


9/29/14
Art Schulcz
AGC - Greenville

**THE ASSOCIATED GOSPEL CHURCHES' SUPPLEMENT TO ITS
PERSPECTIVE ON MILITARY RELIGIOUS LIBERTY,
INCLUDING PRAYER AND RELIGIOUS SPEECH PROBLEMS**

The Associated Gospel Churches (AGC) submits this supplement to its previously submitted testimony to the House Armed Service Committee's Personnel Subcommittee for its September 19, 2014, Hearing on chaplains' religious liberty, "AGC's Perspective on Military Religious Liberty" (Perspectives).

This supplementation is necessary because immediately after submitting its Perspective, three incidents arose involving AGC chaplains illustrating the unsettling and prejudicial climate degrading religious liberty for chaplains and the military personnel they represent. These incidents again illustrate and emphasize the need for a statutory definition of a chaplain and a Department of Defense (DOD) policy establishing a uniform policy and procedures providing effective guarantees DOD remains neutral when addressing the theological issues which underlie and determine the different denominational approaches to ministry to same-sex couples. This continues Perspectives' incident numbering sequence.



D. Removal of an AGC Battalion Chaplain as a Leader of a Strong Bonds Retreat Following a Same-sex Couple's Late Registration

After organizing, planning, and coordinating a Strong Bonds retreat for his Battalion soldiers that was to begin Friday, 12 September 2014, the AGC chaplain was notified last Wednesday, 10 Sept., a same-sex couple had just signed up for the retreat. AGC chaplains cannot participate in such events because their historical, orthodox Christian theology and beliefs do not recognize same-sex marriages. To participate in events that in any way legitimize such unions is a violation of AGC's statement of faith and doctrine.

The AGC chaplain reported the problem to his commanding officer and suggested the couple be asked if they would prefer to attend a Strong Bonds retreat conducted by a chaplain who could specifically minister to their specific same-sex needs, a practice used by other chaplains in similar situations. The commander agreed. But the brigade chaplain, after being briefed on the situation, told

the AGC chaplain (a) he could not ask the same-sex couple if they would prefer an alternative and (b) another chaplain would replace the AGC chaplain.

When the AGC chaplain informed his commanding officer another chaplain would be conducting the retreat because he would be unable to attend it, the commander's initial reaction was he wanted his chaplain to conduct the retreat and told the chaplain he would be fired if he could not do that. That threat was removed after AGC informed the Chief of Chaplains Office's of the situation and informed the command the NDAA protected the chaplain's actions.

This incident illustrates the Army's polarizing, demonizing, and prejudicial policies that fail to recognize the same-sex marriage issue rests on a clear theological divide. The policy of not protecting historic, orthodox Christian chaplains when scheduling Strong Bonds retreats places the conduct of such events in the hands of same-sex couples, giving them a veto over a chaplain's role and responsibility to minister to his soldiers and compromising the chaplain's role and effectiveness as a unit chaplain. This raises serious questions concerning the Chaplain Corps' function and responsibility, and serious constitutional issues.

1. This policy, as the above incident illustrates, undermines the Battalion Chaplain's role as the unit's chaplain and his relationship with both his soldiers and commander. The Battalion chaplain knows his soldiers through the relationship he has with them on a daily basis, the confidentiality of communications with him, and the ability to follow up on issues between couples that may come to light during a Strong Bonds retreat makes him the ideal person to conduct unit Strong Bonds retreats.

The above commander's reaction illustrates his understanding of that fact. To remove a chaplain at the last moment raises questions in the unit such as: where is our chaplain; why aren't you conducting this; who's going to follow up; and for those soldiers who share the

chaplain's religious convictions about same-sex marriage, why wasn't I told so that I could withdraw rather than participate in something I know to be scripturally forbidden?

2. The sudden removal of a chaplain from an event he planned for his soldiers diminishes the chaplain in the eyes of the commander and some of his soldiers, undermining his role and threatening his career.

