

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 \$5.4 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

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

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

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 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

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.

* 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.).

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. LUZO

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

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 receive 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 corrupting 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-TWIES

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, "the shekels 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:

- increase 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
- clearly 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 30,000 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 meddling.

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 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 re-emphasize 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 § 42.001 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 top-notch 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 bench mark 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 white 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.*

The 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 waived the rent requirement, but insisted on the other requirements for Garcia to continue offering his free services to non-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.

The 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 COULS

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. Re-evaluate 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, and 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. DI LUJO

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 "consciousness" 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 anti-social 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. DRULIN,

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."

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:

1900 Preston Rd., Suite 267-268

Plano, TX 75093

(800) CJM-PRAY

cjmn@intur.net

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

Redemptive, healing, and restitution-based programs that try to steer offenders toward responsibility deserve an opportunity in Texas. And state officials must let these programs operate without meddling restrictions that hamstring the program or squelch the religious nature of their outreach. *Everyone* benefits when inmates become responsible, productive, law-abiding citizens.

RECOMMENDATION

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

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 \$14,600 and \$20,805 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. . . . [T]he 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/ihipnet/>. 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 led 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 always right to do what 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.

— BARNAS 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 trouble-shoot 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 Communities* 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

1. Child Abuse Prevention 10-12
2. Combating Substance Abuse 13
3. Mentoring "At-Risk" Youth 13-14
4. Gang Intervention and Combating Inner-City Youth Violence 14-16
5. Battling Poverty and Building Strong Communities 16-19
6. Mentoring Nonviolent Criminal Offenders 19-21
7. Supporting Public Caseworkers and Nursing Home Residents 21

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.

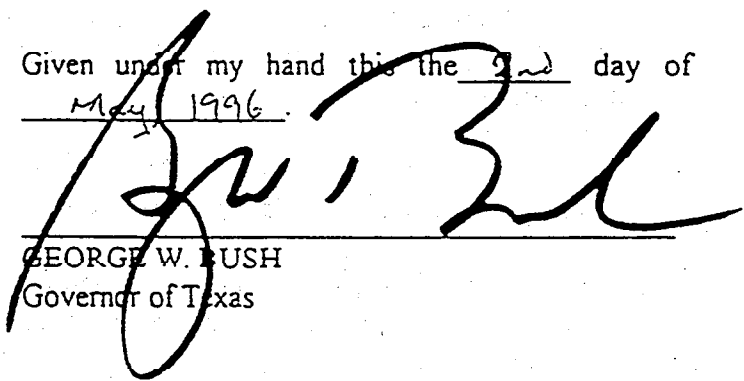
The Task Force shall include members of religious organizations, persons affiliated with faith-based programs, and community volunteers. The Task Force shall convene at the earliest practicable time after appointment and shall accomplish its charge by September 1, 1996. It shall submit to the Governor 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 9th day of
May 1996.



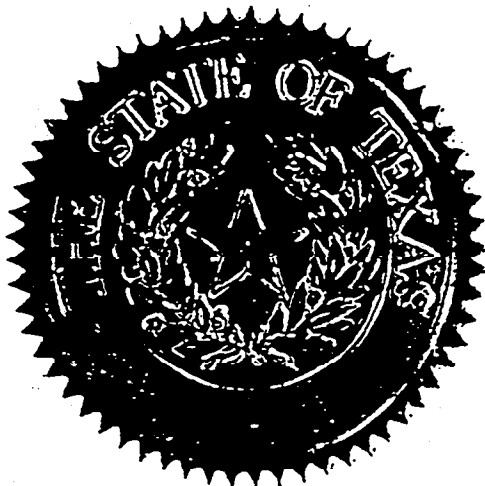
GEORGE W. BUSH
Governor of Texas

LOTT

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. ¹	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 ²	required	required	no provision
<i>Missouri</i> ³	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 ⁴	required	required	required	permitted ⁵

ANALYSIS OF ALTERNATIVES TO STATE LICENSING OF CHILD CARE

STATE	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	required	no provision	required	required	permitted
<i>Utah</i>	Child-care provided by parochial child-care institutions 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. ⁶	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 a child-care ministry is in operation.

³ With regard to a child-care facility maintained or operated under the exclusive control of a religious organization, Missouri specifically removes 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, certification, minimal formal educational degree requirements, supervision or terms of employment of a 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-care facility; or
- (5) to prohibit the use of corporal punishment. However, the department of health may require the child-care facility provide the parent or guardian enrolling a child in the facility a written explanation of the disciplinary philosophy and policies of the child-care facility. M.R.S. §210.238.

