

U.S. Department of Justice
Office of The Deputy Attorney General

Task Force for Faith-Based and Community Initiatives

MYTHS ABOUT COLLABORATION
BETWEEN CORRECTIONS AND FAITH-BASED GROUPS

Myth #1: *Faith-based and other community volunteers are a security risk and, at best, are a distraction to the real work of corrections.*

Reality: False. Preliminary research suggests that outside volunteers, especially those from faith-based organizations, can be indispensable catalysts of positive transformation in the attitudes, behavior, and rates of successful reentry of prisoners. With criminal record checks, mandatory training, and adequate monitoring, a prison need not suffer contraband violations as the price of tapping the services of community volunteers. Indeed, faith-based volunteers can multiply the effectiveness of the chaplaincy, becoming their additional eyes, ears, voices, and hands. Moreover, volunteers may have insights into minority faiths that the chaplain lacks.

Myth #2: *Once admitted within the facility, a religious volunteer has a legal right to say or do whatever he wants to in the area of religion.*

Reality: False. A prison is not a traditional or designated public forum like a park or the steps of city hall. A citizen's right of religious speech is subordinate to the government's interests: preserving the safety and security of prisoners and staff, maintaining health and institutional order, providing educational programming, as well as accommodating the religious needs of all inmates. A volunteer, thus, may not preach a dogma of racial superiority in chapel or a critique of another faith in the middle of the yard. Neither may he demand the right to meet privately (without supervision) with inmates or to limit his audience exclusively to those he thinks truly share his faith.

Myth #3: *Religious volunteers may not testify to or verbally share their particular religious beliefs or experiences - - nor the evidence supporting them - - with inmates at any time within a correctional institution.*

Reality: False. Volunteers do not relinquish all their constitutional rights - - including free religious speech - - when they enter a prison. Volunteers may not coerce or harass anyone (inmate or correctional employee) into embracing his or her faith or practice, and do not have a right to preach in prison (unlike a public forum like a park or street corner). But where the prison administration allows chapel, visitation, and other access

to inmates, outsiders may share their religious beliefs (non-coercively and respectfully) with receptive inmates – e.g., during visitation or in chapel.

Myth #4: *Neither chaplains nor contractors paid to provide religious counseling or programs in prison may share their personal religious beliefs with inmates at any time, individually or in chapel.*

Reality: False. A Jewish chaplain may answer an inmate’s religious question from his or her personal religious experience and study. A Catholic mentor (whether volunteer or paid contractor in a faith-based program¹) need not dilute or mask his understanding of truth for fear that an inmate might embrace it too. In the unique context of prison, where the state controls an inmate’s life, not only is it permissible for the state to provide religious counsel, it is legally required. Whoever provides that counsel, whether one-on-one or before a group of inmates in chapel, may be true to his or her own faith, as long as the audience is voluntary and his or her counsel does not reasonably threaten prison safety or order.

Myth #5: *The message or theology of religious programming in prison must be ecumenical and inclusive, free of “sectarian” or exclusive claims to truth.*

Reality: False. Religious programs, whether led by volunteers or prison chaplains, can be authentic to their sacred text, creeds, and liturgies (sectarian or ecumenical). They must be voluntary for inmates. Outside guest speakers must comply with security and other content-neutral prison regulations that apply to volunteers. But other than not inciting violence or racial unrest, religious speech cannot, and should not, be diluted or censored in prison.

Myth #6: *Chaplains and other correctional staff need only accommodate or permit mainstream theistic religions practiced by most Americans, not small or nontraditional faiths.*

Reality: False. As government officials, chaplains may not favor any religion (including atheism) over another, nor promote faith over unbelief, regardless of the number of inmates that embrace either. The federal constitution and a federal statute ² require state and federal officials to accommodate any sincere exercise of religion, subject to interests of institutional security or inmate health, safety, correction, or discipline.

¹ E.g., in its 18-month residential “Life Connections” program, the Federal Bureau of Prisons hires clerics part-time to lead inmates of a particular faith in a discussion of their individual questions about their sacred texts.

