providers and community volunteers trained

Communities across North America are learning how to run **REAL JUSTICE** family group conferences, also called "community conferences," a new response to incidents of juvenile crime and school misconduct and a new strategy for violence prevention.

Conferences foster empathy in offenders and help victims address their emotional needs. Rather than leaving conflicts storming and emotions burning, as the traditional court and school disciplinary process usually do, conferencing affords everyone an opportunity to express feelings, settle differences, regain balance and achieve a sense of resolution and closure.

REAL JUSTICE offers both a one-day orientation to conferencing for administrators, officials and others who want to implement and support conferencing in their institutions and a two-day "hands-on" workshop for those who want to actually facilitate conferences. Both training seminars include high-quality videos as well as demonstrations of family group conferencing, lectures, group problem-solving and discus-

sion of implementation issues. The two-day workshop provides trainees with practice in running simulated conferences which include problems that sometimes arise in actual conferences. Since the **REAL JUSTICE** trainings and books have become available in 1995, conferencing has been used to address wrongdoing in a variety of settings in North America.

Bevvan Fox of Regina, Saskatchewan conducted a conference for a 14-year old who left obscene phone messages on an answering machine for a woman whose young children came home from school and heard the tape.

Detective Paul Schnell of Carver County, Minnesota, after the judge referred the case back to him for conferencing, brought together a teenage boy who killed a 21-year-old woman in a hit-and-run vehicular homicide, his family, and the young woman's family in a poignant conference which allowed all of the participants to deal with issues of shame, apology, grief, forgiveness, consequences and healing.

Glenn Kummery facilitated a conference at a Doylestown, Pennsylvania high school after the caustic odor of pepper mace, which had been sprayed on door handles in a hallway by two youths, caused the evacuation of hundreds of students and their teachers. Angry victims, after receiving apologies

See **REAL JUSTICE** on Page 2



Dr. Paul McCold and Capt. John Stahr head Bethlehem, Pa. police conferencing study

Favorable findings to date in conferencing research

The first U.S. research study of conferencing (funded by the National Institute of Justice in Bethlehem, Pennsylvania) confirms many of the results of the first completed evaluation of conferencing in Wagga Wagga, New South Wales, Australia. Both report favorable outcomes including lower re-offense rates among youths who attended conferences, over ninety percent completion of restitution and almost universal victim satisfaction. (See back page to order Wagga study report, *A New Approach to Juvenile Justice*.)

An ongoing study of police conferencing in Canberra, Australia has indicated similar results in terms of victim satisfaction and restitution compliance, but it is too early to report on recidivism. All three studies have dealt with juvenile offenders, except the Canberra research is also studying conferencing with adult drunk drivers.

What is **REAL JUSTICE** conferencing?

When children or adolescents admit responsibility for school misconduct or juvenile crime, the incident presents an opportunity for a family group conference (sometimes called a "community conference"), in lieu of the school disciplinary or judicial process, or where that is not appropriate, as a supplement to those processes. In the family group conference (FGC) young offenders tell what they did, hear from those they have affected, and participate in deciding how to repair the

A cost-effective new approach to juvenile crime, school misconduct and violence prevention

harm caused by their actions.

Since the first **REAL JUSTICE** trainings in March 1995, North Americans have experienced positive results. Not only are police, corrections officers, educators, victim service providers and community volunteers using conferencing to

deal with offenses and misconduct, but elementary school educators are also using conferencing role plays with their students as a violence prevention strategy.

In a conference young people face the consequences of their inappropriate behavior in an intense, emotional process that has far more impact than court or school disciplinary procedures, yet is far less stigmatizing because the young person has the opportunity to discard the offender

See **WHAT...** on Page 2

WHAT IS CONFERENCING?

Continued from Page 1

label and be reintegrated into his or her school or community.

Offenders or victims may decline to participate, opting for traditional school disciplinary or court procedures. Conferences ideally should be held within two weeks of an incident or apprehension. After it is determined that a family group conference is appropriate and offenders and victims have agreed, the conference coordinator invites others affected by the incident - the family and friends of victims and offenders.

In the conference the coordinator asks the young offenders to tell what they did and what they were thinking about when they did it. The coordinator then asks victims and their family members and friends to tell about the incident from their perspective and how it affected them. The offenders' family and friends are asked to do the same.

Finally the victim is asked what he or she would like to be the outcome of the conference. The response is discussed with the offender and everyone else at the conference. When agreement is reached, a simple contract is written and signed. (If an offense is initially handled by the courts, the conference may not involve a contract but still provides an opportunity for healing and closure for all involved.)

A family group conference is an action-oriented process which usually lasts an hour or so and is almost always a positive emotional experience for participants. Offenders may begin to repair the harm by apologizing, making amends and agreeing to restitution or personal or community service work. Most significantly, young people gain empathy for those they have affected, which rarely happens in court and school disciplinary procedures.

Victims and others affected by the young person's behavior report that conferences provide an opportunity to confront the offender, express their feelings, ask questions and have a say in the outcome. Offenders' families also report satisfaction with the FGC process.

Conference coordinators stick to a simple script and act only as facilitators, not participants. But for the coordinator, a conference is far more productive and rewarding than the current means of responding to inappropriate behavior.

Neither a counseling nor a mediation process, the FGC is a straightforward problem-solving method that demonstrates how citizens can resolve their own problems when provided with a constructive forum to do so.

Conferencing started in New Zealand in 1989, was adapted by Australian police in 1991 and was first used by Australian educators in 1994. **REAL JUSTICE** began providing trainings in 1995 and is now organizing regional training and support services throughout North America.

REAL JUSTICE used in

Continued from Page 1

and helping to set consequences in the conference, were satisfied that justice had been done in a more useful way than through the police and courts.

Across the provinces and states of North America, thousands of conferences have demonstrated the viability of this approach to "restorative justice" which defines wrongdoing not as an *offense against the state or the school*, but as an *offense against people and community*. Those directly affected are then entitled to direct involvement and a say in the outcome.

Police departments

REAL JUSTICE is an effective problem-oriented approach to community policing in which police have an opportunity to see positive outcomes that benefit victims, the community and ultimately the offenders themselves. Police conduct conferences using their traditional discretionary authority to "caution" or "counsel and release," rather than charge and send to court. Some police departments have extended that authority by consultation with prosecutors and judges. Similarly they may allow schools to handle some cases with conferences that might have otherwise resulted in arrest.

Constable Randy Wickins of the Edmonton Police Service, Alberta ran a conference that had a strong impact on three 9-year-old girls who set a fire in an apartment building.

Pete Mungovan, Indianapolis Police Department, Indiana ran a conference after a juvenile stole a lawn ornament from his neighbor's front yard. The conference resulted in a formal apology and restitution.

After an auto race by high school students, which had become an illegal graduation-time tradition, resulted in an accident, Sergeant Tom Fraga and Assistant Principal Rick Ebel of South Burlington, Vermont

jointly organized a conference involving 75 participants. The conference allowed offenders to make amends to victims and their own parents and achieved an agreement that included actions by offenders to successfully end the dangerous annual event the next school year.

Secondary schools

Secondary educators are conducting **REAL JUSTICE** conferences as an alternative (or supplement) to traditional school disciplinary procedures and reporting excellent outcomes for incidents ranging from assault and vandalism to scapegoating and truancy.

"It really proved to be a positive experience for both the victim and offender," reported Kay Froemming of Fred Moore Middle School in Minnesota. She and Anoka Police school liaison officer Mike Goodwin co-facilitated a conference for an assault.

Greg Llewellyn of the Colonial Intermediate Unit in Pennsylvania ran his first conference, which had a "textbook" outcome, for a bus incident in which three students were fighting, requiring the driver to stop the bus and intervene.

Cari Crushshon of South Burlington High School in Vermont conducted a conference for two students who ran away for four days. The girls were in jeopardy of losing all credits for school for the semester. The conference made the girls realize how much they had affected their parents, friends and teachers.

Tony Smith coordinated a conference at St. James High School, Minnesota for a student who brought a knife to school. Nancy Bouis at East Hills Middle School in Bethlehem, Pennsylvania ran a conference when a student injured another student with an electric sander in shop class. Pam Tashuk and Deb Holman of Richfield



Scene from video used in two-day facilitator training

a wide variety of settings

High School and Pat McGinnis in LeSueur, both in Minnesota, ran conferences for students with truancy issues.

Elementary schools

Elementary teachers from several Pennsylvania districts have run family group conferences as role plays with imaginary or minor incidents to serve as violence prevention. Sherry Maio, a guidance counselor at Warwick Elementary School, had sixth graders play the role of two boys who consistently ridiculed a girl until she refused to come to school, their victim, offenders' and victim's parents, the school principal and classroom teacher, all with striking realism. The role play not only developed empathy among the participants and their onlooking classmates, but it sparked an in-depth discussion about the merits of punishment versus conferencing.

Cindy Hasz at Durham-Nockamixon Elementary School reported a similar response to a role play based on a playground fight. "Many felt the offender hadn't been punished enough and that punishment was the only way future problems could be stopped. But when the question of whether punishment worked was raised, most agreed it didn't, that it only made kids resentful and angry."

Diane Steffen, Anoka-Hennepin Schools, Minnesota ran a successful conference for an actual playground assault by a third grader.

Carolyn Olivett at Elizabethtown College, Pennsylvania is developing a curriculum based on family group conferencing to use with elementary school students.

Probation and corrections

REAL JUSTICE family group conferences may be run at intake or after incidents of juvenile crime have been dealt with by the courts. Conferences are a forum where victims, their family and friends, and offenders' family and friends can address the emotional consequences of crime in a safe and healing environment.

Bill Rufe of Bucks County Juvenile Probation in Pennsylvania has run a number of conferences, mostly with thefts and other property offenses. One conference, however, dealt with a young offender who sexually abused his niece numerous times. The conference was conducted after the offender had completed two years of treatment, as a reconciliation event for the divided family.

In another case Rich Notaro, one of Rufe's colleagues, ran a conference six months after a serious assault. The four offenders' tearful apologies were accepted with forgiveness by the victim and his parents.

Joe Corona, corrections officer in Fairmount, Minnesota, has run conferences for shoplifting, theft, assault, terroristic threats and a false fire alarm.

The Vermont Department of Corrections and others are exploring the use of

conferencing as a response to parole violations and to disciplinary incidents in correctional facilities.

Victim services and community

Bucks County Juvenile Court is referring a variety of cases to volunteer facilitators under the supervision of the local victim services organization, Network of Victim Assistance.

A coalition of neighborhood organizations in downtown Minneapolis is using volunteers to run conferences to deal with offenses in their neighborhood ranging from prostitution to theft and assault.

Karen Marshall, coordinator of the Community Justice Program in Fort St. John, British Columbia, reports that her agency has run over 100 conferences referred by the local Royal Canadian Mounted Police in the agency's first year of conferencing.

For training information and video or book orders

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Also check out our web site

www.realjustice.org

for the latest information

77-minute video overview



"AN INTRODUCTION TO FAMILY GROUP CONFERENCING"

See what family group conferences look like.



Hear how victims, offenders and others feel about conferencing.



Hear police, educators and others describe how conferencing can help communities and schools.

Cost \$14 Canadian or \$10 U.S. Add \$4 Canadian/ \$3 U.S. currency per video for shipping/handling. Add 6% sales tax in Pennsylvania only. To order see **REAL JUSTICE** contact information on this page.

REAL JUSTICE BOOKSTORE

REAL JUSTICE

by Ted Wachtel, 180p., \$25 U.S./\$35 CND

The founder of the North American REAL JUSTICE uses actual conference stories to show how conferencing works and how it can change the way our society responds to wrongdoing in schools, criminal justice, the workplace and elsewhere. He demonstrates how conferencing benefits victims, offenders and the community by actively involving those affected by wrongdoing in the process of repairing the harm and by fostering the closure and emotional healing which is largely denied in our current systems.

Shame and Pride

by Donald Nathanson, 496p., \$16 U.S./\$22.50 CND

Donald Nathanson's book provides the psychological explanation for why family group conferencing works. A Philadelphia psychiatrist, author and lecturer, he wrote *Shame and Pride* before he was aware of family group conferencing, explaining and building upon the affect and script theories of the late Silvan S. Tomkins.



Nathanson has become an advocate of conferencing. When a

crime is committed, Nathanson said in an interview, everyone involved experiences very extreme negative affect, but the court process fails to address this. Family group conferences, on the other hand, allow for the free expression of affect, which helps people move beyond the negative to the positive and deal with the adverse emotional consequences of the crime.

REAL JUSTICE Training Manual

by John McDonald, Terry O'Connell,
David Moore & Margaret Thorsborne
136p., \$25 U.S./\$35 CND

The official training manual by the innovators who pioneered Australian police and school conferencing. This procedural handbook, a step-by-step guide to setting up and conducting conferences, is useful to anyone who wants to learn to facilitate good family group conferences in school or criminal justice settings.

Changing Lenses

by Howard Zehr, 271p., \$15 U.S./\$21 CND

Howard Zehr is an academician, writer and consultant on criminal justice. His 1990 book, *Changing Lenses: A New Focus for Crime and Justice*, is a seminal work in the "restorative justice" movement, a new approach to justice that more adequately addresses the needs and responsibilities of victims, offenders and the community, as an alternative to our present "retributive"



approach to justice. Zehr distinguishes the current definition of crime as a violation against the state or society from the restorative justice definition of crime as a violation of people and relationships. He explains how the current system of justice fails to repair the harm done to people and relationships. Family group conferencing, on the other hand, is consistent with the new "restorative" justice focus.

A New Approach to Juvenile Justice

by David Moore, 318p., \$30 U.S./\$36 CND

David Moore, lecturer and writer, has authored the first completed study of police family group conferencing, called *A New Approach to Juvenile Justice*, which is an assessment of the diversionary scheme for moderately serious juvenile offenders which he helped implement in Wagga Wagga, New South Wales, Australia in 1991, adapted from the New Zealand model of conferencing.



Moore compares juvenile offenders who went through the court before conferencing was implemented with those who went through conferencing after implementation. Results show a halving of recidivism among those offenders that went through the conferencing process, 90 percent completion of restitution and almost universal satisfaction of victims with the process.

Crime, Shame and Reintegration

by John Braithwaite, 226p., \$19 U.S./\$26.50 CND

Although written without knowledge of the family group conferencing process, Australian criminologist John Braithwaite's book, *Crime, Shame and Reintegration*, provides a sociological explanation for why family group conferencing works so well.



Braithwaite explains that the desire to avoid shame aids in the development of conscience and social bonds. He

distinguishes between two types of shame: stigmatizing shame which rejects and permanently labels offenders and reintegrative shame which only rejects the offender's deed but not the offender himself. Family group conferences encourage positive personal change in offenders because unlike courts, conferences allow offenders to shed their offender label and be reintegrated into the community.

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EVALUATIONS OF CONFERENCING

■ Wagga Wagga, New South Wales, Australia

An evaluation compared 691 juveniles apprehended during the first three years of a conferencing program with 534 apprehended in the 18 months before the program. Results (Moore & O'Connell, 1994; Moore & Forsythe, 1995) showed:

- The proportion of offenders handled outside of court increased from 49% to **72%**, without increasing recidivism
- Reapprehension for those **conferenced** lower than for those placed before the court (36% for court, 19% for **caution/conferencing**)
- Compliance with conference agreements > 95%
- Victim satisfaction 90%
- Aboriginal participants praised the program, indicating cross-cultural relevance

■ Canberra, New South Wales, Australia

The Reintegrative Shaming Experiment (RISE) in Canberra, Australia is randomly assigning juvenile misdemeanor, adult drunk-driving and young (under age 30) violent offenders to police-run conferences or to traditional court processing, and conducting structured interviews with victims and offenders. Preliminary results (Sherman, et al 1997 & 1998) indicate:

- Most victims said conferences were fairer than court
- Victims are about 5 times more likely to receive an apology and about 10 times more likely to receive some form of reparation
- Victims in court are 3 times more likely to fear the offender would victimize them again and twice as likely to believe that the offender would reoffend
- Court-processed adults were 19% more likely to feel angry or bitter about how they had been treated and 18% less likely to feel the outcome was fair
- Offenders reported higher levels of procedural fairness after conferences than after court.
- Conferences increase respect for the police and the law more than court

■ Rice County, Minnesota, United States

A junior high school of 1000 students in Rice County, has been systematically conducting **early-intervention** conferences with truancy to decrease referrals to the youth court. Typically 30 to 40 students are referred to court each year. For the first year of the conferencing effort, the total number of referrals dropped to 5.

■ Bethlehem, Pennsylvania, United States

The Bethlehem Police Department conducted 64 conferences involving 80 juvenile offenders over an **18-month** period. Cases were randomly assigned to court or conferencing. Results (McCold & Stahr 1996) found:

- More than 96% of victims, offenders and offender's parents who participated in conferences were satisfied and experienced fairness with how the justice system handled their cases, a greater proportion than those who went through the courts
- Victims who participated in conferences were significantly more likely to say that the offender was adequately held accountable than victims who did **not** participate in conferences
- 94% of offenders complied with the commitments they made to victims in conferences, such as completing financial reparation, doing community service and apologizing
- **Youth** who chose to participate in conferences had lower reoffense rates **than** those who declined to participate, making conferencing an ideal program for diverting youth **from** formal justice processes

■ Sparwood, British Columbia, Canada

The Sparwood Youth Assistance Program, a conferencing program using volunteer community facilitators, began in January 1995. Evaluation (Bouwman & Purdy, 1997) has shown:

- No young residents who committed offenses in Sparwood have been dealt with by the courts since the project's inception
- Reoffense rates reduced to 8.3% in 1995 and 2.9% in 1996
- Estimated cost savings > \$100,000 CND (≈ \$65,000 US)
- Victims rated the program, on average, as a 9.5 on a scale of 1 to 10
- 100% offender compliance with restitution agreements

Officers from the **Sparwood** Detachment of the Royal Canadian Mounted Police (**RCMP**) report:

- Time spent on **conferenced** cases is less than time spent on cases referred to court
- Greater rapport with the entire community
- An increase in cooperation from youth and community **with** investigations of criminal activity, because citizens perceive the program will assist youth and deal with them fairly

References

- McCold, P. & Wachtel, B. (1998). **Restorative** Policing Experiment: The Bethlehem Pennsylvania Police Family Group Conferencing Project, Community Service Foundation,-Pipersville, PA..
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- Moore, D.B. & O'Connell, T. (1994). "Family Conferencing in Wagga Wagga: A Communitarian Model of Justice.*" In: C. Alder and J. Wundersitz (eds.), Family Conferencing and Juvenile Justice: The Way Forward or Misplaced Optimism? Canberra, **AUS**: Australian Institute of Criminology, pp. 45-86.
- Sherman, L W.. Strang, H. & Barnes, G., & Braithwaite (1997). The RISE Working Papers #1-4. and (1998) Experiments in Restorative Policing: A Progress **Report** to the National Police Research Unit on the Canberra Reintegrative Shaming Experiments (RISE). Law Program, Research School of Social Sciences, Australia National University.
- Bouwman, J. & Purdy, G.A. Sparwood Youth Assistance Program. Paper presented to the Canadian Institute for **the** Administration of Justice National Conference, Dawn or Dusk in Sentencing, Montreal, April 24-26, 1997.

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Honolulu, HI	Oct 19-20, 1998	Outrigger Prince Kuhio 808/922-08 11
Toionto, ON	Nov 16-17, 1998	Regal Constellation Hotel, Etobicoke 416/798-6400
Richmond, KY	Dec 3-4, 1998	On site training. Call Real Justice office for information.
Training of Trainers	Dec 7-9, 1998	Doylestown, PA Call for details.
Seattle, WA	Jan 4-5, 1999	Holiday Inn Select-Renton 425/226-7700
Vancouver, BC	Jan 11-12, 1999	Plaza 500 Hotel 800/473- 18 11
Elizabethtown, PA	Jan 15-16, 1999	Licensee training. Call Real Justice office for information.
Mesa, AZ	Feb 22-23, 1999	Sheraton Mesa Hotel 602/898-8300
Santa Barbara, CA	Feb 22-23, 1999	On site training. Call Real Justice office for information.
Bethlehem, PA	Mar 15-16, 1999	Holiday Inn Conference Center 610/866-5800
Ft Lauderdale, FL	Apr 12- 13, 1999	Clarion Hotel Hollywood Beach 954/458-1900
San Francisco, CA	Apr 22-23, 1999	Holiday Inn Oakland Airport 510/562-53 11
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Training Location/Date _____

Tuition: \$250 (\$350 CND) for 2-day training if registered 30 days in advance. Within 30 days 2-day tuition is \$275 (\$385 CND). The 1-day orientation tuition (for administrators who wish to support teams attending for two days) is \$150 (\$210 CND) if registered 30 days in advance. Within 30 days 1-day tuition is \$175 (\$245 CND) In Canada add 7% GST. All trainings include lunch, breaks, two paperback books and other materials.

Payment: Requested upon registration. Fax registrations will be invoiced immediately. Purchase orders will be accepted in lieu of immediate payment. Registrations are finalized only when **payment** or purchase order is received.

Confirmation: Sent with directions about two weeks before training.

Times: Program usually starts at 8 AM and ends at 4 PM each day.

Lodging: Contact hotel and ask for Real Justice room block.

Cancellation policy: Tuition refunds (less \$25 (\$35 CND) administrative charge) will be honored for requests made at least 72 hours prior to the event. No refunds will be given with less than 72 hours notice. Participant substitutions can be made at no extra cost.

About The Training

Training Overview

Day 1

What is a family group conference?

- video of an actual conference
- conference role play
- video of a model conference

Why most people do the right thing most of the time

- a new view of compliance
- how punishment fails to affect behavior

How conferencing differs from current practices

- restorative versus retributive justice
- sensitivity to needs of victims and the community
- philosophy and theory of conferencing

What behaviors and offenses are appropriate for a conference?

Day 2

Preparing for a conference

- video scenario
- contacting offending youths, victims, their families and other participants
- winning parental cooperation
- who should attend and who should not

Facilitating the conference

- hands-on experience through conference role plays
- the role of the facilitator
- dealing with emotions
- reaching agreement
- what to do if the offender denies responsibility

Obstacles to implementation

- what will stop you and how can you overcome those obstacles

Training Books

The Real Justice Training Manual

This reader-friendly handbook contains everything you will need to facilitate conferences in your setting. Topics include:

What to conference
Contacting participants
Preconference checklist
Seating chart
The SCRIPT
Sample notification letters
Reaching agreements
Specific Facilitator Techniques

Real Justice by Ted Wachtel

You will learn how conferencing got started and why this simple tool is so effective. Read about actual conferences that have been held all over the world in a variety of settings.

