

Liberty University School of Divinity

A Manual for an Evangelical State Prison Chaplaincy

A Thesis Project Submitted to
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In Candidacy for the Degree of
Doctor of Ministry

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Liberty University Baptist Theological Seminary

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DEDICATION

I want to dedicate this work for the glory of God. It is His strength, wisdom, and perseverance that has graciously allowed me this humbling opportunity. I cannot appeal to my own intellect, talent, or creativity. Anything that is of Kingdom value in me or this work is the hand of God. Thank you Abba Father!

I also would like to thank my family, friends, and co-workers. My wife and children have sacrificed time with me throughout this entire process. Through the weeks gone to Lynchburg, Virginia for classes and countless hours in my office studying and writing, they have graciously supported me. The prayers of my mother, sister, brother and in-laws were fervent. I would also give a special mention of gratitude to my brother-in-law and sister who have graciously taken my family in and provided us with a loving place to call home. Also, my co-workers have supported me through encouragement and prayer. I have a special gratitude to the Honorable R. Cletus Maricle, Dr. Gregory Mobley, Commissioner LaDonna Thompson and Dr. Dante Wright for their intellectual and emotional support throughout this process.

There are also those who have already gone on to be with the Lord, Grandparents on both sides and especially my earthly father. I want to thank them for their love and kindness throughout the years. I know my Dad would be proud.

Finally, I would like to dedicate this work to the prison Chaplains that willfully walk into a prison every day for the glory of God. Their work is one of the most difficult but also one of the most rewarding. May God walk with you and protect you from the evils that lurk behind that razor fence. God speed!

sola Deo Gloria

ABSTRACT

A MANUAL FOR AN EVANGELICAL STATE PRISON CHAPLAINCY

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This thesis will include the practical guidelines for prison chaplaincy in local state Department of Corrections. The goal would be to develop an instruction manual for new evangelical ministers entering into the State Prison Chaplaincy. Prison chaplains are frequently unprepared for ministry to incarcerated individuals. Chaplaincy is a difficult position and the prison environment adds to the difficulty. Too often Chaplains are under trained which magnifies the complexity of the position. In the prison environment they are trained in security issues but the religious issues are left untouched. This manual will assist newly hired Chaplains to become better acquainted with the office of Chaplaincy. It will also assist them from entering into serious discouragement and disillusion. This thesis will utilize surveys and questionnaires of all the DOC Chaplain's, Federal Chaplain's and administrative Wardens and their years of experience to assist with a manual for new Chaplains. This manual will offer practical advice for new Chaplains in the prison environment.

Abstract length: 150 words

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ABBREVIATIONS

ADC	<i>Arkansas Department of Corrections</i>
ADOC	<i>Alabama Department of Corrections</i>
AIDS	<i>Acquired Immune Deficiency Syndrome</i>
CDC	<i>California Department of Corrections</i>
CEO	<i>Chief Executive Officer</i>
DOC	<i>Department of Corrections</i>
GPP	<i>Graduated Privilege Program</i>
JCCC	<i>Jefferson City Corrections Center</i>
MSU	<i>Maximum Security Unit</i>
NOI	<i>Nation of Islam</i>
OTO	<i>Order Templi Orientis</i>
PREA	<i>Prison Rape Elimination Act</i>
RFRA	<i>Religious Freedom Restoration Act</i>
RIDOC	<i>Rhode Island Department of Corrections</i>
RLUIPA	<i>Religious Land Use and Institutionalized Persons Act</i>
SCDC	<i>South Carolina Department of Corrections</i>
SMU	<i>Special Management Unit</i>
TDCJ	<i>Texas Department of Criminal Justice</i>
VDOC	<i>Virginia Department of Corrections</i>

CHAPTER 1

INTRODUCTION

Ministry is a recompensing but stimulating profession. Pastors, chaplains, and copious other religious leaders are challenged with an eclectic array of indispensable concerns on a daily basis. To many, they epitomize the discernments and oracles of God and must afford wisdom, compassion, and spiritual guidance to the affiliates of their faith, be it an insignificant flock or a substantial congregation.

Prison chaplaincy is no different, as a prison has its identifiable distinctive set of challenges and obstacles, but while Bible Colleges and Seminaries are occupied with books and manuals to assist the indigenous pastor in a multiplicity of areas such as managing finances, youth groups, evangelism, and discipleship, there have been very few publications written to support a newly employed prison chaplain. Not only are the Bible Colleges and Seminaries deprived of this material, but so are the prisons themselves.¹

The exceedingly capricious nature of the prison environment reckons it necessary for a prison chaplain to require suitable preparation. This environment is high stress, high security, high risk and highly scrutinized. With state penitentiary budgets being expurgated across America, sometimes one chaplain will be the solitary person in their entire department. This means the assignments are enormous and the diversions countless. Inmate after inmate may come knocking on the door. Correspondence masses up every minute. Phone calls from convicts' family members are never ending. Criticisms from inmates of other religions are filed, saying they were not treated impartially. The list goes on.

¹ John Cowart, *The Prison Minister's Handbook; Volunteer Ministry to the Forgotten Christian* (San Jose, California.: Resource Publications, 1996), 106.

The objective of this project is to contribute to the academic world in various ways. It can afford insight into a realm that most populaces have never experienced. This insight could assist those at Bible Colleges and Seminaries to better furnish entities/programs for training those working in the chaplaincy of a prison. Newly hired prison chaplains could utilize this project to better and more hastily acquaint themselves with their new environment. It also has the potential to assist those clergymen who are already there.

The Statement of the Problem

This project will contribute both universal and specific information to assist a recently employed Chaplain in a state penitentiary system. It will investigate spiritual and emotional concerns that are common to inmates due to their experiences in the judicial and penal system. It will survey the role and function of the prison chaplain and how he relates to those he works with on a daily basis. "Chaplains shoulder the primary responsibility for identifying and serving the various religious needs of the incarcerated population by virtue of their official staff position within the correctional institutions. Prison chaplains must balance the religious rights of inmate with the correctional institution's need for safety and security, a balance that must be constantly negotiated."²

The Statement of Limitations

This project will not discourse on issues that encompass the United States Justice Department Bureau of Prisons. The concentration of this project is to deal with state penitentiaries and the Kentucky Department of Corrections in particular. Some of the information assembled and utilized may comprise statistical information from the U.S. Bureau of

² A. M. Hicks, "Learning to Watch Out: Prison Chaplains as Risk Managers," *Journal of Contemporary Ethnography* 41.6 (2012): 637.

Prison concerning communal inmate issues in the Federal and State prisons, but none of the Federal chaplain matters will be addressed due to the differing regulations between Federal and State chaplains.

There will be abundant references to administrative duties and the correspondence that that entails. But only the duties that pertain to the areas of interest will be referenced. These will be explained as they make impact on the project.

There are also plentiful spiritual issues that inmates and staff deal with on a daily basis. Some of these will be incorporated to help better apprise the new Chaplain of the general situations that he might encounter. Not all of the spiritual issues that a chaplain faces will be delved into.

The Theoretical Basis for the Project

The verb *prepare* means “to make ready in advance for a particular purpose, event or occasion.”³ The Bible imparts Christians to be equipped to give a retort and be prepared to convey the Good News. In 2 Timothy 2:15 and 4:2 Paul wrote to Timothy, “Do your best to present yourself to God as one approved, a worker who does not need to be ashamed and who correctly handles the word of truth. ... Preach the word; be prepared in season and out of season; correct, rebuke and encourage with great patience and careful instruction.”⁴ This project also contends that it is God’s yearning for Christians to be prepared for their ministry field, even if the locality is a prison. In Matthew 25:31-46, Jesus teaches that Christians are to minister to those in prison. He actually says, “The King will reply, ‘Truly I tell you, whatever you did for one of the least of these brothers and sisters of mine, you did to me.’ ”

³ *Webster's II New College Dictionary* (Boston: Houghton Mifflin Co., 1995), 873.

⁴ Unless otherwise noted, all biblical passages referenced are from the New International Version Bible (Grand Rapids: Zondervan Publishing, 2011).

The Statement of Methodology

This project will answer numerous and diverse inquiries about prison ministry. The first section will address the chaplain's connection to the inmate population. In this occasion, that means getting to discern the inmates that he will be ministering. He must acquire the demographics of offences that may benefit in understanding the unique issues which arise in counseling sessions. Each inmate has his/her own distinctive familiarity with the justice system. But there are mutual experiences that all of them have dealt with which have instigated inner turmoil. Just the involvement of being detained, tried, convicted, sentenced, and then retained into a penal custody has its own emotional and spiritual consequences. The prison chaplain will most likely deal with countless of these issues as inmates come to him for spiritual guidance and hope.

Second, the chaplain must never overlook that he himself is contained by the walls of a prison. Life is entirely dissimilar on the inside. The inherent problem with many individuals in the ministry field is that they seek to be loving, kind, and trusting people. While these are all admirable traits, the chaplain must always proceed with caution, for these are hardened criminals he is dealing with. Numerous inmates will try to take advantage of the sympathetic and compassionate nature of the minister. There will be security protocol that must be adhered to continuously. This new security mindedness might seem extreme and foreign to a novel employee. The chaplain must be cognizant of the dangers about him and retain a keen sense of security in the chapel. This is not the customary church. The new chaplain must also know how he fits into the big picture. He must have a practical association with additional staff members and know what their roles are in the global structure of the prison organization. Chain of command is vital in the prison locale. Above all, chaplains need to know how to handle

affiliations with inmates. The position of chaplain in the correctional environment creates its own issues. Chaplains are to afford spiritual care to inmates. This automatically fashions bonds between human beings. In this environment, favoritism is not tolerated. Therefore, chaplains must safeguard themselves from becoming inappropriately involved with certain inmates to whom they have given spiritual guidance. This places the chaplain in a challenging position. Is he a chaplain or an officer?

Third, the new chaplain also needs to know who it is that assists him. Volunteers and Administration are a vital help to the prison chaplain. In each case, he needs to know their role and how they are able to assist in his ministry field. Both of these groups are unique and should sustain a specific relationship with the chaplain. There are also specific training requirements for volunteer help. Volunteer communications will be one of the chaplain's primary responsibilities.

Fourth, the chaplain needs to know the governing principles of his life and profession. The Bible is the ultimate guide in the Christian's life. It has tremendous value to help enrich one's life and guide one in good or problematic situations. As a chaplain of a state government institution, the law is also a controller. This law is not from the Bible, but the legislation that the United States Government has enacted to set the parameters in which this country operates. The Religious Land Use and Incarcerated Persons Act has affected the chaplain's office in a huge way. Federal law will continue to dominate how chaplains operate in the prison setting.

Fifth, the new chaplain needs to know pertinent court cases that deal with important areas of inmate religious worship. These cases have been determined by federal courts and set the standard. These standards should help chaplains appropriately execute their office. This section briefly observed federal cases which deal with important areas. In the prison setting there are certain hotspots where inmates have a tendency to file lawsuits. These areas are addressed in

more detail according to federal cases. These decided cases, if they are studied, can assist a new chaplain from losing lawsuits in court. Also, the unique setting of this research requires anonymity; therefore, to fulfill the requirements of regulatory authorities, specific identifiable information concerning research participants will not be included.

The Review of the Literature

The literature reviewed for this project consists of multiple books, journals, articles, federal law, state policy and procedures. Familiarity with this body of knowledge establishes some guidelines and imparts information that is very valuable for someone starting a career in prison chaplaincy.

Larry Nielsen's book *Thinking About Jail and Prison Ministry* engages the topic from a perspective of law enforcement. Mr. Nielson's work touches on a few diverse areas of prison ministry. The value of his writing and experience is enormous. He combines statistical information with practical experience. A clear and realistic perspective of the common inmate is divulged in order to prepare unsuspecting newcomers to prison ministry.⁵

55 Facts That You Need to Know for an Effective Correctional Chaplaincy Ministry is an experienced and educational based book written by Dr. Lorne Freake. Most of the information contained in this book is from experiences that Dr. Freake has undergone and from observing the errors that others have committed. Prison knowledge is not common knowledge. A correctional facility is a different world and Dr. Freake delivers some valuable information.⁶

⁵ Larry Nielsen, *Thinking About Jail and Prison Ministry: A Guide for the Lay Volunteer* (Ft. Pierce, FL: printed by FBC Publications, 2005).

⁶ Lorne K. Freake, *55 Facts That You Need To Know For An Effective Correctional Chaplaincy Ministry*, (Bloomington, IN: AuthorHouse, 2012).

Chuck Colson stated that Lennie Spitale's book, *Prison Ministry* "may well be the definitive book on prison ministry." Derived from his experience as a former inmate, Spitale, now a prison minister, gives superb insight into the world of prison ministry. He details the prison environment and psychological experience of incarcerated persons. Due to his unique perspective, he gives extremely practical information to any individual seeking to participate in prison ministry.⁷

Burden of Truth is a spectacular book written by Charles "Chuck" Colson. Mr. Colson was President Richard Nixon's assistant. He was entangled in the Watergate scandal and was ultimately prosecuted and convicted for his association. He was saved during this precarious time of his life. After serving his time in prison he founded and became the chairman of Prison Fellowship Ministries. In 1993 he received the Templeton Prize for Progress in Religion. He also serves as a distinguished senior fellow of the Christian Coalition of Colleges and Universities. His knowledge and insight about prison ministry are unequaled.⁸

Games Criminals Play is perhaps the most important book that any novel employee in a penal institution could read. Bud Allen and Diana Bosta pool their vast familiarity and education to convey an incredible apparatus for future and current prison employees. Their book discusses in detail the problem that exists between "the keeper and the kept." Too often prison employees are manipulated by suave inmates and it costs them their jobs and sometimes their freedom. *Games Criminals Play* details the process by which some inmates manipulate the penal environment to their advantage.⁹

⁷ Lennie Spitale, *Prison Ministry: Understanding Prison Culture Inside and Out* (Nashville, Tenn.: Broadman & Holman Publishers, 2002).

⁸ Charles Colson, *Burden of Truth* (Wheaton, Ill.: Tyndale House Publishers, 1997).

⁹ Bud Allen and Diana Bosta, *Games Criminals Play: How You Can Profit by Knowing Them* (Susanville, Calif.: Rae John Publishers, 1981).

Richard Symes lends a unique perspective in his book *As Though You Were in Prison With Them*. He gives the reader a systematic look at prison ministry. He begins by detailing the judicial system from the arrest to imprisonment. His emphasis is developing churches to minister to those who have been placed in any part of the judicial system to the victims of the crimes. He stressed the importance due to the explosion of incarcerated in America today.¹⁰

Conviction, Conversion and the Chaplain is an invaluable work that seeks the importance of Chaplains to the penal institution. Prisoners often enter a crisis of identity when placed in the custody of the state. Religion can be that source of meaning that they need in their lives. Chaplains play a role in developing these new identities. Joel Thomas made a great contribution to a predominantly untouched subject.¹¹

Dr. W. Thomas Beckner and Jeff Park's book *Effective Jail & Prison Ministry for the 21st Century* is loaded with the expertise of professionals who have devoted their lives to prison ministry. From professors of Criminal Justice to career chaplains this book touches subjects dealing with a wide range of experience. The authors allowed the experts, men and women who work in the field, to demonstrate a common sense approach to prison ministry. The subjects range from the history of chaplaincy in prisons to juvenile inmates.¹²

John Cowart's book, *The Prison Minister's Handbook*, is a wealth of information to volunteer ministries. His perspective is strictly from the volunteer viewpoint. The book delivers great historical references to the office of chaplaincy. It also focuses on the mind of the criminal.

