

## Position Statement on Religious Discrimination in Prisons

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by

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Good morning everyone.

I would like to thank The United States Commission on Civil Rights, and the Commissioners present, on behalf of the Wiccan community and on behalf of minority faiths in general, for offering us the opportunity to contribute to the dialogue on religious discrimination in United States' prisons. While I represent a wide range of organizations and also work with a wide range of minority faiths, for the purposes of this briefing, I will focus primarily on the accommodation of Wicca and the problems that Wiccans face in both state and federal correctional facilities. In narrowing my focus, I would like the commission to recognize that one could easily insert the name of any other non-traditional minority faith group in place of Wicca, and still have the exact same end result. That is, these problems are endemic for all minority faiths that are not in the family of the religions of Abraham.

So to get things started, before I go into more detail about the factors that allow discriminatory acts towards minority faiths to begin with, let me give you a few real life examples of the severity of the problems experienced by Wiccans in prisons, so that you will get a real sense of just how critical resolving these problems actually is:

A Wiccan inmate reports that he has cancer and the prison guards will not transport him to go to his chemotherapy treatments unless he removes his approved Wiccan pentacle medallion which they have objections to. He chooses to forgo his chemotherapy and keep his pentacle. Correctional staff allow this to take place insisting that he can not have treatment unless he gives up his symbol of faith.

A Wiccan inmate has been trying to go to Wiccan services for months, but the guard at her dorm refuses to give her the necessary pass. The guard says it is for the good of the Wiccan inmate's soul.

Another Wiccan inmate writes to his outside volunteer chaplain that he is dying and needs to see him before he crosses over. The chaplain makes numerous attempts to reach prison staff so that he can receive the necessary clearances to see the inmate, but no one responds. But worse, the prison mailroom staff will not forward the chaplain's mail to the inmate so that the inmate knows why the chaplain isn't coming.

Over more than a decade, I've had the opportunity to interact with both prison administrators and inmates on religious accommodation issues in correctional facilities all across the country. While practices differ from state to state, I have found

discrimination against non-traditional religions everywhere. The reason for this is what I call the Dominant Religion Lens Factor

The Dominant Religion Lens Factor is a process whereby administrators and security staff view all faith practices from the perspective of the dominant faiths only, leaving no consideration that there are other possibilities or perhaps even different ways to practice religion. The Dominant Religion Lens Factor is exacerbated by the fact that almost all of the administrators, who oversee religion programs in correctional facilities, are members, and often even leaders, of the very same dominant faiths from which they take their cues, and even worse, many of them are often of the belief that their particular faith should dominate the landscape. Consequently, these people make determinations of what faith practices are or are not acceptable, based on the premise that if they look like the dominant faith's practices, then the practices are probably okay and should be accommodated, but if the practices do not look like the dominant faith's practices, then both the practices and the faith itself are suspect, and the accommodation of those faiths and practices should be restricted. This particular way of viewing religion, replicates the very same kind of oppressive view that our forefathers and foremothers left Europe to escape, and if there is to be any hope of achieving equal religious rights for prisoners, or for that matter, equal religious rights for any American citizen anywhere, then this whole way of viewing religion by those in charge, needs to be changed. This is particularly important in prisons, where the inmates are a captive audience with no place else to go and no other choices to make, except for those which the administration makes available.

So, let me give you a couple more examples so you can see just how it actually works:

Back a number of years ago in California, when I was first starting in corrections, I arrived at one of our prisons to conduct Wiccan religious services. Our services were to be held in the facility chapel and the inmates had just arrived. I put the inmates to work moving the rows of chairs in the chapel into a circle, which is the typical configuration utilized for Wiccan religious services. Almost immediately, a security officer and an administrator came into the chapel and stopped us, saying that we could not conduct our services together sitting in a circle, due to security concerns. They instructed me that as the chaplain, I had to stand up front at the pulpit and that the inmates had to sit in the pews and that I had to conduct "sermons" from there. I tried to explain that Wiccan clergy do not give sermons and that creating a circle in preparation for religious services is the Wiccan way of creating "Sacred Space", but they would have none of it. In the end, they forced me to conduct my services from the pulpit, completely negating all of the necessary steps to actually conduct a legitimate Wiccan religious service. In the end, all of this resulted in the Wiccans being denied their right to practice their faith, and in the institution completely circumventing my ability to offer the inmates any real spiritual experience at all.

What was particularly odd about this scenario was the fact that both custody staff and chaplains, regularly stand, sit, and closely interact, with inmates all of the time in a correctional facility, and no one considers that to be a security issue, but conducting religious services in what to them appeared to be a non-traditional way, seemed in their

mind to pose a problem. Now over time, I was eventually able hold services in a circle, but to this day, staff still make comments about the inappropriateness of this type of a service, and for that reason, among others, ridicule Wicca as not being a real religion.

Now all of this may seem somewhat benign to those who know little about the Wiccan faith, but let's take a look at where overseeing Wiccan religion programs utilizing the Dominant Religion Lens Factor ultimately leads:

I had an inmate who is Wiccan. His wife died while he was in prison. He was called in by a Protestant staff chaplain at his institution and given the devastating news. In the course of the conversation, the inmate was told that perhaps his had wife died because he had been participating in Wiccan religious services, and that if he repented now and started to attend "real" religious services, there was still a chance that he could avert the same dismal fate his wife experienced.