Police
Schools
Campus
Court
Corrections
Workplace

Both books are included with the training tuition and are also available for \$25 (\$35 CND) through the Real Justice Office.

Use the other side of this form to register.

“Conferencing is the most powerful experience I have had in my twenty years of police work.”
David Brown, Officer, Bethlehem Police Department, Bethlehem, Pennsylvania

“Real Justice is a practical tool that works and I learned it in just two days.”
Anita Coonradt, Teacher, Latham, New York



David J. Stute
Director

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April 27, 1999

NOTICE OF COMMITTEE MEETING

COMMITTEE: SPECIAL COMMITTEE ON FAITH-BASED APPROACHES
TO CRIME PREVENTION AND JUSTICE; SPEAKER
SCOTT R. JENSEN, CHAIRPERSON

DATE OF MEETING: Monday, May 24, 1999

TIME: 10:30 a.m.

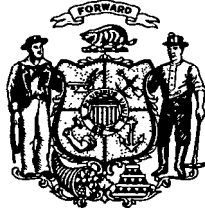
PLACE: Room 417 North (the G.A.R. Room), State Capitol, Madison.

SUBJECT: 10:30 - 12:00 Noon: Public hearing,
12:30 p.m.: Committee discussion and votes on recommendations for
legislation.

ENCLOSURE(S): Materials are enclosed for those Committee members who were
unable to attend the April 21, 1999 meeting.

David J. Stute
Director

DJS:kms;wu
Enclosures



David J. Stute
Director

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FAX (606) 266-3830

NOTICE OF PUBLIC HEARING

SPECIAL COMMITTEE ON FAITH-BASED APPROACHES TO CRIME PREVENTION AND JUSTICE

Speaker Scott R. Jensen, Chairperson

Monday, May 24, 1999

Room 417 North (the G.A.R. Room)

State Capitol, Madison

10:30 a.m. - 12:00 Noon

The Joint Legislative Council's Special Committee on Faith-Based Approaches to Crime Prevention and Justice has been directed to study means by which faith-based approaches to lessening crime rates, lowering recidivism and achieving restorative justice in the aftermath of criminal acts may be encouraged.

The Committee will take public testimony on preliminary drafts of recommendations for legislation which will be available at the Legislative Council Staff offices on May 18, 1999. The drafts will be mailed to Committee members and persons on the Committee mailing list on May 17, 1999.

Support the Nation of Islam's Prison Reform Ministry

The prison system is not set up to reform. It's a dead end. In a Philadelphia study, it was found that 35% of all males had been arrested at least once. Fifty-four percent of those arrested at least once were arrested a second time. Sixty-five percent of those arrested twice were arrested a third time. And 72% of those arrested three times were arrested a fourth.

The rate of recidivism, or tendency to return to criminal habits, indicates that there is no real reform. In fact, the inmate's propensity toward criminal behavior only worsens after going to prison. And \$18,000 of the taxpayer's money is spent per year per inmate to keep them in prison. In effect, billions are spent each year to create and maintain hardened criminals that remain the outcasts of the society.

When you look at what the Muslims are doing with our prison program, in the midst of you, here again you see a torchlight. Muslims are relatively crime free, and our rate of recidivism is lower than in the main. We respect law and order. Since so many of the inmates are our people, why not let us reform them and help to save some of the taxpayer's money. Why not let us handle the inmates and lessen the taxpayer's burden. We can handle the inmates for less than what America is paying now. And better, we can reform our people and make them productive members of society.

BEGIN REFORMING BLACK INMATES BY HELPING THEM MAKE A NEW BEGINNING IN A LAND OF THEIR OWN

America has not found a way to curb crime and reform those in her society who consistently break her laws, particularly in the black community. The fact is that due to the high rate of recidivism, most of the street crime in this country is perpetrated by the same set of people. Instead of being reformed, a substantial number of people are recycled through committing crime and then being incarcerated again and again. **The** threat of street crime to life and property, and the great cost to the American taxpayer for warehousing people in jails and prisons, continues unabated.

We have an idea for addressing the problem of crime and reforming the so-called criminal, that can at the same time relieve some of America's burdens and even elevate her stature in the eyes of God and the nations of the earth.

America, and the nations of the earth, are in competition for developing the resources of Africa - the next significant economic growth opportunity in the global economy. Blacks in America could help to foster the relationship that could cause America to be first in line in trade relations with Africa and the development of her mineral resources - which is the prize sought by every nation that would hope to be a world leader in the 21st century.

However, America's foreign policy and relations with other nations is largely a reflection and the result of her treatment of the different ethnic and racial groups within her borders. If America would improve her treatment of black people, she could leverage that improved treatment to foster favorable relations with Africa. Also, if America would develop an enlightened foreign policy toward Africa, this would lead to stronger trade and economic opportunities.

We are Proposing that America - by encouraging development in the black community and by helping us to make a new beginning on the continent of Africa, first with the inmate population - could win a place in the hearts of Africans that would gain for America a strong foothold on that strategically important continent.

If we look at what Europe and America did for the Jews of the world by creating a state for them in what was called Palestine, we ask: Why can't this model be used again to create a state for those black people who would be willing to work to build a new reality for our people now and in the future?

Europe released its prisoners to the colonies of the New World, not only to populate the colonies, but to build a new reality from a wilderness. It worked. Australia and New Zealand were also populated by prisoners from Europe.

Twenty-five percent of our youth are in some way connected with the criminal justice system, and about half of the jails and prisons are populated by blacks. When you consider the high rate of recidivism and the cost to maintain prisoners, and when you consider that integration has not worked to advance the condition of many of our people, shouldn't we be open to new ideas, especially when they are rooted in models that have worked in the past?

Suppose we asked our brothers and sisters in Africa to carve out of that huge continent a territory for blacks from the diaspora to begin to build a new reality. Since Africans were involved in the slave trade, which brought their **kith** and kin to these shores in chains, thus having a hand in bringing us to our wretched present day condition, should not Africa also have a hand in our redemption? Some of our people would be willing to build a new reality on the continent of Africa, America, as well as ourselves.

The Muslims have shown a tremendous ability to reform those of our people who break the law. The movie "Malcolm X" demonstrated how the teachings of the Honorable Elijah Muhammad could reform an eighth-grade dropout student and so-called criminal into a world leader. How many future world leaders are languishing in prisons who may never have a chance to demonstrate to the world what the Almighty Creator has put in them? Our prisoners need a chance to do something constructive with their lives.

America should be willing to support the Nation of Islam for the next three or more years, to teach unhindered in the jails and prisons to begin the process of reform.

Meanwhile, we could work with African governments toward the establishment of a territorial base for our people.

There are many black scholars and professionals who are not presently working who would be willing to teach and train the inmate population in the skill necessary to build a new reality. We would offer the prisoners a chance to be reformed, trained, and then work off their time building a new reality on the African continent.

In a White House conference held nearly 130 years ago, President Abraham Lincoln tried to get blacks to go to Central America or Africa to begin a new life. He said that perhaps what we had learned in our sojourn in America would be of use to that "dark" continent. Black people turned down President Lincoln's offer and elected to stay, although the president had promised that we would never be equal in this society. President Lincoln was correct. Even to this day we are still not equal members in the society. However, since that conference, blacks have emerged as masters in every field of human endeavor. That mastery must now be put to work to lift the masses of our people in America and to help lift Africa into the 21st century.

Europe and America are attempting to get African leaders to allow them to dump their nuclear waste material on the African continent. I am not asking the government to make Africa the dumping ground for America's rejects. I am asking that America support us in the first reforming the so-called criminal element among our people, and then placing them in an environment that will manifest their hidden gifts and talents.

Amends have never been made fully for the destruction of black people during the Holocaust of slavery and through the institutions of racism that have prevailed from that time to the present day. The moral issue of rectifying its role in dehumanizing an entire people still hovers over America.

In America, many of our people have been written off as members of the permanent underclass, meaning the country has lost hope in improving the condition of these people. As discussed earlier, many of our people have lost their jobs - in disproportionate numbers when compared to job loss and unemployment rates among white people - due to the deteriorating economy. This idea should be open to all of those - the permanent underclass and the unemployed - who would be interested in making a new reality for themselves on the continent of Africa.

The majority of black people will not wish to go anywhere. Because of the contributions that our forefathers have made to this land, and the contributions that blacks continue to make to America. most of

our people feel that this is our only home. However, a small but significant number would be willing to try to build a new reality on the African continent, with the support of the government.

We would propose that some of the \$18,000 spent each year per inmate to warehouse them in a cell be redirected to support building a new reality as outlined here. We would give the inmates a right to choose to stay here or to build a new reality in a land of their own. The freedom of choice, the right of the people to choose, has been and is the way of the teachings of the Honorable Elijah Muhammad. We have given our people an opportunity to make enlightened choices on their behalf for the past 60 years, and we will continue to do the same in the future. We would ask that the participants be granted the same dual citizenship that allows Jew to travel back and forth to Israel, making their contributions on both sides of the Atlantic.

The work done by former criminals of Europe in establishing America, New Zealand and Australia, has redeemed them in the eye of history. Let the work of the so-called underclass and so-called criminal element among black people be allowed to redeem them in the eye of history by their being permitted and supported in building a new reality on the African continent.

As Jews in America visit Israel and take pride in the accomplishments of their Jewish brothers, yet still desire to live in America, let the blacks who remain in the **diaspora** take pride in the work of these pioneers who would venture to build a new reality in Africa.

Further, we would establish a skills bank, composed of our scholars and professionals, for use in developing Africa and the Caribbean. We propose that these scholars and professionals work for other countries for an agreed upon compensation plan, including salary and benefits. However, what they work to develop in manufacturing, mining, agriculture and industry, a percentage of the profit would accrue to a national treasury for the benefit of those blacks who remain in America, so that on both sides of the Atlantic we will use our bitter experience for the good of Africa as well as America.

I want to briefly touch on another aspect of America's foreign relations. Since the fall of **the** Soviet Union, many governments are **seeking** a new relationship with America. America must allow these relationships to be built on an equitable basis. This government must respect the right of self-determination for every sovereign nation.

There are nations that historically have been viewed as enemies of America. This antagonistic relationship does not necessarily have to continue. Countries like Cuba, Libya, Iran, China, Vietnam and others are all seeking to improve relations with America without compromising their dignity and **self-respect**.

Imagine a world where each nation directs the focus of its energies and resources to addressing its critical internal problems that affect the quality of life of its own people, instead of focusing on meddling in the affairs of other nations.

* * * * *

We offer ourselves to America as an example of what can be achieved when we have the proper state of mind and connectedness with the Lord of the worlds. We can show what that Bible that many Americans have right on their shelves gathering dust can do when properly used. Although we use the Holy **Qur'an**, the Bible was the main tool used by the Honorable Elijah Muhammad because it was the book that we knew best. What product is America making with the Bible? We're making clean, productive black men and women from the same Bible that you read. That's our goods. That's our services.

Our people respect us. We don't go to our people with guns. We go with love and a moral imperative that appeals to their nature as the people of God.

The National institute of Mental Health wants to say that we are genetically prone to crime. So they want to promote a drug that they say will curb crime among black people. Does America want to promote that same drug with white people, who have killed millions upon millions of blacks, native Americans, Africans, Jews, Asians, and even their own Gentile brethren?

Crime is a consequence of an unjust society and a corrupt political, economic and social system. If manufacturing is brought back to the cities instead of being continually ceded to foreign countries, then we can offer our people an alternative and we can lift the poor in this country and save the cities.

When you have a relatively drug-free community you have a relatively crime-free community where the ties of family are strong and there is very little domestic violence. None of the members of the Nation of Islam are allowed to carry or possess weapons. Recently we received a contract to patrol a **LOS** Angeles

apartment complex. In just two months time the police reported that crime decreased 75%. What do we have that the police don't have? We love our **people**.

We need to promote observance of God in everything that we do. This will repair the relationships between male and female and lead to lasting, happy marriages, and the elimination of rape, incest, molestation, assault and the abuse of women. It will also repair the relationship between the governed and the governors.

It is necessary to sit and reason with us. We are ready to sit down and talk with America's leaders, if they are ready to break the **mindset** of a slavemaster and cancel that old master/slave relationship. We're ready to talk about instilling core values among our people, generating jobs, sacrificing to reduce the federal debt, rebuilding the cities, making the streets safer, educating our children to be the envy of the civilized world, curing AIDS, providing a future for ourselves and for all of America. Is America ready for us?

From the book : TORCHLIGHT FOR AMERICA

Should All Be FORGIVEN?

Giving up that grudge could be good for your health. Researchers are pioneering a science of redemption based on an old form of grace

By DAVID VAN BIEMA

ONE YEAR AGO, ON MARCH 24, Mitchell Wright was plunged into anger and despair. On that day, two boys, Mitchell Johnson, 13, and Andrew Golden, 11, played sniper on their middle school campus in Jonesboro, Ark. They murdered four of their schoolmates with 22 shots. They also killed a teacher, Shannon Wright, 32, Mitchell Wright's wife. Says he: "The ballistics report shows the Johnson boy fired five shots and had five direct hits. He hit one person in the head, he hit my wife in the chest and the knee and two girls in the knee area." The shooter, Wright recalls, stood up in court and said that he was sorry, that he was not trying to kill anyone, that he and his friend were shooting over the heads of the teachers and students

they had tricked into assembling outside, that it was all just to scare them. The anger rises in Wright's voice. "I don't buy that."

But buy it or not, Wright knew that he must fight against being consumed by rage. He began on the very Sunday after the horror, asking his fellow congregants in church for support. The stakes, he realized, were high. First, there was his three-year-old son Zane. When my wife was dying, she said, 'I love you, and take care of Zane.' Well, if I lose it then I can't take care of him." And then there was the matter of his immortal soul. "If you let the hate and anger build in you, that's a very strong sin," he says softly. "I need to be able to totally forgive." And what does that entail? "To me, forgiveness would be if when these boys get out, I can see them on the street or in a Wal-Mart and not want to..." His voice trails off. He concedes, "I am not at that point yet."

America can be a very unforgiving place. It is not that we aren't taught to forgive. This Sunday, on Easter, millions of Christians will celebrate the embodiment of divine forgiveness, the risen Lord. The parable of the pardoning of the prodigal son is recapitulated as often on daytime soaps as in Sunday sermons. No, the problem with forgiveness has been that of all acknowledged

good acts, it is the one we are most suspicious of. "To err is human, to forgive, supine," punned S.J. Perelman. In a country where the death penalty has been a proven vote getter in recent years, forgiveness is often seen as effete and irresponsible. Sometimes it even seems to condone the offense, as noted centuries ago by Jewish sages who declared, "He that is merciful to the cruel will eventually be cruel to the innocent." Nothing lately has shown the cheap side of forgiveness like Bill Clinton's calculated plays for public pardon, culminating in a dizzying switcheroo after the Senate impeachment vote. Asked by Sam Donaldson if he would "forgive and forget," Clinton answered earnestly, "I believe any person who asks for forgiveness has to be prepared to give it," a response that seemed almost as disingenuous as it was perfectly crafted. Of what value a forgiveness that is so easily manipulated for political gain?

And yet despite every indignity and scoff, forgiveness does not just endure but thrives. As Mitchell Wright instinctively realized, there is not only a religious impetus to forgive but also therapeutic, social and practical reasons to do so. This applies to victims of crimes as well as to those who must deal with the slings and arrows of more common misfortunes—unfaithfulness, betrayal, ungratefulness and mere insult. In the past two years, scientists and sociologists have begun to extract forgiveness and the act of forgiving from the con-

A Father's Nightmare

WHO Mitchell Wright

WHERE Jonesboro, Ark.

OFFENSE Two boys shot their classmates and Wright's wife in a horror that shocked America

THE STRUGGLE "My son's feelings toward those two will be what he gets from me. If all he hears is hate and anger, that's what he'll get. I don't want him to grow up with that"



of Zane.' Well, if I lose it, then I can't take care of him.



RENEE LISSE FOR TIME

lines of the confessional, transforming it into the subject of **quantifiable** research. In one case, they have even systemized it as a **20-part** "intervention" that they claim can be used to treat a number of anger-related ills in a totally secular context. In short, to forgive is no longer just divine.

"The field is just exploding," says Virginia psychologist Everett Worthington, director of the Templeton Foundation Campaign for Forgiveness Research. He should know. His organization, set up by mutual-fund **magus** Sir John Templeton, has distributed \$5 million to scientists studying, among other things, forgiveness among chimpanzees and its physiological effects on the pulse and the sweat glands of humans. A number of psychotherapists are **testifying** that there is nothing like it for dissipating anger, mending marriages and **banishing** depression. Just a few years ago, says Robert **Enright**, a psychology professor at the University of Wisconsin and a pioneer in the scientific study of forgiveness, most secularly inclined intellectuals "**trashed** it; they **said**, 'Only wimps forgive.'" But now, Enright says, "psychiatrists, **M.D.s**, scientists, lawyers, ministers and social workers can **all** be on the same page. We are really on a roll."

Step into a forgiveness laboratory partly funded by a \$75,000 Templeton grant. At Hope College in Holland, Mich., Charlotte van Oyen **Witvliet** puts electrodes on a young volunteer. In a moment

Forgiving the Dead

WHO Delilah Bell

WHERE Madison, Wis.

OFFENSE **Bell's fiancé's drug- and alcohol-related death: "He promised to be there for the kids, and he left me"**

THE STRUGGLE Can forgiveness **alleviate** her recurring **grief and rage**?

he will think about a hurt that has been done him and then "actively rehearse" it for 16 seconds. At the sound of a tone, he will escalate his thoughts to "nursing a grudge" and making the offender feel horrible. Another beep will cue him to shift gears and "**empathize** with the offender." Finally, he **will** imagine ways to "wish that person well." Throughout the two-hour session, the four responses occur in different sequences, and Witvliet, a professor of psychology, will measure his heart rate, blood pressure, sweat and muscle tension.

So far, she **has** studied 70 subjects, half of **them** men, half women. **Witvliet finds** "robust" physiological differences **between nonforgiving** and forgiving **states**. Subjects' cardiovascular systems inevitably labor when they remember the person who hurt them. But stress is "**significantly greater**" when they consider revenge rather than forgiveness. Witvliet suggests that we may be drawn to hold grudges "**because** that makes us feel like we are more in control **and** we are

less sad." But **interviews** with her subjects indicate that they felt in even greater control when they tried to empathize with their offenders and enjoyed the greatest sense of power, well-being and resolution when they managed to grant forgiveness. "If you are willing to exert the effort it takes to be forgiving there are benefits both emotionally and physically," she concludes.

While Witvliet labors to show the physiological benefits of forgiveness, Emory University primatologist **Frans De Waal** is busy extending its evolutionary pedigree. A study at his **Living Links** Center suggests that the Christian church's teaching on reconciliation may be viewed as the **refinement** of mechanisms reaching back not **some** 2,000 years but 25 million. "Instead of looking at **conflict** resolution as uniquely ours," he says, "we are showing that it exists in many cooperative species," particularly chimpanzees. De **Waal's** work focuses on the "social memories" of primates, and he says, We have **full confidence** that they have memories of **fight**s, hold **grudges**—and make up when **necessary**." **While such** behavior is not synonymous with forgiveness, says De **Waal** "it's hard to imagine it's not related."

Evolutionary psychologist David Buss, a professor at the University of Texas in Austin, has pondered the **sociobiological** logic of forgiveness and concluded that at least in the realm of mating, men and

It is the way I honor Catherine. To murder someone in

women may be programmed to employ it differently. Males, he suggests, are less likely to forgive a **fling** because if the woman becomes pregnant, "a man doesn't want to be investing resources in other men's **children**." In **contrast**, a woman may be more forgiving of a man's **one-time** infidelity (assuming that he has already given her a **child**) but less **forgiving** of a long-term diversion of material or emotional resources to another woman or a second **family**. "From an evolutionary perspective," says Buss, "**part** of the reason a woman marries is to secure **all** the resources of a man for herself and her children."

AS INTRIGUING AS SUCH MUSINGS are, theories are made flesh outside of laboratories. A persuasive **anecdotal** demonstration is occurring in a spotless apartment on the struggling South Side of Madison, Wis., where a graduate student named Paul **Cardis** is revisiting a former insurance processor named Delilah **Bell**. Five years ago, Bell's **fiancé** died of drug- and alcohol-related **pneumonia**, leaving her to raise their four **children** alone. To Bell, his **death was worse than needless. It was a betrayal**, and alternating bouts of anger and **despair reduced her to a state close to paralysis**. "I would **talk** to my mother about it," she says. "And she would say, 'Just let it go.' I'd say, 'How can you say that?'"

Then in 1997 Bell became part of a research project conducted by **Cardis** under the **supervision** of **Enright**, the forgiveness **trailblazer**. In eight sessions over two months, they explored a radically new ap-

proach for her condition. Today, on a follow-up visit, **Cardis** asks how things are going. "Pretty good," Bell replies. "The other day **Michael [her 14-year-old]** skipped school. He didn't walk in the door until 20 minutes to 8 that night." "Did you get upset?" asks **Cardis**. "I did, but I **tried** not to." "Did you forgive him, or are you still working on it?" "Still working on it" "That's appropriate. It's a process," **Cardis** says. He pulls out a set of **flash** cards bearing positive legends such as "Choose to forgive rather than getting **even**." The flash cards are **familiar** to **Bell** from last year-as were forgiveness homework assignments and forgiveness refrigerator magnets and lessons from **Cardis** and **Enright's** 23-page "Strengthening Families" instruction manual. **Bell** **points** to the card headed "See with new eyes-Take another look at the one who hurt you." "I'm trying to understand **Mikey**," she says, "but if I stay **calm**, I don't want him to think I condone what **he did. I told him that to keep his job, he has to go to school**." **Cardis** nods. "If you say you forgive him," he says, "it doesn't mean that you are **letting** him do whatever he wants. Forgiveness is not about forgetting the wrong." He smiles. "But deciding to forgive is a pivotal **point**."

The change in Bell is palpable. Where once she was silent and confused, she is **direct and focused. This is all the more remarkable since**, as she calmly informs **Cardis**, last **October** she underwent surgery for breast cancer. In the days before her forgiveness sessions, such a setback would have sent her into a vortex of helpless rage, and she admits, "At first I wanted to blame someone." That passed,

however. The cancer has apparently not spread, and she **values** her new composure. "I can buy another breast," she explains. "I can't buy another life."

