

# FREEDOM FROM RELIGION *foundation*

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## **House Armed Services Committee Hearing on Freedom of Religion and Belief in the Military**

### **Testimony of the Freedom From Religion Foundation, Inc.**

The Freedom From Religion Foundation is a nationwide nonprofit organization that works to protect the constitutional principle of separation between state and church. We are the nation's largest association of freethinkers (atheists and agnostics) and represent more than 21,000 nonreligious members nationwide. Over 5,000 of our members (24%) are active in the military or are veterans. We want to thank the Committee for allowing us to submit this testimony on behalf of those 5,000 members and the over 23% of active military members who are "atheists in foxholes," agnostics, or have no religious preference.<sup>1</sup>

Service men and women regularly lodge complaints with FFRF about the military privileging religion generally, and Christianity specifically, while failing to accommodate the growing ranks of the nonreligious, which currently account for nearly 20% of adult Americans.<sup>2</sup> Although the circumstances of the complaints vary significantly, there are three particular issues that we wish to bring to the Committee's attention today: (1) the major disconnect between the religious and nonreligious makeup of our military and the religious affiliation of military chaplains; (2) military chaplains who regularly proselytize non-Christian service members, creating a hostile work environment; and (3) Air Force discrimination against atheists and agnostics in the requirement that recruits and candidates for reenlistment sign an oath to God.

These ongoing problems serve as examples of how the military gives preferential treatment to Christianity over minority religions and the nonreligious. Eliminating Christian privilege from the military is not the same as being hostile toward religion, as some groups claim. Privilege and hostility are not the only two options. Our secular Constitution calls for a middle position, one of neutrality toward religion. When Christians enjoy a privilege that is not extended to those who practice minority religions or no religion, that privilege represents an impermissible government preference for Christianity. Eliminating an unconstitutional preference is fidelity to the Constitution, not hostility to religion, and shows reverence for freedom of conscience for all. We are not advocating that the military go to the other extreme, which would be actively advocating atheism. The government and military may not take sides on religious matters. We ask that the military strive for the middle road: neutrality.

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<sup>1</sup> See MAAF Department of Defense Religious Preference and Chaplain Support Study (July 2012), available at <http://militaryatheists.org/demographics/>.

<sup>2</sup> *Nones on the Rise: One-in-Five Adults Have No Religious Affiliation*, Pew Research Center, The Pew Forum on Religion & Public Life (October 9, 2012), available at [www.pewforum.org/Unaffiliated/nones-on-the-rise.aspx](http://www.pewforum.org/Unaffiliated/nones-on-the-rise.aspx).

## Military Chaplains Do Not Meet The Needs Of All Service Members

The overwhelming majority of military chaplains are Christian. This Christian dominance conflicts with the religious preferences of service members, 23% of whom are atheists, agnostics, or have no religious preference. The discrepancy is no accident. Advocacy groups like the Orwellian-named Chaplain Alliance for Religious Liberty actively lobby to exclude secular advocates from becoming military chaplains. And their efforts have been extremely effective. Most recently, the Navy blocked humanist Jason Heap, who holds master's degrees from Brite Divinity School and Oxford University, from becoming the first humanist chaplain in the Navy.

A secular chaplain is not oxymoronic and having secular points of view well represented in the military's chaplaincy program would have real, immediate effects for the 23% of military personnel who have no religious affiliation. Currently, chaplains provide basic counseling services to military members. The best practice would be to have licensed, secular counselors providing these services to all military personnel, regardless of religious identification. This would be a neutral solution. Under the current framework, Christian chaplains often use meetings as opportunities to promote religious doctrine, rather than comfort a nonreligious service member. Faced with a choice between dealing with the issue by themselves or working with a chaplain who is primarily interested in proselytizing, many atheists and agnostics forego counseling altogether.

Nonreligious service members should have the right to be counseled by a chaplain who understands what it means to be an atheist or agnostic and can speak to a service member's secular values rather than trying to change them. As long as the chaplaincy program continues to exist without equal access to secular counseling services, we owe our military members a nonreligious option.

## Military Chaplains Use Their Positions To Proselytize

While military chaplains are claimed to be an accommodation for those service members who are religious and wish to practice religion while away from their homes, in practice, military chaplains use their positions to promote religion, including to service members who are not Christian. This inappropriate overreaching perpetuates a culture that is hostile toward non-Christians and the nonreligious.

One prominent example involves the Navy, where shipboard chaplains broadcast regular prayers throughout their ships, compelling all sailors to observe regular Christian prayer. FFRF has received reports of this practice aboard the USS Abraham Lincoln, USS Porter, USNS Comfort, and USS Momsen, although we have reason to believe it is more widespread. On the USS Abraham Lincoln, these daily prayers, according to our information, are initiated with the announcement "Tattoo, tattoo, stand by for the evening prayer." One of four chaplains or a person designated by the chaplains then delivers a prayer, which is nearly always in the Christian tradition and has included recitation of New Testament bible passages. The prayers are broadcast on all areas of the ship including service members' private rooms. During the prayers, the ship's televisions (including those in private rooms) are remotely turned off.

