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# Imagine a World Without Hate™

January 27, 2014

The Honorable Joe Wilson  
Chair  
Military Personnel Subcommittee  
House Armed Services Committee  
US House of Representatives  
Washington, D.C. 20515

The Honorable Susan A. Davis  
Ranking Member  
Military Personnel Subcommittee  
House Armed Services Committee  
US House of Representatives  
Washington, DC 20515

Dear Chairman Wilson and Ranking Member Davis:

In advance of the January 29 House Military Personnel Subcommittee hearings on "Religious Accommodations in the Armed Services," we write to provide the views of the Anti-Defamation League (ADL) on this important issue. We would ask that this statement be included as part of the official hearings record.

## The Anti-Defamation League

For more than a century, the Anti-Defamation League has been an active advocate for religious freedom for all Americans – whether in the majority or minority. The League has been a leading national organization promoting interfaith cooperation and intergroup understanding. Among ADL's core beliefs is strict adherence to the separation of church and state effectuated through both the Establishment Clause and Free Exercise Clause of the First Amendment. We believe a high wall of separation between government and religion is essential to the continued flourishing of religious practice and belief in America, and to the protection of all religions and their adherents.

To this end, ADL has filed an *amicus* brief in every major religious freedom case before the U.S. Supreme Court since 1947, as well as numerous briefs in lower appellate and trial courts. In Congress, we have played a lead role in working to enact significant religious freedom protection legislation, such as the Religious Freedom Restoration Act and the Religious Land Use and Institutionalized Persons Act. ADL is also one of the leading providers of diversity education in the United States, having impacted approximately 58 million students and educators, teaching them to respect – not just tolerate – differences.

## Religious Freedom in the Armed Forces

The First Amendment guarantees every American the right to practice his or her religion freely without government interference. As one of the essential institutions in American society, it is critically important that America's military be especially attentive to ensuring the religious freedom of its servicemen and women. Our military is a prime example of how Americans of many faiths can come together to serve and protect America, regardless of their differences. One dramatic illustration of the extraordinary religious diversity in the military is the listing of more than 50 "Available Emblems of Beliefs for Placement on Government Headstones and Markers" (included at the end of this statement) available to the families and friends of fallen soldiers at the Web site of the Arlington National Cemetery.<sup>[1]</sup> During their years of military service, therefore, we certainly should be equally committed to honoring the religious beliefs and practices of our soldiers, sailors, and airmen.

<sup>1</sup> <http://www.cem.va.gov/cem/docs/emblems.pdf>

Members of the US Armed Services must not be discriminated against on the basis of their religion. And our nation's honored military training universities – the US Air Force Academy, West Point, and the Naval Academy – bear a special responsibility to avoid religious coercion and to respect the rights of religious minorities guaranteed by the Constitution. Further, our military academies have an important opportunity and responsibility to instill in our service personnel core democratic values, including those embodied in the First Amendment's religious freedom clauses.

Charges of religious harassment and unwelcome proselytizing are especially disturbing in the context of the command structure within the military and our nation's service academies. Instructors, officers, and upper class cadets have virtually absolute command authority over their students and subordinates, creating a unique potential for undue pressure on an individual to conform in order not to jeopardize his or her military career. Officers must find a way to reconcile their personal religious views with their leadership responsibilities. They should not abuse their command positions to advance or favor their own religious views or religion generally. Americans who choose military service should have the freedom to practice their religion – or no religion – without pressure to conform to the belief system of their commanding officers in order to gain acceptance or promotions up the ranks.

In recent years, there have been periodic problems with proselytizing and the appearance of official government sponsorship of one particular religious perspective by military officials. One egregious example occurred in 2007 when a promotional video produced by the Washington-based evangelical organization Christian Embassy came to light. The video featured effusive endorsements of the evangelizing work of the Christian Embassy staff by a number of high-ranking military officials who appeared on camera in their uniforms – some apparently in their Pentagon offices. This promotional video gave the appearance of government endorsement of these evangelical Christian views and suggested, at least, Pentagon cooperation with Christian Embassy evangelizing work.