Bell, a paid research subject signed up for Enright's project with no expectation of a breakthrough. But citing a similar study with incest survivors, **Enright** says, "People who came to us with moderate psychological depression-and that is a lot of pain-all ended up being not clinically depressed and retained that over 14 months." He and his students have also applied his forgiveness "intervention" to elderly parents angry at distant children and men hurt by the abortion decision of a partner. His latest project is with sex offenders in a Madison mental-health **facility**. Enright feels that by helping them forgive the abusers **in** their own past, he may awaken empathy for their victims and decrease their recidivism.

Forgiveness has even wider social **applications**. An **unusual** coalition of liberal lawyers and religious thinkers has pioneered something called the restorative justice movement whose favored instrument is conferences between crime victims and jailed perpetrators. There are now more than 300 such programs in prisons country-wide, including a \$1 million religion-based juvenile-justice initiative in Florida

While restorative justice has roots in **Christianity**, its payoff is political and psychological. The conferences give victims the chance to confront criminals with the heartbreak they caused. The meetings' end goals, however, are rehabilitation and social engineering: they rehearse the prospect of a whole community once the



MARK RICHARDS FOR TIME



COURTESY ABA GAYLE (2)

Reconsidering A Death Wish

WHO **Aba Gayle**
WHERE Santa Rosa, Calif.

OFFENSE **Douglas Mickey** stabbed **Gayle's 19-year-old daughter Catherine Blount**, above left, to death in 1980

THE STRUGGLE **Gale** planned to watch **Mickey's execution**. But she began to doubt his death would make everything O.K. After long thought, she would meet him, lower near left

her name and to say we are doing it for her is horrible.

prisoner is released back into society. Forgiveness is not a conference "agenda item," says Bruce Kittle, a Wisconsin pastor and clinical professor who consults on the state's restorative justice programs, but "we talk about it with victims beforehand. Particularly in violent cases, it sometimes has a more direct role." Says Walter Dickey, a former head of the Wisconsin department of correction: "What you end up with is a lot of apologies by offenders." And about 85% of the time, he estimates, these are followed by a two-part victim response: "a flat-out statement that what you did to me was wrong and then a willingness to forgive and let it go."

Long before restorative justice gathered steam, Aba Gayle, 65, learned to forgive and to let go. Gayle says she knows all about "the big lie"—the promise that prosecutors make to relatives of murder victims that "everything will be O.K." once a murderer is caught, tried, convicted, sentenced to death and executed. In 1980 her daughter Catherine, 19, and a male friend were stabbed to death on a pear farm near Sacramento, Calif. Virtually disabled by what she called a kind of temporary insanity, Gayle attended the sentencing of Douglas Mickey as he received the death penalty for the killings. She left the proceedings "horrified" that such a sentence could be imposed so matter-of-factly. Yet when Mickey's execution date was set she asked for a seat as a witness, hoping to be able to see him pay for her daughter's death.

Then one night in 1992, Gayle wrote her daughter's killer a letter. "It just flowed," she says. She told him she forgave him and was willing to visit him. "The instant the letter was in the mailbox all the anger, all the rage, all the lust for revenge disappear&" she says.

And Mickey wrote back. He told her that what he had done was an "unspeakable burden" to his soul. He said that if he could undo the night he killed Catherine and her friend, he would gladly give his life. Since then, Gayle has visited Mickey several times and corresponded with him regularly. And she has joined Murder Victims' Families for Reconciliation, a group that opposes the death penalty. "It is the way I honor Catherine," she says. "To murder someone in her name and to say we are do-

THE KEYS TO FORGIVENESS

Empathy for the Offender

Robert Enright of the University of Wisconsin suggests thinking about these questions to help "the injured person view the offender as a vulnerable human being":

- What was it like for the person as he or she was growing up? Did the offender come from a home in which there was conflict or even abuse?
- What was happening in the person's life at the time he or she hurt you?
- Can you see the person as having worth simply by being a member of the human community?

Applying Forgiveness

While doing so, it is important to remember these distinctions:

- Forgiveness is not legal pardon
- Forgiveness is not reconciliation. While it takes only one person to forgive, it takes two to reconcile. And in some cases the best course is never to see the offender again
- Forgiveness is seldom simple, linear, fast or even necessarily complete. In fact, anger can often remain after forgiveness
- You will never truly forgive if you haven't honestly acknowledged how wrong the person was to hurt you

ing it for her is horrible." Gayle sees herself as a spark for smaller mercies. "People think, If she can do that, maybe I can forgive my sister for what she did to me or my brother-in-law or mother—or whomever they've been holding a grudge against all these years."

For all its feel-good potential, however, forgiveness has more problematic reverberations than, say, Roxac. Can a woman's healing be helped by forgiving a physically abusive ex-husband who continues to savage her verbally among friends? What if they are still married and he is still beating her? Should the unrepentant be forgiven at all? Kittle, the Wisconsin restorative justice consultant, warns of misuse: "In religious traditions, there can be a sense of revictimization. They say to themselves, Here I am, and my child has been killed, and my pastor dur-

ing my grieving period says, Jesus says you need to forgive, and if you don't, you are a sinner."

The definitions of forgiveness are many, but most acknowledge that it involves a "giving up" of something, whether it be anger, the right to vengeance or, say some skeptics, the memory of an event the way it really was. In *The Sunflower*, Nazi hunter Simon Wiesenthal asked whether it would be proper for a Jew in a slave-labor camp to grant forgiveness to a dying SS man begging ab-

solution for earlier murder. As part of a symposium that is incorporated into the book, the writer Cynthia Ozick said absolutely not: "Forgiveness is pitiless. It forgets the victim. It blurs over suffering and death. It drowns the past. The face of forgiveness is mild, but how stony to the slaughtered ... Let the SS man ... go to hell." How-to books, therapy and interventions may be useful in dealing with an unfaithful spouse, gossiping colleague or even some cases of violence. But there are other practices—serial killing, torture, genocide—often regarded as unforgivable.

There are no easy answers to such objections. But for most of us, they will remain in the background so long as during its journey from sacrament to science experiment to possible nostrum—forgiveness becomes neither a foregone conclusion nor an obligation, but remains a mystery within the heart of the forgiver. Only then will people like Mitchell Wright feel free to continue their struggles. Wright knows that far from being the recourse of wimps, forgiveness is the hardest course of all.

"Hate can come easy," he says. "I am having a tough time, and I pray. It's not as bad now as it was. But there were several times when I found myself confronted with mixed emotions. You just pray to God, 'Lord, help me. I need some help with this anger.'" He takes solace in one other resource unavailable to those whose forgiveness is removed entirely from faith. The night his wife died, Mitchell Wright talked to his son Bane. "He asked me when Momma was coming back, and I told him she couldn't." But, he recalls, "I promised him we would both see her again."

—Reported by Wendy Co&/Madison, Emily Mitchell/New York, Sylvester Monroe/Atlanta and Laura Laughlin/Phoenix

THE UNFORGIVEN

■ Would you forgive someone who:

	% FORGIVE	% NOT FORGIVE
Told lies about you?	73	24
Stole money from you?	67	31
Strapped or punched you in the face?	64	32
Held you up with a gun?	42	54
Murdered someone in your community?	33	59
Raped you?*	22	73
Raped a member of your family?	19	77
Murdered your child?	15	81

*asked of women only
From a telephone poll of 1,049 adult Americans taken on March 25 for TIME/CNN by Yankelovich Partners Inc. Margin of error is ±5%. "Not sure" omitted

copy

APRIL 16, 1999

Distributed by Bobby Bullet St. Germaine
(4/21/99)

DEAR R.J. PIRLOT,

THE FOLLOWING ARE SOME OF THE CONCERNS AND PROBLEMS
AT COLUMBIA CORRECTIONAL INSTITUTE (PORTAGE, WIS.) FOR
US AS TRADITIONAL FIRST NATIONS SPIRITUAL LEADERS
AND ADVISORS:

1) WE CAN'T TAKE THE SACRED PIPE TO PRISONERS IN
SEG. 1 WHICH ALLOWS SMOKING, ALSO CAN'T TAKE SACRED
PIPE TO SEG. 2. WHICH DOESN'T ALLOW SMOKING. THIS
IS A POWERFUL WAY TO PRAY, A DIRECT LINK TO THE
CREATOR, AND ALSO HELPS TO HEAL THE PRISONER.

2) PRISONERS CAN'T USE CLAM OR ABALONE SHELLS FOR
SMUDGING, INSTEAD ARE FORCED TO USE PLASTIC
ASHTRAYS WHICH BURST APART EVERY ONCE IN A WHILE
FROM REPEATED HEATING AND COOLING.

3) NO BATHROOM FACILITIES AT SWEAT LODGE SITE. PORTA
POTTY WAS NEAR BY FOR SUMMER AND FALL BUT NOTHING
FOR WINTER AND SPRING.

4) WE CAN'T RECEIVE GIFTS FROM PRISONERS AT SACRED
SWEAT LODGE CEREMONY - GIVING IS VERY IMPORTANT
IN OUR TRADITIONAL CEREMONIES AND TRADITIONS.

5) WE CAN'T GIVE PRISONERS SMUDGE MATERIALS (SHELLS, TBACCC
SAGE, SWEET GRASS, CEDAR) OR SACRED PRAYER FEATHERS,
SACRED PIPES ETC.

6) WE CAN'T BRING IN BERRIES OR ANY OTHER SACRED FEAST FOOD FOR OUR SACRED SWEAT LODGE CEREMONY WHICH IS ALSO VERY IMPORTANT FOR THE CEREMONY.

7) WE DO NOT HAVE ANY SEPARATE AREA FOR OUR SACRED ITEMS AND UNLIKE THE CHRISTIAN RELIGIONS, WE HAVE NO FILE OR OFFICE SPACE TO USE.

8) THERE IS A LACK OF BOOKS, NEWSPAPERS, TAPES, AND VIDEOS FOR FIRST NATION PRISONERS. ALSO LACK OF FUNDS FOR SWEAT LODGE MATERIALS SUCH AS CANVAS TARPS AND FOR SPIRITUAL LEADERS, ADVISORS, GUEST SPEAKERS ETC.

AS FOR THE WISCONSIN STATE PRISON SYSTEM OVERALL SOME OF OUR MAIN CONCERNS ARE:

1) LACK OF FUNDS FOR FIRST NATION PRISONERS SPIRITUAL HEALING NEEDS. LACK OF FUNDS FOR SPIRITUAL LEADERS, ADVISORS, GUEST ELDERS.

2) LACK OF RESPECT FOR OUR TRADITIONAL WAYS FROM GUARDS, PRISON CHAPLAINS/PRIESTS, AND ADMINISTRATION.

3) NOT HAVING THE SAME RIGHTS AND PRIVILEGES AS PRISON CHAPLAINS AND PRIESTS.

4) EVERY WISCONSIN STATE PRISON RULES AND REGULATIONS CONCERNING FIRST NATION PRISONERS ARE SUBJECT TO THE DIFFERING VIEWS AND WHIMS OF EACH INDIVIDUAL PRISON WARDEN, HEAD OF SECURITY AND TO A LESSER EXTENT THE PRISON CHAPLAINS.

5) WE ARE NOT ABLE TO USE ALL OF OUR TRADITIONAL WAYS AND MEDICINES TO HELP HEAL OUR FIRST NATION PRISONERS PHYSICALLY, MENTALLY, EMOTIONALLY AND SPIRITUALLY. ----- PRISONERS ARE BEING RELEASED TO OUR COMMUNITIES IN THE SAME OR WORSE CONDITION THAN THEY WENT INTO PRISON.

THE UNDERLINING QUESTION TO ALL THIS IS: ARE WE GOING TO JUST PUNISH AND TORTURE THE PRISONERS OR ARE WE GOING TO TRY AND HELP THEM BECOME BETTER PEOPLE BY TRYING TO HELP THEM HEAL?

THANK YOU FOR INQUIRING AND LISTENING.

SINCERELY,
Mark Welch

1ST NATION SPIRITUAL ADVISOR AT COL. CORR. IN:

MARK WELCH
5307 S. CARVERS ROCK RD.
MILWAUKEE WIS. 53525

688-676-4603



Sanctuary Of The Healers' Heart
Rev. Brenda A. Stein, M.D., **FAAFP**, D.D.Hon.
P.O. Box 1839
Kenosha, WI 53141-1839

Address To The Legislative Committee On Faith-Based Approaches To Crime Prevention And Justice

21 April, 1999

Blessings to You:

I am Rev. Brenda A. Stein, M.D., FAAFP, D.D.Hon. I am the Assistant Director for the Racine Family Practice Residency Program and an Assistant Professor with the Medical College of Wisconsin Dept. of Family and Community Medicine. I completed my medical training at Baylor College of Medicine in Houston, Family Practice Residency at the University of Kansas at Kansas City, an academic faculty development fellowship at the Medical College of Wisconsin, and received an honorary Doctorate of Divinity from the American Fellowship Church. I am a legally ordained minister, Bard and Priestess for the people of the Wicca for the last nine years and currently act as High Priestess to Sanctuary of the Healers' Heart, an independent Wiccan / Pagan ministry - led by myself and my husband / Priest, Rev. Richard M. **Cadwell**, B.A, D.C., D.D.Hon. Together we have served as Bards, Healers, mentors, advisors, and Elders to many individuals, several covens, the Midwest Pagan Council, Pan Pagan Retreat, and many others. For the last two years we have served as Volunteer Wiccan / Pagan Clergy for the All Saints Hospital System in Racine Wisconsin. It has been our privilege and honor to act as Volunteer Wiccan Clergy for the Wisconsin Department of Corrections inmates at Racine Correctional **Institute** for the last year - until we were involuntarily suspended for alleged **fraternization** and inappropriate conduct. We believe these allegations are based on fear, misconception, and intentional bias / discrimination against Wiccan practitioners. This written document serves not only as my testimony to the Legislative Committee but is also intended to serve as the formal written appeal of the Revocation of my Volunteer Clergy privileges.

Unfortunately, my duties as a physician and educator preclude me from being here today; however, I have prepared this statement for you [which with my permission may be read to the Committee on my behalf, or which

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may be copied and distributed to the Committee members for their individual review]. I wish to thank the committee, Right Honorable Chairman and Honored guests for the opportunity to speak on behalf of the Sanctuary of the Healers' Heart and those incarcerated Wiccans whom we have chosen to serve.

In December of 1997, my Priest and I were approached to provide volunteer services as Wiccan Clergy for incarcerated Wiccans at the Racine Correctional **Institution**. In February of 1998, we obtained permission to meet and work with the Wiccan inmates - twice weekly - on Tuesday morning and Saturday evening. These sessions were to be divided between study and worship. Due to my daily duties as a physician / educator, I was not able to attend daytime sessions so those were conducted by Rev. Cadwell. We both attended Saturday evening sessions and provided instruction and worship services to the best of our ability in accordance with DOC regulations and acting in Perfect Love and Perfect Trust with the sole intent of providing Wiccan training, worship, pastoral care, spiritual support and guidance to aid the inmates on their personal quest not only for criminal rehabilitation but for their moral and spiritual growth, healing, and transformation in accordance with the Greater Good.

Every clergy for every denomination or tradition combines their clerical / liturgical training, personal experience, and other personal / professional knowledge, skills, and tools to create a focus or approach which they can then tailor to the needs of their individual practitioners and congregations. As High Priest and Priestess of Sanctuary of the Healers' Heart, we have integrated our professional knowledge and training in human psychology and **counselling** skills with our pastoral training in providing spiritual guidance to focus on personal and spiritual growth, healing and transformation. We have drawn on our experience and training in working with adult survivors of abuse, domestic violence, mental illness, alcohol and substance abuse, and crises intervention - to name only a few areas. In addition, I have incorporated my experience as a health care physician provider working under the rules and regulations of several WI DOC facilities - including the Kenosha and Racine County Jails and my current position as physician at the Southern Oaks Girls School.

We have altered both our instruction and rituals to comply with DOC regulations, avoid misinterpretation, and to emphasize a personal growth oriented psycho-social-spiritual component. It has been our focus to provide the kind of clerical services 'provided by mainstream chaplains, **insofar** as possible, since we firmly believe that a religious paradigm and ethical system are **essential** to the individual's rehabilitation and re-integration into society in a positive and responsible manner. A spiritual paradigm which recognizes the divine nature of all life, the **connectedness** of all beings and things, the shared humanity amongst all peoples, and morally and ethically right behavior towards self, others, and the divine - held with conviction and incorporated into all thoughts, actions,

intents, and deeds - provides a foundation not only for re-integration into society but also provides the necessary attitudes and personal resources to diminish or prevent recidivism. By providing Wiccan chaplaincy we attempt to help these men focus on a positive self growth path that is consistent with the religious / spiritual paradigm which they have chosen to live. For all acts **from** the purely mundane to the sublimely spiritual are equally holy: the way we arise, **eat**, dress, conduct our affairs and relationships, our connection to our Mother Earth - the turning of her seasons, the phases of the moon, and **the** tides of our psychological and physiological actions and reactions. As a personal philosophy, we of Sanctuary of the Healers' Heart base our life upon Honesty, Integrity, and Personal Responsibility in Sex-vice to the Lord and Lady.

Now that you know my background, training, and focus, let me turn my comments to some of the specific experiences I have had during my volunteer chaplaincy with RCI in which the attitudes and actions of employees of the **WI** DOC have, in my belief, acted against Wiccan practices in an intentionally negative and / or discriminatory fashion. This is not only unconstitutional, but is contrary to a sincere desire for moral / spiritual rehabilitation, and in one instance actually created a potentially dangerous environment for myself as well as Wiccan and **Non-**Wiccan inmates, From the beginning.. .

When we first began our ministry to the Wiccan inmates at RCI, we often met with Chaplain Thomas - usually after the study session or ritual was completed - and discussed what we had done, the spiritual and philosophical basis within **Wiccan** theology, and **often** drew comparisons to the basic commonalities to more "mainstream" traditions.

During the year, Rev. Cadwell and I acting as Priest and Priestess of Sanctuary of the Healers' Heart conducted six out of eight High Holy Days rituals.

[**We** were **out** of town for **Maban** and were "prohibited from performing our spiritual obligation to the men for **Samhain**" - as you have heard in my husband's presentation.]

Never were we asked or required to submit rituals for pre-approval. This did not become an issue until after our Initiation at Candlemas 1999. Furthermore, I **find** it unlikely that a Catholic Priest, Protestant Minister, Rabbi or other "mainstream" religious group would have to pm-approve their rituals. Do you mean to tell me that all baptisms, bar mitzvahs, and being reborn in the holy spirit - is planned and regulated. I think not!

Despite our not discussing rituals until after their completion, the outcome of our discussions with Chaplain Thomas always consistently brought us to new levels of increased mutual understanding of Wicca and its

similarities with other “mainstream” religions as used for personal psycho-spiritual growth. Our discussions enhanced the mutual respect we seemed to engender. We agree with Chaplain Thomas that an individual’s personal commitment to moral behavior in the context of a spiritual paradigm which focuses on growth, responsibility, healing, positivity, self-actualization incorporated into the very fiber of daily being and not just “hung out on Sundays” could only serve to increase reintegration into society in a positive manner and could provide the support systems which could diminish recidivism.

As we facilitated the inmates’ personal explorations of their spiritual journey, taught them the basic **fundamentals** of the theology, instructed them in the proper technique for the performance of ritual and more importantly the psycho-spiritual meaning contained within it’s mysteries, we **often** encountered restrictive, biased, and I believe discriminatory practices which I do not believe are applied to “mainstream” groups in an equal manner. For example:

A) We were told all religious groups were allowed **the basic elements (symbolic / ritual objects) to conduct their** rituals. However our Wiccan inmates have repetitively not been allowed to have representative objects for each of the Elementals: a small pebble or crystal for Earth, incense (other than sage - which actually is used for other purposes) for Air, a red candle for Fire, and a small dish of water (to be used separately **from** the Chalice). While they are permitted two taper candles representing the God and Goddess, a Chalice and a Wand, they are only sometimes - not always - allowed four quarter candles. They were never permitted an additional candle for “workings” [much like a votive a Catholic might dedicate for a special novena, or a Jewish **"yeirtzeit"** (memorial) candle used on Yom Kippur]. They were not permitted to have a Cauldron or “offering bowl” [much like might be used in a Buddhist ceremony]. And, while other “mainstream” practitioners are allowed a Holy Book (e.g. Bible, Koran, etc.) when in solitary **confinement**, Wicca has no single text. The closest correlate would be the individual’s **Book of Shadows**. However, the **Wiccan** inmates were not only prohibited their Book of Shadows, some inmates had covers tom off because of the presence of a **pentacle** (standard for the cover, like a cross on the cover of a Bible) or even had pages tom out by insensitive and prejudiced guards. Would a guard tear a page out of a Christian inmate’s Bible solely because the guard did not understand or accept as a valid belief system the symbols and words contained within?

Within Wicca, it is common practice **to wear a religious medallion - usually a pentacle, though** occasionally the figure may be of a **specific** deity or totem. **We** met substantial resistance to assisting the inmates **in**

acquiring **pentacles** and often the men had these items confiscated by guards for “punishment” or bigoted misunderstanding. **Would** you take away a Catholic’s crucifix, a Christian’s cross, a Jew’s mezuzah, a Buddhist’s prayer beads? **In** addition, Wicca contains many traditions [just as in Protestantism], and while some of the men **followed** traditions which utilized medicine bags - since this was not the “**Amer-Indian**” group, medicine bags were not allowed. This demonstrates either a lack of understanding or intentional disrespect to the diversity of Wiccan practices in a narrow-minded, judgmental, and biased fashion. Are born again Christians denied use of symbols from other traditions? What about the use of the Star of David coupled with either a Cross or Dove?

Furthermore, since Wicca is a voluntary experiential, potentially **possessatory**, occasionally shamanistic spiritual pathway, one of the unique aspects of study, ritual workings, healings, and spiritual growth is the use of basic **tools of divination**. Wicca requires the practitioner to be introspective, recognize and take responsibility for who they are, what they have done, what they do to transform themselves, to become a wholesome spiritual being, divine, and in balance, respect, and harmony with all that is Sacred. The inmates at RCI have consistently been refused Tarot, Runes, or other objects such as for **scrying** or the practice of any other divinatory practice.

We were also informed that the inmates would be allowed a “Holiday Meal” after the Holy Day Ritual and that **we** could request **certain food items for specific seasonal Holy Days**. **In** Wicca we are bound to the Mother Earth for our very existence, our physical bodies, the food we eat, the air we breathe, the water we drink and that composes our very cells. A primary aspect of Wiccan practice is our connection to the Seasons. The foods we requested - of which **almost all** were denied or ignored - were simple foods, inexpensive items that are already available within your institution, according to the inmates. Items such as apples, raisins, honey, salt, wheat bread instead of white, and perhaps if not too extravagant a piece of salad **in the** Spring or perhaps a vegetable soup in the Fall. Virtually none of our food requests were honored. Nor were we allowed to bring in sealed grocery items (to assure there had been no tampering or “**ingestant**” added). Are Catholics and **Episcopals** refused communion wafers? Are the Jews denied **matzah** at Passover? Are hard-boiled eggs served anytime around Easter?

