

## MYTHS ABOUT COLLABORATION BETWEEN CORRECTIONS AND FAITH-BASED GROUPS

Myth #1: Religious programming in prison must be ecumenical and inclusive in its message, free of “sectarian” or exclusive claims to truth.

Reality: Religious programs, whether led by volunteers or prison chaplains, can be authentic to their sacred text and traditions. They must be voluntary for inmates. Outside guest speakers must comply with security and other content-neutral prison regulations pertaining to volunteers. But other than not inciting violence or racial unrest, religious speech cannot, and need not, be diluted or censored in prison.

Myth #2 Chaplains and other correctional staff need only accommodate or permit mainstream theistic religions practiced by most Americans.

Reality: As government officials, chaplains may not favor any religion (including atheism) over another, nor promote faith over agnosticism, regardless of the number of inmates that practice it. The federal constitution and federal statute<sup>1</sup> require state and federal officials to accommodate any sincere religious exercise, subject to concerns of security, inmate discipline, and budgetary limitations.

Myth #3 Religious volunteers may not testify to or verbally share their particular religious beliefs or experience with inmates at any time within a correctional institution.

Reality: 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 does 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, an outsider may share and seek to persuade a receptive inmate of his or her religious beliefs.

Myth #4 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: 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

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<sup>1</sup> Religious Land Use And Institutionalized Persons Act of 2000, [cite]

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 #5 Neither a chaplain nor a contractor paid to provide religious counseling or programs in prison may share his or her personal religious beliefs with an inmate at any time.

Reality: 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 program<sup>2</sup>) 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 #6: Faith-based and other community volunteers are a security risk and, at best, are a distraction to the real work of corrections.

Reality: Preliminary research suggests that outside volunteers, especially faith-based people, can be an indispensable catalyst 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 have to 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.

Myth#7: Mentors should not be assigned to an inmate until release. 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: 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 same 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

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<sup>2</sup> 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.

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 #8 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 accommodate the religious exercise needs of prisoners. On the other side of the spectrum, it prohibits government from promoting religion over secularism and from favoring one faith over another. There is a lot of religious activity between these two extremes - - between what the law requires in a prison and what it forbids. The Supreme Court has recognized that there is plenty of room for "play in the joints" between the Free Exercise and the Establishment clauses of 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 #9: "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 this program were outside the correctional facility, for newly-released prisoners. But inside prison, the government controls every choice made available to inmates. So if a warden allows only one religious cellblock of one faith and denies permission to any other outside religious groups, then inmates could reasonably conclude that the State favors that one religion. Even if the State disclaims such intent to favor or promote one faith (or religious faith in general over agnosticism), it 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 "find religion in prison."

Myth #10: "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 #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. Further, we have positive but preliminary research on several faith-based programs that indicate participation is associated with improved prison behavior<sup>3</sup> and lower recidivism rates for program participants following release from prison.<sup>4</sup>

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,<sup>5</sup> there is no comprehensive, impact evaluation proving that religious activism in prison improves reintegration or delays recidivism by the inmate. 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 really becomes pivotal. The ex-offender faces so many barriers to successful re-entry (stigma, employer reticence, ineligibility for many

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

<sup>4</sup> 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.

<sup>5</sup> See 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

professions) and is 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“.

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 and takes place in a different place or at a different time from the government- funded program.

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: 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, 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 US Attorneys Office; discretionary grants to state corrections for pre-release reentry services in collaboration with Labor’s 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 Initiatives<sup>6</sup> 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/>.

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<sup>6</sup> The Center in the U.S. Department of Justice is called the [Task Force For Faith-based and Community Initiatives](#).