A July 20 2007 report by the Department of Defense Inspector General [2] found that seven military officers violated various military regulations in connection with their appearance in the video:

The seven officers participated in interviews with Christian Embassy, excerpts of which were also included in the promotional video. The officers were filmed during the duty day, in uniform with rank clearly displayed, in official and often identifiable Pentagon locations. Their remarks conferred approval of and support to Christian Embassy, and the remarks of some officers implied they spoke for a group of senior military leaders rather than just for themselves. None of the officers sought or received approval to participate in the interview in an official capacity or in uniform. The overall circumstances of the interviews emphasized the speakers' military status and affiliation and implied they were acting within the scope of their official positions as DoD spokespersons. Based on these circumstances, we concluded the officers violated JER Sections 2635.702(b), "Appearance of governmental sanction," and 3-300.a. on personal participation in non-Federal entities; DoD Directive (DoDD) 1334.1, "Wearing of the Uniform"; and Army and Air Force uniform standards.

### **Military Chaplains**

Over the past decade, the issue of permissible prayer by military chaplains has become, needlessly, a highly partisan and divisive issue. In the past two years, legislative proposals by some Members were prompted by disputed assertions about the effect the repeal of the military's ill-conceived and discriminatory "Don't Ask, Don't Tell (DADT)" policy would have on service members and chaplains with dissenting religious views.

We have also witnessed efforts by some Members to enact legislative language to promote and facilitate explicitly sectarian prayer by chaplains at official military ceremonies and events, including those at which attendance is mandatory. Such efforts show a lack of respect for the diversity of religious beliefs in our military and threaten to erode unit cohesion. As Holly Hollman, General Counsel for the Baptist Joint Committee for Religious Liberty, has written, "...an important corollary of the military's duty to

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2 [http://www.dodig.mil/FOIA/ERR/Xtian\\_Embassy\\_072707.pdf](http://www.dodig.mil/FOIA/ERR/Xtian_Embassy_072707.pdf)

accommodate service members' rights to exercise religion is its obligation to protect members from religious coercion."<sup>[3]</sup> Members of Congress should not seek to encourage military chaplains to disregard First Amendment protections guaranteed by the Constitution.

Military chaplains most often minister to those of their own faith, but they are also called upon to support the activities of service members and their families who come from other faith traditions, beliefs, and backgrounds. Under current law and regulations, military chaplains are already absolutely permitted to pray in whatever manner they choose privately or while performing the divine worship services they lead for their own faith adherents where attendance is voluntary. There are also, properly, no restrictions whatsoever on chaplains offering their personal faith to service members who come to them, seeking their support, guidance, and counsel. On rare occasions when a chaplain is called upon to solemnize a large-group setting or "command ceremony" where attendance by military personnel of many different faiths – or no faith – may not be voluntary however, chaplains should pray in a more inclusive manner. If an individual chaplain does not feel comfortable offering a non-sectarian, inclusive prayer in such a setting, he or she should have the right to refuse to participate without negative consequences.

Although there have been periodic problems, the vast majority of chaplains clearly recognize that it is common courtesy to pray in as inclusive a manner as one's faith tradition permits when praying during a non-religious multi-faith gathering, particularly when attendance is compulsory.

Legislation approved by Congress earlier this year appears to strike the right balance. The 2014 Department of Defense Authorization measure <sup>[4]</sup> updates and strengthens current law on conscience rights for military personnel.

Section 532 of the new law, "Enhancement of Protection of Rights of Conscience of Members of the Armed Forces and Chaplains of Such Members," sets out an appropriately-balanced religious accommodation standard:

Unless it could have an adverse impact on military readiness, unit cohesion, and good order and discipline, the Armed Forces shall accommodate individual expressions of belief of a member of the armed forces reflecting the sincerely held conscience, moral principles, or religious beliefs of the member and, in so far as practicable, may not use such expressions of belief as the basis of any adverse personnel action, discrimination, or denial of promotion, schooling, training, or assignment.