B) Our Wiccan rituals have not been afforded basic courtesy regarding entrance or disruption during the service. There has been no consideration to the continuity of the psycho-spiritual dynamics or cycle established during the year - thus **undermining** the effectiveness of what we are attempting to instill in these novice practitioners about the integrated comprehensive manner and meaning in which all Holy Days, topics of study, seasonal ritual

practices, and personal behaviors are inexplicable intertwined. And finally, I have been the subject of what I consider derogatory and inflammatory comments not **from** the inmates but from the guards.

In Wicca, I have already related how we approach **Life as conscious ritual**. Furthermore, I have described how my role, function, and actions as a Priestess are inseparable from all other aspects of my life. What then is the purpose and intent of specific formal rituals and Holy Day worship activities?

Ritual itself - regardless of its form or content - is a set of symbolic actions, tools, attitudes and behaviors which speak directly to the subconscious in an abstract and **often** metaphorical manner with the purpose and intent of fostering deep, personal connection to the divine in a manner that is comprehensible and meaningful to each practitioner. **All rituals of all religions serve** to manifest universal human archetypes in a **Jungian** sort of way.

Our first RCI ritual, conducted by the inmates for Lady Day (Spring Equinox) 1998, was taken from their primary reference allowed by the institution, Janet & Stewart Farrar's Witches' Bible. In observing that ritual, it was evident that these novice practitioners were "going through the motions" but lacked an understanding and appreciation of why the specific actions and activities are performed, what the deeper symbolic psychologic and spiritual dimensions and meanings are, and how the ritual and group worship experience are connected to the greater theology and cosmogony of Wiccan belief. Through our work with the inmates, we sought to teach them the purpose, uses, and symbology of ritual tools; the order, purpose, and intent of each of the eight major Holy Days; the form, structure, and meaning of individual ritual elements; and how to transform rote performance into personally **meaningful**, spiritually integrated, and positive life altering **beliefs, attitudes, and actions**.

We specifically and intentionally created a year's cycle of integrated symbolic personal transformative rituals and exercises with the conscious intent of fostering positive healing of personal and family of origin issues, manifesting committed action for positive personal growth, explored how Wiccan beliefs and practices integrates with and complements the inmates' 12 Step and Recovery Programs and how Wicca provides a framework for morally, ethically, and spiritually appropriate behaviors - which **for** sincere practitioners will not allow them to commit criminal behaviors in **the** future. [This is much like the belief **that** a true Christian following in Christ's footsteps and honestly practicing the tenets of good **faith** would chose not to intentionally sin.]

While we tailored individual rituals to the seasons, the **understanding** of the inmates, and the constraints of the WI DOC regulations; we used not only our experience and creativity [like a **Protestant** minister might vary his sermons or Reform Jews might use **different** services (New Union Prayerbook)] to personalize each ritual and given the small group format, to individualize the meditative and devotional exercises to each inmate's personal needs.

None-the-less, we used relatively traditional reference resources, published by nationally and internationally recognized Wiccan and Pagan authors and leaders: people such as Janet & Stewart Farrar, Ray Buckland, Dorian Valiente, Raven Grimasi, Stanly Mozdryk, Slater, Campionelli, to name a few. Despite the need to create individually meaningful rituals, the use of common standard published materials serves to provide a more widely accepted and recognized format which serves to provide the basic foundations and tenets of the religion, incorporate all of the standard elements in group ritual, and to serve as examples of how to create and personalize worship experiences for less experienced practitioners.

We began with Beltane, a celebration of the Sacred Union of the Goddess and the God. Of all Holy Days, Beltane, is the most sexual. In traditional Wicca, this rite in symbolic or literal form manifests the Sacred Union of Goddess and God, creating the Seed of Life, Born of Love, to manifest in physical form, as positive transformation or creation. In this ritual, we were allowed to bring in small packets of wildflower seeds wrapped in tissue paper and tied with a small piece of thread. **Each** packet was counted entering and exiting the institution except one which had been removed by RCI for analysis. We had the men meditate on their own Personal Seed which they dedicated to healing, growth, and positive transformation. With the seeds, they visualized what they hoped to become and honored their own creative and procreative capacity and the consequences and responsibilities of their own endeavors. Upon exiting the prison with the seeds, we planted them in a **pentacle** in a nearby forest - to grow with the seasons and in symbolic connection with the creative **and** procreative cycle of our lives and our Mother Barth - as Spring Blossoms and the Seeds of Life, **fruit**, grain, vegetation begins to germinate.

As part of this ritual, touching of the Priest's & Priestess's hand to the participants' second, fourth, and sixth chakra occurred, hugs were exchanged, and the group held hands together as they walked in a circle. Chaplain Thomas had observed part of the service by looking in. However, Chaplain Thomas to his credit, followed the custom of respect - allowing the Circle to be opened with the creation of an astral gate or portal before entering into the Circle's Sacred Space. There was never any prohibition from this practice and Chaplain Thomas and the initial guards respectfully followed this tradition. They were never barred from entrance nor were they restricted from seeing, hearing, observing the activities of the Wiccan RCI group. However, as you have heard, **one of the allegations used to revoke Rev. Cadwell's privileges was prohibiting a guard from observing / entry into the room.** We did not block his entry - merely requested that he allow sufficient time to create a portal and that he enter respectfully and in a non-disruptive fashion. Do guards enter the middle of a Catholic mass or a Shabbath service? At this point, no issue was made of "inappropriate touching" or "**fraternization**".

At Midsummer, the ritual focuses on the manifest power and **connection** with the **SunGod**. We celebrate the ripening grain in the fields; the Mother's belly (Earth) is full of life and all is prosperous. While Rev. Cadwell was out of town for a professional conference, I conducted the ritual as Priestess with the Wiccan group collectively representing the Priest / **SunGod**. As the inmates walked in a circle, I turned in the center and in Bardic Tradition Invoked the **SunGod** to descend upon these men **and** fill them with his Power, Love, Strength, Responsibility, and Benevolence. We then had an interactive discussion focused on the difference between core personal spiritual power / empowerment and the manifestation of "masculine power" as indoctrinated, enculturated, and promulgated in American culture as violence, rage, rape, control, and destruction. In the context of their personal meditations they were asked to visualize their most positive, **life affirming**, respectful, empowered and actualized divine self and rededicate themselves to transform into greater balance and harmony with their own Divinity. As each inmate "received the spirit", he was touched on the third, fourth, and seventh chakras physically and on the first, second, and sixth chakras energetically - without actual physical contact. Again, the "sexual polarity" represented in the Goddess and God and in evoking the God within each **inmate** was not deemed inappropriate at that time.

At **Lammas**, we celebrate the First Fruits and the beginning of the harvest of the bounty of Love and Prosperity borne of the Seeds from Beltane, we honor the Gifts of the Earth, (the works of our hands) and our first (personal) sacrifice - as to harvest a crop, the fruit / vegetable is severed from the Mother plant and in effect gives it's life in Service to nurture and feed the People. This is a manifestation of the **Life, Death, Rebirth** motif which permeates **the Wheel of the Year**. **In many traditions**, a drop of blood or sperm may be given to the ground. We symbolically harvested each inmate's "crop" (**from** the seeds of change he dedicated at Beltane) by having them meditate upon a single stalk of wheat each man held which we were allowed to bring in for the ritual. Each man's piece of wheat was visualized and charged with the positive growth they had experienced as a result of their personal spiritual journey. Each man then made a **freewill** offering of their personal harvest to the Cauldron of the Goddess. For some it was a poem, a song, a drawing, a hair clipping, an offering of tobacco with the pledge to quit, etc. Each inmate willingly chose personal sacrifice in order to transform spiritually - this was symbolized by the breaking of the wheat **shaft** and the return of the pieces to the Cauldron. During their sacrifice, the **inmates** were touched on either their third, fourth, or **fifth** chakra. **[N.B.** Again an example of physical contact (involving the abdomen, chest, and neck) that was not deemed inappropriately sexual nor fraternization at that time.] The contents of the Cauldron and the **inmates'** personal offerings were taken to a **Wiccan Lammas** retreat and were

returned to the Great Fire to transform by flame and arise (like the Phoenix) as more spiritually matured practitioners. Other **Wiccans** at the retreat were so impressed with the commitment, dedication, and progress of the RCI Wiccan Group that they **gifted** a sage smudge stick and candles which we were allowed to bring into the institution for the permanent possession and use of **the RCI Wiccan Group**. **This establishes a clear and repetitive pattern of objects traveling in and out of RCI for strictly ritual purposes - seeds, wheat, offerings - without challenge although witnessed and discussed with Chaplain Thomas before and after the fact in all instances.**

Our professional obligations had us both out of town for **Maban**, thus the inmates conducted their own ritual - manifesting what they had learned and how they had integrated their spiritual practices into their lives by using the celebration of **Mabane** - the second harvest festival - a time when the major harvest is complete, stores are laid in for winter, preparations and provisions are made for the Dark-tide of the Year. It is time of celebration coupled with the beginning preparation for introspection, reflection on the harvest completed (“what we sow, we reap”), and reevaluation of life / actions - similar to that which is done during the month **preceding** Rosh Hashana and Yom Kippur or to the month of Ramadan. The RCI **Wiccan** Group chose to perform a group rededication to Wicca as a Spiritual Path and to their roles as practitioners and dedicant Priests in training.

It was during the transition from Lammas through our temporary involuntary suspension a few days before Samhain that problems began to arise.

First, it was during these several months **that we were verbally charged with trying to undermine the institution’s and Ms. Kemper’s authority** by requiring that a self-professed Wiccan inmate was asked by us not to wear the inverted cross (a Satanic symbol, also used by Skinheads). Upon questioning of the inmate, he did not know the symbol’s meaning and nor did he understand that the image is antithetical to **Wiccan beliefs**. We **instructed** him on the meaning of the symbol he wore and how in **Wicca** the “Energy” can manifest through common symbols and group consciousness into reality. We suggested he mediate on the beliefs that he had and what symbology he wished to represent those beliefs and then to either return to the Wiccan group without **that** particular medallion or that we would be glad to assist him in contacting a recognized Satanic practitioner for his spiritual guidance. This was seen as interfering with the **institution's** policy on religious jewelry and usurping DOC employees authority. In fact it was not only a clerical permeative but spiritual obligation that we had to address. Is it inappropriate for a Catholic Priest or Protestant Minister to require that a participant in their religious paradigm not wear a Satanic (or even Pagan) symbol? Would it be out of line for a Jewish group to request a practitioner not

wear a swastika to the group? This neither **interfered** with the institution's authority nor did it deny **freedom** of speech and expression under the constitution. It merely requested respectful and considerate conduct and actions consonant with core beliefs of a participant's stated spiritual belief system. **In** the Old Testament, the 613 commandments were incumbent only on Jews, only 8 out of the 10 commandments were incumbent upon non-Jews. In Islam and Orthodox Judaism, the dietary laws only apply to practitioners of that particular faith. Christians wear crosses, Catholics wear **crucifixes**. There is no difference except that based on lack of knowledge, misunderstanding, fear, stereotypes, or intentional prejudice.

Second, during this time, unscreened inmates were allowed unrestricted access to the RCI Wiccan Group, despite **their intentional disruption** and a profession of beliefs which focused on a negative and destructive, racially oriented pathway - geared towards the manipulation of others for their own personal power and not at all consonant with Wiccan creed. We have heard **from** reliable sources including inmates and guards that it is common practice to have individuals intentionally disrupt "minority religious groups." This resulted in the incident with the written articles of **faith**, removed **from** the institution, reviewed, and returned to Chaplain Thomas that **resulted** in Rev. Cadwell's initial "restriction to Tuesdays when RCI staff is available to **supervise the** Wiccan program".

By restricting Saturday attendance, in effect, I was prohibited **from** performing voluntary chaplain's duties for an alleged offense which I did not commit and was not party to. What messages does this teach inmates about innocence until proven guilty, guilt by association, and **fair** and just equality under our American Justice system?

Furthermore, we and the inmates made multiple requests to move some of the Tuesday **morning** sessions to evening sessions so that inmates would benefit from the instruction and guidance of both their clergy - given that Wicca is a duotheistic cosmogony. The Lord and Lady manifested by Priests and Priestesses representing balanced sexual polarity encompasses all aspects of **our existence**. **These requests to accommodate the presence of both clergy were consistently denied**. It is unreasonable to require that an unpaid / volunteer chaplain take time away **from** their vocation - thus decreasing their "usefulness to society" by diminishing work productivity, increased absenteeism, decreased salary due to time off, resulting in decreased taxes paid, etc., etc., . . . Volunteer clergy **with the intent of mentoring positive spiritual values, moral / ethical behavior, and right relationship** thereby assisting **the** rehabilitation of inmates offer their personal and professional expertise, time and energy for the sole purpose of individual and societal benefit. What messages does this teach inmates about their role as positively rehabilitated citizens offering their experiences and insights to mentor and talk to teen groups, church or scout troops, Big Brothers / Big Sisters, or even volunteer at DOC **facilities**, 12 step programs and half way

houses? Does DOC really want to send the message that volunteer mentoring is good **but** only if enacted in a personally and socially irresponsible manner - ignoring obligations to employers?

By denying these incarcerated Wiccans clergy presence at Samhain (a Saturday evening and the most solemn Holy Day of the Wiccan year, it was akin to denying Christians the officiants of their Priest at Christmas Mass or Easter Sunday; akin to denying Jews a Rabbi at Rosh Hashana or Yom Kippur or forbidding the Passover Seder. Furthermore, this intentional disruption of the inmates' spiritual training at this time interrupted the cycle of transformative growth with they had undertaken - again contrary to sincere desires to spiritually integrate inmates as part of their criminal rehabilitation. The period encompassing Samhain is the time when Wiccan practitioners walk with their Shadow. A time for critical self-evaluation and commitment to be "reborn" as a child of light. Again, this is much akin to the period of personal reflection preceding Yom Kippur, the period before Lent, undertaken before a baptism or conversion, or the taking of a fourth and **fifth** step in a 12 Step program.

Third, each time the core group of Wiccan inmates began to consolidate and integrate as a "fellowship" members were transferred out of the group to new incarceration facilities or into "Programs" which actively discouraged their attendance of religious study and worship sessions. The Wiccan inmates were threatened with failure of their programs or other disciplinary actions, thereby blocking probation hearings and in some instances delaying or preventing release procedures and dates. Don't 12 Step Programs utilize the belief in a Higher Power - of an individual's own understanding? **Aren't** there many studies which document the positive influence of a **religious** / spiritual belief system and supportive **community** in the **successful** rehabilitation of inmates from a life of crime, substance abuse, violence, and disenfranchisement?

Finally, during this same period **from** Lammas to Yule, guards at RCI were overheard by inmates as well as by Rev. **Cadwell** as saying on several occasions that they were just waiting for me to be assaulted or "jumped" and in one instance implied that I "deserved it" for the way I dressed. It had been our custom from the beginning to wear street clothes on non-Holy Days but on Holy Days we always wore **our** Ritual Robes. Comments were made by guards about my clothing, and by non-Wiccan inmates about my body habitus, and specifically about the size of my breasts. For Wiccan practitioners, **all Men are God and all Women are Goddess and we are all One under the All. Wicca** teaches respect between males and females and focuses on right relationship. A true Wiccan practitioner could never physically or sexually assault a woman they recognize and honor as Goddess. I had no fear **from** the Wiccan inmates with whom I worked. **In** fact when they talked with each other about **the** incidents the Wiccan inmates were insensed, offended, and pledged respect, honor and protection of me as their clergy.

However, the insensitive and **disrespectful**, derogatory comments made by the guards about me and tolerated by the guards coming **from** other inmates - stemming from their own fear, misconception, misogyny, and cultural - religious ignorance and intolerance created an environment which was potentially dangerous to myself and other female clergy - as well **as** set a bad example / attitude for other inmates to witness. Is this the level of supervision, the attitudes / messages that WI DOC wishes to instill in their inmates? Is not the behavior demonstrated by RCI and DOC employees antithetical to moral, ethical, spiritual, and noncriminal / socially acceptable behavior deemed “desirable” for rehabilitating inmates?

C) The basis of the revocation of my volunteer privileges stems **from** alleged fraternization and inappropriate “sexual” conduct. This is also the same basis for the revocation of volunteer privileges of Rev. Yohan - as you have heard. We and the RCI **inmates** (and no doubt other Wiccan clergy and practitioners) believe that the repetitive use of fraternization and “sexual conduct” allegations to disband and prohibit Wiccan clergy **from** participating in the spiritual endeavors of WI DOC inmates is based upon ignorance, **misinformation**, misconception, fear, stereotyped judgmentalism and outright prejudice on the **part** of WI DOC institutions, policies, and the behaviors of some (though certainly not all) employees against a non-“mainstream” religion which is poorly understood or accepted but is none-the less protected under the Constitution.

If not seen as too indelicate, please grant me your attention and patience just a bit longer and let us complete the incidents of the last **part** of the year - including Yule and Candlemas - specifically addressing the issues of alleged fraternization and inappropriate conduct leading to the **involuntary** termination of our volunteer clergy status.

We were next allowed entry to RCI and access to the Wiccan inmates at Yule, which is the Winter Solstice and corresponds to the Return of the Sun King, born as a Child of Light to the Earth. In a comparative theologic sense, it is analogous to the birth of Jesus at Christmas (despite substantial evidence to suggest that his birth was actually in the Spring). Furthermore, this **SunKing** motif is not restricted to Wicca. Yule is also the birthday of the Egyptian God - Ra, the Roman God - Helios, the Celtic God - Lu, and many others. During the ritual, the participants are symbolically reborn of the Goddess, welcomed as Divine Beings - desired, accepted, loved. The God cycle sees the turning **from** the Dark Gates Lord to the Child of Light who will soon **grow** into the Young God of the Greenwood and through his Love, Seed, and Grace will return Life to our Mother Earth. During this ritual, the RCI Wiccan inmates were asked to mediate on how they wish to be “reborn of the spirit” as a Child of Light - to

grow and develop along a positive spiritual pathway for the next year. They were then placed into a crouched or kneeling position, and each in turn was embraced by the Goddess, brought to a standing position and welcomed as a Divine Sacred Being. The symbology is clear. So is the psycho-spiritual value in which a sense of belonging, acceptance, self-worth, capability, purpose - all serve to diminish criminal behavior. During this ritual the Priestess embraced each of the men, touched their face, lifted them up by their arms or back, placed a hand on their fourth chakra, etc. Again in this ritual context, still no issue was made of "inappropriate touching" or "**fraternization**". **The** guards and Chaplain Thomas were free to observe and evaluate - as at each of the preceding Holy Day rituals.

Finally, the real issue and reason for our revocation of privileges: the initiation of an inmate at Candlemas 1999. That ritual served as the basis, wrongfully interpreted by certain guards, and described in the Adult Conduct Report #1000041 on inmate 236698 dated Feb. 6, '99 for the "alleged sexual conduct, disruptive conduct, disobeying orders / policies & procedures" tickets and subsequent punishments placed on the inmate and our formal revocation of clerical privileges at RCI for alleged **fraternization** and inappropriate conduct.

The Holy Day of Imbolc, often called Candlemas, literally means "in the belly" referring to the Ewes with lamb, and the Mother Earth - having completed her postpartum period from Yule - transforms into a new Maiden in preparation to meet the Young God of the Greenwood and once again journey together along the Wheel of the Year. It is a time to dedicate yourself towards new beginnings - similar to Lent or even New Year's resolutions. Candlemas is the traditional Wiccan time for initiations. Having fulfilled the requirements of serious study for at least a year and a day, connected on a personal spiritual and energetic level with personal and universally shared Divinity, having demonstrated the knowledge and skills in the basic fundamental performance of ritual and **magick**, having demonstrated the ability to provide leadership to other Wiccan inmate **dedicants**, acting in a morally and ethically responsible manner in accordance with Wiccan creed, and being willing to accept responsibility for all of his personal attitudes, actions, behaviors, and beliefs, one of the men was deemed ready for his First Degree initiation. Furthermore, given the increasing resistance we met at being allowed into RCI for educational, worship, or pastoral visit purposes between Lammas and Candlemas, it was clear that it was only a matter of time before the inmates would have to **serve** as their own clergy. It was inevitable as anticipated from the multiple repetitive attempts to limit / restrict / or otherwise discourage our presence as volunteer clergy that we would ultimately be revoked. This was the institution's unspoken plan and policy - not only for us, but along the same allegation, **for** the Wiccan clergy who preceded us.

That initiation ritual was taken from the RCI Wiccan inmates approved references, Janet & Stewart Farrar's Witches Bible. All elements of "controversy" including: usually being conducted naked (we modified to have the inmate remove his shirt and shoes) [as Moses stood barefoot on holy ground; and the descent of **Dimeter** and Persephone removed all external clothing / jewelry for her "initiation"], having his hands and **leg** bound (we used a single strand of thin grey yam), kissing him and escorting him by the arm into the Circle, anointing with oil, and the Five Fold Salute were not only documented by these authors and common practice within Wicca - but they are extensively documented by other recognized Wiccan authorities including Buckland, Campionelli, Cabot, Slater, Valiente, and many others. Furthermore, I was alleged to have given a "**gift**" to the inmate - placing a pentacle around his neck that was presumed to have been brought in by us from the outside. In reality, that was the inmate's personal pentacle which he had in his possession and which we claimed from him at the beginning of the ritual in order to consecrate it and return it in a ritually symbolic and **meaningful** manner at the conclusion of the ritual.

The concern raised about the Five Fold **Salute** is based upon the mistaken belief and allegation that this is a sexual act - rather than a salute of recognition as Rev. Cadwell has explained. In addition, as I have tried to elucidate, all of Wicca involves the psycho-spiritual-sexual duality and polarity of Male / Female, Priest / Priestess, God / Goddess. This is a core tenet of Wiccan belief and of the physical foundation of our existence on this planet and in this particular time / space dimension. I agree with Rev. Cadwell's statement that the most sexual aspect of any Wiccan ritual is the symbolic Great Rite in which the Wand is introduced into the Chalice. I disagree with RCI and WI DOC interpretation that a kiss, touch on **the** hand / arm / shoulder / back / **feet** is inherently sexual. Did not Mary Magdelene kiss Jesus' **feet** and wash them with her hair? Was this sexual or sincere devotional respect and service?