¹⁰ Richard Symes, *As Though You Were in Prison With Them* (Louisville, KY.: Presbyterian Criminal Justice Program, 2000).

¹¹ Joel Thomas, *Conviction, Conversion and the Chaplain* (San Bernardino, CA.: CreateSpace Independent Publishing, 2012).

¹² W. Thomas Beckner & Jeff Park, *Effective Jail & Prison Ministry for the 21st Century* (Euless, TX.: Coalition of Prison Evangelists, 1998).

Another valuable addition is his perspective on how volunteers work with all different kinds of correctional staff.

Offender manipulation is always a primary concern inside a prison. Gary Cornelius compiled a wonderful book with this main focus. *The Art of the Con* delivers pertinent information concerning the mental state of prisoners and the causes of their behavior. It ultimately addresses the issues that concern all prison staff members, manipulation. His work discusses the ways in which an inmate may try to con staff. He also delivers a great technique to defend the onslaught of manipulative offenders.¹³

Daniel Bayse wrote a book entitled, *Helping Hands: A Handbook for Volunteers in Prisons and Jails*. This book covers a huge area concerning prisons and inmates. He describes the historical crime and punishment evolution. He also endeavors into the mind of the criminal by discussing different personalities of criminals. The discussion turns to the reasons why people volunteer and methods that can be utilized to make their efforts more effective.¹⁴

Ron Chalmers book, *Ministering in the Prison*, contributes to prison ministry from a very insightful perspective. Mr. Chalmers was a successful business man, Seminary graduate and pastor. But, after some very bad choices in life he ends up in prison. He has experienced prison ministry first hand as an inmate preacher. In his book he discusses the hurdles of the inmate mindset that prison ministers will have to battle. Prison ministry is extremely tough and dirty. Chalmers book enlightens some of these challenges.¹⁵

¹³ Gary Cornelius, *The Art of the Con: Avoiding Offender Manipulation* (Alexandria, VA: American Correctional Association, 2009).

¹⁴ Daniel Bayse, *Helping Hands: A Handbook for Volunteers in Prisons and Jails* (Arlington, VA: Kirby Lithographic Company, 1993).

¹⁵ Ron Chalmers, *Ministering in the Prisons: Ministering to Inmates more Effectively* (Bloomington, IN.: AuthorHouse, 2013).

United States Senators Orrin Hatch and Ted Kennedy authored the “Religious Land Use and Institutionalized Persons Act.” It was signed into law by President Bill Clinton on September 22, 2000. This bill affords significant protections for religious exercise in America. This bill can forbid state and local governments from imposing a substantial burden on the exercise of religion unless they can demonstrate a clear and overriding governmental interest. This act gives greater protection to American liberties and protects all American’s civil rights.¹⁶

The *Journal of Contemporary Ethnography* published an article by Allison Hicks entitled, “Learning to Watch Out: Prison Chaplains as Risk Managers.” Hicks researched the effects that a penal institution has on the mentality of correctional chaplains. This study validated the risks that are involved by any employee inside a prison but focused particularly on chaplains. Because chaplains play a unique role inside the penal structure, they also have a unique perspective of risk. Sometimes this is misunderstood by those who are not involved in prison work but is a practical reality to those who are.¹⁷

There is not a vast amount of information about prison chaplains. Sometimes the duties and responsibilities are misunderstood. Francis Cullen and Jody Sundt authored “The Role of Contemporary Prison Chaplain.” It was published in the *Prison Journal*. These authors explore the history and role of the prison chaplain. They deliberate on the historical background in order to exhibit how much the office of chaplain has changed over the centuries. Chaplaincy entails

¹⁶ *Religious Land Use and Incarcerated Persons Act*, U.S. code. 2000. Vol., 42 U.S.C., sec. 2000cc. Accessed 3 April 2014; available from LexisNexis Academic.

¹⁷ Allison M. Hicks, "Learning to Watch Out: Prison Chaplains as Risk Managers," *Journal of Contemporary Ethnography* 41, no. 6 (2012): 636-67.

more than the surface reveals. In fact, according to the authors, the chaplain has the ability to affect the inmate's incarcerated experience.¹⁸

A prison is full of criminals who are mostly rebellious, disrespectful and dangerous. So, what value is religion behind the walls of a prison? The *Journal of Contemporary Criminal Justice* published an article by Todd Clear, Patricia Hardyman, Bruce Stout, Karol Luken, and Harry Dammer. The title of the article is "The Value of Religion in Prison." This journal article studied the role that religion plays for inmates. The article is very inclusive of all the issues that arise. It demonstrates the positives and negatives. Some inmates utilize their religion as a means of forgiveness for their guilt and others may use it as a means of self-protection or even more sinister purposes.¹⁹

In Jesus' Sermon of the Mount, He stressed the significance of the Christian's everyday lifestyle and example to the entire world. He declared in Matthew 5:14, "You are the light of the world. A town built on a hill cannot be hidden." It is vitally essential for Christians to comprehend their walk and how it affects those around them. He continues to say, "In the same way, let your light shine before others, that they may see your good deeds and glorify your Father in heaven." Chaplains will be walking into the pit of darkness everyday as they go to work. God has called them to be light in the midst of that darkness.²⁰

Loving the unlovable is a challenging assignment. Prison is full of persons that society has positioned behind razor wire to safeguard itself. Most of the time, these individuals detest any employee including the chaplain. But Jesus said in Matthew 5:43-44, 46-47, "You have

¹⁸ Jody L. Sundt and Francis T. Cullen. "The Role of the Contemporary Prison Chaplain," *The Prison Journal* 78, no. 3 (1998): 271-98.

¹⁹ Todd Clear, Patricia Hardyman, and others. "The Value of Religion in Prison," *The Journal of Contemporary Criminal Justice* (2000): 53-73.

²⁰ Matthew 5:14, 16.

heard that it was said, 'Love your neighbor and hate your enemy.' But I tell you, love your enemies and pray for those that persecute you... If you love those who love you, what reward will you get? Are not even the tax collectors doing that? And if you greet only your own people, what are you doing more than others? Do not even the pagans do that?"²¹

Both the inmates who reside in prison and the nature of the crimes that put them there are sometimes detestable. The sheer perversion of their crimes and attitudes is revolting. Human nature is to turn our backs on such individuals and forget about them. But, God gave each and every person value. Sometimes this is hard to see. But in Genesis 1:26-27 God stated, "Let us make man in our image, in our likeness. . . So God created man in his own image, in the image of God he created him; male and female he created them." Prisoners are not different from others. God made them all in His image and they have value.²²

There are also a percentage of inmates that are sincerely seeking the things of God. Their experience of the criminal justice systems was a wakeup call. They are now hungry and seeking the things of God. Christians have an obligation no matter what feelings they hold towards inmate to assist them in their greatest time of need. Jesus said in Matthew 25:44-46, "They also will answer, 'Lord when did we see you hungry or thirsty or a stranger or needing clothes or sick or in prison, and did not help you?' He will reply, 'Truly I tell you, whatever you did not do for one of the least of these, you did not do for me.'"²³

The Great Commission is categorically another factor to which chaplains should be wholly attentive. Jesus said in Matthew 28:19-20, "Therefore go and make disciples of all

²¹ Matthew 5:43-44, 46-47.

²² Genesis 1:26-27.

²³ Matthew 25:31-46.

nations, baptizing them in the name of the Father and of the Son and of the Holy Spirit, and teaching them to obey everything I have commanded you. And surely I am with you always, to the very end of the age.” Prison ministry is a lavish mission field. Just like any other ministry, prison ministry necessitates a calling from God.²⁴

As a chaplain implements the job responsibilities assigned, he/she should be ever mindful of whom they are as ministers and fellow children of God. It is easy to adopt an ideology of superiority, especially in a prison setting. But one must never overlook that we are all merely sinners. Paul wrote in Romans 3:23, “For all have sinned and fall short of the glory of God,” It is human nature to impose human standards of righteousness solely based on our own performance. Fortunately, God does not redeem on the basis of our own righteousness.²⁵

Jesus addressed the issue of earthly righteousness in Matthew 9:12-13 when He said, “It is not the healthy who need a doctor, but the sick. But go and learn what this means: ‘I desire mercy, not sacrifice.’ For I have not come to call the righteous, but sinners.” Prison is a reality check for most. It is in this environment that many understand that they are not healthy. They understand that they are not righteous but are sinners in need of a merciful God.²⁶

This mission field is exceedingly rewarding. But, it is also very treacherous. Prison employees, including chaplains, are locked behind a fence with some of the nation’s most perilous people. Knowledge of this on a daily basis invokes some type of fear or anxiety. But, Isaiah 41:10 states, “So do not fear, for I am with you; do not be dismayed, for I am your God. I will strengthen you and help you; I will uphold you with my righteous right hand.”²⁷

²⁴ Matthew 28:19-20.

²⁵ Romans 3:23.

²⁶ Matthew 9:12-13.

²⁷ Isaiah 41:10.

Chaplains have an obligation to the standards that God Almighty has placed inside of Scripture. Those scriptures also give them another obligation of obedience. In 1 Peter 2:13-14 it states, “Submit yourselves for the Lord’s sake to every human authority: whether to the emperor, as the supreme authority, or to governors, who are sent by him to punish those who do wrong and to commend those who do right.” The rules, regulation, policies, and procedures that the state governments give concerning the chaplains responsibilities are important and worthy of respect.²⁸

²⁸ 1 Peter 2:13-14.

CHAPTER 2

UNDERSTAND THE INMATE

A prison chaplain has a distinctive role as the facilitator of the religious services provided to incarcerated persons. This necessitates them to be the supervisor of all religions that are practiced at the facility in which they labor. It is the chaplain's responsibility to "ensure that an inmate has the opportunity to participate in practices of his religious faith in accordance with the Religion Reference Manual."¹ Attending to the spiritual needs of the inmate population is one of the chaplain's primary objectives.² Therefore, the successful chaplain's duties necessitate a broad spectrum of insights that encompasses all of the inmate population along with their various, divergent religions. This may be a problematic charge for some, but a chaplain must apprehend that he is the spiritual facilitator for all inmates.³

In truth, most inmates will never grace the ingresses of the chapel except for a family emergency. Others will come and practice a religion that is foreign and completely in contrast with the chaplain's religion of choice. However, he cannot allow these robust and conflicting theological perspectives to isolate him from the prison population. Even if he does not agree with the inmate's religious perspective, or lack thereof, he must still demonstrate compassion and grace as did the Savior, Jesus Christ. According to policy he must "assure equal status and

¹ Kentucky Department of Corrections Policies and Procedures, 23.1, "Definitions," 1.

² Joel Thomas, *Conviction, Conversion and the Chaplain* (San Bernardino, California: Create Space Independent Publishing, 2012), 28.

³ John Cowart, *The Prison Minister's Handbook; Volunteer Ministry to the Forgotten Christian* (San Jose, CA: Resource Publications, 1996), 101.

protection for all religions listed in the Religion Reference Manual.”⁴ If asked, he may share his religious interpretation in hopes that those attending might embrace it and convert to his religion of choice; however, he absolutely cannot force this upon them. So, the necessity to have broad general knowledge of the various religions of the entire inmate population is critically important.

There are numerous aspects of society in which it is vital for someone to understand the people whom they are overseeing. For example, the military understands the importance of knowing the various character traits of its soldiers. Prospects are given a test that they must pass before they are even allowed to join the armed forces. Then, during their first week of enrollment, they are given numerous physical training tests. They are pushed to the limit physically and mentally during training exercises to determine how these individuals will respond in a time of crisis.

Similarly, school systems throughout the nation continually assess students to recognize at what level they are learning. A popular guide that the Fayette County Public Schools in Lexington, Kentucky utilizes says, “Your job as a teacher is to locate where each child is on the path of development so that you can offer appropriate instruction to continue his or her growth.”⁵ Schools study what the aspects are that impact and contribute to the student’s ability to learn, such as diet, medical conditions, economic limitations, family challenges, etc. Schools test the students at least annually in order to stay up-to-date on how the pupils are progressing.

In addition to the military and school systems, medical doctors inquire into a vast array of considerations that can impact their patients’ health and healing. They have to know certain

⁴ Kentucky Department of Corrections Policies and Procedures, 23.1 II F 1, “Chaplain’s Responsibilities” 2.

⁵ D. Ray Reutzel, *Strategies for Reading Assessment and Instruction: Helping Every Child Succeed* (Boston: Allyn & Bacon Publishing, 2011), 12.

information about their patients before they can properly serve and treat them. This includes (but is not limited to) their personal medical history, the medical history of their family, their previous and current symptoms, etc.

Chaplains need statistical, philosophical, spiritual, theological, and emotional insights about the inmate population in order to best serve them. Even Jesus said in John 10:14-15, “I am the good shepherd; I know my sheep and my sheep know me—just as the Father knows me and I know the Father.”

The Condition of the Inmate Population

In order for a chaplain to understand the offender, he must comprehend that this world and everyone in it is fallen. The Holy Bible teaches in Romans 3:23, “For all have sinned and fall short of the glory of God.” It also states in verses 10-12, “There is no one righteous, not even one; there is no one who understands; there is no one who seeks God. All have turned away; they have together become worthless; there is no one who does good, not even one.” Ever since the Garden of Eden, when Adam acquired and consumed the forbidden fruit, man has inherited a fallen nature. “Man henceforth is a perverted creature. In revolting against the purpose of his being, which is to live and act entirely to the glory of his sovereign and beneficent Creator and to fulfill His will, he ceases to be truly man. His true manhood consists in conformity to the image of God in which he was created.”⁶

This fallen or sinful nature in some circles is referred to as total depravity. The term total depravity does not mean *utter* depravity. “Total depravity should first be defined negatively: it

⁶ *New Bible Dictionary*, 3rd ed. (Leicester, England; Downers Grove, IL: InterVarsity Press, 1996), "Fall"

does *not* mean (1) that depraved people cannot or do not perform actions that are good in either man's or God's sight, (2) that fallen man has no conscience which judges between good and evil for him."⁷ It does not mean that man will be as evil as he can be all the time. It simply means that man has inherited a sinful nature from the representative head Adam and there is nothing that he can do to appease God's holy requirement. Humanly speaking, fallen man has the capability of doing isolated good deeds, but he is completely incapable of a state of righteousness without the imputation that comes only from Christ. Thus, fallen man is predisposed to sin. And because there are sinful people in the world, there will be crimes against society. Because there are crimes against society, there will be criminals. Because there are criminals, there will be prisons. "The United States has the highest rate of incarceration in the developed world."⁸ Almost 2.5 million adults are incarcerated. This means that 1 in every 33 adults are in some form of penal phase.⁹ This further demonstrates that there is a problem with mankind. Not with just some of mankind, but with all. And it is critical to remember that even the chaplain has been diseased with the curse of the fallen nature. One must also recall that "Laws will never be enough to stop crime. ... The philosophy of existentialism is simply false: Real morality is not man-made, nor is it imposed on us merely by society. The source of true moral standards is God Himself. And when we bow before Him, we do not lose our freedom. We discover what true freedom really is."¹⁰

⁷ Paul P. Enns, *The Moody Handbook of Theology* (Chicago, IL: Moody Press, 1989), 482.