The new law also includes a welcome provision, Section 533, requiring the Department of Defense Inspector General to investigate and report on adverse personnel action based on conscience, moral principles, or religious beliefs. In the midst of conflicting assertions on the nature and magnitude of alleged restrictions of this kind, this report should be helpful. Another clarifying provision in the new law, Section 534, requires the Secretary of Defense to conduct a survey of a statistically valid sample of military chaplains to assess whether the reasonable restrictions placed on sectarian prayers offered by chaplains for public or non-religious ceremonies or events have prevented them from exercising the tenets of their faith.

### **Support for Progress Towards Full Equality for LGBT Servicemen and Women.**

We welcome the very significant progress the military has made toward full LGBT equality following the repeal of the detrimental and exclusionary "Don't Ask, Don't Tell" (DADT) policy against gay and lesbian Americans.

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<sup>3</sup> Hollman Report, Report from the Capital: July/August 2013 Vol. 68 No. 7

[http://www.bjconline.org/index.php?option=com\\_docman&task=cat\\_view&gid=32&dir=DESC&order=date&Itemid=76&limit=5&limitstart=0](http://www.bjconline.org/index.php?option=com_docman&task=cat_view&gid=32&dir=DESC&order=date&Itemid=76&limit=5&limitstart=0)

<sup>4</sup> <http://www.gpo.gov/fdsys/pkg/BILLS-113hr3304enr/pdf/BILLS-113hr3304enr.pdf>

Despite oft-repeated, dire claims that repeal would dramatically impact recruitment, retention, mission readiness, and religious freedom in the military, the most in-depth and authoritative scholarly study [5] of the first year after repeal documents that the repeal of DADT "...has had no overall negative impact on military readiness or its component dimensions, including cohesion, recruitment, retention, assaults, harassment or morale..... In fact, greater openness and honesty resulting from repeal seem to have promoted increased understanding, respect and acceptance."

Secretary of Defense Chuck Hagel deserves praise for his leadership in this transition time. ADL was especially pleased that Secretary Hagel announced his directive to ensure that same-sex spouses at National Guard facilities would be extended the same benefits as other married military families at ADL's annual meeting and Centennial celebration on October 31, 2013 in New York City. [6] Responding to efforts by several states to refuse to issue Department of Defense ID cards, and the benefits that come with them, to same-sex spouses at National Guard facilities in violation of those states' obligations under federal law, Secretary Hagel directed the chief of the National Guard Bureau to take immediate action and meet with Adjutants General from those states where benefits are being denied to ensure that all comply with the new policy.

**Spotlight on a Case: Religious Coercion and Harassment at the US Air Force Academy (USAFA)**

The Anti-Defamation League has been most active in investigating and responding to what was described as a climate of religious intolerance for members of minority religions at USAFA which came to light in 2004 and 2005. The Air Force opened an investigation and its June 22, 2005 "Report of the Headquarters Review Group Concerning the Religious Climate at the U.S. Air Force Academy" [7] confirmed many of ADL's concerns and those raised by cadets, staff chaplains, civilian observers, and military personnel – finding that a persistent pattern of religious intolerance existed at the Academy, and that change was necessary. The Review Group report clearly recognized that a "religious climate" and "perception of religious intolerance" existed at the Academy, and that that climate has festered as a result of a "lack of awareness over where the line is drawn between permissible and impermissible expression of beliefs."

Importantly, beyond identifying then-existing problems at the Academy, the report offered substantive recommendations for reform, including the establishment of clear policy guidelines for commanders and supervisors regarding inappropriate religious expression, a plan to promote increased awareness of and respect for cultural and religious differences, and internal controls and corrective actions to ensure that the Air Force provides a climate of religious tolerance for all staff and cadets. The report and recommendations were not limited to USAFA, but were applicable to the entire Air Force.