Rather than enter into a political debate over what is or is not sexual (wasn't that addressed with our President), if you want to consider minority religious paradigms - consider Wicca, like **Tantra (Hindu)** traditions that say all aspects of life are sexual - not only our physical sexual relations but how we arise, cleanse ourselves, dress, **eat**, conduct our affairs, walk, move, interact - for by our very nature and physical existence we are sexual beings.

Is it not better to teach the respectful and sacred aspects of male and female -as well as gender non-specific human - relationships, Unlike "mainstream" religions in which humans are created in the image of the Divine,

Sanctuary Of The Healers' Heart

Rev. Richard M. Cadwell, B.A., D. C., D. D. Hon.

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Address To The Leaislative Committee On Faith-Based Approaches To Crime Prevention And Justice

21 April, 1999

Good Day:

I am Rev. Dr. Richard M. Cadwell, Chiropractic Physician, a legally ordained minister, Bard of the School of Taliesyn and Wiccan Priest for the past thirty years. I am the current High Priest to Sanctuary of the Healers' Heart, an independent Wiccan \ Pagan ministry. I hold a B.A. in math & natural Sciences with an effective minor in counseling psychology, an earned Doctorate of Chiropractic and an Honorary Doctorate of Divinity. I'm honored to have worked with the WIDOC prison ministry for about a year now and have been a volunteer Wiccan Chaplain with the All Saints Hospital system for the past two years. I have also provided advisement to law enforcement both locally and in Kansas City regards Wiccan/Pagan matters. I have been mentor, advisor, healer, educator to groups and individuals. My Priestess, Rev. Dr. Stem, who is a Physician Educator, Asst. Program Dir. of a Residency program and legally ordained minister could not be with us today as she has physician duties with the residency program which preclude her being ^{here} with us today. I have a statement from her which with the committee's kind permission I provide to enter into the record as she has other significant complementary points to those I will make.

Now that you have some idea of my credentials, I wish to begin by thanking the committee, Right Honorable Chairman and Honored guests for the opportunity to speak on behalf of the Sanctuary of the Healers' Heart and those incarcerated Wiccans whom we have chosen to serve.

In December of 1997, My Priestess and I were approached to provide services as Wiccan Clergy for incarcerated Wiccans at the Racine Correctional Institution. In February of 1998, we obtained permission to do so. Beginning with the March High holiday of the Spring Equinox we have worked with these men for nearly a year now,

going into the prison to teach, perform rituals of both Holydays and of rites of passage. We have altered our rituals both to avoid misinterpretation and to emphasize a personal growth oriented psycho-social component. We have been available for and have provided pastoral counseling for these men as well as spiritual support in their efforts toward positive growth and dealing with their personal and family issues.

It has been our focus to provide the kind of clerical services provided by mainstream chaplains, insofar as possible, since we firmly believe that a religious paradigm and ethical system are essential to the individual's rehabilitation and re-entrance into society. By providing such contact and services we have kept these men focused on a positive self growth path that is consistent with the religious paradigm in which they have chosen to live.

We have seen positive results in that the men have developed a sense of religious community and have begun to apply the principals of Wiccan ethics in their daily lives, each taking individual responsibility for how they got there and how they wish to restructure their lives prior to and after being released. Unfortunately as the Wiccan group begins to consolidate and develop community inmates are transferred to other facilities, often out of state creating family hardships. An incarcerated Wiccan prisoner in Texas, previously from RCI describes the needs of the Wiccan prisoner quite eloquently when he says:

" Well, let's look at what I need...¹ As an incarcerated Wiccan/pagan, I need willing people to facilitate rituals, to bring the Craft to the prison system and give me the opportunity to grow spiritually. Another option **is** for one-on-one pastoral visits where a more personal and relaxed setting can be offered to the visitor. Wicca is not only a religion; it is a way of life. If I don't have the guidance to live it as much as possible under my present circumstances, then it seems to me a waste of valuable time. Though books provide a valuable resource to learn and grow from, not all knowledge is written down and published. This is where I feel that 'hands on' experience is needed to continue my journey in the Craft.

"Heart of the Healers' Healing Art, Love Brings Healing From **Healers' Heart.**"

I know that I'm responsible for myself, but even the greatest philosophers had teachers and mentors. Plato had Socrates. Arthur had Merlin. Now I seek that kind of mentor and like every good student, I need someone to provoke my mind and get me to think about things in a light that I may not necessarily see on my own. I realize that I am limited by my surroundings, I also realize that there's a lot I can accomplish."

I think Mr. **Averill** says it quite clearly. These needs then are the essence of our ministry. In the process of accomplishing this however there are some issues I would like to bring before this committee which we have experienced. Just before Samhain, the Holiday you know as Halloween of 1998, the holiest holiday of the Wiccan year, the institution limited our participation as clergy to Tuesdays only, restricting both my Priestess and I from attendance on Saturdays on which Samhain occurred and which had been their study day/ ~~Praxis~~^{Praxis} often the primary ritual day as well. This action deprived these incarcerated men of their clergy, on a high **Holyday** similar in importance to that of the Christian feast of Christmas or Easter, based on a technicality: the allegation that I removed a document from the institution. In effect penalizing both of us for the action of one. What does this teach the inmates? (I thought I'd left that kind of mentality behind with the Marine Corps boot camp.)

The document in question was alleged to be a declaration of faith of a group which on further evaluation turned out to be White Supremacist and Satanistically oriented in nature with a strong racial bias and who's purpose as stated by one of those members in words to that effect was essentially the disruption of the Wiccan group creating a situation so that the Wiccans would have no clergy. They have been partially successful, in large part due to the ignorance, misinformation, fear and outright prejudice of the institution and the personnel therein as exemplified by commentary from my Priestess's presentation. We have offered to do a training session for the staff and have provided them a copy of, The Law Enforcement Guide To Wicca, by Kerr Chuhlain, himself a working law enforcement officer, with some minimal verbal interest but no effective time given.

"Heart of the Healers' Healing Art, Love Brings Healing From Healers' Heart."

The reason this occurrence, along with other potentially serious problems, was possible is since as Wiccan Clergy we are not allowed to screen or evaluate members of the Wiccan group. This inability to screen leads to serious problems of confusion and disruption when other inmates with alternative or diametrically opposed beliefs, such as White Supremacy and Satanism for example, are allowed to infiltrate the Wiccan group they usually cause disruption, chaos, confusion and misappropriate appearances to those outside, leaving a highly charged negative representation of the men who work hard to live this sincerely held belief. It is our understanding from the guards and inmates alike that this is a common occurrence where individuals work to disrupt minority religious meetings. Effective screening would prevent most of this.

In spite of this handicap I continued to meet with these men on Tuesdays doing what I was able to teaching and working with these men without outside resources. Chaplain Thomas however, was most helpful within the constraints of the institution and seemed to be the only staff making the effort to understand the Wiccan approach and our work with these men. He had commented that our post ritual discussions had given him a better understanding of our approach and philosophy. In the interest of the men Chaplain Thomas helped them arrange to celebrate the next high Holyday Yule on a Thursday and the since the date of the ^{next following Imbolc} holiday was on a Tuesday, Chaplain Thomas arranged to be present on Tuesday rather than the following Saturday evening so that the men could have their balanced clergy, Priest & Priestess. He has my highest regards.

The Tuesday prior to this holiday a guard, in the guise of "Monitoring the Wiccan service," ^{when} while Chaplain Thomas was already present, ^{by means of a computer} rudely entered the room in which the circles space was cast, obviously looking for trouble that did not exist prior to, but was evident in his arrival Never before has a guard come in to "monitor" the service. Until then they simply looked without coming in, or sat in the office of the pottery room, then left.

Tuesday the holiday of Imbolc, often called Candlemas is a traditional time for
 "Heart of the Healers' Healing Art, Love Brings Healing From Healers' Heart."

initiations and one of the men was ready for his First Degree initiation, on this holiday we performed the regular **Imbolc** service, then the initiation which was a well published ritual and part of the book the men at RCI are allowed to use. The inmate - dedicant, as is our custom, knew nothing about it before hand and as a result of his honest participation received a serious conduct report and added time both in' segregation and to his sentence. The timing and conduct report make it clear that this is in response to his initiation. Why, is it necessary to punish the inmate further for their clergy's actions? *they are n either controlld by, nor responsible for their clergy's actions!*

Shortly thereafter all my volunteer and clergy privileges were revoked due to allegations that I had tried to prevent an armed guard from monitoring a Wiccan service. Just look at me and you can see how ludicrous that is, one hundred and thirty-seven pounds does not compete with an 170+ pound armed individual. I simply attempted **to ask him to wait and to show the same respect for the space of the Wiccan religious service he would show his own religious paradigm.** That guard neither heard nor attempted to understand-s he open to compromise, as later discussions proved. I understand however, from Chaplain Thomas, that this kind of conduct is normal for these guards as they have pulled men from his services with no respect for his service either. I must highly commend Chaplain Thomas' efforts to explain to this guard his error and to minimize the problem he generated.

Within the next couple of days my Priestess received a letter of complete revocation, allegedly for fraternization as a result of actions occurring during the initiation, all of which were protected under the First and Fourteenth Amendments to the U.S. Constitution and part of a well publicized ritual which we had already modified for security concerns. We were later told that we should have submitted the ritual for prior approval. I do not believe that chaplains of mainstream sects are subject to **this** kind of restrictive action **nor were we advised at the start of our ministry that such a requirement existed and only now being advised that we had a right of appeal.** On careful observation you might surmise how untimeliness and partial information by

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the system makes technical mistakes inevitable, thus making it relatively easy for the system to apply old prejudices against any minority religion simply using technicalities or applications of the rules to remove them from service to Wiccan or other inmates.

The other serious matter is that of segregation. Inmates who follow a mainstream religion are allowed to have their holy book and chaplain's visits while in segregation. Walter D. Theizen, Chief of Program services advises me in a written communication of 21 August, 1998, that, **"Inmates in segregation can have authorized religious literature, can engage in personal study and meditation and can have visits from approved religious leaders. With regards to pastoral visits, it is important to give the institution advanced notice so arrangements can be made."** During the time we have worked with the men at the RCI facility I have asked to make appropriate visits to men in segregation and been told by this institution that it is not possible. If rehabilitation is the goal for these men, their religious practice plays a most important part in their readjustment, acceptance and integration of the religious principals to the realities of daily life and release back into society. Mr. Theizen's comments make it clear that Wiccan Clergy² may visit on the same basis as other recognized clergy. We feel that Wiccan clergy should have the same access to the Wiccan inmate as 'mainstream' chaplains.

The fact that the closest thing to a holy book in Wicca is the individual "Book of Shadows" and whatever principal study book the institution allows, creates a situation with the inmate in segregation wherein the individuals "religious materials" (Book of Shadows, study books, pentacle necklaces, letters) are often confiscated at the whim of the guard acting in what appears to be total ignorance of the constitutional rights of the inmate to study and practice their faith. During this crucial time of the inmates incarceration the Wiccan inmate is not allowed visits by Wiccan Clergy and often no Wiccan religious material is allowed.

When in their "Program" the Wiccan inmate may be allowed to attend the Religious service or the study but not both, while Christians have Sundays and bible

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study, the Jew has Saturdays and Torah study while the Wiccans and perhaps other minority religions as well are intimidated from attending religious services by allegedly being told when they ask to attend their religious service that, "They as inmates, consider their religious worship more important than getting through the program so they can get out." The inmates then know if they exercise their rights under **the** constitution there **will** be some form of subtle retaliation from the program people, During this crucial time of the inmate's incarceration this kind of approach and attitude does not assist in the rehabilitative process while it actively demeans the importance of religion in daily life. We strongly feel that this is an untenable attitude particularly for the Wiccan inmate with direct consequences to both their constitutional rights and the positive self growth aspects of the rehabilitative process and should therefore be corrected so consequently all inmates in segregation may benefit from their religious experience by **bringing those ethical** principals to the restructuring their lives in a life positive **manner**. ^{without fetishization} We are well aware that prisoners may use religion to avoid other duties and responsibilities. This however serves **only** to emphasize the need for the Wiccan Clergy being able to screen.

In the duotheistic cosmogony of the Wicca, the Divine is seen as both female and male, a Goddess and a God, Priestess and Priest. Women are treated as equals and respected as representative of the Goddess and life bearer. Men are respected as seeder, guardian and protector. My Priestess has always been treated with the utmost of respect by the Wiccan inmates. It is clear that she does not nor expects to have any problems with the Wiccan Inmates. It has only been comments from the guards which could potentially create a dangerous situation if other inmates were to act on such biased comments.

As both my Priestess and the Priestess Rev. Yohan have pointed out, the touching that occurs either as a part of ritual or momentary encouragement is no more sexual than the 'Kiss of Peace', in the regular Catholic mass or inmates hugging each other as shown of RCI Christian inmates in the Sunday - February 28, 1999, issue of the

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Wisconsin State Journal. To maintain that this constitutes sexual conduct in a Wiccan, but not a Christian setting, is absolutely ludicrous and is in reality indefensibly discriminator-v.

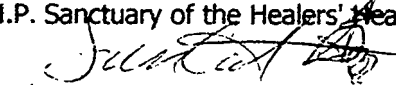
The work we have done for these men, travel to other prisons, books and articles donated to the group and the time we give to this work as physician - healers and Wiccan Clergy is totally unreimbursed. It is our belief that through this work we may provide a positive life focus for these men and help ultimately to reduce the present level of both incarceration and recidivism. For that we need the open minded understanding, respect, encouragement, as well as timely and complete information from Corrections officials and staff rather than paranoid assumptions and misutilization of the rules to deprive the Wiccan inmates of our services as Clergy.

In closing, I again thank the committee for the opportunity to present this information and stand ready to answer appropriate questions of the committee. With the printed copy of this address includes a bios and documentation.

By My Hand : With 'Their' Love,



Rev. R. M. Cadwell, B.A., D.C., D.D. Hon.
H.P. Sanctuary of the Healers' Heart



SunCat BrightFur SummerHeart
ach Taliesyn, Bard

¹ As quoted from The Incarcerated Wiccan (A Topic of Discussion) by Michael Averill
² The religion of Wicca is Both Federally and State "Recognized".

“Heart of the Healers’ Healing Art, Love Brings Healing From Healers’ Heart.”

Distributed at the request
of Chairperson Jensen.
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The Role of Faith-Based Organizations in Crime Prevention and Justice

by

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Originally written for the Wisconsin State Legislative Study Committee on Faith-Based Approaches to Crime Prevention and Justice, the purpose of this paper is to frame the discussion surrounding the role of faith-based organizations in crime prevention and justice. It is a collaborative effort of Hudson’s Crime Control Policy Center and the Welfare Policy Center.

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The Role of Faith-Based Organizations in Crime Prevention and Justice

Religion and Crime: a Sociological Perspective

Research on the relationship between religion and crime has tended to fall into three categories. The largest of these are studies that focus on individual beliefs and practices and their relationship to involvement in deviance and crime. A second category is based on ecological studies that consider whether religious practice at the community level influences levels of crime. In effect, these studies ask whether relatively more religious communities, in contrast to secular communities, have less crime. The third group of studies involve research on the effect of faith-based programs to reduce crime and deviance.

Individual Effects

The theoretical link between religion and crime is most apparent from a control theory perspective (Hirschi, 1969; Gottfredson and Hirschi 1990). Control theorists, as with many religious traditions, take the motivation for crime for granted. As part of our basic nature we all seek self-gratification and are thus prone to violating the rights of others for our own pleasure or profit. Through the socialization process, however, we develop a bond to others and we learn to control these self-centered interests. The more we develop relationships with conventional others, the more we are committed to and involved in legitimate activities, and the more we believe in a moral basis of right and wrong, the less likely it is we will engage in crime and delinquency.

Religiosity can be theorized to influence this social bond. Clearly, we anticipate that individuals committed to religious beliefs such as the Golden Rule and the imperatives of the Ten Commandments will be more likely to believe in the moral legitimacy of the criminal law. Similarly, religiosity may relate to closer attachments with parents and family, involvement in conventional activities, and to association with conventional peers and avoidance of risky behaviors such as drug and alcohol use.¹ Additionally, involvement in a social network such as a faith-based community may provide a degree of informal social control (e.g., adults looking out for the behavior of youths; youths concerned with approval within the network) that may otherwise be missing.

Despite this theoretical foundation, most criminologists have ignored the possibility that religion might play a role in reducing crime. As with the case of the role of religion and health (Larson

¹ This is also consistent with social learning theorists who argue that delinquency is the product of learning in peer groups in which delinquency is modeled and defined as desirable or appropriate (Akers, 1977).

and Larson, 1994), however, recent years have witnessed increasing attention to the possibility that religion might influence criminal behavior. Fortunately, two comprehensive reviews of the research findings on the religion-crime connection have recently been published. The first focuses on religion and juvenile delinquency and the second on religion and adult crime.

With the support of John DiIulio's "Jeremiah Project," David Larson and Byron Johnson (1998) conducted what they refer to as a "systematic review" of the studies on religion and juvenile delinquency. The advantage of the systematic review approach is that it provides a quantitative assessment of the research literature that can be replicated by other researchers. Larson and Johnson provide explicit criteria for how they chose the studies to review, how they analyzed the studies, and for assessing the overall evidence from a large body of studies. The first step in the review consisted of identifying 402 articles appearing in peer reviewed articles between 1980 and 1997 that made some mention of religion or related terms and delinquency. Of these, 40 studies were identified that analyzed the potential relationship between religiosity and delinquency. As would be anticipated, the 40 studies varied in terms of methodological rigor. This variation becomes a measured variable in the systematic review whereby the authors can contrast the findings produced by studies employing more or less rigorous scientific standards.

Three-quarters of the studies reviewed found that measures of religiosity had a negative effect on delinquency (1998: 10). That is, the higher the score on the religiosity measure, the less delinquency. Only one study reported a positive relationship with the remainder of the studies yielding inconclusive results. In an interesting finding, the authors reported that of the nine studies that used the most comprehensive measures of religiosity,* all found that religion decreased delinquency. This contrasted with studies using simpler measures of religion such as a single item like church attendance. Similarly, the thirteen most rigorous studies in terms of assessing the reliability of the measure of religiosity all found that religion related to lower levels of delinquency. Thus, the general pattern of Larson and Johnson's review was that religiosity reduces delinquency with the pattern becoming stronger as the methodological rigor of the study was enhanced.

Larson and Johnson (1998) followed their review of existing research by conducting several original analyses on the impact of religiosity on delinquency. The first of these focused on data from the National Bureau of Economic Research's survey on inner-city African-American youths. The analysis revealed that religiosity, in this instance measured by church attendance, had both direct and indirect effects on delinquency and substance abuse. The direct effect indicated that church attendance reduced delinquency even when controlling for age, family

² The types of measures identified in the review were attendance, salience (e.g., importance), denomination, prayer, study of scripture, and religious activities. The more of these individual measures that were included in the study, the more "comprehensive" the measure of religiosity.

structure and size, urban residence, and related variables (1998: 20). The indirect effect revealed that church attendance related to other conventional activities and relationships that are associated with reduced delinquency.

The authors also used data from the National Youth Survey (NYS) to examine these issues for a national sample of urban African-American youth (1998). Consistent with the prior analysis, religiosity reduced levels of minor and general delinquency. It did not have an impact on serious delinquency, though the authors believe that it might be due to a small sample size of serious delinquents. The authors point out that the findings are consistent with a social control perspective but also note that religiosity may be acting as a “resiliency” factor that protects youth living in high-crime neighborhoods from being caught up in delinquency, drug, and gang activities.

Larson and Johnson (1998) extended this analysis using the NYS data by distinguishing between direct and indirect effects. As in the previous studies, religiosity related to less delinquency. Religiosity also was found to have strong indirect effects by influencing delinquent beliefs and peer associations. Religiosity led to less adherence to delinquent beliefs and fewer associations with delinquent peers both of which related to reduced delinquency.

The second review of the literature is provided by Evans and colleagues (1995). This review presents some of the controversies that have emerged in the research on crime and delinquency but finds that generally research has found religion to relate to lower levels of delinquency and crime. The authors then proceed to conduct their own analysis looking at the effect on adult crime, an area that has received less attention than delinquency. The study included measures of religiosity based on religious activity, salience, and beliefs. The researchers also considered the effects of denomination and involvement in religious networks. The study also controlled for secular influences such as attachment to others, fear of legal sanctions, and community and demographic characteristics. The analyses found that religious activities (church attendance, reading religious materials, and listening to religious broadcasts) related to lower criminal activity after controlling for a variety of other factors.

Evans and colleagues go on to note that whereas the individual connection between religious activity and crime is clear in the study, it is also “likely that religious behavior.. is entangled with and reinforced by association with other believers, religious friends, family members, and fellow parishioners (1995:212).” We would argue that these networks are also likely to inhibit criminal behavior.

Community Effects

Rather than examine the effects of individual beliefs on involvement in crime and delinquency, another group of researchers have considered whether the level of religious involvement at the community level relates to crime rates. For example, Rodney Stark and colleagues (1980) examined the relationship between church membership and crime in 193 metropolitan areas. They found that the greater the church membership, the lower the community’s crime rate.

Olson (1990) extended this analysis by examining all counties in the West, Midwest, and Northeast United States. Thus, the analysis included rural as well as urban communities. Although there were some regional and denominational differences, the general pattern was quite similar to that discovered by Stark. Church membership related to lower levels of crime. Further, the pattern held after controlling for the effects of a number of demographic characteristics of the county population. Similar to the points made above regarding the effect of religion on crime at the individual level, church membership is thought to act as a social control mechanism reducing levels of crime. As Evans et al. (1995: 199) note, "Crime rates are generally lower in regions of the country where the religious ecology is dense."

Reasons for the Faith-Based Approach

Motivation for Police and Criminal Justice Agencies

Political leaders and criminal justice officials have increasingly recognized that government alone is limited in its ability to effectively address serious social and cultural problems such as crime (Goldsmith, 1997). One manifestation of this recognition is the call to "reinvent government." David Osborne and Ted Gaebler (1992) are well known for their urging that government act as a "catalyst" in energizing local resources and as a partner in finding "community owned" solutions to local problems.

Many of these ideas resonate with calls in the law enforcement field to move toward a community policing philosophy. Although definitions of community policing vary, common elements include the development of a police-citizen partnership, a prevention focus, and an emphasis on proactive enforcement and problem solving. Similarly, prosecutors, courts, and correctional agencies are increasingly recognizing that to move from merely processing cases to resolving neighborhood problems, there is a need for building these types of community partnerships and for proactively preventing crime. This has led to an emerging community justice movement.