3. The failure to recognize that there are soldiers who, like AGC chaplains, have faith-based reservations about same-sex marriage and relationships and may choose not to participate in events involving same-sex couples can promote animosity. Changing chaplains at the last minute can be perceived as "bait and switch", and provides an incentive for soldiers to search elsewhere for their spiritual nourishment and community.

E. A Recent Army Judge Advocate General decision (A) treats same-sex couples differently than the Army and the Chaplain Corps have historically treated soldiers with different spiritual needs and (B) formalizes prejudice against historic, orthodox, Christian chaplains

While incident D above was unfolding, AGC became aware of the recent JAG policy decision in

Exhibit 1 which explains incident D's outcome. The JAG policy states:

providing an alternate Strong Bonds event for same-sex couples to attend (when a non-restricted chaplain is unavailable) is legally objectionable. Same-sex couples will not be asked to attend an alternate event.

1. This JAG directed policy fundamentally changes historic chaplain pluralistic faith-specific ministry

It has been the consistent policy of all chaplaincies that if a chaplain is unable to meet a service member's faith specific ministry need, the chaplain refers the service member to a chaplain with a similar faith perspective. A Protestant or Jewish chaplain would refer a Catholic service member to a Catholic chaplain or arrange a visit with a priest if the service member sought ministry on an issue with a Catholic perspective.

The different views on same-sex marriage are based on different theological and faith perspectives. The Army JAG decision essentially puts the Army on the side of those who believe

that same-sex marriage is perfectly acceptable and preferred. This official preference raises a host of practical, legal and constitutional questions.

An AGC chaplain encountered a situation similar to D above months ago. That issue was resolved when the same-sex couple decided it was in the best interest of the couple, the unit, and the chaplain to attend a later marriage enrichment event for same-sex couples.

The Army JAG policy fosters unit division and dissent rather than cohesion and undermines rather than strengthens the Battalion chaplain's relationship with his soldiers and commander.

2. The JAG policy formalizes institutional discrimination and prejudice against historic, orthodox, Christian chaplains

The Army Chaplain Corps publicly promised it would **not** categorize or penalize chaplains because of their faith perspective on same-sex marriage and homosexuality, the underlying issue, after the Defense of Marriage Act was struck down. The JAG policy revokes that promise and, in effect, establishes two theology-based categories of chaplains, **restricted** and **non-restricted**. The word "restricted" in and of itself denotes a lack of qualifications or something less than desirable while "non-restricted" conveys a message of "superiority" and compatibility with official administration policy. The commander with a "restricted" chaplain cannot but feel that his chaplain is less qualified than a non-restricted chaplain upon becoming aware of those terms.

AGC would also note the derogatory classification term "restricted" may seem to apply in practice primarily to historic, orthodox, Protestant chaplains because everyone knows that Catholics reject same-sex marriage.

F. JAG Censorship of an AGC Chaplain's religious article

As the above incidents were unfolding, an AGC chaplain reported his unit JAG requested he remove the term "Bible" from an article he was publishing for the unit paper lest the word "Bible"

offend someone and embarrass the commander. AGC does not doubt the sincerity or intent of the JAG involved in trying to protect his commander. However, this honest suggestion implies a woeful ignorance of Establishment and religious Free Speech principles, well-settled constitutional precedents forbidding content-based censorship or suppression, and ignorance of the recent *Town of Greece Galloway*, 134 S. Ct. 1811 (2014), decision addressing religious speech. *Town of Greece* affirmed the rules that the government has no business evaluating religious speech, “offense [] does not equate to coercion”, and the Constitution does not protect citizens from ideas they find disagreeable. *Id* at 1826. By implication, speech protections apply to written words as well as spoken. The fact a chaplain writes an article should put readers on notice it contains religious content and readers proceed at their own emotional peril.

SUMMARY

Congress has expressed its military religious liberty concern over the last several years. Despite this continuing expression of concern, DOD has refused to address the issues head on. These incidents reflect only those that have been brought to AGC’s attention because its chaplains have not been able to resolve them at the local level.