Each Navy vessel is meant to be a uniform fighting unit. Shipboard prayer broadcasts make religion a relevant factor in acceptance to that unit. Our nonreligious complainants, when in the presence of others, feel compelled to remain silent in observance of shipboard prayers. By broadcasting Christian prayers over the loudspeakers so that no sailor can avoid them, the Navy is effectively compelling attendance at a religious ritual. This practice is invasive, disrespectful, and goes far beyond accommodating the religious practice of Christian sailors. This is blatant, inescapable proselytizing of a captive audience.

In response to an FFRF letter of complaint, the Office of the Judge Advocate General attempted to justify the Navy's shipboard prayer practice by referencing Department of Defense Directive 1304.19, which calls for military commanders to provide comprehensive religious support to all authorized individuals within their area of responsibility. Because no DoD directive can trump the Constitution, this directive needs to be revised to place limits on chaplain activities so that no service members are compelled to submit to religious rituals. As one Navy lieutenant put it when writing to FFRF, "Chaplains should serve as an ear to those who need them and a voice to those who seek them, not as an overarching spiritual megaphone to an entire crew."

Military chaplains also proselytize by offering New Testament bibles to recruits and service members, to the exclusion of any other religious or secular text. FFRF has received numerous complaints about bibles being displayed or handed out in recruiting stations and on bases. In most cases, it is the base chaplain's office that is responsible for the distribution of religious reading materials to service members and invariably the bible is the only text offered. Most recently FFRF complained on behalf of military personnel about military-run hotels exclusively offering bibles to guests, under the direction of base chaplains. FFRF first asked for the removal of these bibles. We then offered to donate a variety of atheist and secular reading materials for similar distribution, but we have yet to be approved by any military installation to do so. The military's chaplaincy program has perpetuated this unconstitutional preference for years and will continue to do so until there are clear, written guidelines on the distribution of religious and secular reading materials that do not grant complete discretion to the chaplains.

#### The Air Force Requires Recruits And Reenlistment Candidates to Swear Oath To God

Air Force enlistment/reenlistment contracts currently contain an oath of office that candidates must sign. The oath is written as follows:

"I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I will obey the orders of the President of the United States and the orders of the officers appointed over me, according to regulations and the Uniform Code of Military Justice. **So help me God.**"

In October, 2013, AFI 36-2606 was modified by removing language that indicated "Airmen may omit the words 'so help me God,' if desired for personal reasons." According to the Air Force, the modification was made to bring AFI 36-2606 into conformance with 10 USC § 502, which



sets out the language of the oath and dictates who can administer it. Nothing in 10 USC § 502 indicates that the “so help me God” language is mandatory, and the option to affirm is logically inconsistent with the “so help me God” language, since an affirmation is, by definition, a pledge without reference to a supreme being. Yet the Air Force has steadfastly refused to return to its previous policy in which the phrase was explicitly optional.

The Air Force’s refusal to make the reference to God optional notably has resulted in problems for one candidate for reenlistment at Creech Air Force Base, Nevada. This service member is being denied the opportunity to continue to serve his country solely due to his nonreligious identity. Rather than attempting to foster an atmosphere of tolerance for all religious and nonreligious service members, the Air Force is using 10 USC § 502 to preserve Christian privilege. This service member should not have to engage in a protracted legal battle to protect his right of conscience. The military should follow the lead of the framers of our Constitution, who drafted a completely secular oath of office for the President, *see* U.S. CONST. art. II, § 1, cl. 8, and specifically provided that “no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.” U.S. CONST. art. VI, ¶ 3.

The United States was first among nations to adopt a godless and entirely secular Constitution, which predicated sovereignty not in a divinity, but in “We the People.” In keeping with this vision of neutrality, the phrase “so help me God” should be dropped from 10 USC § 502 and other, similar provisions of the Code. Alternatively, a DoD directive could clarify that the phrase “so help me God” is an optional phrase within any military oath of office and that military personnel must be given the chance to opt out without reprisal.

## Conclusion

The presidential oath of office is illustrative of the standard we encourage the military to adopt toward religion in all cases. Though the phrase “so help me God” does not appear in our entirely secular Constitution, no one, to our knowledge, has argued that this represents the framers’ hostility toward religion or the promotion of atheism. This is neutrality. Likewise, ending the Navy’s shipboard prayer practice is not hostile toward religion, it simply puts a stop to a privilege—an abuse of power—that Christian chaplains have inappropriately exercised over captive service members for years. Chaplains should provide religion to those who seek it out, not seek to impose it indiscriminately. Finally, allowing humanist and atheist chaplains in the military, and allowing the distribution of books other than the bible on military bases, does not encroach on the rights of Christians. It’s a simple recognition that there are many belief systems in the world and it is not the government’s place to choose between belief systems or between belief and nonbelief.

Thank you for your consideration of these three specific issues. While these are three easily rectified problems, they are not the only inequalities experienced by non-Christians and nonbelievers in the military. We encourage the Committee to do everything in its power to foster an atmosphere within the military that is respectful of the rights of all religious minorities and the nonreligious. The Constitution calls for the government to remain neutral on issues of religion. We hope that you will do your part to reinforce that neutrality.