

Testimony of Pat Nolan,
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Hearing of the U.S. Commission on Civil Rights
“Religious Discrimination and Prisoners' Rights”
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Good morning, Mr. Chairman and members. Thank you for holding this important hearing. My name is Pat Nolan. I am a Vice President of Prison Fellowship and lead their criminal justice reform arm, Justice Fellowship. I am also a member of both Prison Rape Elimination Commission and the Commission on Safety and Abuse in America's Prisons.

I served 15 years as a member of the California State Assembly, four of those as the Assembly Republican Leader. I was a leader on crime issues, particularly on behalf of victims' rights. I was one of the original sponsors of the Victims' Bill of Rights and received the Victims' Advocate Award from Parents of Murdered Children. Then, I was prosecuted for a campaign contribution I accepted which turned out to be part of an FBI sting. I pleaded guilty to one count of racketeering and served 29 months in federal custody.

It is with this unique background as a former legislator and former prisoner, and in my current work in prison ministry that I address you today.

While in the legislature, I presumed that prison officials, even the atheists, would encourage inmates to participate in religious programs. If nothing else, religious activities would seem to be a good management device to keep the inmates out of trouble. After all, I've never heard of a fight breaking out in a Bible study or during Mass. And in fact, many prisons offer many ways inmates can practice their faiths.

Chaplain Pryor and Ms. Atkins are typical of the many good people in corrections who do all they can to facilitate inmates' religious needs. At the other end of the spectrum, a Secretary of Corrections told us: "A man alone in his cell can worship God. I don't have to provide anything else." The Commission can do a good service in giving guidance to officials that the Constitution requires them to accommodate the free exercise of their faith by inmates.

On the other hand, during my two plus years in prison I was shocked to find that religious activity is often barely tolerated and in some institutions even discouraged. I witnessed many occasions where corrections officers denied access to religious materials or made it difficult for inmates to participate in religious services and programs. For instance, I needed a

study Bible to help me with my Bible study. Three times the Chaplain of the California Legislature, Richard Cherry, tried to send me an NIV Study Bible. Each time he complied in every way with the Bureau of Prisons policies governing shipment of books into prison. Yet, three times it was returned to him stamped, “Does not comply with BOP regulations.”

On one occasion we were gathered in the chapel, and watched as the Baptist volunteers, who had been holding services at FPC Dublin for over five years, were turned away because their paperwork was not in order. I later found out that the officer on duty that day hadn't run the printout of approved volunteers because he was too busy playing computer games.

When Bill Glass's Tournament of Champions came to our camp, a “picture card count” was called just as the volunteers were asking the inmates to commit their lives to Christ. Picture card counts are quite unusual. All prisoners must drop what they are doing, return to their housing unit and stand by their bunk with their picture ID held in front of them, while a team of correctional officers goes to each unit. During my two plus years in custody there was only one other time that a picture card count was called. Similar interference at ministry events is unfortunately common at prisons across the United States.

When I came to work at Prison Fellowship, I asked our VP of field operations if my experience was unusual. He chuckled and said that our volunteers don't think they've earned their stripes until they have driven hours to get to a prison, waited for over an hour in the rain or snow only to be arbitrarily turned away.

This resistance to religious practices is not limited to Christians. Isaac Jacobowitz was an Orthodox Jew serving his time with me at PFC Dublin. He was a kind man, and I delighted in my conversations sharing our perspectives on life. It was painful to see him berated and treated with great disrespect by the staff. For instance, when he asked for his kosher meal, the kitchen supervisor screamed at the top of her voice, "What do think this is Burger King? You'll eat what we serve you. Now, get moving or I'll send you to the hole." You have to understand, prison culture is very different from the rest of society. Prisoners look for reasons to look down on others, and when a correctional officer singles out a prisoner for abuse, it sends a clear signal to the prisoners that they can do the same. The kitchen supervisor wasn't the only correctional officer to yell at Isaac that way. I seldom heard him addressed with anything other than derision. As a result, many of the other prisoners took delight in tormenting Isaac. One day, he was assigned to paint the phone booth. When needed to use the rest room, he

carefully left the brush on top of the paint can out of the way in the booth. While Isaac was away, a passing inmate grabbed the can and poured it out on the floor. When Isaac returned a C.O. was shouting at the top of his lungs for him to get back there and clean it up. When Isaac tried to explain what had happened, the C.O. threatened to send him to the hole. Because of the disrespect shown to Isaac, the staff might as well have posted a sign on him that read, “Kick the Jew.”

In preparation for my testimony here today, I asked our field to tell me of the difficulties they have experienced of a similar nature. Some of the examples are:

- arbitrary loss of volunteer credentials or information in computers preventing long time volunteers from coming in;
- interrupting programs by yelling commands and having a cluster of radios very loud near the prisoners;
- starting the programs very late;
- holding back prisoners who want to attend voluntarily;
- stopping a program in the middle without cause;
- loud noise and blaring televisions near location of our activity;
- officers that pull inmates out randomly without cause;

- bringing a medications cart into a Bible study, stopping the study for 15 minutes;
- stopping the program up to 30 minutes early without cause;
- officers showing disrespect of volunteers and clergy in front of prisoners.

