

FREEDOM FROM RELIGION *foundation*

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September 9, 2010

The Honorable Ray Mabus
Secretary of the Navy
2000 Navy Pentagon
Washington DC 20350-2000

Re: Unconstitutional Nightly Prayers on Navy Ships

Dear Mr. Secretary:

We, the undersigned organizations and individuals, are writing on behalf of concerned Navy service members and our national memberships to alert you to serious violations of the Constitution occurring aboard Navy ships. The Freedom From Religion Foundation (“FFRF”) is a nationwide nonprofit organization with more than 16,000 members including currently active and former members of the Navy. FFRF’s purpose is to protect the constitutional principle of separation between church and state. The Military Religious Freedom Foundation is dedicated to ensuring that all members of the United States Armed Forces fully receive the Constitutional guarantees of religious freedom to which they and all Americans are entitled by virtue of the Establishment Clause of the First Amendment. Americans United for Separation of Church and State (“American United”) is a 120,000-member public-interest organization based in Washington, D.C that has a twofold mission: (1) to advance the free-exercise right of individuals and religious communities to worship as they see fit, and (2) to preserve the separation of church and state as a vital component of democratic government. The Military Association of Atheists and Freethinkers (“MAAF”) is a community support network that connects military members around the world. Shipboard prayer is one of the most concerning issues for MAAF’s membership. The Center for Inquiry is a non-partisan, non-profit organization dedicated to fostering a secular society based on science, reason, freedom of inquiry, and humanist values. The American Humanist Association is a national nonprofit organization dedicated to promoting Humanism and advocating on behalf of Atheists and persons of minority religions, many of whom proudly serve in our armed forces. American Atheists is dedicated to working for the civil rights of Atheists, promoting separation of state and church, and providing information about Atheism.

We join today to urge you to end the illegal practice of officially sanctioned nightly prayer on Navy ships. This letter addresses prayers on the USS Abraham Lincoln, but the practice appears to be widespread, as we have also received complaints from service members and civilians about nightly prayers on other vessels, including the USS Porter and the USNS Comfort.

It is our information and understanding that Navy personnel broadcast a prayer every night over the intercom system aboard the USS Abraham Lincoln. We understand that

these prayers are initiated with the announcement “Tattoo, tattoo, stand by for the evening prayer.” One of the four chaplains or a person designated by the chaplains then delivers a prayer. We understand that the prayers, whether delivered by the chaplains or designees, are nearly always in the Christian tradition. We received information that sometimes the religious officiant even recites passages from the bible including verses from the New Testament.

It is our further understanding that the prayer is broadcast on all areas of the ship including service members’ private staterooms. We are also told that the ship’s televisions (including those in staterooms) are remotely turned off during the prayer. We understand that some service members, when in the presence of others, feel compelled to remain silent in observance of the prayer. The television broadcasts are turned back on following the prayer.

The Navy’s practice of sponsoring nightly prayers via the ship’s intercom system and subjecting all on board to them is grossly inappropriate. Sailors on board the ship have no feasible way of avoiding the Navy-sponsored prayer. Service members are not able to turn off the intercom because to do so would violate orders and create a safety risk. The prayers are a daily occurrence and permeate all areas of the ship. These officially sanctioned prayers compel service members of varying beliefs and non-belief to listen to and participate in religious exercises at the behest of Capt. John Alexander, the ship’s Commanding Officer. They should not be compelled to participate in or show obeisance to official prayers while serving our country.

Service members have the constitutional right to decide how or whether to observe religious practices. Neither Capt. Alexander nor the chaplains on the USS Abraham Lincoln can dictate what is orthodox. Our country and our military include non-Christians and nonbelievers. The nonreligious population of the U.S. is 15% (American Religious Identification Survey 2008) and 23.4% of all military personnel identified as atheist, agnostic or have no religious preference (2010 MAAF study based on Department of Defense data). While non-Christians and nonbelievers are fighting to protect the freedoms for all Americans, their freedoms are being trampled upon. Military chaplains are deployed to *accommodate* the religious practices of service members, not to *impose* religious practices on a captive audience of unwilling participants.

Moreover, the nightly prayer practice violates the Establishment Clause of the First Amendment. The prayers amount to unconstitutional coercion because they are unavoidable routine religious exercises sanctioned by the government. They also demonstrate the Navy’s unconstitutional endorsement of religion and de facto preference for the majority religion.