The House Armed Services Subcommittee on Military Personnel held hearings on the religious climate at the U.S. Air Force Academy on June 28, 2005, [8] and the League submitted a statement for the record, raising concerns about instances of inappropriate proselytizing at USAFA and making several recommendations that USAFA, other military service academies, the U.S. Air Force, and all branches of the military should take to address these issues.

Our statement described the fact that ADL's own research into the climate at the USAFA over many months revealed complaints of a pervasive presence of undue proselytizing and religious harassment, endorsed or at least tolerated by the members of the USAFA administration and command structure. We had received strong evidence of an ongoing problem of inappropriate evangelizing and entanglement of

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5 One Year Out: An Assessment of DADT Repeal's Impact on Military Readiness, Palm Center, September 20, 2012 [http://www.palmcenter.org/files/One%20Year%20Out\\_0.pdf](http://www.palmcenter.org/files/One%20Year%20Out_0.pdf)

6 [http://www.adl.org/press-center/c/remarks-by-secretary-of-defense-hagel.html#.UnPSg\\_msiSo](http://www.adl.org/press-center/c/remarks-by-secretary-of-defense-hagel.html#.UnPSg_msiSo)

7 [http://www.foxnews.com/projects/pdf/HQ\\_Review\\_Group\\_Report.pdf](http://www.foxnews.com/projects/pdf/HQ_Review_Group_Report.pdf)

8 [http://commdocs.house.gov/committees/security/has179020.000/has179020\\_0.htm](http://commdocs.house.gov/committees/security/has179020.000/has179020_0.htm)

religion and training at the Academy. In addition, we described complaints our office had received about insensitivity to Jewish dietary observances and religious holidays, and instances of religious slurs and anti-Semitism directed to Jewish cadets.

And our statement clearly indicated what was at stake:

Today's cadets are America's officers of tomorrow, who will be commanding troops from a variety of religious backgrounds. US military officers are representatives of our nation, and it is vital that they understand that our country does not promote any particular religion. As American officers, they must model our nation's respect for minority faiths and beliefs and uphold the Constitution's protection for freedom of religion.

Finally, we offered our assistance to USAFA to provide our unique expertise in anti-bias education and training and in addressing church-state separation and religious liberty issues as it implemented programs to help ensure a respectful and inclusive environment on campus. We stated that, if implemented effectively, the USAFA programs promoting religious respect and appreciation for religious diversity among all cadets and staff members could provide a model for the entire U.S. military.

And that is exactly what has happened.

The League's concerns led to meetings with then-Superintendent Lt. Gen. John W. Rosa Jr. at the Academy and top Air Force and Department of Defense officials in Washington. When Lt. General Rosa addressed ADL's National Executive Committee in Denver in June 2005, he acknowledged that a problem of religious intolerance existed and pledged that the Academy was working toward a "culture change" through education and training. [9]

Our offer of assistance was accepted by then-Superintendent Rosa – and each successive Superintendent has demonstrated a commitment to improve the religious climate for cadets and permanent staff at USAFA. ADL's partnership work with USAFA has been based on the belief that the best way to address many of the religious respect issues is through education and training. To that end, ADL has worked with chaplains and Judge Advocates General at USAFA to develop and deliver training and resources to cadets to help promote understanding about their rights and responsibilities related to religious freedom and on ways to avoid future problems. ADL and the chaplain's office continue to work on developing other sessions on different aspects of religious respect for cadets in each year of their education at USAFA.

While there is still work to be done, with the assistance of ADL and others, we believe the religious climate at USAFA has greatly improved. Since 2005, the Academy has taken a number of positive, productive steps to address the religious climate, including:

- developing a campus-wide calendar listing religious holidays and explaining what accommodations may be needed for cadets and staff members who observe those holidays;
- convening conferences on religious respect, as a way of receiving input from non-military representatives of a variety of religious groups;
- creating a Commander's Tool Kit to address issues of religious respect and accommodation that may arise in their unique command setting; and
- working with ADL and other organizations to develop and implement religious respect training, with a focus on recognizing First Amendment rights and the need for religious accommodation, which is delivered to all cadets during each of their four years at USAFA.