² Religious Land Use and Institutionalized Persons Act, Pub. L. No. 106-274, 114 Stat. 803 [42 USC 2000cc (2000)]

Myth#7: *Whatever sacrament or service is not required by an inmate's religion is constitutionally forbidden from being offered to prisoners. In other words, the law forbids government from providing inmates with anything more than chapel and the most central, compulsory sacraments.*

Reality: False. The First Amendment of the U.S. Constitution requires that prisons seek to accommodate religious beliefs sincerely held by prisoners, and not just those beliefs or practices that are compulsory or "central tenets" of a religion. On the other hand, the First Amendment also prohibits government from promoting religion over secularism and from favoring one faith over another. There is a lot of religious activity between these two bookends - - between what the law requires and what it forbids in a prison - - that the Constitution allows (but does not require) prisons to facilitate. The Supreme Court has recognized that there is plenty of room for "play in the joints" between these two complementary Free Exercise and Establishment clauses in the First Amendment. So even though the Free Exercise Clause may not require that a prison offer inmates the opportunity to volunteer for a faith-based self-study cellblock program, that does not mean that the Establishment Clause forbids the warden from electing to offer such a program, provided it has a secular purpose and effect (i.e., to reduce recidivism).

Myth#8: *Mentors should not be assigned to an inmate until the latter's release from prison. Moreover, both the law and prudent correctional policy forbid faith-based volunteers from continuing mentoring relationships with inmates after the latter are released, and forbid ex-inmates from being mentors with current inmates.*

Reality: False. Frequently, an inmate's most important contact when he is released is the person who cared enough about him to be the inmate's mentor while he was incarcerated. With recidivism rates often exceeding 67%, maintaining this relationship upon release would seem to outweigh any unsubstantiated concern that a mentor might criminally conspire with the inmate or be taken advantage of by the inmate. Because of the shared interest in maximizing the success rate of returning prisoners, the presumption should be in favor of allowing ex-offenders to engage in prison ministry, absent any reason to suspect a criminal enterprise. Mentors should be assigned and allowed to develop rapport with an inmate at least 3-6 months before his or her release date. Otherwise, if they first meet after release, chances are much greater that the ex-offender will not connect with their mentor in any meaningful or productive way.

Myth #9: *"Single Faith" pre-release, residential programs ("God pods") are never legal, even if they are voluntary for inmates.*

Reality: False. The Supreme Court says that the state may permit social service programs like this, even if they have a religious point of view, as long as four tests are met: 1) the state must have a secular, religion-neutral purpose (e.g., improving reentry rates of inmates) in allowing the program; 2) participation must be voluntary and

available to many inmates (regardless of their religion or lack thereof); 3) the inmates must have a genuine, private choice of religious and secular programs; and 4) there must be a secular alternative available to inmates, with benefits that are comparable to the religious option(s).

Myth #10: *“Single Faith” pre-release, residential programs (“God pods”) are legal as long as they are voluntary for inmates and receive no government funds.*

Reality: False. This would be fine if such a program were outside the prison walls and for newly-released prisoners. But inside prison, the government controls every choice made available to inmates. So if a warden allows a faith-based cellblock to teach only one faith and denies access by any other volunteer religious group, then inmates could reasonably conclude that the State favors that one religion. Even if the warden denies any intent to favor or promote one faith or religious faith in general over nonbelief, and even if inmates in the faith-based unit are allowed to study other religions, the program still might violate the First Amendment if the program offers any collateral benefits or incentives (mentors, more family visitation, better living facilities, good time, higher per diem, etc.) to those who participate in the faith program. Bottom line: allow inmate volunteers a choice of faiths (including agnostic philosophy) - - either in a multi-faith dorm or in a separate single-faith unit at a different institution - - and give them no benefits or incentives to participate, other than the prospect of personal transformation.

Myth #11: *Religious cellblock programs in prison (“God pods”) have not been shown to produce any short- or long-term benefit to corrections.*

Reality: False. There is no proof yet of long-term impact on the recidivism of participants, because these programs have not graduated inmates in statistically significant numbers into communities for at least 24 to 36 months post-release and have not been subjected to impact evaluations with control groups. But the Federal Bureau of Prisons has found that participants in its faith- and character-based program (Life Connections) engaged in dramatically less misconduct of a serious nature while in prison. Further, we have positive but preliminary research on several faith-based programs that indicate participation is associated with improved prison behavior³ and lower recidivism rates for program participants following release from prison.⁴

³ Jeanette M. Hercik (2005) Rediscovering Compassion: An Evaluation of Kairos Horizon Communities in Prison. Caliber Associates.