The government cannot compel or coerce military personnel to attend or participate in religious exercises or worship. *See, e.g., Lee v. Weisman*, 505 U.S. 577, 578 (1992) (“at a minimum, the Constitution guarantees that government may not coerce anyone to support or participate in religion or its exercise, or otherwise act in a way in which ‘establishes a [state] religion or religious faith, or tends to do so.’”); *Anderson v. Laird*, 466 F.2d 283,

285 (D.C. Cir. 1972) (“Attendance at religious exercises is an activity which under the Establishment Clause a government may never compel.”). The court in *Anderson* continued, “[f]reedom from governmental imposition of religious activity is a core value protected by the Establishment Clause ... a government may not require an individual to engage in religious practices or be present at religious exercises.” *Id.* at 291. While the U.S. military may provide chaplains to serve the religious needs of military personnel who wish to use them, the government cannot force religious activity on military personnel. See *Katcoff v. Marsh*, 755 F.2d 223, 231-232 (2nd Cir. 1985).

Additionally, it is unconstitutional for the U.S. military to enact or support any policy that advances, promotes or endorses a religion. Generally, to be constitutionally permissible, a prayer “must have a secular purpose; the primary effect of the prayer must be one that neither advances nor inhibits religion; and finally, the prayer must not foster an excessive government entanglement with religion.” *Mellen v. Bunting*, 327 F.3d 355, 372 (4th Cir. 2003)(striking down meal-time prayer at the Virginia Military Institute as violative of the Establishment Clause). The nightly prayer practice on the USS Abraham Lincoln has the primary effect of endorsing and promoting religion. It unequivocally sends a message that the U.S. Navy “endorses the religious expressions embodied in the prayer.” *Mellen*, 755 F.3d at 374.

The context in which the prayer occurs would lead ““an objective observer, acquainted with the [prayer to] perceive it as a state endorsement...”” *Id.* (alterations added)(quoting *Sante Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 308 (2000)). The nightly prayer ritual is part of routine business of the ship. The court in *Warnock v. Archer*, 380 F.3d 1076 (8th Cir. 2004), held prayer before public school teacher staff meetings unconstitutional because routine prayer in an official, mandatory meeting decisively conveyed the message that the government endorsed religion. On the USS Abraham Lincoln, the prayer occurs regularly over the ship’s loudspeaker in conjunction with other official announcements. The prayer is offered to the entire crew of military personnel, some 5,000 people, in the course of duty. Certainly, an objective observer would find this practice to be military-sponsored prayer. Simply put, “Daily prayer at sea would likely fail the *Lemon* test.” Lt. Steven R. Obert, USN, *Public Prayer in the Navy: Does It Run Afoul of the Establishment Clause?*, 53 Naval L. Rev. 321, 335 (2006).

Claims that the prayers are “tradition” or that some are “nondenominational” cannot disguise their inappropriate and coercive nature. Matters of personal conscience should not be the subject of official Navy announcements over the loudspeaker. Even if the Navy were allowed to host invocations for secular ceremonial reasons, the nightly prayer practice is very different from ceremonial prayers that the Navy may present in other contexts. The *Mellen* court stated that “even if nondenominational, the Establishment Clause prohibits a state from promoting religion by authoring and promoting prayer for its citizens.” 327 F.3d at 375. Here, the prayers are offered for their own sake and thrust upon service members even when they are in their private staterooms.

Many would argue that these government prayers conflict not only with the Constitution, but also with biblical teachings. Indeed, in the Sermon on the Mount, Jesus condemned as

hypocrisy public prayer, proclaiming: "Enter into thy closet and when thou hast shut the door, pray to thy Father which is in secret." (Matthew 6:5-13).

The founders of this country wisely sought to protect government from religion but also protect religion from government. James Madison, in objecting to Congressional chaplaincies, criticized the idea that "religious truth is to be tested by numbers or that the major sects have a right to govern the minor." (Detached Memoranda, 1817).

Navy proselytizing of a captive audience of service members aboard Navy ships must end immediately. We respectfully request that you commence an investigation into these claims forthwith and remedy the constitutional violations occurring onboard Navy ships. We ask to hear from you in writing at your earliest convenience regarding what steps the Navy is taking to ensure the constitutional rights of our servicemen and women are being upheld.

Very truly,

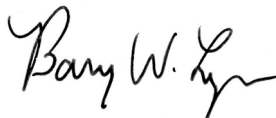


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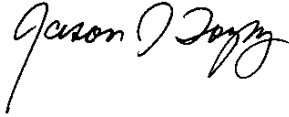
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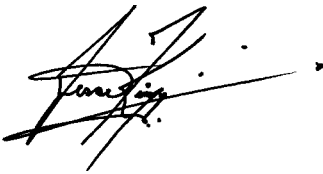
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U.S. Navy (retired)
21 years of service



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