⁸ Pew Research Center, *Religions in Prison* [Report, March 2012.] (Washington DC: 2012), available from <http://www.pewforum.org/2012/03/22/prison-chaplains-exec/>, accessed 4 August 2013.

⁹ U.S. Department of Justice, "Correctional Populations in the United States, 2010" [Report, December 2011.] (Washington D.C.: BJS, 2011), available from <http://bjs.gov/content/pub/pdf/cpus10.pdf>, Internet; accessed 12 August 2013.

The Moral Problem of the Inmate

There are numerous reasons for the overwhelming increase in this nation's prison population. Certainly arguments about a person's economic or social standing may be included in the plethora of debates. The school of thought that economic and social standing is the cause of criminal activity started decades ago. President Lyndon Johnson's Attorney General, Ramsey Clark, argued that "The basic solution for crime is economic – homes, health, education, employment, beauty."¹¹ This ideology has even pervaded the highest elected office. President Jimmy Carter argued that high unemployment was the number one contributing factor to the widespread looting during the 1977 New York blackout.¹² The inaccuracy of this philosophy is that a study showed that "45 percent of the arrested looters had jobs; only 10 percent were on welfare rolls;"¹³ however, without mitigating any of these arguments, the intention of this author is to look more directly at the spiritual and moral reasons. Some may balk at the idea that there are moral issues at play here. But even those who say this are expressing a moral opinion. One must take into consideration that this nation has at its core a set of laws and principles. These foundational standards were established upon the assumption that there is a right and wrong. John Adams, one of this nation's founding fathers, said in 1798, "Our Constitution was made only for a moral and religious people. It is wholly inadequate for the government of any other."¹⁴ Without a moral standard there would be chaos. This is where postmodernism is leading us

¹⁰ Charles Colson, *Burden of Truth* (Wheaton, Ill.: Tyndale House Publishers, 1997), 146.

¹¹ Charles Colson & Daniel Van Ness, *Convicted* (Westchester, Illinois: Crossway Books, 1989), 56.

¹² *Ibid.*, 56-57.

¹³ *Ibid.*, 57.

¹⁴ Mark A. Beliles & Stephen K. McDowell, *America's Providential History* (Charlottesville, Virginia: Providence Foundation, 1996), 178.

today. “Postmodernists reject all objective truth: truth that exists independent of human thoughts or human experiences, and truth that is true whether one believes it or not.”¹⁵

The Holy Bible set a standard with the Ten Commandments that can historically be argued as the basis of this nation’s laws. The violation of these laws also comes with a moral/ethical violation. Therefore, the increasing number of violators results in an increasing number of moral/ethical violators. It is for this very reason that chaplains are truly indispensable to the needs of any prison facility. Jesus stated in Matthew 9:12-13, “It is not the healthy who need a doctor, but the sick. ... For I have not come to call the righteous, but sinners.” And Jesus placed ministry to prisoners as one of the distinguishing characteristics between sheep and goats (Matthew 25:31-46).

The Background of the Inmate

Each inmate that a chaplain assists comes with a unique experience. Most of these experiences are extraneous to those who have not endured the rigors of the justice system. The collective thought of society is that “they are getting what they deserve” and “who cares if they suffer.” Society generally looks at prisoners with very severe disapproval, desiring long sentences.¹⁶ They generally have no compassion toward prisoners and hold extremely negative views of the incarcerated.¹⁷ This type of attitude is much harder to maintain when one looks these individuals in the eye every day. Each of them has a name. Each of them has a story. They are all made in the image of God. Regardless of their crime, it is not the responsibility of prison

¹⁵ Dan Story, *Christianity on the Offense: Responding to the Beliefs and Assumptions of Spiritual Seekers* (Grand Rapids, MI: Kregel Publications, 1998), 164.

¹⁶ BMC Public Health, “Attitudes towards prisoners, as reported by prison inmates, prison employees and college students,” <http://www.biomedcentral.com/1471-2458/7/71/#B15> (accessed November 3, 2013)

¹⁷ Ron Chalmers, *Ministering in the Prisons: Ministering to Inmates more Effectively* (Bloomington, IN: AuthorHouse, 2013), 28.

security, staff, or the chaplain to seek justice for or against an inmate for his crime. Society has already determined through the court system what their just punishment should be. It is the responsibility of the prison staff and security to make sure the sentence they serve is carried out in a safe and reasonable manner without imposing their own form of justice on the inmate.

The humiliation that the primary arrest brings on the inmates and their families is sometimes unbearable. The trial further strips them of any dignity they once had. And as one inmate stated in an interview, “The thoughts of spending the rest of your life in prison does something so profound words don’t express.”¹⁸ They have lost all that they knew as “normal” life. Their job, their finances, their families, their friends, their church, their clothes, their recreational activities, their ability to eat what they want, and their freedoms are all gone.¹⁹ Numerous times convicted felons will lose property and or money due to forfeiture.²⁰ The purpose of this information is not to shine any adverse light on the justice system or its processes. Neither is its purpose to justify or excuse the actions of those who have been indicted, tried, and convicted of crimes against society. A chaplain should neither judge the judicial system nor the inmate.

The prison environment and its customs make it even more problematic for a chaplain to objectively and clearly discern the inmate population. Inmates do not particularly like officers and staff members. This includes chaplains. They tend to see them as “the man.” Employees of the institution are usually identified with the police, lawyers, prosecutors, judges, and juries who were part of the inmate’s prosecution and conviction. Thus, most inmates will be very guarded in their communications with the chaplain. Automatically, there will be a sense of distrust from the

¹⁸ Anonymous Inmate, interviewed by Aaron Mobley, Danville, KY. 2013.

¹⁹ Ibid., Interview 2013.

²⁰ Richard Symes, *As Though You Were in Prison With Them* (Louisville, KY: Presbyterian Criminal Justice Program, 2000), 22.

inmate.²¹ This is especially true with inmates that are of another religion than the Chaplain. Such an inmate continually entertains the idea that the chaplain is biased toward his religion and eternally unfair toward those who are different.²² Some inmates will think another inmate is a “rat” or an “Uncle Tom” if they cordially speak with staff. This is just a very small sample of the unique situation a Chaplain faces as he tries to get to understand the inmates in an institution.

The Help for the Inmates

A chaplain’s obligation is to counsel and assist inmates with spiritual needs once they have been incarcerated. Though they do not always comprehend it, many of these inmates desperately need spiritual guidance. Each year, newly convicted inmates find themselves in prison for the first time. From arrest to sentencing, they have been through an endless nightmare and now are thrown into a brand new world that they have never known before.²³ Here is how one former inmate describes prison:

Imagine a land where children are forbidden, where playgrounds are never built, and where the laughter of little voices is never carried upon the air. Picture, if you will, a horizon of blue sky and cold, gray cement in all directions, punctuated only by an occasional treetop that can never be touched or climbed. Conceive, if you can, a country whose citizens never bear children, yet the census continues to record wild population growth. Consider a society that has banished the use of such diverse items as fresh fruit, chewing gum, and ballpoint pens with clear casings. No taxicabs will ever be hailed from these streets; vehicles are not permitted. Here there are no bus stops, train stations, or parking garages. There are not automobiles, airplanes, or bicycles. All traffic is pedestrian, but running is prohibited by law. The city has one road leading in; there are none leading out. There are no shopping malls, grocery stores, or fast-food restaurants. Banks are unheard of, as are credit unions, employment agencies, or ATMs. Cash is extinct; plastic is forbidden. All the apparel worn by the inhabitants of this alien landscape is identical. Colors are predetermined by

²¹ Anonymous Inmate, interviewed by Aaron Mobley, Danville, KY. 2013.

²² Anonymous Inmate, interviewed by Aaron Mobley, Danville, KY. 2013.

²³ Anonymous Inmate, interviewed by Aaron Mobley, Danville, KY. 2013.

the system; style is irrelevant. All mail, in or out, is subject to search, seizure, and censure. Big Brother is a reality; your every step and position, every hour of the day, is known and monitored. And though the dark Orwellian night had fallen; the lights are on. Always. Somewhere.²⁴

With this new world comes a new code of behavior and unwritten laws that must be followed. These human beings are slowly acculturated into this new world because being who they were is not an option. Some struggle just to find a reason to live one more day.²⁵ Some quietly allow the tears to fall only in the cover of night. Others silently wonder about the integrity of their marriages and fidelity of their intimates, “What is she doing now? How long will she hang in there? Who is with her? Is she falling for someone else?” All of the dreams and ambitions that were once shared with their spouse or significant other are dashed against the razor wire that separates the inmate from that loved one and their dreams.²⁶ A prisoner’s plight is not just an economic or physical problem. They have lost everything. This includes family, job, income, status, choices, and the most basic of liberties.²⁷ Their most basic rights as a citizen of the United States have been taken. They have not only lost all of the “normal” of life listed above but they have also been isolated from their social networks.²⁸

The depth and breadth of the spiritual needs of inmates are profound. Too often the family or core support system does not exist. Even if they do, they do not have any tangible concept of how to help. They have been disjointed from customary contact with relatives and sometimes

²⁴ Lennie Spitale, *Prison Ministry: Understanding Prison Culture Inside and Out* (Nashville: B & H Publishing Group, 2002), vii.

²⁵ Anonymous Inmate, interviewed by Aaron Mobley, Danville, KY. 2013.

²⁶ Lennie Spitale, *Prison Ministry: Understanding Prison Culture Inside and Out* (Nashville: B & H Publishing Group, 2002), 7-12.

²⁷ Ron Chalmers, *Ministering in the Prisons: Ministering to Inmates more Effectively* (Bloomington, IN: AuthorHouse, 2013), 16.

²⁸ Joel Thomas, *Conviction, Conversion and the Chaplain* (San Bernardino, California: Create Space Independent Publishing, 2012), 21.

relatives have abandoned them to the institution.²⁹ There are inmates who have not been contacted in any manner from their families for decades. This isolation is traumatic. Often, the inmate will put on the façade that he is unaffected by all of this turmoil. One inmate was given the advice, “Don’t die before you die.”³⁰ This advice was not in regard to physical death. It was in dealing with spiritual death. The advice is not to allow the institutional life to kill the inmates’ hope, peace, joy, and family. It is easy to allow the disappointments that come from the lack of phone calls, letters, or visits from loved ones to crush all of these. What hope they once had diminishes day by day as the horizon on the outside of the fence grows dimmer. Their peace has been slowly exchanged for chaos by the unending turmoil of inmate chatter. Their joy has been squashed by the dominating negativity that runs amuck throughout the institution. Inmates with life or very long sentences are told to forget everyone and everything on the outside. They are instructed by other inmates to forget that the outside even exists. This will help diminish the pain of continually remembering the loved ones left behind or the simple pleasures that will no longer be enjoyed.³¹ The core issue is that prisons are not “nice places to live.” And along with all of the loss and pain that prison brings inmates one of their core issues is that they feel no one can be trusted.³²

The reasons for spiritual guidance are innumerable. Chaplains are given the crucial challenge to assist some of these hurting individuals with the love of Christ. The Holy Bible demonstrates Christ reaching out to hurting individuals who were desperately in need. In

²⁹ John Cowart, *The Prison Minister’s Handbook; Volunteer Ministry to the Forgotten Christian* (San Jose, California: Resource Publications, 1996), 10.

³⁰ Anonymous Inmate, interviewed by Aaron Mobley, Danville, KY. 2013.

³¹ Anonymous Inmate, interviewed by Aaron Mobley, Danville, KY. 2013.

³² Daniel Bayse, *Helping Hands; A Handbook for Volunteers in Prisons and Jails* (Arlington, Virginia: Kirby Lithographic, 1993), 29.

Matthew 14:13-21, Jesus feeds the five thousand. The Bible says in verse fourteen, “When Jesus landed and saw a large crowd, He had compassion on them and healed their sick.” But His compassion was soon challenged by His disciples because they asked Jesus to send the crowds away due to the evening drawing near and their need to be fed. Jesus responded, “They do not need to go away. You give them something to eat.”

Another example is when Jesus gives the parable of the wandering sheep. Matthew 18:12-14 says, “What do you think? If a man owns a hundred sheep, and one of them wanders away, will he not leave the ninety-nine on the hills and go to look for the one that wandered off? And if he finds it, truly I tell you, he is happier about that one sheep than about the ninety-nine that did not wander off. In the same way your Father in heaven is not willing that any of these little ones should perish.” This is the example that we have been given and should be consistently following. Did the woman caught in adultery deserve the mercy that Jesus placed upon her? No! But He gave it to her anyway. This is the basis of grace. The pain, hurts, lack of hope, suicidal thoughts, and needs are real. With a population of thousands, these are daily occurrences in a prison. Sometimes these thoughts are fueled by a family death, the dreaded divorce papers or the disappointment of a loved one not showing up for a visit. It is imperative that the chapel be open and the chaplain be a compassionate soul, waiting for those who need him.

Another reason why religious services are greatly needed is because of recidivism. Recidivism is simply defined by Webster’s Dictionary as “a tendency to relapse into a previous condition or mode of behavior; especially relapse into criminal behavior.”³³ George Barna operates an organization called the Barna Group where they do a multitude of surveys and research that are mostly related to religious issues. In one of their studies they found that 75

³³ *Webster's II New College Dictionary* (Boston: Houghton Mifflin Co., 1995), 925.

percent of released inmates “will commit another crime and be returned to custody. However, only 14 percent of inmates involved in a regular, organized study of the Bible will return to prison.”³⁴ Another study conducted by the Pew Research Center on “Religion in Prisons” indicated that “Overwhelmingly, state prison chaplains consider religious counseling and other religion-based programming an important aspect of rehabilitating prisoners. Nearly three-quarters of the chaplains (73 percent), for example, say they consider access to religion-related programs in prison to be ‘absolutely critical’ to the successful rehabilitation of inmates. And 78 percent say they consider support from religious groups after inmates are released from prison to be absolutely critical to inmates’ successful rehabilitation and re-entry into society.”³⁵

The most important reason for religious service for inmates is because they are all still made in the image of God. In Genesis 1:26-27 it states, Then God said, “Let us make man in our image, in our likeness. . . . So God created man in his own image, in the image of God he created him; male and female he created them.” “Everyone agrees: Whatever being created in the image of God means, it is very, very significant! Clearly, in Genesis 1, the progression of creation builds throughout the six days, culminating in the final creative act, in the second part of the sixth day—the creation of man as male and female in the image of God.”³⁶ One of the main reasons that prisoners seek religion while they are incarcerated is so they can get some type of

³⁴ Larry Nielsen, *Thinking About Jail and Prison Ministry: A Guide for the Lay Volunteer* (Ft. Pierce, Florida: FBC Publications, 2005), 19.