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9 [http://www.adl.org/misc/gen\\_speech.asp](http://www.adl.org/misc/gen_speech.asp)

Importantly, in the years since the original proselytizing and religious coercion allegations at USAFA, Air Force officials have, understandably, paid considerable attention to crafting clear guidance on these issues for Airmen. In August 2012, the Secretary of the Air Force incorporated thoughtful and comprehensive guidance into a directive, Air Force Instructions 1-1, **[10]** highlighting Air Force core values, culture, and policy regarding the "professionalism and standards expected of all Airmen."

2.11. Government Neutrality Regarding Religion. Leaders at all levels must balance constitutional protections for an individual's free exercise of religion or other personal beliefs and the constitutional prohibition against governmental establishment of religion. For example, they must avoid the actual or apparent use of their position to promote their personal religious beliefs to their subordinates or to extend preferential treatment for any religion. Commanders or supervisors who engage in such behavior may cause members to doubt their impartiality and objectivity. The potential result is a degradation of the unit's morale, good order, and discipline. Airmen, especially commanders and supervisors, must ensure that in exercising their right of religious free expression, they do not degrade morale, good order, and discipline in the Air Force or degrade the trust and confidence that the public has in the United States Air Force.

2.12. Free Exercise of Religion and Religious Accommodation. Supporting the right of free exercise of religion relates directly to the Air Force core values and the ability to maintain an effective team.

2.12.1. All Airmen are able to choose to practice their particular religion, or subscribe to no religious belief at all. You should confidently practice your own beliefs while respecting others whose viewpoints differ from your own.

2.12.2. Your right to practice your religious beliefs does not excuse you from complying with directives, instructions, and lawful orders; however, you may request religious accommodation. Requests can be denied based on military necessity. Commanders and supervisors at all levels are expected to ensure that requests for religious accommodation are dealt with fairly.

All service branches should adopt strong guidance on government neutrality towards religion and religious accommodation.

#### **New Department of Defense Instruction on Religious Accommodation**

On January 22, 2014, the Department of Defense published updated and revised Instructions on "Accommodation of Religious Practices Within the Military Services." **[11]** The new guidance describes policy, procedures, and responsibilities for the accommodation of religious practices in the Armed Forces, stating:

The DoD places a high value on the rights of members of the Military Services to observe the tenets of their respective religions or to observe no religion at all.

The guidance appropriately provides broad protection for an individual's religious speech and expression:

In so far as practicable, a Service member's expression of sincerely held beliefs (conscience, moral principles, or religious beliefs) may not be used as the basis of any adverse personnel action, discrimination, or denial of promotion, schooling, training, or assignment.

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**10** <https://app.box.com/s/lf5l2wnjafp9hbf0uig8>

**11** <http://www.dtic.mil/whs/directives/corres/pdf/130017p.pdf>

And the guidance properly states that a request for religious accommodation should promptly be granted if it will not affect mission accomplishment:

Requests for religious accommodation will be resolved in a timely manner and will be approved when accommodation would not adversely affect mission accomplishment, including military readiness, unit cohesion, good order, discipline, health and safety, or any other military requirement.

While we appreciate the attempt, the guidance is disappointing and we urge that it be amended. It falls short in not providing a sufficient accommodation for some fundamental aspects of minority religious practice of some aspiring soldiers, including observant Jews and Sikhs. For example, the guidance lays out a formal process so that Jewish and Sikh soldiers, for example, may request an accommodation for their required head coverings – a kippah or a turban – and incorporates grooming standards that provide a path for approval of their beards. However, each soldier must still request an individual, case-by-case accommodation under the guidance – a daunting prospect for some, with an uncertain outcome. In the name of “...maintaining uniform military grooming and appearance standards,” the effect is to exclude some who would otherwise welcome the opportunity to serve their country in the military. These observant individuals do not have the option to “refrain...from beginning unauthorized grooming and appearance practices, [or] wearing unauthorized apparel” during the pendency of the authorization approval process.