⁴ Byron R. Johnson (2002) “Assessing the Impact of Religious Programs and Prison Industry on Recidivism: An Exploratory Study,” *Texas Journal of Corrections* 28: 7-11; Byron R. Johnson (2003) The InnerChange Freedom Initiative: Evaluating a Faith-Based Prison Program, CRRUCS Report. Philadelphia: University of Pennsylvania, and New York: Center for Civic Innovation, The Manhattan Institute.

Myth #12: *Active participation in religious activities within prison has been proven to lead to significant improvement in its participants' reintegration rates after release.*

Reality: False. Though several studies suggest that regular Bible study participation over a twelve month period has a statistically significant effect in reducing re-arrest and re-incarceration for up to three years post-release,⁵ there has been no comprehensive, impact study evaluating whether religious involvement in prison by inmates improves their reintegration or delays recidivism. When the inmate steps off the bus in the same neighborhood that lured him into crime, he needs a decent-paying job, a roof over his head, health care (often including substance abuse treatment and/or maintenance medication), transportation, a mentor, and a social support system.

Myth # 13: *Prison Ministry ends when the inmate is released.*

Reality: No, that is the time when it can become pivotal. Ex-offenders face so many barriers to successful re-entry (stigma, employer reticence, ineligibility for many professions) and are offered so few resources that faith-based and other community organizations are often their only hope.

Myth #14: *The law forbids faith-based organizations from receiving government grants to pay for non-religious re-entry services for ex-offenders (e.g., job training, job placement, drug therapy) if the organizations are faith-saturated or "pervasively sectarian."*⁶

Reality: False. The First Amendment does not permit, let alone require, such discriminatory funding. Rather than looking at how thoroughly or nominally religious an organization might appear, the law asks whether the public funds will be used for a secular purpose (like job placement for ex-offenders) and whether services will be offered to all qualified beneficiaries, regardless of their religion (if any). Moreover, the law permits "inherently religious activity" (like prayer and sacred text study) by a grantee organization as long as it is privately funded, takes place in a different place or at a different time from the government-funded program, and participation is voluntary.⁷

⁵ Byron R. Johnson (2004) "Religious Programs and Recidivism Among Former Inmates: A Long-Term Follow-Up Study," *Justice Quarterly* 21: 329-354; Byron R. Johnson, David B. Larson, and Timothy G. Pitts (1997) "Religious Programming, Institutional Adjustment and Recidivism Among Former Inmates in Prison Fellowship Programs," *Justice Quarterly* 14: 145-166

⁶ A majority of the U.S. Supreme Court no longer supports the legal theory that government funding agencies must categorically exclude from eligibility for funding any faith-based organization that lets its religious mission effect every aspect of their program.

⁷ 28 Code of Federal Regulations Part 38 (2004).

Myth # 15: *There are no federal dollars or services available to faith-based and other community organizations (FBCOs) that help ex-offenders re-enter their communities.*

Reality: False. FBCOs are eligible to apply for competitively-awarded prisoner re-entry grants through the U.S. Departments of Justice and Labor. At **Labor**, ask about Workforce Investment Act "One-Stop Centers", post-release grants to FBCOs under the President's Prisoner Reentry Initiative (PRI), as well as lessons learned from its "Ready 4 Work" evaluation. At **Justice**, ask about federal formula and block sub-grants available through your state; Weed & Seed grants to your U.S. Attorneys Office; discretionary grants to state corrections for pre-release reentry services in collaboration with Labor's PRI post-release service providers; Byrne Discretionary grants; and anti-Gang voucher-based, reentry pilots in 10 cities.

In addition, the U.S. Department of **Health & Human Services** awards grants to FBCOs who recruit and train mentors for the children of prisoners.

Finally, FBCOs may collaborate with or tap into services available to ex-offenders through the U.S. Departments of **Housing & Urban Development** and **Veterans Affairs**, as well as the **Corporation For National and Community Service** (VISTA program).

Each of the above federal agencies has a Center For Faith-Based and Community Initiatives⁸ to help FBCOs learn how to apply for these reentry funds and services. Or one can access information at <http://www.reentry.gov/> or at the White House's FBCI site: <http://www.whitehouse.gov/government/fbci/>.

⁸ The Center in the U.S. Department of Justice is called the Task Force For Faith-based and Community Initiatives.