³⁵ Pew Research Center, “Religions in Prison,” <http://www.pewforum.org/2012/03/22/prison-chaplains-exec/>, (accessed August 4, 2013).

³⁶ Wayne A. Grudem, *Biblical Foundations for Manhood and Womanhood, Foundations for the Family Series* (Wheaton, IL: Crossway Books, 2002), 72.

temporary relief by seeing some sort of greater purpose and maintaining their Christian identity.³⁷

Today's world is guilty of devaluing the significance of human life. Wars are never ending. Genocide has gained momentum around the globe. Senseless murders are commonplace on the nightly news. And millions of unborn babies are murdered each year. The problem with these tragedies is that all humans are made in the image of God. Therefore, there is value in human life and the treatment of those humans. Even the inmate who is in prison for murder or child molestation has been made in the image of God. This gives them value. This means that God is concerned for them. Chaplains should be as well.

Dr. Lorne Freake states in his book *55 Facts*,

I have discovered that prison ministry is where 'the rubber hits the road.' Unlike regular church ministry where people seem often to wear facades, prison ministry is the real thing. What you see most times in prison is what you get. People in jail are real people with real hurts. It is not too difficult to discern as a prison ministry volunteer that you are working with real sinners. I believe that Christ summed it all up well when He stated, 'It is not the healthy that need a doctor, but the sick. . . . I have not come to call the righteous but the sinners.'³⁸

This concern for the valuable person known as an inmate entails the task of counseling. A chaplain spends a large portion of his time counseling inmates. In a survey conducted by Pew Research Center, it was found that "nearly all the chaplains (92 percent) say their work includes personally leading worship services, religious instruction and spiritual counseling sessions. . . . In

³⁷ Joel Thomas, *Conviction, Conversion and the Chaplain* (San Bernardino, California: Create Space Independent Publishing, 2012), 27.

³⁸ Lorne K. Freake, *55 Facts That You Need To Know For An Effective Correctional Chaplaincy Ministry* (Bloomington, IN: AuthorHouse, 2012), 4.

terms of importance, 57 percent of the Chaplains say that personally leading religious worship, instruction and counseling sessions is the single most important activity in which they engage.”³⁹

Counseling inmates will be one of the main duties of the chaplain. All day long inmates will be lined up outside his office door trying to get in and talk with him. Yet most pastors and chaplains have not been properly trained in counseling. Most have been led to believe that counseling is something that should be left to the professionals. In true medical situations that would be correct. The man of God has the tool which is the basis for resolving spiritual problems. “Scripture does, after all claim to be the only reliable resource to which we can turn to solve our spiritual problems.”⁴⁰

In biblical counseling, God is at the center. As John MacArthur writes,

God is sovereign, active, speaking, merciful, commanding, and powerful. The Lord and Savior, Jesus Christ, is the central focus of counseling and the exemplar of the Wonderful Counselor. The Word of God and the work of the Holy Spirit are foundational to all significant and lasting life change. The Word of God is about counseling, giving both understanding of people and methods of ministering to people. The Bible is authoritative, relevant, and comprehensively sufficient for counseling. God has spoken truly to every basic issue of human nature and to the problems in living. His Word establishes the goal of counseling, how people can change, the role of the counselor, counseling method, and so forth. Christians have the only authoritative source of counseling wisdom: the Holy Spirit speaking through the Word of God. The fear of the Lord is the beginning of wisdom, and wisdom is the only worthy goal of counseling.⁴¹

Understanding the inmate is necessity for any chaplain. The very nature of the job requires such knowledge to allow for the best possible ministry to take place. The next chapter will discuss another imperative. Not only should a chaplain be knowledgeable of the inmate but the surroundings in which they minister.

³⁹ Pew Research Center, “Religions in Prison,” <http://www.pewforum.org/2012/03/22/prison-chaplains-exec/>, (accessed August 4, 2013).

⁴⁰ John MacArthur, *Counseling: How to Counsel Biblically* (Nashville: Thomas Nelson, Inc., 2005), xiii.

⁴¹ *Ibid.*, 27.

CHAPTER 3

UNDERSTAND YOUR LOCATION

Growing children are persistently reminded to note their surroundings. At the evening supper when they are rambunctious and playful, mother says, “You are at the table!” On Sundays during the worship service when the children are so fidgety, mother again tells them, “You are in church!” Even adults have to be reminded of their locality due to dangers or hazards that may await them. Speed limit signs, airport security signs, even “No shirt, no shoes, no service” are just a few location reminders for adults.

A prison chaplain must also continuously be cognizant of his setting. The barbed wire fence that surrounds the facility is the principal clue that this workplace is far from the sanctity of a common church. Inside are individuals that have been convicted of a crime that is penalized by incarceration. A jury has determined that they are a danger to be left in the liberty of society and should be removed and placed behind prison walls. These crimes range from neglecting to pay child support, child molestation, rape, robbery, and all the way to murder. The majority of inmates are in prison for violent crimes and the average sentence is fourteen years. There are some with a seemingly short stay of one year and others that will never get out of prison.¹ This is why this section will research the occupational hazards that are involved and the techniques that prisoners utilize in order to take advantage of prison employees.

Know the Dangers

A prison atmosphere is nothing corresponding to the normal society with which most Americans are acquainted. Clearly, it is a very precarious habitation—not just for inmates but for

¹ Kentucky Department of Corrections, “Inmate Profile,” <http://corrections.ky.gov/about/Documents/Research%20and%20statistics/Monthly%20Reports/Inmate%20Profile%2001-2014.pdf> (accessed February 18, 2014).

employees and staff members as well. That also comprises the prison chaplain. It is imperative that personnel at a prison never become complacent. Prison employment is one of the most dangerous occupations that one could attain. It boasts more on the job injuries and illnesses than any other. This is the reason the prison environment is stressful to its employees. “Working in a correctional institution can be stressful and dangerous. Every year, correctional officers are injured in confrontations with inmates, and some are exposed to contagious diseases.”²

The dangers are not just physical assaults which will be addressed later. But, another major concern is infectious disease. The prison system has to deal with hepatitis, AIDS, and tuberculosis among many others. Just in regard to acquired immune deficiency syndrome (AIDS), its rate is 20 times higher in the federal and state prisons than in the general population of the United States.³ “Many studies have shown that infectious diseases are often far more prevalent in prisons than in the community. Rates of HIV infection have been found to be up to 20 times higher, and hepatitis C virus up to 100 times higher, among prisoners than the general population – with variations reported across different prisons and within different countries.”⁴ In the middle 1990’s it was reported that several penal systems had tuberculosis epidemics, “including ones in which the organism was multiple-drug resistant.”⁵ With the close working proximity of inmate and prison employee and with the commonality of “aggressive incidents,”

² U.S. Bureau of Labor Statistics, "Summary," U.S. Bureau of Labor Statistics. <http://www.bls.gov/ooh/protective-service/correctional-officers.htm#tab-3> (accessed February 18, 2014).

³ Alan Berkman, “Prison Health: The Breaking Point,” *American Journal of Public Health* 85, no. 12 (1995): 1616.

⁴ Rachael Davies, “Tackling Communicable Diseases in Prison,” *The Lancet: Infectious Disease* 7, no. 8 (2007): 507.

⁵ Alan Berkman, “Prison Health: The Breaking Point,” *American Journal of Public Health* 85, no. 12 (1995): 1616.

“the question arises whether their exposure to a high risk group increases their risk of infection with hepatitis B virus or HIV.”⁶

The dangers of prison employment are abundant. The physical assault threat is also a looming factor. Studies have shown that inmate violence toward staff is a primary concern of most employees.⁷ “Inmates can react just like a person who owns a wild animal like a pet lion or bear. The owner can pet and love on this animal all their lives. But, that one day, for no reason, that animal attacks the owner.”⁸

Prison situates a tremendous extent of stress on its occupants. It is a problematic process to adjust to this new world with new rules and new social patterns. These inmates have experienced a roller coaster ride with their emotions. They have been fragmented from their families, loved ones, businesses, social status, and things as simple as a choice of what foods to eat. Among all of these alterations, they must accept the fact that they are going to be in prison X amount of years. “When men are told that they have 25 years until the possibility of parole or even life, they can’t see the end. So, they don’t care what they do. They will do whatever they have to do to survive. The threat of extra time is not a deterrent. This type of mentality allows for an inmate to take advantage, abuse, steal, or even hurt other inmates and staff.”⁹ A large percentage of

⁶ Catharian Mathei, “Transmission of Infectious Disease in Prison,” *British Medical Journal* 307, no. 6 (1993): 1212.

⁷ Giora Keinan, “Stress and Burnout Among Prison Personnel: Sources, Outcomes, and Intervention Strategies,” *Criminal Justice and Behavior* 34, no. 3 (2007): 381.

⁸ Anonymous Inmate, interviewed by Aaron Mobley. Danville, KY. 2013.

⁹ Anonymous Inmate, interviewed by Aaron Mobley. Danville, KY. 2013.

inmates do not have any problem taking advantage of or using a correctional employee, including chaplains. These individuals have all to gain and nothing to lose.¹⁰

A new chaplain must discern the hazards of prison so he will not become complacent. And “lax employees fail to notice signs that spell potential trouble. In prison fights, riots and killings do not simply happen. These things have roots that are usually long nurtured. Unless effective, alert employees notice the warning signals, major disturbances will occur.”¹¹ The following are warning signs that any prison employee, including a chaplain, should be aware of, according to Bud Allen and Diana Bosta in *Games Criminals Play*.

Table 1.1 Warning signs for inmates¹²

Tension Increase	<ul style="list-style-type: none"> - A noticeable general uneasiness of prison population. - An unusual silence in the movies, mess hall, gym or wherever large numbers of prisoners are permitted to congregate. - An increase in both the number and sensational nature of rumors from inmates.
Attitude Change	<ul style="list-style-type: none"> - A poor attitude among inmates who are normally congenial. - Protesting and name calling. - A large scale refusal of inmates to obey orders. - An increase in incidents of property destruction. - An increasing number of incidents or threats of violence among inmates. - The increase of occurrences of threatening or insulting remarks made to staff by inmates on a large scale.
Grouping	<ul style="list-style-type: none"> - Unauthorized groupings. - Spectators gathering in yard perimeters when small inmate groupings are occurring. - The voluntary disbursal of small inmate groups when they see an officer approaching.

¹⁰ Gary Cornelius, *The Art of the Con: Avoiding Offender Manipulation* (Alexandria, VA: American Correctional Association, 2009), 2.

¹¹ Bud Allen and Diana Bosta, *Games criminals play: how you can profit by knowing them* (Susanville, Calif.: Rae John Publishers, 1981), 26.

¹² *Ibid.*, 26-28.

Activity Decrease	<ul style="list-style-type: none"> - A sudden lack of participation in sports activities. - An increase in the number of people reporting to sick call. - A large scale refusal to cooperate in institutional programs. - Leaders enticing others not to work. - Large scale refusal to work.
Battle Ready	<ul style="list-style-type: none"> - Segregation of races. - Excessive purchases at the canteen. Prisoners know in advance of trouble that they will be confined to their rooms until peace is restored so they stock up on food. - The sudden lack of radios, tape recorders, musical instruments in areas where inmates normally have these things. They do not want them destroyed when the incident occurs. - A decrease in the number of reported incidents of drug usage. In jails or prisons, inmates find ways of smuggling drugs into the institutions. A sudden decrease in the usage occurs because a person needs to be alert to protect his own life if an incident occurs. - An unusual number of inmates remaining awake at night (lookout). - Inmates sleeping in their clothing (battle ready). - Inmates who wear two or three sets of clothing during cold or warm weather. (battle jackets to prevent injury)

Prison is not a place to relax. A chaplain must always be vigilant and remember that this is not customary society. A prison is in place for the safety and security of the public. So the physical environment, fences, razor wire, concrete walls, locks, controlled entry and exit, and the procedures practiced are administered in order to provide the safest environment. Under these conditions a chaplain has to learn to work. This is a balancing act between security and nurture. This also causes a stressful environment that must be adjusted to.¹³ He must remember to never relinquish focus on his surroundings. Not only does he have to be apprehensive about the occupational hazards of health risks and physical assault, he must also be concerned about being the focus of a scam game. "The majority of inmates are trying to get over, scheme, and take

¹³ Jim Thomas, "Conning or Conversion?: The Role of Religion in Prison Coping," *The Prison Journal* 86 (June 2006): 250.

advantage of staff. And the chaplain is not exempt.”¹⁴ The kind nature of chapel workers will incline inmates to take advantage of them.¹⁵

Know the Game

When he was a young professor, Dr. R.C. Sproul told a story about himself in one of his lectures on grace. He had had a very large class of new students that semester. At the beginning of the term, he told his class that certain papers would be due at the end of each month. At the end of the first month, all the students turned in their papers except for twenty. He called those twenty students to the front of the lecture hall and asked them why they did not have their papers. They cried and pleaded with him to show them mercy. They were having a hard time adjusting and needed a couple more days to finish their work. Dr. Sproul graciously gave them two more days. At the end of the second month, all of the students turned in their papers, except for fifty. Again, Dr. Sproul called them to the front of the lecture hall and asked them why they did not have their papers. They cried and pleaded to give them a couple more days. So, he again graciously gave the two day extension. At the end of the third month, seventy-five students did not have their papers ready to turn in. When Dr. Sproul inquired about it, the students acted like it was a given that he would grant them two more days. Then Dr. Sproul started reading down the names of those who did not turn in their papers. “John Doe, F!” They shouted, “That’s not fair!” Dr. Sproul asked them if they wanted fairness. They replied with a resounding “yes.” To that he replied, “If you want fairness then you failed all the papers. Because all the papers were due at the end of each month and some of you have never turned your papers in on time. I decided to give you grace but you wanted fairness. There it is.”

¹⁴ Anonymous Inmate, interviewed by Aaron Mobley. Danville, KY. 2013.

¹⁵ Joel Thomas, *Conviction, Conversion and the Chaplain*, (San Bernardino, California: Create Space Independent Publishing, 2012), 29.

The relevance of this story is to illustrate that it is human nature to attempt and get an advantage over others. And there is no habitation more predisposed to this way of philosophy than prison. Inmates will play games on each other and on staff to get an advantage and ultimately try to get what they desire. Quite often these games cost prison employees their jobs and sometimes their freedom.