From a community policing or community justice perspective, faith-based organizations (FBOs) offer a key neighborhood institution with which to translate abstract ideas of partnership and community building into reality. Particularly in our most crime-ridden neighborhoods, the church is often the institution that is available to create police-neighborhood partnerships. Similarly, if faith-based organizations can more effectively work with juveniles, substance abusers, or with inmates returning to the community, then they become a key resource for crime reduction. It is in this sense that criminal justice agencies are increasingly likely to recognize faith-based organizations as a key mediating institution for addressing crime problems (Woodson, 1998). The Reverend Mel Jackson captures the promise of this type of collaboration when he states, "The police force is committed to providing safety but there is an appropriate role for the church to partner with the police to help create a safer community (Goldsmith, 1998: 1)."

Motivation for Faith-Based Communities

While criminologists and sociologists think in terms of “religiosity,” the faith-based groups themselves think in terms of “mission.” Even the Puritans who first settled in America did so with the idea of creating a “city set upon a hill”- a religious colony which would serve as an example to the rest of the world. Both the Old and New Testaments, accepted by those who embraced the Judeo-Christian ethic for our nation, admonish believers to live exemplary lives, committed to good works and helping others. The idea of a church or religious organization reaching out to have a positive influence in the community is as old as most of the organizations themselves.

Until the **mid-1900s**, it had been the faith-based organizations, in fact, that had carried the bulk of the responsibility for the provision of social services in our country. In 1935, with the passage of the Social Security Act, the federal government stepped in to address the needs of the society; this was the result of the government’s realization that economic disaster, expansive urban growth, and problems inherent in modernization made the social burdens too great for the private sector to continue to carry. Gradually, as government expanded its efforts, the faith community handed over more and more of its responsibility, and also changed the nature of its delivery service to more closely resemble the professional and bureaucratic style demonstrated by the government.

Charitable Choice, Section 104 of the 1996 welfare reform law, offered the possibility of a new social services model that incorporates the caring, selfless, mission-orientation of the faith community *with the* money and resources of government. This legislation allows a *partnering* of Church and State in a way that was prohibited in the past. It lets religious organizations receive federal TANF funds to provide transitional services for recipients moving from welfare to **self-sufficiency**, while allowing the religious organizations to retain that nature and motivation that makes them successful in providing social services. At the same time, it provides safeguards for the faith-based groups, the government, and the welfare beneficiaries.

Senator John **Ashcroft** has proposed an even larger provision, the “Charitable Choice Expansion Act” (S. 2046), which would extend the funding opportunities for faith-based organizations to include *most* federally-funded social services, including housing, substance-abuse prevention and treatment, juvenile services, child welfare services and others. That bill has been read twice in the Senate and referred to the Committee on Governmental Affairs.

Searching for successful models in dealing with the current problems of drug addiction, juvenile crime, domestic violence and similar activities, government has recognized the group with a centuries-old tradition of caring for the poor, the disadvantaged, and the troubled sectors of our society- and one that has done so **with** a great deal of proficiency. That group is the faith community. Bringing to America the charitable practices of Jewish, Catholic, Protestant, Muslim and other faiths, religious congregations have always been known for giving not only of

their money, but also of their time and talents to those of their own groups and the larger community around them.

‘There are a number of specific benefits from using faith-based organizations that operate from a sense of mission. Some of them include:

A willingness to “go the second mile,” to do *more* than might be expected.

A presence in the community. Unlike people who simply go into a neighborhood to perform a specific service, or, even worse, expect people from the neighborhood to go outside the community to their facility, churches and other religious groups are located right in the neighborhoods. They are known as part of the community and have a reputation for the work they do among community members.

The ability to be a bridge from the neighborhood to the larger community.

Congregations, by nature of all the individual lives of its members, are usually represented throughout many areas of city and in all walks of life. As people in the neighborhood become involved with a congregation, they are exposed to life and people outside their own little worlds.

An awareness that others can change. People of faith have seen their own lives change as a result of their beliefs, and they believe that others can be transformed as well.

A sense of security. People involved in criminal or delinquent activity have often come from dysfunctional families where the only thing they can count on is the fact that there is nothing and no one they can count on. Congregations offer stability. The church, synagogue or mosque was there yesterday; it will probably be there tomorrow.

A sense of belonging. People often find “family” within the congregations—people with whom they can relate, and people who truly care about them. Some gang members have admitted they turned to gangs to find that acceptance they didn’t find in their own homes.

During this same strategic period of life, others have found a place in the Church.

A deeper level of commitment. Unlike a job which they are doing just to get paid, people involved in faith-based programs, whether paid or voluntary, are usually doing the work “for God.” This motivation keeps them working against obstacles, and continuing even in spite of failure on the part of those with whom they are working.

Areas of Involvement

This section of the report presents descriptions of faith-based efforts to address crime problems. Where available, we consider research on the impact of these programs. Here, however, we consider several studies suggesting that faith-based approaches may be promising.

How extensive is the faith-based community’s outreach? According to Abraham McLaughlin of the Christian Science Monitor, spending by churches towards services for the needy exceeds \$12 billion a year. This does not even include the countless numbers of volunteer hours toward social service programs and projects. Additionally, many **FBOs** provide services supported by state and

federal funding. For example, Catholic Charities in Boston receive about 65 percent of its budget from state and federal grants and Lutheran Social Services in New York receive about 80 percent (Loconte, 1998).

According to a study conducted by Ram Cnaan of the Brookings Institute:

Ninety one percent of older urban congregations serve the larger community through day care, food banks, clothing drives, tutoring classes, after-school programs, healthcare programs, substance abuse counseling and more. Eighty percent of these beneficiaries are not members of the congregation (church) and most are neighborhood youth. **The** median number of hours a congregation contributes to community volunteer works is approximately 5,300 hours a year (DiIulio, 1998).

Additionally, a 1990 study of over 2,100 black churches across the U.S. found that 70 percent of the churches operated or participated in one or more outreach programs including drug abuse and prevention programs, after school “safe havens”, and day care facilities (DiIulio, 1998). One such study of African American congregations in Atlanta, Georgia stated that 85 percent of African American congregations engaged in some form of outreach other than pastoral, liturgical or educational (DiIulio, 1998).

According to Robert Woodson, Sr. (1998), faith-based organizations distinguish themselves by the following characteristics. They:

Are open to **all** comers.

Have the same zip codes as the people they serve.

Are flexible (no two individuals are the same and no one “treatment model” is best).

Contain an element of reciprocity, if they are truly effective.

Include clear behavioral guidelines, and discipline plays an important part.

Fulfill the role of a parent.

Are committed to the long haul.

Are available.

Involve an element of immersion in an **environment of** care and mutual support with a community of individuals who are trying to accomplish like changes.

Are united in a “brotherhood” or duty of service.

White and de Marcellus (1998) note that **FBOs** can reach individuals through three mechanisms: church ministries, faith-based schools, and faith-based nonprofit organizations.

Faith-based organizations have been involved in many different types of crime prevention efforts. These include primary prevention, secondary prevention or intervention, and tertiary prevention or correction/reformation.

Primary prevention includes efforts to prevent crime from occurring in the first place. Examples include working to build a stronger neighborhood where informal social bonds work to reduce the level of offending. Socializing citizens to a moral code such as the Golden Rule can be thought of as primary prevention. Another example would be church-based counseling for young

children who have witnessed violence in the home and who, in turn, are at increased risk for continuing the cycle of violence as adults.

Secondary prevention refers to efforts to prevent crime once there is some indication that continued involvement in crime is likely. A faith-based mentoring program that is geared toward youths who have been diverted from the juvenile court would be an example. Another example would be street-based ministry whereby members of the faith community march upon drug houses or walk the streets in high-crime neighborhoods and talk **with** youths at risk of involvement in gangs, drugs, and related crime. In this case the action is directed at individuals or situations thought likely to generate crime absent the intervention. We refer to secondary prevention as intervention throughout the report.

Faith-based organizations have a long tradition of formal involvement in prison and jail-based ministries. Members of the faith community have long heeded the call to serve to the imprisoned. Prior to the 20th century, many institutions for juvenile delinquents were actually administered by religious groups. To the extent that these efforts focused on reformation of individual offenders, they reflect a correction-type role of faith-based organizations. Criminologists refer to this as tertiary prevention, attempting to prevent continued offending among a population that has already shown its propensity to commit crime.

In the sections that follow, we describe faith-based efforts in each of these areas of primary prevention, intervention, and correction. Some of these efforts involve formal partnerships with government, others have arisen without formal or informal governmental support. Some have included formal evaluation components, others appear promising on the basis of anecdotal evidence. Taken together, however, they suggest the promise of faith-based organizations for addressing crime problems.

Prevention Programs

Prevention programs developed by **FBOs** may not necessarily include active criminal offenders. They may, however, focus on individuals who exhibit high-risk behaviors or on high-risk **neighborhoods**—for example, the youth that employs “bullying tactics” at school or in a neighborhood, youths experiencing academic or behavioral problems in school, or youths facing **difficulties** at home that may lead to criminality. The objective(s) of prevention programs may be multiple in scope but specific in outcome. Prevention of crime can be viewed as an inoculation to illness. Prevention may or may not “cure” the illness of crime, but it can develop immunities (competencies, opportunities, education, conscience, awareness) toward criminal behavior. The following section highlights some of the innovative faith-based efforts.

Many of the prevention programs seek to address illegal drug problems and to break the link between drugs and crime. One such program is the Communities in Action to Prevent Drug Abuse II, Reclaiming Our Neighborhoods. In 1996, three **FBOs**, (Action Through Churches Together, Virginia, MN; Congregations United for Community Action, St. Petersburg, FL; and Northwest Bronx Community & Clergy Coalition, Bronx, NY), were selected to take part in a

two-year Bureau of Justice Assistance and U.S. Department of Labor demonstration project. The purpose of this project is the development and implementation of short, intermediate and long-term strategies regarding community policing, prevention, education, and job-training opportunities placement, (Office of Justice Programs, 1996).

Another effort with public support is the Congress of National Black Churches' National **Anti-drug/Violence** Campaign's (NADVC's) Technical Assistance and Training Program- This program, supported by the Office of Juvenile Justice and Delinquency Prevention, provides training and technical assistance designed to mobilize neighborhood residents and to increase public awareness towards drug abuse and related crimes in target communities across the United States. The NADVC also works to focus and coordinate church, public, and community leaders to initiate grassroots anti-drug campaigns. This campaign is being implemented in thirty-seven cities involving 1,760 clergy and affecting about 500,000 individuals. NADVC has helped sites leverage \$13.4 million in direct funding to local anti-drug, anti-violence initiatives (Coordinating Council on Juvenile Justice and Delinquency Prevention, 1996).

The African Methodist Episcopal Church in New York with a congregation of 8,000 has raised millions of dollars and devoted numerous volunteer hours to the redevelopment of the church's surrounding community in Queens. This is evident in A.M.E. Shekinah Youth Chapel in Jamaica, Queens centered in one of the city's impoverished, crime- and drug-infested minority neighborhoods. The Youth Chapel's mission is to mentor and minister to surrounding neighborhood children, regardless religious affiliation. The Chapel also provides a safe haven for all youth (DiIulio, 1998).

My Brothers Keeper (MBK) was founded by Miguel and Mercedes Torres and operates in Camden, New Jersey. MBK provides a "Christian-centered approach to the successful treatment of chemical dependency and **homelessness**" as well as serving impoverished children (DiIulio, 1998). MBK has no paid staff and does not receive government funding for services provided. The entire budget of \$50,000 is provided by contributions and fundraisers. Specific programs offered by **MBK** include faith-based drug treatment shelters, neighborhood recreation programs, after-school programs, and vocational and job placement services. MBK has also partnered with local law enforcement to address crime issues such as Halloween (Devil Night) crimes; due to the efforts of law enforcement and programs and events sponsored by MBK, violence and mayhem are reported to be minimal. MBK also offers medical services through Holy Name Catholic Church JUST (Jesuit Urban Service Team). JUST operates a **24-hour**, medical service that tends to the needs of over 7,000 patients per year. They also provide service programs that address crisis intervention for individuals who have witnessed or been victimized by crime. Additionally, Holy Name Catholic Church offers after-school and summer programs for over 150 youth as well as youth sports programs.

Concord Baptist Church in Brooklyn, New York-one of the largest black churches in New York-has undertaken an enormous effort drawing on its 10,000 middle-class parishioners (Robinson, 1998). They have been able to collect as much as \$1.7 million dollars on a Sunday.

The Church owns an entire city block of social service institutions. Recently, Concord Baptist Church created its own foundation to support community and youth outreach programs as well as the development of a community health center in cooperation with a local hospital.

The City of Indianapolis awarded twelve churches with grant money to provide summer programs to some 1,500 youth. Many of these programs involved skill learning, crime prevention and evening recreation for youth. This is reflective of the work of the city's Front Porch Alliance (**FPA**). The FPA was created by Mayor Stephen Goldsmith so that city government could provide training, technical assistance, and funding to support the efforts of **FBOs** at community renewal. One of the first groups to work with the FPA was the **Westside Community Ministries**, a coalition of twenty churches. **Westside Community Ministries** has developed a wide variety of initiatives including after-school programs, mentoring, and workforce training and placement. A more recent development from this alliance is the Indianapolis Ten-Point Coalition. The Ten-Point Coalition seeks to address juvenile crime and drug problems, literacy, and economic development. An example of the association's efforts is a group of ministers who spend Friday and Saturday evenings walking the streets of crime-plagued neighborhoods and working one-to-one with youths. The Reverend Mel Jackson states, "We are attempting to bring the presence of God to the street and let the people that we meet know that there is a more excellent way" (Goldsmith, 1998: 1).

The Indianapolis Coalition is modeled directly on the success of Boston's Ten-Point Coalition created by the Reverend Eugene Rivers. Rivers, a long-time critic of the police, decided to work with the police, probation officers, and state and federal prosecutors, as well as with youth and community leaders to reduce youth violence. As law enforcement spread a message of zero tolerance for gun violence, the coalition worked directly with youth to demonstrate opportunities outside of crime and gang life. The findings from Boston have been dramatic. Indeed, the city experienced a two-thirds decline in youth homicides and a period of approximately two and one-half years without a juvenile homicide (Kennedy, 1997).

Intervention Programs

Intervention programs are focused on individuals who have committed **criminal** acts. The intervention may be offered as a diversion from the courts or it may be court-ordered as a condition of probation. Examples of court-related services provided by **FBOs** include counseling, community service, housing, restorative justice and job placement.

Victory Fellowship is a faith-based intervention organization that specializes in working with substance abusers. The organization was founded by Freddie Garcia. The program has 65 satellite centers in California, Texas, New Mexico and several international sites. Victory Fellowship has served over 13,000 men and women whose goal is familial restoration and support. Victory Fellowship services include drop-in centers, safe havens for youth and drug abusers, court services for youth, gang-intervention programs and jail and prison minis&es (Woodson, 1998).

The Institute for Conflict Management of Orange, California is sponsored by the St. Vincent de Paul Society, a church-related and community-based social service agency. This mediation program brings together both the victim and offender to discuss the incident, allows the victim to explain the impact of the offense, and devises a reparation plan whereby the offender makes amends. The program began in 1989 and today it represents one of the largest victim-offender mediation programs in North America. The Institute recently received a \$300,000 county grant to divert more than 1,000 juvenile offenders. An evaluation of the program found that 96 percent of the reparation agreements between the victim and offender were completed successfully or are nearing completion (Office of Juvenile Justice and Delinquency Prevention, 1998).

Teen Turnaround is a court-supported project through Oak Cliff Bible Fellowship in Dallas which intervenes on the behalf of juvenile offenders. The Fellowship focuses primarily on mentoring programs, job placement, and continued education. Today, Oak Cliff works with approximately 80 juveniles offenders (Loconte, 1998).

Consider Teen Challenge, a worldwide Christian organization that focuses on youth with drug addictions. For over thirty years, it has been going into schools to educate teens about the dangers of drugs; it offers programs in juvenile centers and prisons to educate people about “how to change their lives;” and it conducts support groups that help people make a transition from dependency problems to positive lifestyles. Residential programs challenge adults to learn to lead drug-free lives through spiritual transformation and achievement of their fullest potential socially, educationally, and occupationally. Since Teen Challenge began in 1958, it has helped thousands of drug addicts and alcoholics. Two significant research projects have confirmed Teen Challenge’s effectiveness, showing a 70-86% cure rate for program graduates (www.teenchallenge.com).

FaithWorks International, founded by Bobby Polito, is an organization formed to meet the growing needs of the homeless drug addict population, based on the model he established in his work at the Bower-y Mission Transitional Center (BMTC). The BMTC is a 77-bed Christian center, funded jointly by the City and State of New York. Situated in one of the poorest neighborhoods in New York, it helps homeless men to break the cycles of addiction and return to independent living. Since its inception in 1994, it has graduated over 500 people through its one-year, four-stage program, and was identified last year by President Clinton as one of the “top fifty programs in the United States.”

Corrections

Correction programs instituted by **FBOs** work with offenders who have been convicted of an offense and are either currently carrying out their sentence via imprisonment or have been released from prison and are returning to the community. There are primarily three areas that FRO programs fall within. The first is servicing inmates and their families during incarceration. The programming offered by **FBOs** typically focuses on providing coping skills for the inmate and families. Second, **FBOs** also offer various counseling programs to inmates as well as religious services. Third, **FBO’s** offer aftercare and follow-up after release from an institution.

In many ways, **FBOs** assist the transitioning inmate by offering shelter, job placement, counseling, and related programs.

There is a long-standing tradition of religious programs in U.S. prisons. A survey of inmates in prisons found that one-third reported involvement in religious activities (U.S. Department of Justice, 1993). Johnson, Larson, and Pitts (1997) examined inmates participating in Prison Fellowship programs in four prisons in New York State. Using a matched comparison group, they found that inmates involved in Prison Fellowship had a similar rate of recidivism as inmates who did not participate in the program. They also discovered, however, that when they considered level of involvement in Prison Fellowship, the inmates most active in the program had significantly lower rates of rearrest in the year following release.

Prison Fellowship's Innerchange is a correctional program that addresses the needs of inmates within a Texas correctional facility. Innerchange, a volunteer Christian-based rehabilitation program, provides faith-based counseling, Bible study and prayer, and life-skills training during the time of incarceration and then assists inmates in the transition from incarceration to release. Particular attention is given to educational and vocational attainment and job placement. About 200 church volunteers work with over 130 inmates and parolees in this 18-month program. The early results indicate that the 26 ex-offenders who have completed the program all have employment. The Texas correctional facility has made concessions to assist in the implementation of the program. For example, one wing of the correctional facility has been designated as the Innerchange program and there is 24-hour on-call access to those inmates (Loconte, 1998). Prison Fellowship is now active in prisons across the United States.

Los Angeles Metropolitan Churches (LAM) is a conglomeration of over thirty black congregations that works extensively with juvenile probationers in South-Central Los Angeles. LAM's primary focus is on assisting ex-offenders in unifying families as well as providing a range of aftercare services (DiJulio, 1998).

Challenges

Identity Crisis of the Church

There are a number of challenges that face faith-based organizations as they try to fulfill their mission in the community. One of the greatest is the difference today in the way faith-based groups are looked upon by the larger society. Once accepted as one of the normative institutions within society, the Church is now seen by some as a threat to individuality, and the social work it endeavored to do in the past, is often now thought to be the domain of "professionals," not volunteer "zealots."

Some churches themselves have even lost their own identity as they have tried to pattern themselves after the professional practices they have observed, and they have to work at maintaining the differences that have made them effective. Even individuals have that tendency.

One organization in Pennsylvania that works effectively to address the needs of men and to promote responsible manhood has employed men who successfully completed their program to be program leaders. At one point one of the leaders, an African-American who is a former **offender**— streetwise, and able to relate well to other men going through the program—began trying to look and sound like the program director, a middle-class white man in suit and tie whose background is far different from most of the men in the program. He had to be encouraged to concentrate on being his own best “self,” and not to lose his unique identity that makes his message so much more effective.

Some congregations, likewise, have traded the uniqueness that makes them effective for a sterile professionalism that keeps them from fulfilling their mission. Joe Loconte, Heritage Foundation’s William E. Simon Fellow for Religion in a Free Society, has said, “Since the courts have ruled that taxpayer money cannot support explicitly religious programs, charities often trade their spiritual birthright for the pottage of public money.” (*All Things Considered*, 1999)

The concept of a caring community is explored in John McKnight’s *The Careless Society: Community and Its Counterparts*. McKnight and others have pointed to the need for a revitalization of the community that will reach out to provide in ways that go beyond what the professional establishment is willing or able to do. “As citizens have seen the professionalized service commodity invade their communities, they have grown doubtful of their common capacity to care, and so it is that we have become a careless society, populated by impotent citizens and ineffectual communities dependent on the counterfeit of care called human services. Service systems can never be reformed so they will ‘produce’ care. Care is the consenting commitment of citizens to one another. Care cannot be produced, provided, managed, organized, administered, or commodified.... Care is, indeed, the manifestation of a community.” (McKnight, 1995:x)

Identity Crisis of the State

The government in recent years has been questioning its own role vis-a-vis the private sector. At one time acting as though it were omnipotent, it has now acknowledged that there are some things it *cannot* do as well as the private sector, and has sought partnerships with private sector entities to provide such services. Privatization of a number of formerly government-operated services has changed both the scope of government and also its identity. Whereas in the past, the private sector may have had a passive attitude, expecting the government to take care of things, the government’s new openness to partnership has prompted private sector organizations to ask themselves anew about their own role and responsibility.

“Elected **officials** also face another, more subtle, pressure,” points out Steve Goldsmith. “Americans have always joked about the inefficiency of their government—witness the debate over national health care, which some pundits observed would combine ‘the efficiency of the post **office** with the compassion of the IRS.’ There is an important issue underlying these jokes. Private enterprise and government share patrons. Customers to one are taxpayers to the **other**.... **Taxpayers** will tolerate some level of inefficiency and unresponsiveness from

government, but as taxes continue to rise, their patience wears thin. Citizens demand better value from those they elect.” (1997: 14- 15)

Privatization is not heralded by most as the appropriate route for every operation; there are some things that government can do best. At the same time, much success has been reported with private-sector involvement. A 1997 National League of Cities survey of 500 local elected **officials** found that of the 70 percent who had experience with privatization, 74 percent said it *was* a success. (*American Enterprise*, 1997) As economist and President of Mackinac Center for Public Policy Lawrence W. Reed has explained: “The theory is simple, but grounded in profound truths about the nature of humans and their response to incentives and disincentives. Tie up the performance of a task with red tape, bureaucracy, and politics within a system that is guaranteed to exist regardless of outcome, and the result is usually mediocrity at great expense. Infuse competition, accountability, and the fear of losing valued customers into the task, and mediocrity becomes the exception, excellence the rule.” (1997)

Texas was one of the first states to try to deal with the role of the state in relationship to **FBOs**. The Governor’s Advisory Task Force on Faith-Based Community Service Groups, after much study and deliberation, arrived at a ten-point definition of the state’s role:

First Principles: Government’s Role in Texas’ Religiously Diverse Society

Principle 1: Each person is created in God’s image with inherent worth and diverse talents, and each of us is bound together in various social relationships and responsibilities.