Further, the guidance requires a repeat of the accommodation request for every “new assignment, transfer of duty stations, or other significant change in circumstances.” While we appreciate the fact that the Jewish yarmulke is explicitly used as an example of apparel that “may be worn with the uniform whenever a military cap, hat, or other headgear is not prescribed,” it would be better to presumptively permit these grooming and garb accommodations, or to substantially streamline the approval process, with decisions *not* to accommodate being the exception.

This presumptive approval process is much more in line with the requirements of Section 508 of Public Law 100-180, “Wearing of Religious Apparel by Members of the Armed Forces While in Uniform,” which presumptively permits “neat and conservative” items of religious apparel unless the wearing of the item “would interfere with the performance of the member’s military duties.”

The promulgation of this guidance does provide an important opportunity for the Department of Defense and all the service branches to make their religious accommodation guidance uniform.

### **Conclusion**

Safeguarding religious freedom requires constant vigilance, and it is especially important to guard against one group or sect seeking to impose its religious doctrine or views on others. As George Washington wrote in his famous letter to the Touro Synagogue in 1790, in this country “all possess alike liberty of conscience.” He concluded: “It is now no more that toleration is spoken of, as if it was by the indulgence of one class of people that another enjoyed the exercise of their inherent natural rights. For happily the Government of the United States, which gives to bigotry no sanction, to persecution no assistance, requires only that they who live under its protection should demean themselves as good citizens, in giving it on all occasions their effectual support.”

The same command structure that provides unique pressure to conform within the military – and potential for inappropriate proselytizing and religious coercion – also makes the direct involvement of the Pentagon’s leadership in promoting effective, uniform guidance and solutions to this problem critically important.

Thank you for conducting these important hearings and for your consideration of the views of the Anti-Defamation League. We welcome the opportunity to provide further information and resources on this issue of high priority to our organization.

Sincerely,



Deborah M. Lauter  
Director, Civil Rights



Michael Lieberman  
Washington Counsel

AVAILABLE EMBLEMS OF BELIEF FOR PLACEMENT  
ON GOVERNMENT HEADSTONES AND MARKERS



(1) LATIN  
(CHRISTIAN)  
CROSS



(2) BUDDHIST



(3) JUDAISM  
(Star of David)



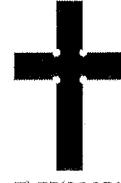
(4) PRESBYTERIAN  
CROSS



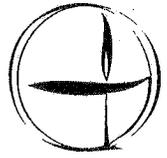
(5) RUSSIAN  
ORTHODOX CROSS



(6) LUTHERAN  
CROSS



(7) EPISCOPAL  
CROSS



(8) UNITARIAN  
(Flaming Chalice)



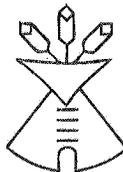
(9) UNITED  
METHODIST



(10) AARONIC  
ORDER  
CHURCH



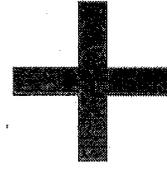
(11) MORMON  
(Angel Moroni)



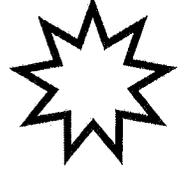
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CHURCH OF NORTH  
AMERICA



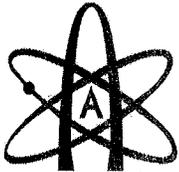
(13) SERBIAN  
ORTHODOX



(14) GREEK CROSS



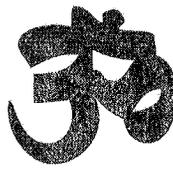
(15) BAHAI  
(9-Pointed Star)