New prison personnel and new chaplains need to recognize the games that inmates will play. When offenders first arrive at prison, they have just gone through a very traumatic experience involving certain types of authorities. This often causes the offender to have a natural abhorrence or even revulsion toward authority figures. This can comprise prison officers, staff, administration, and even chaplains. When an inmate enters into a correctional facility they are given very few options on freewill. They are told when to wake up and when to go to bed. They are no longer able to choose clothing that accommodates their style. They are given a menu that will be followed and does not take requests. But they have discovered that in order to gain status among their inmate peers they can disrupt the order that a penal institution affords. They accomplish this by trying to manipulate staff and breaking the rules that have been established. The punishment for their disobedience is taken into the equation and accepted in order to gain notoriety.¹⁶ This is why the institution has developed specific procedures and guidelines that employees must adhere. These guidelines are put in place to safeguard the workers from the games that inmates attempt to play on staff.

It is imperative that a prison employee be consistent and adheres to the policies that have been written by the Department of Corrections. All inmates must be treated the same way. No personal information or addresses should be shared. Nor should any employee allow an inmate to

¹⁶ Bud Allen and Diana Bosta, *Games Criminals Play : how you can profit by knowing them* (Susanville, Calif.: Rae John Publishers, 1981), 9.

address him on a personal basis by calling him by his first name. This would be considered as a way the inmate is trying to establish a personal relationship with the employee.¹⁷

A chaplain must never forget he is dealing with inmates in a prison. Many street criminals, inmates and former inmates possess a different worldview than most of society. They generally hold that they are in some kind of “jungle warfare.” “They tend to perceive themselves as lone combatants engaged in a guerrilla-type conflict, pitted against incredible odds. The enemy is ‘the system,’ a dark Goliath that seeks to swallow up their lives and overpower them at every turn.” These self-appointed soldiers are fighting the norms and rules of society. Beating the system is their goal and defeating the giant is their misconceived noble dream.¹⁸ This is why a prison chaplain must be equipped.

In sporting events, teams study and recognize the opponent’s strategy, methods, and plays. This prepares them to better defend against defeat. Each team will spend enormous amounts of time preparing not only their plays, but practicing against their counterparts. The same needs to be done by prison employees. There is most definitely a game being played inside the prison walls. And it is beneficial to study and practice against it. Inmates will continually try to take advantage of prison employees. They will prey on all prison staff in order to get what they desire.

¹⁷ Kentucky Department of Corrections Policies and Procedures, 3.1, “Code of Ethics,” 3.

¹⁸ Lennie Spitale, *Prison Ministry: Understanding Prison Culture Inside and Out* (Nashville: B & H Publishing Group, 2002), 31.

Know the Set-Up

The following will be the techniques utilized by inmates to set-up prison employees. “Good shoppers look around and compare: they want the best return for their vested interest.”¹⁹ The beginning phase is called the observation process. Inmates will meticulously observe prison staff to see where their time is best spent. One must never underestimate the surveillance skills of inmates. Not only do they work alone, but they will work in teams in order to best evaluate or assess individual staff members.²⁰ “Inmates make determinations about prison employees because their movements, language, and actions compare to a color spectrum. Colors have shades of light and dark with intervening hues. So, too, does the way people move, speak, and act.”²¹

One observation they look for is body language. Body language gives off signals to inmates. They notice if an employee is confident or reluctant by how they carry themselves. “Actions such as the tugging at the ear lobe, biting the lip or fingernails, the constant folding and unfolding of the arms at inappropriate times, not knowing what to do with the hands, excessive scratching, shifting from foot to foot when one should be standing still.”²² The way the employee dresses also sends a message. The employee who has a slothful appearance might send the signal of not caring or one who will not pay attention to the details of policy. While a neat, ironed

¹⁹ Bud Allen and Diana Bosta, *Games criminals play: how you can profit by knowing them* (Susanville, Calif.: Rae John Publishers, 1981), 41.

²⁰ Gary Cornelius, *The Art of the Con: Avoiding Offender Manipulation* (Alexandria, VA: American Correctional Association, 2009), 2.

²¹ Bud Allen and Diana Bosta, *Games criminals play: how you can profit by knowing them*, (Susanville, Calif.: Rae John Publishers, 1981), 52.

²² *Ibid.*, 42.

uniform sends the message that this individual will resolve to follow the policies and procedures.²³

Another aspect of inmate observation involves listening. Not only are staff members constantly being watched, but they are also being listened to. If an inmate hears a staff member talking about their trouble with their children, this gives them an open door. Inmates will use any overheard information to better evaluate their target. Be careful not to discuss personal likes and dislikes, family problems or joys, personal information such as home address, phone, etc. Never assume that conversations between staff or between staff and inmates are private.²⁴

The last realm of observation is action. The data inmates gather about staff through observation of their body language and conversations are, in the end, theoretical. The inmate has evaluated an employee to see if he thinks the employee is a potential victim. In this next step, the inmate actually tries to bring his theory to a reality. The inmate will ask the potential victim to violate seemingly small rules just to see if the employee will act on it. If the employee allows the inmate to violate these seemingly small rules, then the inmate has furthered the process of victimization. "To illustrate: Inmates are not allowed to be in other areas of the institution that they do not live in or have permission to be there. But, certain crafty inmates may coerce a vulnerable staff member by doing unsolicited favors. These favors can include drawing pictures, making craft items for family members, giving candy, cleaning messes and many other works that are not assigned duties of that inmate. Because of these favors this staff member may not enforce the rules as strictly for this particular inmate as he/she would for other inmates. This type

²³ Bud Allen and Diana Bosta, *Games criminals play: how you can profit by knowing them*, (Susanville, Calif.: Rae John Publishers, 1981), 43.

²⁴ *Ibid.*, 44.

of coercing places the staff member in a very vulnerable situation. This is why staff do not allow inmates to perform favors or give gifts.²⁵

Know the Selection Process

The next phase of the process is the selection of the victim. Inmates have countless numbers of hours, days, and years to observe prison employees. They will assess their personalities, manners, patterns, and whether or not they are strict or loose in adhering to the rules. While the employee is working hard to accomplish the objective and plan of the day, filling out paperwork and performing regular security checks, the inmate has nothing else to do but observe.

Inmate manipulators place correctional employees into three categories: soft, hard, and mellow. Soft employees are usually very trusting, overly-familiar and naïve. They are understanding and sympathetic to inmate problems and have a strong desire to help those in need. These are not all bad qualities, but combined with the inability to say NO or take command of a situation, they produce a person susceptible to manipulation. Hard employees are those who go strictly by the rule book. They grant an inmate no leeway. Mellow employees are those who know when to be soft, when to be hard, and how to use these traits at appropriate times. Inmates concentrate on the soft person and the hard person—the soft person because of the hesitancy to say NO or take command, and the hard person because inmates feel the hardness disguises a weakness in the individual. Research has proven this assumption to be correct more often than not.²⁶

Know the Tools

Other important points to discuss are the tools of the set-up. In all aspects of life, activities, jobs, and recreation there are tools that are needed or utilized to help with the process. Farmers utilize tractors, plows, hoes, and rakes to produce gardens with rich harvests. Doctors utilize stethoscopes, needles, X-ray machines to better understand the cause of their patients' ailments.

²⁵ Bud Allen and Diana Bosta, *Games criminals play: how you can profit by knowing them*, (Susanville, Calif.: Rae John Publishers, 1981), 46.

²⁶ *Ibid.*, 49.

Mechanics use wrenches, screwdrivers, and sockets to work on automobiles. Inmates also utilize tools to set-up employees.

It does not matter how long someone has been employed in the Department of Corrections. Everyone is susceptible to inmate manipulation. This is why it is vital to understand the tools they utilize. The main tools that are used by inmates are the employee's own feelings and concerns. Flattery is a powerful tool. The inmate will begin by praising the employee in order to gain trust and devotion.²⁷ "The inmate attempts to create a friendship which makes inmate requests for favors difficult to refuse. Manipulators want the employee to feel obligated. Support in a set-up situation can also be offers of help, promises of loyalty, agreeing with ideas and philosophies, and telling the victim that his or her approach to inmates is better than that of any other staff member."²⁸

The manipulating inmate can make up elaborate stories that weigh heavy on the heart of the victim. They gain valuable information about the victim by listening to dialogues the employee has with other employees, from phone calls, or just by asking the employee about personal information. In normal societal situations it is not harmful to divulge personal or family information. In prison it could be extremely dangerous. For example, allowing an inmate to know that an employee has a handicapped child could be used as a tool. The inmate might approach this employee and tell a false story about his own handicapped child. The inmate will manipulate the emotions of the victim employee so that he feels that the inmate understands the same difficulties and hardships he is going through. The tool is to get the employee to have

²⁷ Gary Cornelius, *The Art of the Con: Avoiding Offender Manipulation* (Alexandria, VA: American Correctional Association, 2009), 96.

²⁸ Bud Allen and Diana Bosta. *Games criminals play: how you can profit by knowing them*, (Susanville, Calif.: Rae John Publishers, 1981), 49.

sympathy for the inmate. Once this is achieved, the inmate will ask favors. If those favors are granted by the employee, then the inmate has leverage.

Another often utilized technique is to pit prison staff against other prison staff.²⁹ For example, an inmate could overhear a phone conversation between the new chaplain and the deputy warden. Afterwards the inmate may imply to the chaplain that the other staff including the Deputy Warden does not understand the difficult job that he has. The inmate could insinuate that the officers do not like him due to his higher salary or office job. The list of inmate manipulation is endless.

Inmates will also become very friendly in order to manipulate. They will try to pry personal information from the corrections staff. Information like the staff members favorite sports teams, food, politics, etc. They may even attempt to gather information about the staff member's family in order to gain an advantage and possibly a leverage to manipulate.³⁰

If the inmates are continuously attempting to set-up prison employees, how can one determine whether the inmate is honest or playing games? As a new chaplain in the Department of Corrections, the games will be frequent and in flurries. One may never know the truth for sure. But it would benefit the worker to always research stories and requests to see if they match what the inmate says. There is Offender Management Systems software that contains large quantities of information about each inmate at the prison and at other prisons in the state. Spending time verifying the inmate's information is invaluable. The most important policy to adhere to is to keep everything out in the open. An inmate must never be allowed to convince anyone to keep things "quiet" or "confidential." This should automatically raise red flags.

²⁹ Gary Cornelius, *The Art of the Con: Avoiding Offender Manipulation* (Alexandria, VA: American Correctional Association, 2009), 96.

³⁰ *Ibid.*, 96.

Always be aware of the dangers and pitfalls that await newcomers to the prison environment. But do not allow these dangers to develop insensitivity. “Most employees realize that helping inmates rehabilitate and showing compassion is of primary importance in their job, but they must conduct their actions through the appropriate channels provided by the department. The act that produces a lever (the inmates’ ammunition against the employee) is usually known by the employees, but they place little consequence on it because they feel it demonstrates a humanitarian gesture. The inmates count on this naiveté: if the employees expose their own indiscretions, the inmates lose their lever and thus their use of the victim.”³¹

Again, it is vital for chaplains to know those they are ministering. It is also vital for them to have knowledge of their surroundings for the reasons just discussed. Comprehending these facts alone can help make a successful career. But, without knowledge of the wealth of help that is around you can hinder success and damper achievements. The next chapter will discuss the depth of assistance that volunteers and the prison administration can afford.

³¹ Bud Allen and Diana Bosta, *Games criminals play: how you can profit by knowing them* (Susanville, Calif.: Rae John Publishers, 1981), 75.

CHAPTER 4

UNDERSTAND YOUR HELP

Leaders across the spectrum of human endeavors typically possess some analogous qualities. Many are outgoing with a sense of focus and fortitude. But the quality that is frequently disregarded is their ability to surround themselves with great people. In the September 15, 1986 edition of *Fortune* magazine, President Ronald Reagan described his management style by saying, “Surround yourself with the best people you can find, delegate authority, and don’t interfere.”¹ Lee Iacocca, the man responsible for developing the Ford Mustang and, who later as CEO, resuscitated the Chrysler Corporation, stated, “Management is nothing more than motivating other people. Start with good people, lay out the rules, communicate with your employees, motivate them and reward them. If you do all those things effectively, you can’t miss.”² A chaplain of a correctional institution needs to surround himself with the precise people in order to be efficient and most effective.

Know the Volunteers

Volunteers are a dynamic part of any prison ministry. Most penal institutions have struggling budgets and this often causes the Religious Services Department to be understaffed. There are numerous institutions that only have a solitary chaplain. That chaplain is accountable for organizing, planning, and recruiting all the services that embody all the different religions at that particular institution. He would also be answerable for all of the forms, memos, and paperwork that his department produces. However, a chaplain is not God and is limited in space,

¹ PBS. "American Experience: TV's most-watched history series.." PBS.
<http://www.pbs.org/wgbh/americanexperience/features/general-article/reagan-quotes/> (accessed April 17, 2014).

² Xplore. "Lee Iacocca Quotes." BrainyQuote.
http://www.brainyquote.com/quotes/authors/l/lee_iacocca.html (accessed April 3, 2014).

time, and capabilities. There are over 2 million individuals incarcerated in the United States. This is a vast escalation from just the 1980's. Of those two plus million incarcerated, approximately 30 percent participate in religious services. "Although most American prisons have at least one full time chaplain, without pastoral assistance many chaplains are ill equipped to meet the religious needs of inmates. To lighten their workloads and to facilitate the provision of programs and services, correctional chaplains often must recruit, train, and coordinate religious volunteers."³ With the miniscule number of professional chaplain the task is much greater than any of them can accommodate. This is the reason why such a large number of volunteers are needed to fill the huge voids left by understaffing of chaplains.⁴ A volunteer program does not require institutional funding. But, volunteers bring a completely different concern to the table. Security and accountability are just a couple of serious issues that accompany these types of programs. Correctional administrations are being bound by financial restraints and are continually having to depend on volunteers to provide the necessary services for religious programming.⁵ This is why the volunteer is vital to an efficacious Religious Services Department.

Studies of prison volunteers have produced thought-provoking statistics. One study conducted in March of 2003 discovered that the general demographic of its subjects were predominately white male averaging around the age of 51.⁶ Another study demonstrated that prison volunteers generally have lengthy periods of service to prison ministry. This may also be

³ Richard Tewksbury, "Prison Chapel Volunteers," *Federal Probation* 69, no. 1 (2005): 26.

⁴ Larry Nielsen, *Thinking About Jail and Prison Ministry; A Guide for the Lay Volunteer* (Ft. Pierce, Florida.: FBC Publications, 2005), 19.

⁵ Richard Tewksbury, "Prison Volunteers: Profiles, Motivations, Satisfaction," *Journal of Offender Rehabilitation* 40, no. ½ (2004): 174.