Principle 2: We each bear a responsibility to do justice and love our neighbors, a responsibility that comes **from** God.

Principle 3: Government can do some things, but it cannot reach deep into the human character. Some of our worst social pathologies (e.g., illegitimacy, crime, poverty) can be solved if people experience spiritual transformation; if the hearts of parents are turned toward their children; if respect is restored for human life and property; if a commitment is renewed to care about our neighbor and our community.

Principle 4: Texas is blessed by a rich diversity of people and institutions-families, houses of worship, private and religious charities, schools, voluntary associations, local grassroots organizations-able to champion virtuous ideals and restore hope. Armed with love, individual responsibility and spiritual values, these character-building institutions of civil society perform miracles of renewal and restoration.

Principle 5: Every single one of Texas’ social problems, no matter how severe, is today being addressed somewhere and somehow, by some faith-based or community group. This is a great and untold story.

Principle 6: A responsibility of government is “**fruitful** cooperation” with mediating institutions that are meeting the needs of Texans in crisis. Government policy must bolster, not weaken or displace, people and organizations that are carrying out their vital responsibilities and getting **things** done.

Principle 7: The urgent public mission of enhancing Texas' civil society requires a fresh definition of compassion, one that focuses on the consoling hand and word of someone who "suffers with" and who invests himself or herself.

Principle 8: The members of this Task Force see the First Amendment as a vital protection against unreasonable government interference. Government should not exclude religious expressions or concerns from the public square nor grant privilege to secular programs or solutions. Government's treatment of faith-based organizations should be one of benevolent and positive neutrality.

Principle 9: State and federal law, rules, and regulations should not discriminate against Texans eligible to benefit from government financial assistance for human services (e.g., job training, health care, shelter, child care, education, counseling, drug and alcohol rehabilitation) simply because they choose to receive those services from faith-based service groups. Such groups, on an equal footing with non-religious groups, should be permitted to serve beneficiaries of government-funded services-and without having to "secularize" their distinct religious character or self-governance.

Principle 10: We see no conflict with, or threat to "promot[ing] the general welfare" when government cooperates or contracts with faith-based social service organizations on the same basis as it does with non-religious organizations in seeking to fulfill this purpose. (1996:2)

Legal Ramifications

Robert Woodson, Founder and President of the National Center for Neighborhood Enterprise, uses a biblical story in his ***Triumphs of Joseph: How Today's Community Healers are Reviving Our Streets and Neighborhoods*** to explain the roles of the government and faith-based groups. During a period of great famine, the ***Old Testament's*** Joseph gained favor with Pharaoh and was entrusted with great resources which he used to help his family, city, and entire country. Woodson draws an analogy with the work of community groups in today's period of moral and spiritual famine. "Pharaohs" are those with resources, power and influence; "Josephs" are those whose commitment, understanding and hands-on service lead others to healthy, fulfilling lives. The book hypothesizes that the root causes of the crises in American society are not poverty and racism, but spiritual and moral bankruptcy that pervades homes and communities regardless of race, status or education. In the inner city, "little children can stand at the scene of a homicide, eating ice cream cones." "In a pastoral Texas town, ten white boys could surround a horse, torture it to death, and then laugh about it. Two brothers in an affluent suburb could murder their parents in cold blood. A Harvard graduate could become a "Unibomber."

To solve today's problems, Woodson suggests an alliance of Pharaohs and Josephs. Josephs, often part of faith-based organizations, live in the communities they serve, love unconditionally, and remain committed despite setbacks and rejection. Their goal is not rehabilitation, but transformation. Conventional interventions merely restore people to their state before they exhibited social deviance-still susceptible to the same temptations as before. Community "healers," however, "do not seek simply to modify behavior but to engender a change in the values and hearts of the people they work with....the impact of a transformation lasts a lifetime (1998: 81-82)."

Woodson urges Pharaohs, (government officials, businessmen, philanthropic funders), to use their resources to support the Josephs already working within their own communities rather than new programs that do not address the deeper needs of those served, and are usually staffed by professionals who neither understand nor relate to the people they call "clients." Josephs, in

contrast, are working and living alongside their “friends,” and have dedicated themselves to promoting lasting changes.

He notes the change that must occur before government and faith-based groups can partner together:

The alliance between the Josephs of our nation’s low-income communities and modern-day pharaohs requires nothing short of a fundamental paradigm shift—an essential change in the assumptions that have guided the relationships between individuals with resources and individuals in need of support. We can no longer look at this relationship as one between donors and recipients. We can no longer approach this relationship in terms of charity. Charity is not the model for the interchange between our nation’s pharaohs and Josephs. In the Old Testament, the Pharaoh did not approach Joseph with charity. His goal was not to establish a welfare system for the people of **Egypt** or food stamps for Joseph’s people. No, he said, ‘Let us come together to address this danger or it will consume us all.’

Like their biblical counterpart, although today’s Josephs deserve to be heeded by modern-day **pharaohs**—political leaders and leaders of the business community—their effectiveness is not dependent on such recognition. Long before support or **acknowledgment** came from the outside, the Josephs of our nation lived committed lives of service and accomplished miraculous changes in the lives of those they served. Yet an alliance between today’s Josephs and pharaohs will allow their transforming efforts to expand and further develop, to the benefit of the entire society (1998: 117-118).

A fear of violating the Establishment Clause of the First Amendment has kept some government agencies from partnering with faith-based groups, but others across the country are finding great success in doing so. **In** Massachusetts, men who are failing to pay child support are sent by judges to fatherhood classes held in local churches with teams of pastors and probation **officers**; Good Samaritan Ministries and other faith-based groups helped Ottawa County, Michigan become the first county in the nation to move every able-bodied welfare recipient off the rolls and into a job; in Indianapolis, Mayor Stephen Goldsmith’s Front Porch Alliance has cut through bureaucratic red tape and, in some cases helped financially, to renovate a dilapidated house into a drug-treatment center, an old fire station into an after-school center, vacant lots into playgrounds and numerous other projects.

Goldsmith has made the point that government needs to return to the intent of our country’s founders. They intended the government to be **neutral** toward religion, but the tendency has become for government to be **hostile** toward religion. He would agree with Thomas Jefferson, who said, “Religion may be deemed in other countries incompatible with good government and yet proved by our experience, to be its best support.” (*All Things*, 1999)

Most advocates of the inclusion of faith-based groups among those eligible for partnerships with government point to the **results** of such programs. Charitable Choice was never intended to be an affirmative action program for faith-based groups. **If** contracts are performance-based, then only those successful in attaining their goals will be funded. As Eugene Rivers, Executive Director of the National Ten-Point Coalition, says, “We should not be judging a group on the basis of **the** spiritual **input**, but on the secular **outcomes**.”

Resources

While the love of money may be “the root of all evil,” the absence of money prevents much good from being done. Funding is a continual challenge for most faith-based organizations. Fear of

government encroachment, or even fear of crossing the line and violating church-state separation, holds back most such groups from applying for government funding even when they are eligible.

Others are just unfamiliar with the world of government grants and have no idea they are available or how one would go about accessing them. This puts religious groups at a disadvantage relative to secular organizations who feel free to apply for every federal or local grant available.

Most congregations depend solely on contributions to enable them to provide specific services to the community in addition to meeting needs of members of their own group. After the operating expenses of the church, staff salaries, and member needs are taken care of, there is often little left over for community services. A lot, however, can be done without money, simply through individuals volunteering their time. Mentoring programs, group self-help sessions, emergency child care or transportation for individuals, and countless other services are being offered in numerous congregations by people willing to give of their time and their talents.

Some groups have used fundraisers or even more formal money-making projects to enable them to have funds to accomplish service goals. Most people aren't aware that the internationally known Goodwill Industries was first started by a pastor in the South End of Boston who wanted his church to reach out to the people of that neighborhood—all of whom were poor, and most of whom were immigrants. Wanting to help the individual by putting “a tool in his hands, not a coin in his cup,” Rev. Edgar J. Helms recognized the need for jobs. At his chapel, he collected discarded clothing and household items and then employed people who needed jobs to repair these donated goods, which were then sold to pay the employees' wages. From that small endeavor on the part of one concerned pastor in 1902, a world-wide organization has formed that still carries out the same principles. Throughout its history, Goodwill has earned more than 90 percent of its operating revenue from selling products and services. While learning to be savvy in business and self-funding, it has never lost sight of its real mission: to assist individuals in achieving fuller participation in society by helping them overcome barriers and expand their employment opportunities. (Polis)

One of the exciting things happening within communities across the country is the partnering of urban and suburban churches. Often, urban churches are attended by low-income inner-city residents, so they have little money but great needs. Suburban churches **often** have more money and a desire to help those financially less fortunate. Where they would be ineffective going into an inner-city area to operate a program themselves, they can readily fund groups already established there to provide a particular service or offer a particular program. Patterned after giving to foreign missions, suburban churches often find a great sense of satisfaction in being able to help people even closer to home.

There are organizations, too, that help congregations in developing resources to help them carry out their work. Good Samaritan Ministries, mentioned earlier, helped coordinate the churches in Ottawa County, Michigan, in their efforts to assist people making the transition from welfare to work. The National Center for Neighborhood Enterprise works with grassroots organizations in thirty-eight states in a variety of ways to help them to help them receive necessary training and

technical assistance and to help them link with business, philanthropic and public sector agencies to carry out their missions.

Policy Considerations

The Triumphs of Joseph closes with a speech presented by William Schambra of The Bradley Foundation, who agrees that society's needs are moral and spiritual, and the answer doesn't lie in the hands of disconnected professionals. "To put it a different way, if I'm ever in a serious accident, I don't want to be treated by a professor in medical science. Get me one of those doctors who spent a lot of time in emergency rooms. That's where grassroots have been trained-in the emergency rooms of civil society. They are civic 'trauma' specialists. They get the worst cases, the so-called hopeless cases. People come to them smashed, broken, bleeding, barely breathing.... Grassroots leaders send them back into the world healed and transformed and now capable of transforming others." (1998: 153)

The involvement of grassroots organizations, including those motivated by faith, is not in question. They will continue to do what they have always done. How well they do their work, and the degree of impact they can have in individual communities, however, will depend on funding, resources and opportunities afforded them in carrying out their missions. In reviewing some of the literature relevant to the topic of the faith-based approaches to crime prevention and justice, and in getting to know the programs and understanding various perspectives on the issue, we would offer the following thoughts for consideration:

1. The Charitable Choice clause of the 1996 welfare reform law, and the proposed Charitable Choice Expansion Act, were never intended as affirmative action programs for faith-based organizations. They are only intended to *allow* such groups to compete for government **funding in the same way as any other organization.**
2. As with Charitable Choice, safeguards should be built into any future initiatives in order to prevent individuals from being forced to participate in faith-based programs if they choose not to, to protect the rights of the faith-based groups to retain their religious identity, and to justify the states' actions in assuring that government monies accessed through these provisions are being used to achieve the expressed goals, not to merely further the religious activities of a congregation.
3. A growing body of evidence suggests faith-based organizations are effective agents, especially regarding the more challenging personal problems. To deny their participation is to cut off one of the proven solutions to the myriad problems facing communities today.
4. **The discussion of faith-based approaches can no way be interpreted as a denial** of the success of many secular programs as well. Each program must be evaluated on its own merits, not approved or denied solely because of its orientation to the problem.

5. All contracts with service organizations should be performance based. In evaluating any program, the focus needs to be on *outcomes*. All programs should be required to prove their success rate in preventing crime, decreasing recidivism rates, improving the quality of life for at-risk youth, or whatever the expressed goals.
6. Participants should always be given the choice of either a religious or secular program. This ensures legal protection and is good policy. Voucher systems are sometimes a practical solution in assuring such individual choice.

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From The Book:

“A TORCHLIGHT FOR AMERICA”

BY

The Honorable Minister Louis Farrakhan

THE PURPOSE OF EDUCATION (Pages 47-52)

Let's deal with what education is supposed to be as opposed to what it is in America. One of the things that separates man from beast is knowledge. Knowledge feeds the development of the human being so that the person can grow and evolve into Divine and become one with the Creator. It's not one's maleness or femaleness, being black or being white, rather it is our growth and reflection of knowledge that distinguishes us from the lower forms of life.

Education is supposed to be the proper cultivation of the gifts and talents of the individual through the acquisition of knowledge. Knowledge satisfies our natural thirst for gaining that which will make us one with our Maker. So true education cultivates the person - mind, body and spirit - by bringing us closer to fulfilling our purpose for being, which is to reflect Allah (God).

The second purpose for education, after self-cultivation, is to teach us how to give proper service to self, family, community, nation and then to the world.

The problem in today's education is that the root motivation is the acquisition of wealth and material things rather than cultivation of the human spirit. In a study conducted by Dr. Harold Stevenson, professor of psychology at the University of Michigan (in which he compared American schools to those in East Asia) the educational deficiencies of America's youth were traced to the motivational forces promoted by America's culture. In response to a "wish" question, Chicago children tended to wish for money and material objects while Beijing children wished for educational goals. Dr. Stevenson concluded that "clearly, a challenge in the U.S. is to create a greater cultural emphasis on education and academic success. But we must also make changes in the training of teachers and in their teaching schedules, so that they, too, will be able to incorporate sound teaching practices into their daily routines."

PUT GOD FIRST

True and proper education starts with the knowledge of God. And yet God is taken out of the schools. It is ridiculous that the school day does not begin with prayer. God is the author of all knowledge, so why should He be taken out of the schools?

Recognition of God is the proper beginning point for understanding every discipline. If we cannot honor God, the Supreme Teacher, then how can the children honor their teachers? We have this thing all backwards. You don't pledge your allegiance to a flag, which is merely the symbol of a nation. You pledge allegiance to God, and you work for your flag and country.

A while ago I coined the phrase, "he who gives the diameter of your knowledge prescribes the circumference of your activity." If you gain a limited knowledge then you restrict the possibilities of what you can and will achieve. The capacity of man's brain is infinite. Therefore, the greater one's knowledge grows, the greater becomes one's sphere of activity until it encompasses and reflects mastery of self and mastery of the universe.

The knowledge of God is infinite. I would argue that leaving God out of our schools limits our education and confines the scope of what we are equipped to do and achieve.

As an example, in the recent movie on Malcolm X we saw a **young** man who looks like many young men today, except that he rose from a low life of crime and ignorance into the man who a great many now admire. Malcolm rose to his heights because he was taught the knowledge of God, self and others by the Honorable Elijah Muhammad. Because Malcolm was taught outside of the sphere of white supremacist teaching, he never lost a debate, even against the most learned of the society and even though he had just an eighth-grade education. God was present and foremost in Malcolm's "true" education, and this is why he achieved what for others would be an impossibility.

TEACH THE TRUE KNOWLEDGE OF SELF AND OTHERS

Every human being requires a knowledge of self as part of the proper cultivation of the divinity that is in them. Additionally, and if we hope to live together in peace with others in the society, we must know something of the cultures that make up this so-called melting pot.

A new public school system should relate the curriculum to the self. When we see the curriculum as an outgrowth of self, then we can identify with the curriculum, giving us an incentive to learn. In the Muhammad University of Islam school system, our students' learning is facilitated because they identify with the subjects. They are taught that **they** are the subject. They are taught, "I am chemistry." Not, "I am a student of chemistry," rather, "I am biology. I am economics. I am history. I am mathematics." When we relate the forces within self to the forces that lie outside the self, this connects us to subjects we are studying in a manner that we can ultimately master these subjects.

Our bodies are controlled by the mind. So mastering economics should not be as difficult with this thought in mind. This body takes in and eliminates what is wasteful. Therefore, this body is economics and since I am the master of this body, I can master economics.

It's imperative to teach people about themselves, their history, their bodies and their nature so that they can become self masters. Mastery of self is the **key** to mastery of all disciplines because in some way every discipline is present within ourselves.

Once we have a mastery of self-knowledge, it's important to be taught the true history of the other people who make up this country. This promotes mutual respect for the members of the human family, leading to a peaceful and productive society.

This is why black history should be studied, not only by black people but by white people. As we have developed a respect for white people by knowing their history and great accomplishments, whites will develop a respect for black, native American and Hispanic people and all the peoples of the Earth when they know the histories and contributions of others to the onward march of civilization in a pluralistic society such as **they** claim this is.

It is absolutely a vital necessity that the people who make up America should be a part of the study of those who call themselves Americans, and in that way we grow to respect one another. Even if we never grow to love one another, mutual respect is all that is really required to make the nation truly great.

If America believes in pluralism, a new system of education must be developed that gives all human beings their proper due. The current study of American history is nothing more than the indoctrination of Americans in the ideas of white supremacy and black inferiority. At best, blacks, Hispanics and Native Americans learn how to use wit and skill to maneuver in a hostile environment, **but** they are not taught how to create new circumstances that make freedom, justice and equality, life, liberty and the pursuit of happiness realities instead of just words on a piece of paper.

The fundamental philosophies of Western civilization are rooted in white supremacy. You can't bring a

black child into that kind of educational environment and produce a child who loves and respects itself. You produce a child who bows down to white people and looks at white people as being God. I'm not saying it's wrong to respect another human being, but it is totally inappropriate to worship another human being - who is no better than yourself - as though they are a god beside Allah (God).

If whites patterned themselves after God then we could follow them. But they have done quite the contrary. And so we can't follow their example and permit our children to be destroyed with false knowledge that breeds in white children a superior attitude and breeds a sense of inferiority in black children and an attitude that says we can not accomplish what we will.

This is why Malcolm X left school and went into criminal life. There seems to be a practice of identifying young, brilliant black children, particularly black boys, and casting in their minds suggestions that stagnate their development and kill their upward movement. Evil suggestions were made to Malcolm, to me (and others in the past) **as** students in the school system. I know that these same evil suggestions are being made to tens of thousands of today's young black children.

One of America's greatest crimes was and is depriving us totally of the knowledge of self. This is a crime of immeasurable dimension. Having been deprived of the richness of our history deprives us of the springs and motives of human action that would tell us the possibilities that are within us. If you know what your forebears did, then you know the realm of possibility for you. If you are deprived of that history, then you have nothing to connect yourself to as a person. You are left vulnerable to attach yourself to the circumstances you are given, and in a white society everything that is given to us has Eurocentric perspective that has historically been hostile to black people.

We as black people never, therefore, get a root in ourselves, but focus instead on white people - their vision and accomplishments - as the standard by which we judge our possibilities. Further, we are subtly and overtly taught that we can never measure up to them and achieve their level of **accomplishments** because, by nature, we are inferior beings.

Aboriginal Programming for Correctional Service

Policy Objectives:

1. To ensure that Aboriginal offenders are provided with an equitable opportunity to practice their culture and traditions without discrimination and with an opportunity to implement traditional Aboriginal healing practices.
2. To recognize and respect that Aboriginal cultures and traditional practices contribute to the holistic healing of the Aboriginal offender and his or her eventual reintegration into society.
3. To recognize that Aboriginal offenders have the collective and individual right to maintain and develop their distinct identities and characteristics including the right to identify themselves as Aboriginal.
4. To ensure and recognize that Aboriginal offenders have the right to practice and revitalize their cultural traditions and customs including the preservation, protection and access to cultural sites, ceremonial objects and traditional medicines.
5. To ensure that the needs of all Aboriginal offenders are identified and that programs and services are developed and maintained to meet those needs.

Definitions:

6. "*Aboriginal*" means Indian, Inuit, or Metis.
7. "*Aboriginal Community*" means a First Nation, Tribal Council, Band, Community Organization or other group with predominantly Aboriginal leadership.

Definitions Continued:

8. “*Cultural Ceremonies*” include, but are not necessarily limited to, the following:

- **Sweat Lodge Ceremonies;**
- **Healing Lodge Ceremonies;**
- **Traditional Pow Wows;**
- **Changing of Seasons Ceremonies;**
- **Sundance Ceremonies;**
- **Healing Circles;**
- **Sacred Circles;**
- **Pipe Ceremonies;**
- **Potlatches;**
- **Fasts;**
- **Feasts;**
- **Tea Ceremonies.**

9. “*Ceremonial Objects*” Include objects deemed by Traditional Elders as Sacred or Ceremonial in nature and include, but are not necessarily limited to the following:

- **Medicine Bundles and Bags;**
- **Ceremonial Pipes;**
- **Colored Cloth Flags;**
- **Sweat Lodges;**
- **D r u m s ;**
- **Abalone Shells;**
- **Rattles;**
- **Whistles;**
- **Eagle Feather and Fans.**

10. “*Culture*” includes an integrated pattern of human Knowledge, Beliefs and Behavior that depends upon human capacity for learning and transmitting knowledge to succeeding generations: the Customary Beliefs, Spiritual Forms, Social Forms, Language and material.

Definitions Continued;

16. "*Traditional Medicine*" includes medicines as identified by a traditional Elder as having healing potential and includes, but is not necessarily limited to:

- Sage;
- Sweet Grass;
- Sacred Water;
- Cedar;
- Tobacco;
- Medicine Water.

17. "*Smudging Materials*" means Sweet Grass, Sage, Cedar, Tobacco or any other substance which is burned or otherwise used for ceremonial purification. The act of purification or blessing is referred to as "Smudging".

Institutional Responsibilities:

18. The Medicine Bundle of an Elder shall not normally be touched, except by the owner, during any required security inspection, and shall not normally be subjected to X-ray or cross-gender inspections.

19. Elders who are engaged to attend to inmates shall be accorded, in all respects, including compensation, the same status as Chaplains and Priests. The exception shall be their title if they choose not to be referred to as Chaplains or Priests. In consequence, Elders shall have the same freedom of movement within institutions, have the same opportunities to participate in the case management process, and shall be extended the same privileges and support which are provided Chaplains and Priests.

20. Aboriginal inmates shall be permitted personal possession and use of smudging material, required for spiritual practices, upon approval of the Institutional Head in consultation with an Elder or Aboriginal Advisory body.

Institutional Responsibilities in Court

21. Aboriginal Inmates shall be permitted personal possession of Medicine Bundles and other sacred objects which have been provided or sanctioned by an Elder whose services to inmates have been solicited by the institution. Any required security examination of such Bundles or objects shall normally be accomplished by having the owner manipulate them for visual inspection by the examining officer.