Another frequent tactic is a “slow walk to the mound” with paperwork. Some administrators don’t say “no”; they just don’t say “yes”. There always seems to be some new form to be filled out, or perhaps done over because the old one got lost.

One of our coordinators described this passive resistance of some officials, “Constantly requires differing protocols for submitting request for time inside. One week it will be it has to be approved by the Deputy of programs first -- then we will go thru the process of getting our curriculum to the chaplain who then submits it to the Deputy of programs and if it is not “lost” (which has happened three times) it goes on to the volunteer coordinator. However the coordinator will then tell us that we first have to have the list of volunteers and that they won’t allow us to submit a program proposal until we have that. But we can’t submit a proposal with out the approval from the Deputy so it is a constant confusion. In addition, the volunteer personnel are not anxious at all to allow volunteers in. They

‘don’t understand why anyone would want to come and see these women’.
So they don’t act on things quickly, efficiently or pleasantly.”

In most cases this resistance to religious programs and is not motivated by animus to religion. Rather, it is plain old bureaucratic lethargy. It is viewed as extra work to check in volunteers and keep track of inmates going to Bible studies and worship services. I was recently at a conference on prisoner reentry where I was told by a correctional officer that during her training she was told that religious volunteers are a “pain in the a___, and are threats to security.” Fortunately, she didn’t view it that way. But she ended up leaving that DOC to work in a local jail, because the other CO’s viewed her as “consorting with the enemy” because she was kind to the volunteers and encouraged the inmates to participate in religious programs.

How could some correctional officers think that religious volunteers are a problem? Clearing all those volunteers through the gate means more paperwork and extra effort by the guards. It’s a lot easier on the staff if the inmates just hang around with each other, watching TV and playing cards. Of course, that idleness makes them more likely to fail when they try to return to their communities. But for these “bad apple” CO’s it means less work.

To these CO's institutional convenience and security are absolute. Anyone from outside is extra work and a potential threat of misconduct (and therefore a potential threat to their career.) Of course, this warped view misses the great potential that religious programs offer for changing the lives of the prisoners. Our volunteers offer the inmates hope, and also help in preparing for their return to society. That results in safer communities and fewer victims. But it does mean extra work for the staff, and some of them resent it. On the other hand, some correctional officials understand that religious volunteers help them accomplish their mission. When Jeanne Woodford was warden at San Quentin prison in California there were over 3000 volunteers. That doesn't happen by accident. It takes leadership from the top down to recruit and maintain such a strong corps of volunteers. On the other hand, one warden has denied access to Prison Fellowship volunteers for ten years. That also does not happen by accident. Those prisoners have been denied access to the life-changing ministry our volunteers could provide them and that warden's obstruction of our ministry is contrary to the public good.

I would like to highlight for the commission two troubling trends in prison accommodation of religion. The first policy arbitrarily limits inmates to participating in one faith group's activities. For instance, the inmates have

to declare themselves Protestant, Catholic, Muslim, Jewish or Native American. They are allowed to participate in only one activity for that faith, and only that faith each week. In my case, that would have stifled my religious activities in prison. I am a Catholic, but because religious worship and Bible studies provided the only light in a very dark place, I went to Mass as well as Baptist, Methodist, and Lutheran services. I also went to Prison Fellowship studies, Bill Glass's Tournament of Champions and a course in Systematic Theology. Had I been in a prison system that required me to "register" my faith, I would have been forbidden from attending anything but Catholic Mass. Such limitations on the practice of faith violates inmates' constitutional right to the free exercise their religion.

The second trend is arbitrary assignment of space for religious activities in order to maintain political correctness and to deflect accusations of religious discrimination. An increasing number of prisons are apportioning free time, meeting spaces, literature funding and other resources arbitrarily without regard to what is requested by the prisoners themselves. For instance they designate Monday night is Protestant, Tuesday is Islam, Wednesday is Catholic, Thursday is Jewish and Mormon, Friday is Native American and Wicca.

While on the face of it, this is a fair policy, treating each religion alike, it in fact denies access to practice their faith to many inmates. Since space for religious activities is limited, this policy allocates prison resources without regard for the actual needs expressed by prisoners. In actuality, this policy discriminates against members of the more popular faiths. In order to “preserve the equal treatment of all religions,” many prison administrators are creating subjective, random and uninformed allocations. In some instances, prison staff has actually recruited members to participate in some of the more esoteric religions to create a demand for them and fulfill their misguided notions of equal treatment of all religions.

Consequently, such arbitrary allocation schemes have the effect that religious groups with greater demand often are denied resources that are needed to accommodate all of their constituents, while others with smaller memberships may receive more than what they need. This results in some groups turning away many of their members and places a substantial burden on their Free Exercise rights. In addition, by allocating resources for religious services for which there is no demand, they are promoting a religion and likely violating the Establishment clause.

I would like to reiterate that many corrections officials do all they can to accommodate the religious needs of the inmates. In those institutions,

offenders have access to many programs and materials that help them change their lives. These corrections professionals realize that not only does the Constitution protect the rights of the inmates to practice their faith, but that it is also in the public interest to do so.