⁶ *Ibid.*, 175.

directly connected to the gratification they receive. According to a survey published in the *Federal Probation*, a large majority of volunteers obtain a “high degree of satisfaction” from volunteering in prison ministry. This satisfaction could possibly be the reason why so many prison chapel volunteers have such a long duration in this type of ministry.⁷ “When asked to explain why they chose to volunteer in a prison-based chapel program ... 50 percent of all respondents reported feeling called by God to do the work.”⁸

Becoming a Volunteer for a penal institution is not easy. Prison systems require strict rules, zero tolerance, laborious training courses, and high expectations with no room for mistakes. “Although two-thirds of the volunteers report that they have been ordained, a majority lacks a formal education to prepare them for their duties.”⁹ And with all the pressures and deficiency of formal education they still continue to serve as volunteers. Their commitment is demonstrated in many fashions. One of the most fascinating means is how far the average volunteer travels to a penal institution in order to minister to the inmate population. “Two of every three volunteers reported commuting at least 30 minutes one way to the prison, with 12% traveling for more than one hour to reach the prison.”¹⁰

⁷ Richard Tewksbury, “Prison Chapel Volunteers,” *Federal Probation* 69, no. 1 (2005): 29.

⁸ *Ibid.*, 28.

⁹ *Ibid.*

¹⁰ Richard Tewksbury, “Prison Volunteers: Profiles, Motivations, Satisfaction,” *Journal of Offender Rehabilitation* 40, no. ½ (2004): 176.

Know Their Qualifications

The effort of volunteers is of paramount importance at prisons. Without them, the religious requirements of the inmate population would be severely lacking and the institution would be in violation of federal laws and the Constitution of the United States. Volunteers are classified in two different categories: Certified Volunteers and Non-certified Volunteers. As stated in the Kentucky Department of Corrections Policies and Procedures manual, “Certified Volunteer means a citizen not salaried from Corrections who provides specified services to the inmate population on an on-going basis and has met the certification requirements.”¹¹ The function of a Non-certified volunteer is fundamentally similar, with the omission of the certification requirements.

There are certain criteria in order for a volunteer to become certified. All volunteers must be at least eighteen years of age. They must submit all requested information on the volunteer application. Omitting information is grounds for disqualification. They will have to submit to a background check to determine if they have a criminal record. They will be required to sign documentation agreeing to comply with the institution’s standard of conduct and other contracts. And, if requested, they will have to submit to a drug test.¹² In addition, they will be asked to provide their professional credentials and sponsoring organization information for verification.¹³

¹¹ Kentucky Department of Corrections Policies and Procedures, 26.1 I, “Definitions” 1.

¹² Kentucky Department of Corrections Policies and Procedures, 26.1 II C 1, “Certified Volunteers” 2.

¹³Northpoint Training Center Policies and Procedures, 26-01-01 1 c, “Volunteer Selection Process” 2.

Know Their Training

Non-certified volunteers must be given an orientation to each institution that they visit and PREA (Prison Rape Elimination Act) training. A Certified Volunteer will endure a much more intense training that has been developed by the Division of Corrections Training.¹⁴ Both groups will undergo strict PREA training. PREA stands for the federal law named Prison Rape Elimination Act of 2003. It states, “An agency shall have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment and outlining the agency’s approach to preventing, detecting, and responding to such conduct.”¹⁵ The Kentucky Department of Corrections has abided by the federal law. As a result they require everyone who has contact with inmates to undergo PREA training. All volunteers must sign a “PREA Acknowledgement Form” and another PREA form stating the following:

The Kentucky Department of Corrections (KDOC) has adopted a ZERO-TOLERANCE toward all forms of sexual abuse in its prisons, community corrections facilities and other locations related to supervision. The intent of PREA is to ensure a safe, humane and appropriately secure environment, free from the threat of sexual abuse of all inmates/offenders.

As a volunteer, work supervisor, or contractor you have an obligation to maintain clear boundaries with inmates/offenders and to establish a relationship of authority, objectivity and professionalism. You must not allow the development of personal, unduly familiar, emotional or sexual relationships to occur with inmates/offenders. Please remember that as a person who supervises or has authority over an inmate/offender, any sexual contact between you and the inmate/offender is considered a crime as outlined in KRS 510.060, 510.090, and 510.120.

Not only is the above described relationships between and inmate/offender and volunteers, work supervisors, and contractors against the law, but all forms of sexual contact and sexual harassment between inmates/offenders are against KDOC policy. Therefore, if you are

¹⁴ Kentucky Department of Corrections Policies and Procedures, 26.1 II C 3 b , “Orientation and Training” 4.

¹⁵ The National PREA Resource Center, "Prisons and Jail Standards." <http://www.prearesourcecenter.org/training-technical-assistance/prea-101/prisons-and-jail-standards> (Accessed March 16, 2015).

aware of any such incidents between inmates/offenders or with another employee, volunteer, work supervisor, or contractor, you have a duty to report them to your KDOC Contact or you may contact the KY Justice Cabinet PREA Hotline at 1-855-700-PREA (7732).¹⁶

Most state and federal correctional facilities have a mandatory training class that all volunteers must attend. Some training courses are more intense and provide more in-depth information than others. Regardless of the effectiveness of the training course, the volunteer must realize the dire importance of their knowledge of the rules of the institution that they are visiting. These rules can be different between different institutions. They should never assume that the rules at institution X are the same at institution Y. Their knowledge of these rules and adherence to them could determine whether they are allowed to continue their ministry at each facility.¹⁷

There are some rudimentary guidelines about which all volunteers need to be cognizant. These rules are quite different from those in the free world. For example, “Giving a stick of gum or a ballpoint pen to another person are normal gestures in outside society. Both activities are illegal behind prison walls.”¹⁸ Lennie Spitale’s suggests some guidelines that must be stressed to the volunteers. He stresses the importance of obeying the instructions of officers and staff while in the prison. A volunteer must always arrive at the institution with a valid picture identification so they can verify their identity. While they are at an institution they must remain in their assigned area and not wonder around the compound. If a volunteer is related to an inmate at a facility, they should immediately notify the prison staff. It is also important that they not get involved in a romantic relationship with an inmate because this would create a major conflict of interest. Even

¹⁶ Kentucky Department of Corrections, “PREA Acknowledgment Form,” Northpoint Training Center Training Forms. Danville, KY.

¹⁷ Lennie Spitale, *Prison Ministry: Understanding Prison Culture Inside and Out* (Nashville: B & H Publishing Group, 2002), 215.

¹⁸ *Ibid.*, 215.

though it is customary to lay hands on individuals in a free world church service, it is not appropriate in a prison setting. Whenever a volunteer arrives at a prison facility they should demonstrate professionalism and make sure they are appropriately dressed. It is vital that a volunteer not argue with an inmate. And they should never attempt to bring any item to the prison that has not already been approved. Volunteers should never take anything from an inmate nor give an inmate anything that has not been pre-approved. The sending and receiving of messages is prohibited. Contraband is absolutely prohibited which includes: pocket knives, ammunition, intoxicants, drugs, candy, cough drops, cigarette lighter, tobacco, cell phones or excessive amounts of money. Volunteers are not allowed to discuss any information about inmates to the public. Finally, volunteers need to make sure their vehicles are secure before entering the facility.¹⁹

It is prudent to make accessible a copy of the institution's procedures for volunteers to memorize. It is also essential for Volunteers to always demonstrate courtesy and respect to inmates, prison officers, and staff members. They are to epitomize the Lord Jesus while on the institutional grounds. Inmates will also try to plead their case to sympathetic volunteers. They must not get involved in an inmate's legal matters. Inmates will also express their discontentment with staff or the administration. Never reinforce this type of negativity. And as tempting as it may be, volunteers should never ask an inmate about their crimes.²⁰

¹⁹ Northpoint Training Center Policies and Procedures, 23-01-01 Attachment 3 , "Rules" Attachment 3.

²⁰ Lennie Spitale, *Prison Ministry: Understanding Prison Culture Inside and Out* (Nashville: B & H Publishing Group, 2002), 221.

Know How a Volunteer Can Help

A good systematized volunteer program can bring immeasurable help to the Religious Services Department at a prison. “Being involved in Correctional Chaplaincy Ministry is not a right but rather a privilege and an honor. Those who are involved in this ministry should be people who are ‘called,’ ‘qualified,’ and ‘committed.’”²¹ This brand of volunteer can make the chaplain’s work a blessing and a pleasure. This type of ministry must be a calling. The environment is too demanding for those who are volunteering for any other motivation. Their qualifications will assist in gaining credibility among inmates and staff. During inmate interviews a common sentiment was, “The ministers that come here should be better qualified so we will know that they have some education and knowledge. I don’t mean that education makes the preacher but the preacher should be educated.”²² A volunteer’s commitment is vital. Inmates are advised that a certain church is scheduled for a service on a certain date and that they expect them to show up. If volunteers groups habitually miss, then mistrust is fashioned causing a lack of confidence from the inmate population.

Volunteers have an enormous role. Their presence inside the penal institution alone can send the message that the “free world” really does care about the incarcerated.²³ The primary role is to provide worship services that reflect the demographics of the institution. The institutional chaplain may be a Southern Baptist. Therefore, the volunteers must be diversified in order to accommodate the Methodists, Presbyterians, Church of God, Mennonites, Muslims, Wiccans,

²¹ Lorne K. Freake, *55 Facts That You Need To Know For An Effective Correctional Chaplaincy Ministry* (Bloomington, IN: AuthorHouse, 2012), 23.

²² Anonymous Inmate, interviewed by Aaron Mobley. Danville, KY. 2013.

²³ Daniel Bayse, *Helping Hands; A Handbook for Volunteers in Prisons and Jails* (Arlington, Virginia.: Kirby Lithographic, 1993), 1.

Catholics and other religious denominations. The institutional chaplain is responsible to recruit volunteers accordingly.²⁴

Another vital role of the volunteer is in helping the ordinary functions of the chapel run effectively and efficiently. The institutional chaplain is exceedingly busy. The administration of religious services is time consuming notwithstanding all the private consultations that inmates desire with the institutional chaplain. While the chaplain is submerged in correspondence or counseling, the volunteer can contribute by walking around in all the chapel areas to make sure there are no inmates trying to conceal illegal items. The chapel is a prevalent storage place for contraband. Inmates can stash illegal items (tattoo motors, needles, drugs, weapons) so they will not get caught with them. When opportunity necessitates they will come back and try to retrieve the contraband. A volunteer simply meandering around the areas may halt some of this activity.

Sometimes the chaplain is distracted in an elongated counseling session with an inmate. During this time, other inmates may have congregated outside the chaplain's door waiting to converse with him. The volunteer can assist by dialoging with some of the inmates if they have counseling needs or by answering some other question that does not necessarily require the institutional chaplain. This helps to restrain frustrations of inmates waiting in line.

There are also several special events during the year inside the prison. For example the chapel may have a special Christmas candy gift bag to pass out to the entire inmate population. The institutional chaplain cannot do this alone. This will require several volunteers to assist in the passing out of these items.

²⁴ Kentucky Department of Corrections Policies and Procedures, 23.1 II B, "Policy and Procedures," 2.

Know the Problems

Life is full of positives and negatives. As much benefit as volunteers can be to a chaplain, they can also be just as much distress. The very nature of Christians serving on a mission is that of grace, compassion and love. These are Godly traits. But inside the walls of a prison reside numerous individuals who prey on people with these honorable traits. Volunteers need to comprehend that no matter how convincing an inmate may be, there is a good possibility that that individual may be deceitful. Often, when an inmate wants to scam a naïve volunteer, he will tell a colossal fable, pulling on the emotional strings of the unsuspecting individual. These “con artists” know exactly how to manipulate people to get precisely what they want. Before you know it, the volunteer has fallen for the tale and is caught bringing in contraband. This could be as simple as the volunteer bringing notes to and from the institution for the inmate.²⁵

Volunteers may also try to transgress their authority. They could have the false notion that they are more knowledgeable on how to run the institution or even the chaplain’s office.

Like a missionary to foreign lands, the Christian volunteer going into a correctional facility is entering a foreign land, a land with different customs, different culture, and a different government. Like a foreign missionary, the Christian volunteer must be aware of those differences to be effective. The most important of these differences is the form of government. Jails and prisons are absolute dictatorships with a very narrow agenda. Regulations are numerous and penalties are swift and severe. [Volunteers] must remember that the goal of the facility is to confine offenders in a secure and humane manner, providing the necessities of life: nutrition, shelter, clothing, safety and medical treatment. [Volunteers] have no absolute constitutional right to minister in correctional facilities; [volunteers] are permitted to be there, guests of the administration, subject to the rules of the facility. Volunteer’s ministry is secondary to the goals of the institution. [Volunteers] do not dictate to the administration, [they] minister when the administration allows, where the administration allows, in the manner the administration allows.²⁶

²⁵ Northpoint Training Center Policies and Procedures, 23-01-01 Attachment 3 , “Rules” Attachment 3

²⁶ Larry Nielsen, *Thinking About Jail and Prison Ministry; A Guide for the Lay Volunteer* (Ft. Pierce, Florida.: FBC Publications, 2005), 21.

There are resolutions that the institution or the chaplain must make for the security of the institution or an individual inmate. Some of these decisions cannot be explained to civilian groups volunteering at the facility due to their sensitive nature. Some groups or members of the volunteer groups may not particularly like the new policy. Most often volunteers as well as all security and staff members must submit to a search of their bodies and items they are carrying before they are allowed inside the institutional grounds.²⁷ These searches initially seem demeaning and humiliating. But, they are necessary in order to control illegal substances/contraband from entering the prison. There have been specific incidents where volunteers have adamantly argued against decisions that the chaplain has made. For example, if the chapel inmate praise band had an overly dictatorial inmate who had issues with pride and arrogance, then the chaplain would have to deal with the situation appropriately. Inmates do not like for other inmates to tell them what to do. This overly domineering inmate could create a security issue for himself because he feels that he has some kind of authority in the chapel. Other inmates are disrespected by this and could hurt or even kill this officious individual. The chaplain would be accurate in eliminating this individual from the praise team in order to calm down tensions. This may sound extreme, but it is real and has happened. Some may question if this could happen in the chapel. Absolutely it can, especially when that chapel is in the middle of a prison.

There are times when some volunteers are emboldened to not follow the rules of the institution. Some have even willingly disregarded the mandatory annual training and still expected to come to the facility. After being denied access, the volunteer group called their local state representative and complained that they were being treated inappropriately. Actions like

²⁷ John Cowart, *The Prison Minister's Handbook; Volunteer Ministry to the Forgotten Christian* (San Jose, California.: Resource Publications, 1996), 45.

this will sometimes bring tremendous amounts of pressure on the chaplain. They need to be aware of trouble that volunteers can bring.