These incidents highlight (1) the threat to religious liberty caused by lack of clear direction and a clear understanding of the difference between “religious liberty” which the Constitution guarantees and “toleration” which the Constitution rejects; and (2) the need for a statutory definition of a chaplain that protects their right to represent their faith groups authentically to the military and its military personnel.

Exhibit 1 (copy and paste of email)

-----Original Message-----

From: Shin, Steve H MAJ USARMY MEDCOM HQ (US)

Sent: Wednesday, September 10, 2014 6:48 AM

To: Cooke, Christopher R SSG USARMY MEDCOM TAMC (US); Miller, John A SSG USARMY MEDCOM WRMC (US); Eaddy, Donovan D SSG USARMY MEDCOM AMEDDCS (US); Gladden, James W SFC USARMY MEDCOM ERMC (US); Negrete, Marcos P SFC USARMY MEDCOM SRMC (US); Jackson, Frederick E SFC USARMY MEDCOM NRMC (US); Penton, Corey G SPC USARMY MEDCOM AMEDDCS (US); Stewart, Ulysses C SSG USARMY MEDCOM KOR (US)
Cc: Boyd, O Wayne (Wayne) COL USARMY MEDCOM PRMC (US); Baker, Sherman W Jr COL USARMY MEDCOM LRMC (US); Bowerman, David S LTC USARMY MEDCOM PHC (US); Read, John D COL USARMY MEDCOM SRMC (US); Nygren, John G MSG USARMY MEDCOM HQ (US); Nishimura, Shinri M MAJ USARMY MEDCOM WTC (US); Brzezinski, Peter M COL USARMY MEDCOM NRMC (US); Causey, Brent Victor COL USARMY MEDCOM AMEDDCS (US); Groseclose, Gordon G COL USARMY MEDCOM WRMC (US); Pittman, Jim L COL USARMY MEDCOM HQ (US); Hurst, Kenneth J LTC USARMY MEDCOM HQ (US)

Subject: FW: RFI (UNCLASSIFIED)

Everyone,

Recently I sent up a RFI, asking if a UMT can ask a same-sex couples to attend alternate event... please see legal response from OTJAG.

Per legal review provided by OTJAG, providing an alternate Strong Bonds event for same-sex couples to attend (when a non-restricted chaplain is unavailable) is legally objectionable. Same-sex couples will not be asked to attend an alternate event.

Please let me know if you have any concerns or questions.

His Servant,

Steve H. Shin
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-----Original Message-----

From: Watlington, George Jr CIV USARMY HQDA OCCH (US)

Sent: Wednesday, September 10, 2014 11:11 AM

To: Shin, Steve H MAJ USARMY MEDCOM HQ (US)

Cc: Kirby, Randall D LTC USARMY HQDA OCCH (US); Guthrie, Kevin L MAJ USARMY HQDA OCCH (US); Nguyen, John T CTR (US)

Subject: RE: RFI (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Chaplain Shin,

Per legal review provided by OTJAG, providing an alternate Strong Bonds event for same-sex couples to attend (when a non-restricted chaplain is unavailable) is legally objectionable. Same-sex couples will not be asked to attend an alternate event.

George Watlington Jr., CIV
HQDA Strong Bonds Program Manager
DACH Soldier and Family Ministry
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(703) 545-5793

-----Original Message-----

From: Shin, Steve H MAJ USARMY MEDCOM HQ (US)
Sent: Monday, September 08, 2014 5:16 PM
To: Bowling, Jessica L CTR (US)
Cc: Nguyen, John T CTR (US)
Subject: RFI

Good Afternoon Ms. Bowling,

I pray you had an enjoyable weekend.

Do you have a document stating a same-sex couples may not be referred to a different event? In case where a command decided not take a restricted chaplain from a SB event and execute the event, and asking a same-sex couple

to attend a different event in the future with a non-restricted chaplain.

Thank you.

His Servant,

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