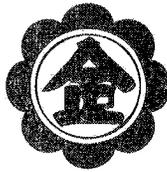
(16) ATHEIST



(17) MUSLIM  
(Crescent and Star)



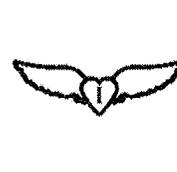
(18) HINDU



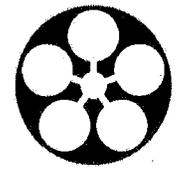
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FAITH



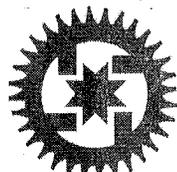
(20) COMMUNITY  
OF CHRIST



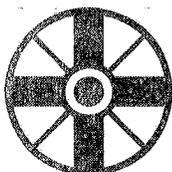
(21) SUFISM  
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(22) TENRIKYO  
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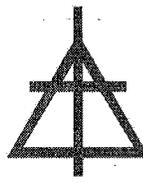
(23) SEICHO-NO-IE



(24) THE CHURCH  
OF WORLD  
MESSIANITY



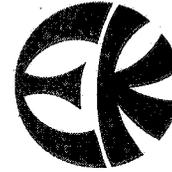
(25) UNITED CHURCH  
OF RELIGIOUS  
SCIENCE



(26) CHRISTIAN  
REFORMED  
CHURCH



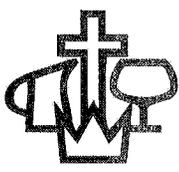
(27) UNITED  
MORAVIAN  
CHURCH



(28) ECKANKAR



(29) CHRISTIAN  
CHURCH



(30) CHRISTIAN  
& MISSIONARY  
ALLIANCE



(31) UNITED  
CHURCH OF  
CHRIST



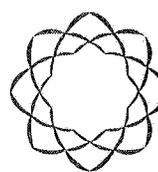
(32) HUMANIST  
EMBLEM OF  
SPIRIT



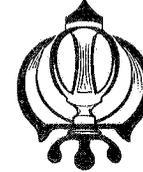
(33) PRESBYTERIAN  
CHURCH (USA)



(34) IZUMO  
TAISHAKYO  
MISSION OF HAWAII



(35) SOKA GAKKAI  
INTERNATIONAL  
(USA)



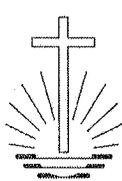
(36) SIKH  
(KHANDA)



(37) WICCA  
(Pentacle)



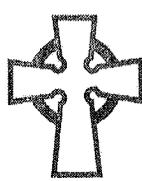
(38) LUTHERAN  
CHURCH  
MISSOURI SYNOD



(39) NEW  
APOSTOLIC



(40) SEVENTH DAY  
ADVENTIST CHURCH



(41) CELTIC  
CROSS



(42) ARMENIAN  
CROSS



(43) FAROCHAR



(44) MESSIANIC  
JEWISH

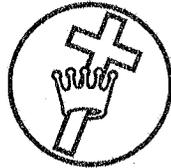
## AVAILABLE EMBLEMS OF BELIEF (CONTINUED)



(45) KOHEN HANDS



(46) CATHOLIC  
CELTIC CROSS



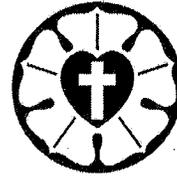
(47) FIRST CHURCH OF  
CHRIST, SCIENTIST  
(Cross & Crown)



(48) MEDICINE  
WHEEL



(49) INFINITY



(51) LUTHER  
ROSE



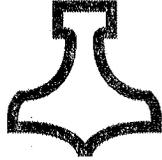
(52) LANDING  
EAGLE



(53) FOUR  
DIRECTIONS



(54) CHURCH  
OF NAZARENE



(55) HAMMER  
OF THOR



(56) UNIFICATION  
CHURCH



(57) SANDHILL  
CRANE

Emblem (98) MUSLIM (Islamic 5-Pointed Star) is not shown due to copyright.

July 2013