⁴ Also requires facility to meet immunization, staff/child ratios, parental access, and capacity requirements. N.C.G.S. §110-91

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 Commission of Social Services are permitted to assure compliance with staff/child ratios, health of staff, criminal history record checks, and reporting of suspected cases of child abuse and 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) 298-1512

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

Il 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 — 1.3 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 Berry'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.

TROUBLING FACTS AND FIGURES:

- One of every six Texas children is at risk of abuse/neglect.
- The nation's number of 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
- 13,861 youth were referred to the Dallas Co. Juvenile Department in 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 appropriate response 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 Corner 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) 818-2600.

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 zones — joined with the American Alliance for Rights and Responsibilities (a non-profit based in Washington, D.C.) 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, 1146 19th St., N.W., Washington, D.C. 20036, or call (800) 942-2771.

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

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.

Sister to a youngster's life 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 SANDER,

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 families. 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 alternative 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 10-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, 50 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 life-saving 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 2.6 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 first 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 inquirers 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.

LIFT: 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 bring and return 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 \$3,138

"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, eyeglasses, 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 ensnared 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 our 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 thanks 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 Pell 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 alternative 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 children 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 Act 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 poverty-stricken 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 requirements 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 (\$5.3 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.

Conclusion: 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 found 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 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

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, Int. 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 MAKIAN 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.

"I 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 16-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, pastors, 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 that 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

Top: Time for Freedom founder Bernie DeCastro holds his prison photo. Right: Pastor James Young and DeCastro have organized a statewide criminal justice conference later this month.



PHOTOS BY JANNET WALSH KLONINGER-BANNER



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 ours to death."

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.⁽³⁾

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.⁽⁸⁾ 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.(15)

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.(17)

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.(24)

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.(25) 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.⁽²⁸⁾ 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.⁽²⁹⁾ 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.⁽³⁰⁾ 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.⁽³²⁾

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.⁽³⁶⁾ Although this inquiry is one of the most difficult tasks facing a court, a number of guidelines are available.⁽³⁷⁾

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.⁽³⁹⁾

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.(42) Membership in a religious organization is not a prerequisite to establish sincerity of belief.(43)

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.(45) 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.(46) 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.(47)

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.(52) 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.(56) 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.(64)

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.(66) 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.(69)

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.(70) This standard also requires the state to use the least restrictive means available to further that compelling interest.(71)

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.⁽⁸⁶⁾ 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.⁽⁹¹⁾ 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.⁽⁹⁴⁾

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.⁽⁹⁵⁾ The first regulation limited inmate-to-inmate correspondence except between family members or correspondence concerning legal matters.⁽⁹⁶⁾ The second regulation permitted inmates to marry only under compelling circumstances and only with the permission of the prison administration.⁽⁹⁷⁾ 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.⁽⁹⁹⁾ 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.(113)

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.(116) 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.(122)

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.(125) 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.(127)

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.(137)

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.(140) 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.(141) 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.(144) 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. (163) 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. (178) 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.(186)

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.(195) 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.(196) 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.(205) 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.(207)

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.(208) 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.(211)

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.(228)

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.(235) 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.(242) 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.(261) 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.(263)

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 (264) 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.(267)

C. Religious services

Group services are an integral part of religious worship.(268) 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.(273) 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.(276)

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.(279) Moreover, prison officials cannot enforce a ban on inmate-led services in a discriminatory or arbitrary manner.(280) 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. (294) 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.(303) 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.(307) Although these name changes are often associated with Muslims, especially in the prison context, this is 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.(320) 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.(321)

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.⁽³²³⁾ ⁽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.⁽³²⁶⁾

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.⁽³²⁷⁾ 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.⁽³²⁹⁾ 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.⁽³³¹⁾ 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.⁽³³⁵⁾ 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.⁽³³⁸⁾ 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.(339) 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.(340) 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.(347) 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 visits.(348)

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.(349) 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.(358)

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.(361)

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.(363)

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 congregate 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.(364) 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.(368) 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.(371) 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.(375)

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.(378)

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.

| [Table of Contents](#) | [First Amendment Center Homepage](#) |

Copyright 1995 The Freedom Forum First Amendment Center -- <http://www.fac.org>

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 Theriault 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. *Id.*
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 Theriault 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. Henry William Theriault, 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 Theriault" 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. Clemmer*, 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 1031; *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 *Procunier 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 *RFRA*.]

70. *Sherbert v. Verner*, 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 1619; *see Ruffin v. Commonwealth*, 62 Va. (21 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'Lone 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* *Ali 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 1631.
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. 103-11, 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