22. The institution shall recognize and respect that Aboriginal offenders have a wide and purposeful concept of family. Thus, decision makers, when exercising discretion involving an assessment of family relationships, must incorporate, understand, accept and honor the extended family relationships, of Aboriginal offenders.

Guidelines Traditional Aboriginal Spiritual Practices

Objectives:

1. To provide consistency and continuity in the traditional spiritual services provided to Aboriginal offenders for rehabilitation purposes,
2. To provide support for Aboriginal Spiritual Leaders engaged by the institution to attend to the spiritual needs of Aboriginal offenders.

Engagement of Elders:

3. Contract managers shall consult with Aboriginal communities, regional Aboriginal committees and/or councils of Elders for the purpose of:
 - a. Identifying Aboriginal Elders who are suitable to attend to the spiritual needs of Aboriginal offenders: and
 - b. Ensuring that traditional spiritual practices offered are consistent with the generally accepted practices within the area.

Levels of Service:

4. Institutions shall provide the same level of Elder spiritual services for Aboriginal inmates as is provided by Chaplains and Priests for non-Aboriginal inmates.
5. The amount of time devoted to the conduct of group ceremonies should be left to the discretion of the Elders engaged to provide spiritual services to the Aboriginal offenders.

Levels of Service Continued:

6. Aboriginal Elders shall be engaged to provide individual counseling services to Aboriginal offeriders.

Space for Spiritual Activities:

7. Elders shall be provided space which is commensurate with their de facto status as Chaplains.

8. Institutions shall designate indoor and outdoor space for the conduct of traditional ceremonies such as Pipe and Sweat Lodge Ceremonies. Where possible, Sacred Sweat Lodge compounds shall be established in consultation with the Elders, and shall be rotated regularly in the yard upon advice of an Elder.

Security Clearances:

9. In consultation with Elders, Aboriginal communities. Native Liaison Workers, Institutions shall establish standing orders for:

- a. The security clearance of Elders and their Bundles;
- b. The security inspection of Sacred objects in the authorized personal possession of inmates.
- c. The security inspection of Sacred Sweat Lodge Compounds;
and
- d. The protection of Sacred objects and grounds.

Counts During Sacred Ceremonies:

10. Institutions shall establish procedures to obtain reliable counts of inmates who are participating in Sacred ceremonies. The procedures shall be developed in consultation with Elders, Native Liaison Workers, Aboriginal offenders and Aboriginal Communities to ensure that the ceremonies are not disrupted.

Preparation for Ceremonies:

11. Institutions shall consult the Elders, Native Liaison Workers and Aboriginal Communities in establishing procedures for the collection and storage of materials required for ceremonies.

12. If rocks or wood are required, arrangements shall be made to make vehicles available for their collection, to provide manual assistance or to provide the money required to secure them.

13. Sweet Grass, Sage or other required smudging substances shall be harvested by Aboriginal offenders locally when in season, or they should be purchased if the Elder considers that to be a suitable alternative. Appeals may be made to Aboriginal organizations for assistance in maintaining an adequate supply.

Process for Review of Inmate Religious Practice Requests

Thieszen, Department of
Corrections (4/21/99)

Inmates who want to participate in practices and activities that are already taking place at an institution do not go through this process. They generally contact the chaplain or designated staff person about their interest in participating. The process in DOC 309.61(1) Wisconsin Administrative Code is used for requests for participation in religious practices that are above and beyond what we already do. (e.g. adding a new congregate service)

Initiation of Review	Process	Internal Review	Other Input
<p>1. Any inmate may submit a written request to the institution Warden for permission to participate in specific religious practices. This request must include a statement that the inmate professes or adheres to a particular religion and must specify the practice of the religion in which the inmate requests permission to participate in.</p> <p>2. Any inmate may file a complaint regarding Department rules, living conditions, and staff actions affecting the institution environment.</p>	<p>1. Under DOC 309.61 governing inmate religious beliefs and practices, the Warden or designee reviews the request with the Chaplain or designated staff person with appropriate religious training and decides if the request can be approved.</p> <p>2. Under Wisconsin Admin. Code chapter 310 Complaint Procedures, the inmate submits a complaint at the institution level. The Institution Complaint Examiner investigates and makes a recommendation to the warden for a decision. The inmate may file a written appeal to the Corrections Complaint Examiner who investigates and makes a recommendation to the Department Secretary for a decision.</p>	<p>Non-routine requests receive more extensive review from various perspectives. This review is coordinated in the Division of Adult Institutions. This generally includes input from different areas including:</p> <ul style="list-style-type: none"> a) Institution Warden or designee b) Institution Security c) Chaplain d) DOC Legal Counsel e) Wisconsin Department of Justice f) Central Food Management if the request is related to religious diets. g) Bureau of Health Services if the request related to medical concerns. 	<p>Review may also include consultation:</p> <ul style="list-style-type: none"> a) With an outside religious / spiritual leader or organization to determine the extent to which the request relates to the religion. b) With other jurisdictions including the Federal Bureau of Prisons and other states.



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FAITH-BASED APPROACHES TO CRIME
PREVENTION AND JUSTICE

MEMO NO. 2

April 20, 1999

TO: MEMBERS OF THE SPECIAL COMMITTEE ON FAITH-BASED
APPROACHES TO CRIME PREVENTION AND JUSTICE

FROM: Mary Matthias and Shaun Haas, Senior Staff Attorneys

SUBJECT: Description of Several Possible Recommendations for Legislation

This Memo was prepared for the Joint Legislative Council's Special Committee on Faith-Based Approaches to Crime Prevention and Justice. The Memo describes several proposals for consideration by the Special Committee. The proposals were developed based on a review of testimony and materials presented at previous meetings of the Special Committee. The basis for a particular proposal is described in background information preceding the description of the proposal.

This Memo is not an exhaustive list of all ideas presented to the Special Committee. Committee discussion need not be limited to the items set forth in this Memo.

A. RESTORATIVE JUSTICE

1. Background

At the December 2, 1998 meeting of the Special Committee, Bruce Kittle, Restorative Justice Project, University of Wisconsin Law School, explained the restorative justice concept. Additionally, the restorative justice concept is summarized in Part III, Restorative Justice, of Staff Brief 98- 11, ***Background Information on Faith-Based Approaches to Crime Prevention and Justice*** (December 4, 1998), which was previously distributed to Special Committee members.

Restorative justice represents a mixing of the criminal justice and civil justice systems. Crime is viewed as an act carried out against the local community as well as the victim. Although restorative justice may take many forms, as shown in the listing contained in the Restorative Justice "Backgrounder" in Appendix A to Staff Brief 98-1 1, the practice of restorative justice often involves the offender making some sort of restitution to the victim.

Restitution is a common result of victim/offender mediation or conferencing. Victim/offender mediation specifically involves a trained mediator, who may be a volunteer, acting to facilitate a face-to-face meeting between the victim and offender to express feelings, discuss the harm done by the crime and negotiate a restitution agreement.

Based on various estimates, more than 300 victim/offender mediation programs are operating throughout the United States. In Wisconsin, according to spokespersons for the Dane County Juvenile Offender Conferencing Services Program, victim/offender mediation programs exist in Dane, La Crosse, Manitowoc and Outagamie Counties; Jefferson County is starting a similar program.

2. Proposal

Provide funding for one assistant district attorney position in Milwaukee County to establish and conduct a restorative justice program in Milwaukee County and provide assistance to other counties wishing to establish such programs. This position could be a permanent position or a project position. A project position expires after a specified period of time; by statute, a project position may not exist for more than four years. [s. 230.27, Stats.] A permanent position has no expiration date.

Based on the proposal in the 1999-01 Budget Bill to permanently fund two assistant district attorney positions to prosecute cases under the sexual predator law [ch. 980, Stats.], it is anticipated that this proposal would require a general purpose revenue (GPR) annual appropriation of \$76,250.

The assistant district attorney funded under this proposal would be required to submit to the Department of Administration (DOA) an annual report describing his *or her activities*, the numbers of victims and offenders served, the types of crimes involved and the rates of recidivism among offenders served by the program.

~~B. NONDISCRIMINATION AGAINST RELIGIOUS ORGANIZATIONS~~

1. Backmound

Part IV of Staff Brief 98-1 1, *supra*, includes a discussion of the Charitable Choice provision of the Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996. At the December 2, 1998 meeting of the Special Committee, Chairperson Jensen explained that a state version of the federal Charitable Choice provision had been incorporated in the 1997-98 Biennial Budget Act (1997 Wisconsin Act 27). These provisions address the issue of discrimination against religious organizations that apply for Department of Health and Family Services (DHFS) or Department of Workforce Development (DWD) contracts or grants. (A copy of the provision applicable to DHFS is attached to this Memo.)

Under the state nondiscrimination provisions, DHFS and DWD are authorized to contract with, or award grants to, religious organizations on the same basis as any other nongovernmental provider without impairing the religious character of such organizations and without diminishing

the religious freedom of beneficiaries of services funded under these programs. The nondiscrimination provisions incorporated into state law include the following requirements:

a. ***Nondiscrimination against religious organizations.*** Specify that if DHFS or DWD is authorized to distribute any grant to, or contract with, a nongovernmental entity, that nongovernmental entity can be a religious organization as long as the programs are implemented consistent with the U.S. Constitution and the Wisconsin Constitution. Prohibit DHFS and DWD from discriminating against an organization on the basis that the organization has a religious character.

b. ***Religious character and freedom.*** Specify that a religious organization that receives a grant from, or contracts with, DHFS or DWD retains its independence from federal, state and local governments, including such organization's control over the definition, development, practice and expression of its religious beliefs. Prohibit DHFS and DWD from requiring a religious organization to alter its form of internal governance or remove religious art, icons, scripture or other symbols as a condition of contracting with, or receiving a grant from, DHFS or DWD.

c. ***Rights of beneficiaries of services.*** Specify that if an individual has an objection to the religious character of the organization or institution from which the individual receives, or would receive, assistance funded from a program supported with funding administered by DHFS or DWD, DHFS or DWD would provide the individual services from an alternative provider that is accessible to the individual.

d. ***Employment practices.*** Specify that a religious organization's exemption recognized under federal law regarding employment practices [42 U.S.C. s. 2000e-1a] are not affected by its participation in programs administered by DHFS or DWD.

e. ***Nondiscrimination against beneficiaries.*** Prohibit a religious organization from discriminating against an individual in regard to rendering services funded under any DHFS or DWD program on the basis of religion, a religious belief or refusal to actively participate in a religious practice.

f. ***Fiscal accountability.*** Specify that any religious organization that receives grant funding from, or contract with, DHFS or DWD is subject to the same laws and rules as other contractors to account in accord with generally accepted auditing principles for the use of these funds. If the religious organization segregates funding from DHFS or DWD into separate accounts, only the financial assistance provided with these funds is subject to an audit.

g. ***Limitations on the use of funds for certain purposes.*** Prohibit any religious organization that receives funding from DHFS or DWD from expending any of those funds for sectarian worship, instruction or proselytization.

At its March 11, 1999 meeting, the Special Committee heard testimony from Carl Esbeck, Professor of Law, University of Missouri, who said he was involved in writing the federal Charitable Choice provision. He expressed the view that the Charitable Choice law is consistent with the Free Exercise and Establishment Clauses of the U.S. Constitution. Professor Esbeck's view was supported in testimony from William Mellor, President and General Counsel, Institute for Justice, Washington, D.C.

A cautionary viewpoint on this issue was expressed at this meeting by Steven K. Green, Legal Director, Americas United for Separation of Church and State. Specifically, Mr. Green suggested that any state program that involves religiously affiliated agencies must adhere to four requirements: (a) state moneys may not be used to fund any religiously oriented programs; (b) the state must not contract with, make referrals to or provide grants to organizations that have a primary or substantial goal of conversion or proselytization; (c) the state may refer individuals to nonfunded faith-based programs provided the programs have a primarily secular goal and secular-based alternatives are available; and (d) neither the state nor any grantee may require participation in any religious activity. Jeffrey Kassell, Attorney, Freedom from Religion Foundation, Madison, expressed support for Mr. Green's view of constitutional restrictions on state funding of religious organizations.

In rebuttal testimony, Professor Esbeck expressed the view that Mr. Green and Mr. Kassell had relied heavily in their remarks on the U.S. Supreme Court case of *Bowen v. Kendrick*, 487 U.S. 589 (1988) and observed that this case had been superseded by three cases with *Agostini v. Felton*, 521 U.S. 203 (1997), being the last expression of the view of the U.S. Supreme Court on this issue. He said that a review of the *Agostini* case shows that the Court is close to embracing the "neutrality" principle. Under the neutrality principle, explained Professor Esbeck, the Establishment Clause of the U.S. Constitution is not violated by allowing all providers of social services to participate in a state program without regard to religion. Under this principle, the question that matters is not "who is the provider?" but "how is the money being spent"?

2. Proposal

a. Recommend the enactment of legislation comparable to the nondiscrimination statutory provisions that currently apply to the DHFS and DWD, as described above, and apply these provisions to:

- (1) The Department of Corrections (DOC). The nondiscrimination provision would enable the DOC to contract with, and distribute grants to, religious organizations on the same basis as any other nongovernmental provider without impairing the religious character of such organizations and without diminishing the religious freedom of beneficiaries of services funded under these programs. An example of a DOC program to which this provision may apply is the Youth Gang Diversion Grant Projects funded by the Division of Juvenile Corrections. Currently, five Youth Gang Diversion Grant Projects are being funded--two in **Racine** County and one each in Milwaukee, Kenosha and Brown Counties. The primary goal of all five projects is to divert youth from gang activities and into protective activities, including appropriate educational, recreational and employment programs, and alcohol or other drug abuse education and treatment services.
- (2) Counties. Counties receive both federal and state funds which are used for substance abuse and crime prevention efforts directed at at-risk youth. An example of one of these programs is the Community Aids Program which distributes state and federal funds to counties to support community, social,

mental health, developmental disabilities and substance abuse services. The nondiscrimination provision would enable counties to contract with, and distribute community aids funds to, religious organizations to perform these services provided the organizations comply with the law.

b. The Special Committee could sponsor a letter to state agencies to which the nondiscrimination provisions apply encouraging them to engage in an outreach effort directed at religious organizations that would inform them of the protection against state interference with religious practices contained in law.

C. VALUES-BASED PRISON REHABILITATION

1. Background

Part II A. of Staff Brief 98-1 1 provides detailed information regarding the InnerChange Freedom Initiative in Texas. InnerChange is a Christian-based immersion-style rehabilitation program which is operated within the state prison and paid for by Prison Fellowship Ministries. Currently, there is no program of this type in operation in any of Wisconsin's correctional facilities.

At its first meeting, the Special Committee heard testimony regarding the benefits to inmates of the practice of religion. Walt Thieszen, Chief of Program Services, Division of Adult Institutions, DOC, stated that the practice of religion by inmates helps them keep continuity with their community and fosters reintegration into that community upon discharge. Lisa Whitney of Prison Fellowship Ministries said that studies have shown that the recidivism rate of inmates who participate in faith-based programs in prison is lower than that for inmates who do not participate in the programs.

2. Proposal

Require DOC to issue a request for proposals for, and facilitate the operation of, a values-based, rehabilitation program to be operated by a private organization in a portion of the new Milwaukee alcohol and other drug abuse (AODA) treatment facility which is scheduled to open in January 2001.

Although the program would not be required to be faith-based, if the proposal described in Section B. was adopted, DOC could permit a faith-based organization to operate the program.

Provide all of the following:

- DOC shall provide all services and staffing to the portion of the facility in which the program is operated that are provided to other portions of the facility.
- State funding shall be provided for an evaluation of the effectiveness of the program in reducing recidivism.

- 0 The program will be operated for a limited amount of time on a pilot basis.
- Inmate participation in the program will be voluntary and available to any eligible inmate regardless of their religious beliefs. Relevant factors not related to religious beliefs, such as the length of sentence to be served, the community into which the inmate will be released and an inmate's ability to participate in the program, may be considered for determining inmate participation. An inmate may withdraw from the program at any time.
- An inmate's participation or lack of participation in the program may not be considered in any decision relating to the discipline, status or release of an inmate.
- Assignment of guards and other prison staff to the portion of the facility in which the program is operating will be voluntary and shall be made without regard to religious beliefs.
- The program shall provide aftercare services in the community for all participants upon their release from the facility.

D. GRASSROOTS YOUTH INTERVENTION

1. Background

At its February 23, 1999 meeting, the Special Committee heard testimony from several speakers involved in grassroots youth intervention in inner-city neighborhoods. Robert Woodson, President of the National Center for Neighborhood Enterprises, stated that neighborhood organizations are society's healing agents. He explained that crime prevention and social intervention efforts which are "parachuted in," and have no connection to the neighborhood, are ineffective. Mr. Woodson stated that currently, the people and organizations that are successful at fighting crime generally are not receiving any of the government crime prevention funding that is available, typically because they do not have the resources or technical expertise necessary to successfully compete for government-provided grants.

2. Proposal

Specify that a certain amount of the funds available under the Community Youth Grants Program be provided to one or more specified organizations, to be identified by the Special Committee, that engage in values-based crime prevention efforts among youth in inner-city communities. Provide that these organizations are not required to participate in a competitive process to receive funding.

The Community Youth Grants Program, as proposed to be created in the 1999-01 Budget Bill (1999 Assembly Bill 133 and Senate Bill 45), is a competitive grant program administered by the DWD for programs that improve social, academic and employment skills of youth from

Temporary Aid for Needy Families (TANF)-eligible families. The Governor's budget bill provides \$5,000,000 in 1999-00 and \$15,000,000 in 2000-01 for community youth grants.

The budget bill specifies that the Safe and Sound Initiative in the City of Milwaukee and the Wisconsin Good Samaritan Project may receive grant moneys under the Community Youth Grants Program without participating in a competitive process. The budget bill does not specify the amount of funds which may be provided to those organizations.

E. GRANT FOR VALUES-BASED NONPROFIT ORGANIZATION INCUBATOR

1. Background

At its January and February meetings, the Special Committee heard from several speakers that many values-based neighborhood organizations do not have the time, resources or technical expertise to gain access to sources of funding which are available. In addition, many such organizations may not be aware of the new nondiscrimination provisions (a.k.a., Charitable Choice) which apply to them.

2. Proposal

Provide a grant of up to \$100,000 to a nonprofit organization to act as a "values-based organization incubator." The grant would be administered by DHFS. The organization receiving the grant would be required to provide all of the following to values-based nonprofit organizations:

- Information regarding the various sources of funding available to values-based organizations.
- Liaison services between the organizations it serves and government agencies and other entities which provide funding for the types of activities undertaken by the organizations it serves.
- Outreach and information regarding Charitable Choice.
- Technical and clerical assistance in gaining access to funding.
- Any other assistance which will facilitate the development and effectiveness of the organizations served.

To be eligible to receive services from the values-based organization incubator, an organization must be providing or seeking to provide, community services such as youth intervention, crime prevention, AODA services or offender rehabilitation and must be values-based.

The organization receiving a grant under the program must provide to DHFS an annual report describing the services provided, the organizations served and the extent to which the capacity and effectiveness of those organizations was enhanced by the assistance provided by the

grantee. The program would be funded by transferring unutilized funds from a minority business incubator grant program in the Department of Commerce.

MM:SPH:ksm;kjf;wu

Attachment

Section 46.027. Stats.. Nondiscrimination Against Religious Organizations
Provision Pertaining to the Department of Health and Family Services

46.027 Contract powers. (1) RELIGIOUS ORGANIZATIONS; LEGISLATIVE PURPOSE. The purpose of this section is to allow the department to contract with, or award grants to, religious organizations, under any program administered by the department, on the same basis as any other nongovernmental provider without impairing the religious character of such organizations, and without diminishing the religious freedom of beneficiaries of assistance funded under such program.

(2) **NONDISCRIMINATION AGAINST RELIGIOUS ORGANIZATIONS.** If the department is authorized under ch. 16 to contract with a nongovernmental entity, or is authorized to award grants to a nongovernmental entity, religious organizations are eligible, on the same basis as any other private organization, as contractors under any program administered by the department so long as the programs are implemented consistent with the First Amendment of the U.S. Constitution and article I, section 18 of the Wisconsin Constitution. Except as provided in sub. (10), the department may not discriminate against an organization that is or applies to be a contractor on the basis that the organization has a religious character.

(3) **RELIGIOUS CHARACTER AND FREEDOM.** (a) The department shall allow a religious organization with which the department contracts or to which the department awards a grant to retain its independence from state and local governments, including the organization's control over the definition, development, practice and expression of its religious beliefs.

(b) The department may not require a religious organization to alter its form of internal governance or to remove religious art, icons, scripture or other symbols in order to be eligible for a contract or grant.

(4) **RIGHTS OF BENEFICIARIES OF ASSISTANCE.** If an individual has an objection to the religious character of the organization or institution from which the individual receives, or would receive, assistance funded under any program administered by the department, the department shall provide such individual, if otherwise eligible for such assistance, within a reasonable period of time after the date of the objection with assistance from an alternative provider that is accessible to the individual. The value of the assistance offered by the alternative provider may not be less than the value of the assistance which the individual would have received from the religious organization.

(5) **EMPLOYMENT PRACTICES.** To the extent permitted under federal law, a religious organization's exemption provided under 42 USC 2000e-1a regarding employment practices is not affected by its participation in, or receipt of funds from, programs administered by the department.

(6) **NONDISCRIMINATION AGAINST BENEFICIARIES.** A religious organization may not discriminate against an individual in regard to rendering assistance funded under any program administered by the department on the basis of religion, a religious belief or refusal to actively participate in a religious practice.

(7) **FISCAL ACCOUNTABILITY.** (a) Except as provided in par. (b), any religious organization that contracts with, or receives a grant from, the department is subject to the same laws and rules

as other contractors to account in accord with generally accepted auditing principles for the use of such funds provided under such programs.

(b) If the religious organization segregates funds provided under programs administered by the department into separate accounts, then only the financial assistance provided with those funds shall be subject to audit.

(8) COMPLIANCE. Any party that seeks to enforce its rights under this section may assert a civil action for injunctive relief against the entity or agency that allegedly commits the violation.

(9) **LIMITATIONS ON USE OF FUNDS FOR CERTAIN PURPOSES.** No funds provided directly to religious organizations by the department may be expended for sectarian worship, instruction or proselytization.

(10) **PREEMPTION.** Nothing in this section may be construed to preempt any provision of federal law, the U.S. Constitution, the Wisconsin Constitution or any other statute that prohibits or restricts the expenditure of federal or state funds in or by religious organizations.