Again, this is a real life scenario that actually happened, and these kinds of interactions are common for minority faiths in correctional facilities. While many administrators and chaplains are often not aware that they are operating in this prejudicial way, the end result for Wiccans is still the same. Prejudicial treatment whether intentional or unintentional, is still discrimination either way.

And then there's the worst case scenario, which actually occurs often, where certain prison administrators, staff, and chaplains fully believe that they have a mission to discourage minority faiths from practicing at all. In this context, the Dominant Religion Lens Factor empowers them and encourages them to actually act on their own faith-based motivations, which ultimately leads to the very worst civil rights violations and often devastating results for the inmates, as in the example of the Chaplain's comments to the Wiccan inmate whose wife died.

Another scenario I regularly run into in correctional facilities is the great difficulty that Wiccans face when trying to gain access to their sacred religious items which they use regularly in their religious services. In this instance, the number one reason cited for denying these items, is security, when in fact there isn't a security issue at all.

In Wiccan religious services, congregants typically use an altar adorned with various sacred religious items. These items are usually composed of a chalice, a few candles, some incense, and typically a few natural objects like, a feather, a small crystal, or a flower. There may also be a small statue or depiction of a Goddess or God included, and sometimes a Wiccan religious book. While to the unknowledgeable observer, these items may seem frivolous; to Wiccans these items are highly sacred and play a critical role in their ability to conduct their religious services. Even so, I can't tell you how many times I've been contacted by inmates or correctional facilities, nationwide, to resolve the issue of an institution denying access to all of these items to Wiccans, based on security concerns.

Now, here's the kicker:

In each and every case I've investigated, every institution that denied the sacred items to Wiccan inmates for their services, allowed the very same items to be used in services conducted by the dominant faiths. For example: It is typical for Catholics to use a chalice in their communion, and it is typical for both Muslims and the Catholics to use incense in their services. Protestants often have lit candles during their services, and both Protestants and Catholics have sacred art present. Depictions of Jesus and Mary in prison chapels are commonplace, as are other symbols of Christian faith and deity. I've also been to many a Protestant service in prison where flowers are placed on the altar, and all of these faiths have a holy book present during their services. So why is it that these dominant faiths get all of this without a problem, and yet Wiccans and other minority faiths don't? It's because the administrators and security staff see the dominant faith's use of these items as normal, and they see the minority faith's use of these exact same items as weird or dangerous, because the services in which these minority faiths utilize these items look different to them than those that they are used to.

Another area in which the Dominant Religion Lens Factor plays out involves accommodations that involve significant resources. A good example is the allocation of regularly employed chaplains.

This is a problem throughout the country. California is an example. Even though there are more Wiccans attending religious services at the institutions in question than there are of some of the dominant faith groups who already have regularly employed chaplains, the State has told the Wiccans that they have to prove that their religious tenets require a chaplain before the institution will consider hiring one. So, far the inmates haven't been able to prove that to the department of correction's satisfaction, although they've been trying for nearly five years. But the odd thing about this proof requirement is that the Protestant inmates, who do have regularly employed chaplains, were never required to prove their need for a chaplain. And even more telling is the fact that Protestant religious tenets specifically state that clergy is not necessary to practice the Protestant faith, and in fact, the whole Protestant reformation was based on that principle. So, to clarify this situation, if the same standards that are being required of the Wiccans were to be applied to the Protestants, then all the Protestant chaplains would have to be let go.

This is the same issue for other resource allocations, such as space, budget, books, special religious programming and the like. Protestant congregations in most prisons have bible classes, revivals, videos, and choirs; and I even recently attended an event where Bikers for Christ, brought in a dozen full dressed Harleys for the inmates at a particular institution to interact with. All of these accommodations are provided to the Protestants even though none of these things are required by their tenets. Yet the Wiccans are permitted only those things that they can prove are required by their faith tenets. This sets up a very unfair situation, where resource allocation is not accomplished by an equitable formula.

To make matters worse, those who review inmate grievances, including even some courts, also tend to look at the issues through the Dominant Religion Lens, as well, which means that it often takes years for even the most egregious problems to be addressed.

I think that each of these issues I've discussed involve clear and obvious violations of the Constitution of the United States, RLUIPA, and RFRA, as they directly violate the civil rights of the Wiccans involved, yet no one questions them and grievance officers and courts treat all such complaints with suspicion. Why is that? Could it be that our government has established religious favorites?

As a start, here are a few recommendations for this commission:

If we want to achieve religious equality in prisons, then we have to restrict who can be hired in gatekeeper positions for our nation's correctional religious programs. Only individuals who do not see it as their duty to promote certain religious practices over others should be hired in such positions, be they administrators, staff, guards, or chaplains. This should be a bona fide occupational qualification. We must also educate those who do act as gatekeepers for our prison religion programs about religious pluralism and the guiding principles of religious accommodation in general, so that all inmates will be permitted a reasonable and equitable opportunity to practice their faiths. Further, we need to establish a separate grievance process for religious issues, which gives inmates a direct line to action in these areas and protection from retaliation. This new grievance process should include experts in non-traditional faiths, so that the Dominant Religion Lens Process is avoided. And lastly, we also need to fire administrators and chaplains who believe that breaking the law by violating inmates' religious rights is justified by faith.

Thank you.

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