Volunteers can also obtain an attitude that is negative in nature toward the institutional chaplain. Some volunteers may perceive the chaplain as just a state employee and a paper pusher. This attitude assumes that the chaplain is not interested in the spiritual matters of the inmate population. These types of thoughts can be easily adopted by volunteers due to the nature of the role of chaplain. He is responsible for enforcing the rules of the institution for both the inmate and the volunteer. “When a volunteer reaches a place in his/her thinking where the chaplain is viewed as one of ‘them,’ – a mere correctional worker – and not one of the ‘us,’ – really-righteous-born-again-dedicated-to-real-ministry people, it is time for that volunteer to review his/her place of involvement in the chapel programs.”²⁸

Know the Administration

The structure of a prison is quite different from what most pastors or preachers are used to. In most typical church settings, the pastor is thought of in all aspects as the Chief Executive Officer. In the prison setting there is only one CEO, namely the Warden. “The Warden shall be the single chief executive officer and has ultimate responsibility for all inmates, personnel, volunteers, programs, and activities connected with the institution. The Warden shall be responsible for the operation of the institution and fiscal policy, budget and planning

²⁸ Thomas Beckner, *Effective Jail and Prison Ministry for the 21st Century* (Euless, Texas.: Coalition of Prison Evangelists, 1998), 51.

operations.”²⁹ The Warden carries a tremendous responsibility. The success and failures of their institution rest solely on the Warden’s shoulders.³⁰

Below him would be the Deputy Wardens. Some institutions only have one; others have two or more. The Deputy Wardens are divided up into categories in which they supervise. For example, there may be a Deputy Warden of Security, a Deputy Warden of Programs, and a Deputy Warden of Operations. Obviously the Deputy Warden of Security would be supervising all the security staff and invested in all the security measures and problems at the institution. The Deputy Warden of Programs would supervise all department heads of programs such as the Educational Department, Recreational Department, and the Religious Services Department. The Deputy Warden of Operations would supervise all department heads of maintenance, food services, and receiving and discharge.³¹

The chain of command would flow down from the Warden, Deputy Warden, and then to the chaplain.³² All approvals and authorizations from the chaplain would have to come from the Deputy Warden. In the prison setting everything must be approved. The chaplain would have to get approval just to order pens and paper for his office. That is why maintaining a good working relationship with the administration is vital. There will be times when they will deny a request or give an answer that is not what the chaplain hoped for, but it is necessary to understand that they have a purpose and reason for their decisions and answers.

²⁹ Northpoint Training Center Policies and Procedures, 01-03-01, “Organization and Assignment of Responsibilities” 1.

³⁰ John Cowart, *The Prison Minister’s Handbook; Volunteer Ministry to the Forgotten Christian* (San Jose, California.: Resource Publications, 1996), 92.

³¹ Northpoint Training Center Policies and Procedures, 01-03-01, “Organization and Assignment of Responsibilities” 1.

³² *Ibid.*, Attachment III.

Know How the Administration Can Help

Within the ranks of the prison administration is a wealth of experience and knowledge. For example, Wardens are required to have five years of corrections or law enforcement experience. They also must have a college degree.³³ The Deputy Wardens have similar requirements. Often, the administration has spent an entire career working inside the Department of Corrections. The wisdom and knowledge they possess are invaluable. Chaplains should never hesitate to ask for morsels from this bounty. They can and will offer guidance to a new chaplain and help him mature in his role. Instead of taking a chance on a compromising situation, a chaplain should always seek and ask for their opinion.

The success of a prison chaplain can be described by a multitude of factors. Most will see success in different manners. Those successes, no matter how they are perceived, need to be precluded by knowing the flock in which they minister, understanding the location in which they minister and its dangers, taking advantage of the valuable assistance that awaits, and having at least a general knowledge of the boundaries of prison chaplaincy. The next chapter will discuss the legal forum that guides and dictates the office of chaplain. Not only does each state Department of Corrections have its own rules but ultimately the federal laws will supersede.

³³ Kentucky Department of Personnel, "Pages - JobSpecs." <https://hr.personnel.ky.gov/Pages/JobSpecs.aspx?tpage=1&tvfilter=Job%20Name%20C> (accessed December 30, 2013).

CHAPTER 5

UNDERSTAND YOUR GUIDES

Prison is a dynamic institution which is constantly changing in order to combat new and lethal threats and laws which dictate its actions. As it pertains to religion in prison, this is one area that is in constant adjustment. Federal law acts as a guideline for chaplains in penal institutions. It is important that all prison chaplains make themselves familiar with these laws in order to better prepare and dictate allowable and non-allowable actions. Corrections nationwide have become more sensitive to familiarizing themselves to these laws due to the enormous increase in federal lawsuits. Between 2000 and 2004 there were only 43 religious lawsuits filed in Federal Court. Between 2011 and 2014 there was a drastic and alarming increase of federal religious suits that almost topped 1400.¹ Chaplains must familiarize themselves with the federal guidelines in order to keep them from getting the institution sued by inmates and/or themselves from being sued personally due to negligence.

An attorney is a professional whom members of society might seek out if they need legal advice. He has been well trained in the laws of the land and is an expert in his field. Because of his education, training, and experience, he is well-versed to give sound advice.

A chaplain is also considered a professional in his field of expertise. Just as the attorney depends on law books for his information, the chaplain also depends on the law of the land to guide him legally in everyday job duties.

¹ National Institute of Corrections, "Religion in Corrections: Offender's Rights, Your Responsibility," Facilitator Manual, <http://nicic.gov/HelpDesk> (accessed May 28-29, 2014).

The Law

RLUIPA is an acronym for the Religious Land Use and Institutionalized Persons Act passed by Congress in 2000. It “is the latest of long-running congressional efforts to accord religious exercise heightened protection from government-imposed burdens consistent with . . . [Supreme Court] precedents.”² It recognizes and creates rights, not perks. It is the law under which state prison chaplains must operate in addressing inmates’ requests and grievances to exercise their religious rights. Claims and grievances that might fail if asserted under the First Amendment’s freedom of religion clauses may be legally cognizable under RLUIPA.

RLUIPA is a federal law written by the United States Legislative branch with the intent to protect the religious exercise of institutionalized persons. The term “religious exercise” can be a very vague term. And according to the law itself, it is vague in its interpretation of it. It actually states, “The term ‘religious exercise’ includes any exercise of religion, whether or not compelled by, central to, a system of religious belief.”³ Basically the federal law protects inmates’ rights of religious exercise even if it is not part of any particular organized religion. Or even if the inmate claims a specific major religion, the requested religious exercise could not be a normal tenant of that faith’s doctrine.

This section consists of a review of a number of issues in which RLUIPA has been applied to governmental regulations, institutional policies or directives, and prison programs that have produced inmate complaints, grievances and lawsuits. “There are four fields that are fertile areas for inmate dissatisfaction in the exercise of their religion—diet, grooming, group worship, and

² Cutter v. Wilkinson, 544 U.S. 709, 714 (2005).

³ Religious Land Use and Incarcerated Persons Act. U.S. code. 2000. Vol., 42 U.S.C., sec. 2000cc.

religious items and symbols including literature.”⁴ These issues will be examined in each of these areas with emphasis placed on these terms: “substantial burden,” “compelling governmental interest,” “least restrictive means,” “religious exercise,” “burden of persuasion,” “safe harbor provision,” “sincere belief,” and “officials’ discretion.”

Religious exercise is an individual right. In each case, an individual person has asserted that his right to free exercise of religion under RLUIPA has been violated. In some cases more than one individual has alleged that his rights under RLUIPA have been violated, but in each case it will be an individual right of each person at issue. “In order to facilitate a complete understanding of the case and its issue or issues, it is necessary to recite the facts in detail, clearly state the issue before the court, and analyze the court’s reasoning. Only then will the subject matter be of any benefit to chaplains facing similar situations.”⁵

A history of RLUIPA is necessary to an understanding of the cases decided thereunder and to their many ramifications. Everyone is aware of the First Amendment, but not everyone appreciates its limitations.

Constitutional Claims

“Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.”⁶ This is generally considered to be two separate clauses. Congress may not establish a religion, nor may an individual be prohibited from freely exercising his religion.

Does the individual lose his rights when he is incarcerated? The answer is NO. Courts must take cognizance of valid constitutional claims of prison inmates because “[p]rison walls do not

⁴ Interview with R. Cletus Maricle, Former Circuit Judge of the 41st Kentucky Circuit, by Aaron Mobley on June 14, 2014.

⁵ Ibid, Interview with R. Cletus Maricle.

⁶ Constitution of the United States, Amendment I. Section I.

form a barrier separating prison inmates from the protections of the Constitution.”⁷ Inmates retain the protections afforded by the First Amendment, “including its directive that no law shall prohibit the free exercise of religion.”⁸

May the inmate act unrestrained and unregulated in the exercise of those rights? Again the answer is NO. “Lawful incarceration brings about the necessary withdrawal or limitation on many privileges and rights, a retraction justified by the considerations underlying our penal system.”⁹ “When a prison regulation impinges on inmates’ constitutional rights, the regulation is valid if it is reasonably related to legitimate penological interests.”¹⁰

Courts must exercise restraint in decisions weighting the religious rights of the prisoner against the institution’s needs, e.g., the suppressing of contraband, the maintaining of security, and providing for safety and health of not only the inmates but also the staff. The executive and legislative branches of the government are charged with the responsibility of prison administration. This requires expertise, planning, and commitment of resources particularly within their provinces.

The reasonableness of a regulation or an action is to be determined by four factors set forth in *Turner v. Safely*, 482 U.S. 89-91. First, there must be a “valid, rational connection” between the prison regulation and the legitimate government interest put forth to justify it.¹¹ There has to be a logical connection for a regulation to restrict an inmate’s freedom of worship. The government must have a legitimate reason for a regulation and it must be done from a neutral

⁷ *Turner v. Safely*, 482 U.S. 78, 84 (1987).

⁸ *O’Lone v. Estate of Shabazz*, 482 U.S. 342, 348 (1987).

⁹ *Shakur v. Schriro*, 514 F.3d 878, 884 (9th Cir. 2008) (quoting *Price v. Johnson*, 334 U.S. 266,285 (1948)).

¹⁰ *Turner v. Safely*, 482 U.S. at 89 (1987).

¹¹ *Ibid.*

standpoint. For example, the government cannot show favoritism toward a certain religion just because they identify themselves with that certain religion. The courts have started making it part of discovery to determine whether the government has acted in a manner which is unbiased toward religious freedoms.¹²

Second, another factor that the courts utilize to determine the validity of a restriction of religious exercise is whether there are alternative means of exercising that right. The courts take in consideration other avenues in which the government has made possible for inmates to practice their religion as freely as possible considering the circumstances. Again, prison raises a multitude of issues in regards to religion.¹³

A third consideration is the impact that the accommodation of the asserted constitutional right will have on officers and other inmates, and on the allocation of prison resources generally. In the necessarily closed environment of the correctional institution, few changes will have no ramifications on the liberty of others or on the use of the prison's limited resources for preserving institutional order. When accommodation of an asserted right will have a significant "ripple effect" on fellow inmates or on prison staff, courts should be particularly deferential to the informed discretion of the corrections officials.¹⁴

Finally, the absence of ready alternatives is evidence of the reasonableness of a prison regulation By the same token, the existence of obvious, easy alternatives may be evidence that the regulation is not reasonable, but is an "exaggerated response" to prison concerns. This is not a "least restrictive alternative" test: prison officials do not have to set up and then shoot down every conceivable alternative method of accommodating the claimant's constitutional

¹² Turner v. Safely, 482 U.S. at 89 (1987).

¹³ Ibid.

¹⁴ Ibid.

complaint. . . . But if an inmate claimant can point to an alternative that fully accommodates the prisoner's rights at *de minimis* cost to valid penological interests, a court may consider that as evidence that the regulation does not satisfy the reasonable relationship standard. (Internal citations omitted.)¹⁵

Constitutional claims made under the Free Exercise Clause of the First Amendment are subject to the rule of *Employment Div. Dept. of Human Resources of Ore. v. Smith*, 494 U.S. 872 (1990). “[T]he First Amendment’s Free Exercise Clause does not inhibit enforcement of otherwise valid laws of general application that incidentally burden religious conduct.” The reaction of Congress to the Supreme Court’s decision in *Employment Div., Dept. of Human Resources v. Smith* was the enactment of the Religious Freedom Reformation Act of 1993 (RFRA), 42 U.S. § 2000bb. RFRA as enacted was applicable to prisoners in both federal and state institutions. It prohibited the government from “substantially burdening” a person’s free exercise of religion even when the burden resulted from a rule of general applicability and placed on the government the burden of demonstrating that the burden was in furtherance of a compelling governmental interest and was the least restrictive means of furthering that compelling governmental interest.

However, *City of Boerne v. Flores*, 521 U.S. 507 (1997) declared RFRA unconstitutional as to states and their subdivisions because it “lacked a Commerce Clause underpinning or a Spending Clause limitation.”¹⁶ Congress then invoked its authority under the Spending Clause and the Commerce Clause and enacted RLUIPA targeting two areas—land use and religious

¹⁵ *Turner v. Safely*, 482 U.S. at 715 (1987).

¹⁶ *Ibid.*

exercise by institutionalized persons. The sections pertinent to institutionalized persons have been previously set forth herein.

The case of *Murphy v. MO. Dep't of Corr.*, 372 F.3d 979 (8th Cir. 2004) demonstrates the difference made with the enactment of RULIPA in affording prisoners a higher degree of religious liberty than existed under the First and Fourteenth Amendments to the Constitution of the United States. Even though the plaintiff lost his claims made under those amendments (a free exercise claim, an establishment clause claim, an equal protection claim, and a free speech claim), he was successful at getting the Court of Appeals to remand the case to the District Court for the purpose of determining if a substantial burden had been placed upon his religious exercise.¹⁷

Murphy stated he was a member of the Christian Separatist Church Society, “a religious group that holds as a central tenet the belief that its members must all be Caucasian because they are uniquely blessed by God and must separate themselves from all non-Caucasian persons.”¹⁸ The prisoner sought formal recognition and group worship. Instead, he was allowed solitary practitioner accommodation. “Solitary practitioner accommodation entitle[d] a prisoner to practice his religion privately in his cell, to keep a sacred religious text, to receive other literature subject to correctional center procedures and censorship guidelines, to have access to clergy visits, to adjust to activities in order to observe holy days, and to wear a religious symbol, subject to certain guidelines.”¹⁹

¹⁷ *Murphy v. Mo. Dept. of Corr.*, 372 F.3d 979 (8th Cir. 2004).

¹⁸ *Ibid.*, 981.

¹⁹ *Ibid.*, 982.

In rejecting Murphy's constitutional claims, the Court wrote, "Although prisoners retain their constitutional rights, limitations may be placed on the exercise of those rights in light of the needs of the penal system. Constitutional claims that would otherwise receive strict scrutiny analysis if raised by a member of the general population are evaluated under a lesser standard of scrutiny in the context of a prison setting. A prison regulation or action is valid, therefore even if it restricts a prisoner's rights, if it is 'reasonably related to legitimate penological interest.'" (Internal citations omitted.)²⁰ The Court then applied the four factors test of *Turner v. Safely* and denied his constitutional claims. However, when it turned to Murphy's claim under RLUIPA, it reversed the District Court's decision. It found that that a substantial burden could be placed on his religious exercise by denial of group worship, group discussion, and study.

Know What is a Substantial Burden

Anytime a chaplain makes decisions concerning an inmate's religious exercise, he must be aware not to cause a substantial burden on that inmate or group of inmates. RLUIPA prohibits a government from imposing a substantial burden on the religious exercise of an institutionalized person unless it is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that governmental interest. Initially, it falls to the claimant inmate "to demonstrate that the government practice complained of imposes a 'substantial burden' on his religious exercise."²¹ The threshold determination that must be demonstrated by an institutionalized individual is two-pronged. First, the inmate must demonstrate that the burdened activity is a "religious exercise," which is any exercise of religion whether or not compelled by or central to a system of religious beliefs. Second, the inmate must demonstrate that the burden is

²⁰ *Murphy v. Mo. Dept. of Corr.*, 372 F.3d 982 (8th Cir. 2004).

²¹ *Adkins v. Kaspar*, 393 F.3d 559, 567 (5th Cir. 2004).

substantial.²² If the claimant successfully establishes that it is a substantial burden, then the government has the legal responsibility of proving not only that it is in furtherance of its compelling interest but also that it is the least restrictive means of furthering that interest.

So how do chaplains equip themselves so they will not create such legal issues for their institution and inmates? Unfortunately, RLUIPA contains no definition of “substantial burden” thereby leaving to the courts the obligation to fashion a definition. Courts have struggled to do this as the following demonstrates:

(1) Eighth Circuit—To constitute a substantial burden, the government policy or actions must “significantly inhibit or constrain conduct or expression that manifests some central tenet of a [person’s] individual [religious] beliefs; must meaningfully curtail a [person’s] ability to express adherence to his or her faith, or must deny a [person] reasonable opportunities to engage in those activities that are fundamental to a [person’s] religion.”²³

(2) Seventh Circuit —“A regulation that imposes a substantial burden on religious exercise is one that necessarily bears direct, primary, and fundamental responsibility for rendering religious exercise . . . effectively impracticable.”²⁴

(3) Ninth Circuit—Found that a substantial burden is one that imposes “a significantly great restriction or onus upon such exercise.”²⁵

²² Longoria v. Drake, 507 F.3d 898, 903 (5th Cir. 2007).

²³ Murphy v. Missouri Department of Corrections, 372 F.3d 979, 988 (8th Cir. 2004).

²⁴ Civil Liberties for Urban Believers v. City of Chicago, 342 F.3d 752, 761 (7th Cir. 2003).

²⁵ San Jose Christian College v. City of Morgan Hill, 360 F.3d 1024, 1034 (9th Cir 2004).

(4) Eleventh Circuit—A “substantial burden” is one resulting “from pressure that tends to force adherents to forego religious precepts or from pressure that mandates religious conduct.”²⁶

(5) Fifth Circuit—“The effect of a government action or regulation is significant when it either (1) influences the adherent to act in a way that violates his religious beliefs, or (2) forces the adherent to choose between on the one hand, enjoying some generally available, non trivial benefit, and, on the other hand following his religious beliefs. On the opposite end of the spectrum, however, a government action does not rise to the level of a substantial burden on religious exercise if it merely prevents the adherent from either enjoying some benefit that is not otherwise generally available or acting in a way not generally allowed.”²⁷

Know What is a Compelling Interest

Chaplains must also make sure that the institution has a legitimate reason for denying any religious exercise. Because RLUIPA also declares that if the government creates a substantial burden on an inmate’s religious practice that it (government) “demonstrates that imposition of the burden on that person is in furtherance of a compelling governmental interest.”²⁸ Too often in corrections the default reasoning for any denial of religious practice has been for security reasons. For years the courts have cordially obliged the corrections industry with this reasoning due to the complicated nature of inmate freedoms inside a prison. But RLUIPA has essentially

²⁶ *Mediash Sephardi, Inc. v. Town of Surfside*, 366 F.3d 1214, 1227 (11th Cir. 2004).

²⁷ *Adkins v. Kaspar* 393 F.3d 559, (5th Cir 2004).

²⁸ Religious Land Use and Incarcerated Persons Act. U.S. code. 2000. Vol., 42 U.S.C., sec. 2000cc.

changed the game for corrections justification for denial.²⁹ The courts are now requiring under RLUIPA that the government demonstrate a “compelling interest” of why the religious practice has been substantially burdened. This argument on behalf of the government must be consistent within all their security practices and explained. The Kirkland Correctional Institution in South Carolina was sued by inmate Smith due to his claim of a substantial burden being imposed on his religious practice. Inmate Smith was a Rastafarian and believed his hair was instrumental to his faith. Inmate Smith was confined to the Maximum Security Unit at this facility. The policy of the MSU at this facility was to shave all heads for “security reasons.” Due to inmate Smith’s Rastafarian religion and his devout religious conviction the courts ruled that the South Carolina DOC created a substantial burden on Smith’s practice. The courts then reviewed whether the DOC had a “compelling interest” to burden the Rasta practice of dreadlocks. During the deliberations in court the only argument they could deliver was the policy itself which stated “security reasons” without any explanation.³⁰ This type of reasoning does not pass the new RLUIPA test.

Standing in opposition to the above mentioned reasoning is a legitimate concern for institutional safety. For example, the Wicca community in the free world utilizes an Athme during their worship. An Athme is a small dagger. If a Wicca inmate community were to request to utilize an Athme during their worship inside of a prison setting, it would be a “compelling interest” of the institution to deny their request. Obviously a dagger would impose severe danger to the institutional staff and inmate population. This substantial burden to the Wicca community would most definitely be a compelling interest of the government.

²⁹ National Institute of Corrections, “Religion in Corrections: Offender’s Rights, Your Responsibility,” Facilitator Manual, <http://nicic.gov/HelpDesk> (accessed May 28-29, 2014).

³⁰ Smith v. Ozmint, 578 F.3d at 252 citing Lovelace v. Lee, 472 F.3d 174, 190 (4th Cir. 2006).

Know What Least Restrictive Means

Chaplains must also know how to respond to a legitimate compelling interest of the institution when restricting religious practice. Because RLUIPA also declares that if the government creates a substantial burden on an inmate's religious practice and that if it (government) successfully demonstrates a compelling interest to burden the practice then it should utilize the "least restrictive means of furthering that compelling governmental interest."³¹ The law does not forbid the government from substantially burdening an inmate's religious practice. As long as the government can demonstrate a compelling interest to burden the practice then it is permissible. But, it must be burdened in the least restrictive means. This means that the government must facilitate an accommodation to that restriction. Drawing on the hypothetical example above, the Wicca community has requested to utilize a dagger for their worship service. The government has demonstrated a compelling interest to restrict this practice. Now, in order to accommodate the law it must restrict this practice in the least restrictive means. Some examples of how this could be done in the case of a dagger request are to have a cardboard cutout of a dagger for the Wicca religious service. Also, a picture of a dagger can be the replacement of a genuine dagger.

The prison chaplain has a tremendous load to bear as the spiritual leader of a penal institution. They must not only provide for the inmates spiritual needs but must do so in the confines of the law. The law is a huge part of being a prison chaplain. As discussed earlier, RLUIPA has and will continue to change the game for corrections. The next chapter will discuss different aspects of the federal law and look at key federal cases in order to learn how to be a more effective chaplain.

³¹ Religious Land Use and Incarcerated Persons Act. U.S. code. 2000. Vol., 42 U.S.C., sec. 2000cc.

CHAPTER 6

UNDERSTAND OTHER LEGAL ISSUES

Know the Law on Religious Diets

As religious lawsuits from prisoners increase, prison officials and especially chaplains need to be more aware of key issues that can spark these legal issues. The ground is fertile for litigation. There are some key areas where these religious lawsuits have been filed. Knowledge of these cases will do wonders for stifling unnecessary litigation.

As our nation is becoming increasingly multi-ethnic and multi-religious, penal institutions will in all likelihood continue to be bombarded with requests for religious diets. When confronted with these requests, chaplains' opinions will impact whether it is a request made pursuant to a sincere religious exercise. It is not necessary that the request be compelled by, or central to, a system of religious belief so long as it is sincere and arises from the exercise of religion. Requests for health reasons are not religious requests. However, "adverse health effects from a prison diet can be relevant to the substantial burden inquiry."¹

Shakur was a Catholic who converted to Islam. He was provided with a vegetarian diet that would be consistent with Halal practices but was not provided with the kosher meat meals which he had requested and were being served to those who were Jewish. Shakur alleged that he suffered physical effects from the vegetarian meal plan including exacerbation of a hiatal hernia and excessive gas. This he contended "interfere[d] with the ritual purity required for his Islamic worship."² The government contended that excessive gas did not constitute a substantial burden. The Court of Appeals decided that "the extent to which Shakur's gastrointestinal problems

¹ Shakur v. Schriro, 514 F.3d 878, 889 (9th Cir. 2008).

² Ibid, 888.

interfered with his religious activities [was] a factual issue.”³ Medical complaints can be evidence of a substantial burden on one’s religious exercise.

Chaplains must realize that in *Shakur*, the government argued that avoiding the prohibitive expense of acquiring Halal meat for all Muslim inmates or providing those inmates with kosher meat was a compelling governmental interest. This argument was made in reliance on an earlier case where the Supreme Court wrote that “maintain[ing] good order, security, and discipline consistent with consideration of costs and limited resources”⁴ was a compelling governmental interest. An affidavit from the Pastoral Administrator who had no personal knowledge of food service costs was not competent evidence; therefore, the government had not met its burden of persuasion that the costs were a compelling governmental interest.⁵

As to “least restrictive means” there were only closing statements made that the denial of the diet request was the least restrictive means of furthering costs containment interests. No showing was made that the government considered and rejected other alternatives.⁶ This demonstrates how important implementing other non-damaging alternatives is for chaplains to consider. For a chaplain to simply deny a request without further investigation or seeking safe alternatives is not acceptable.

Nor may a chaplain assume that because an inmate is not sincere about one aspect of his religion that he is insincere about other practices. In *Lovelace v. Lee*, 472 F.3d 174 (4th Cir. 2006), the plaintiff, incarcerated at a Virginia State prison, had an affiliation with the Nation of Islam. The prison had a policy of accommodating Ramadan, an Islamic holy month of prayer and

³ *Shakur v. Schriro*, 514 F.3d 878, 889 (9th Cir. 2008).

⁴ *Ibid*, 889.

⁵ *Ibid*, 890.

⁶ *Ibid*.

fasting. The fast is observed between dawn and sunset. Meals are eaten pre-dawn and post-sunset. The institution had reserved two dining halls for those meals—one for the “World Community of Islam” and one for the “Nation of Islam” (NOI). Lovelace was removed from the list of participants after six days for allegedly breaking the fast. He was barred from the fast and Ramadan Congregational prayers for the remaining 24 days of the holy month because he was allegedly accepting a lunch tray during the noon hour.

Removal of Lovelace from the observance of Ramadan, a qualified religious exercise, prohibited him from fulfilling one of the five pillars of Islam. His removal from participation also kept him from participating in prayers or services held in the dining hall after the special breakfast meal since weekly NOI services were canceled during Ramadan. This restricted the religious exercise of participation in group services or prayer just because the inmate was not following the religious exercise of fasting. The policy of automatically assuming a lack of sincerity because of failure to participate in one religious exercise does not permit the conclusion of an overall lack of sincerity justifying denial of other means of worship.⁷

The court determined that the defendants had not adequately demonstrated that the Ramadan policy was the least restrictive means of furthering a compelling governmental interest. The government failed to present any evidence demonstrating security or budgetary concerns. Instead it relied upon the concept that flouting prison rules established for its accommodation of Ramadan in regard to fasting permitted removal of the prisoner from other activities. The Court concluded that even though this interest might be legitimate, it was not compelling.⁸ The court did not find the interest to be compelling.

⁷ Lovelace v. Lee, 472 F.3d 174 (4th Cir. 2006).

⁸ Ibid., 190.

As to least restrictive means, the court concluded that assuming the governmental interest to be compelling, the defendants had failed to show that the policy of removal from the program was the least restrictive means of furthering its interest. When Lovelace was removed from special Ramadan meals and the prayer services, he was left with no opportunity for congregational worship because regular NOI services were cancelled during Ramadan. He was not permitted to attend services of other Muslim groups because he had enrolled in NOI services. Since the removal policy applied to both special meal and group prayer services, the Court determined that the government had not satisfied the requirements of RLUIPA requiring the least restrictive means of furthering the governmental interest.⁹

Another issue for chaplains is requiring “tests” for the inmate in order to approve certain religious practices. In *Koger v. Bryan*, 523 F.3d 789 (7th Cir. 2008), the claimant challenged the “religiously required test” and the “clergy verification requirement” imposed by prison officials. Koger was a member of the Order Templi Orientis (OTO). OTO was founded by Aleister Crowley, an English occultist. Prison officials imposed a religiously required test when they refused to provide Koger with a non-meat diet on the basis that such diet was not required by OTO. They also employed a clergy verification requirement which mandated that Koger submit a written verification of his membership in OTO.¹⁰

When Koger was remanded to the custody of the Illinois Department of Corrections, he listed his religious affiliation as Baptist. After incarceration, he changed his religious affiliation to Buddhist and subsequently refrained from eating meat or any food that had touched meat to accommodate his yoga practices. He then informed the prison’s chaplain that he was no longer

⁹ Lovelace v. Lee, 472 F.3d 190-192 (4th Cir. 2006).

¹⁰ Koger v. Bryan, 523 F.3d 789 (7th Cir. 2008).

Buddhist and requested that he be provided with a non-meat diet as part of his religious practice. The chaplain would not grant his request in the absence of a letter from the clergy of Koger's new religion. Koger responded by stating that he was not a member of a formally established religion and no clergy was available to contact the chaplain.

Koger initiated a search for a religion that fit his beliefs and joined a group known as Order Templi Orientis (OTO) which was associated with Thelema, a religion whose central tenet is "Do what thou wilt," considered to be a divine mandate to discover one's true purpose in life. Koger then requested the chaplain to change his religion from Buddhist to OTO and that he receive a non-meat diet. An accompanying letter from OTO's Prison Ministry Coordinator stated, "Thelema imposes no general dietary restrictions; though each individual Thelemite may, from time to time, include dietary restrictions as part of his or her personal regimen of spiritual discipline." The chaplain refused to change Koger's affiliation or his diet. Subsequently, the chaplain changed Koger's religious affiliation but stood firm on his denial of a diet change.¹¹

Following *Cutter v. Wilkinson*, to the effect that RLUIPA bars inquiry into a particular belief or practice as central to an inmate's religion but does not prohibit inquiry into the sincerity of a prisoner's professed religiosity, the Court determined that lack of affiliation with an organized religion was not fatal to Koger's claim. Koger was not affiliated with any religion at the time he submitted his first request for a non-meat diet. The Court also noted that he subsequently affiliated with a religion, OTO, which did not prohibit a diet that included meat, rather than joining a religion which prohibited the consumption of meat. The court reasoned that if he were strictly interested in obtaining a non-meat diet and was not religiously serious, he would have

¹¹ Koger v. Bryan, 523 F.3d 793-795 (7th Cir. 2008).

become affiliated with a religion that followed that tenet. The Court found that Koger was refraining from eating meat based on a sincere religious belief.¹²

The court addressed the religiously required test and rejected its appropriateness. “[T]o have his request accommodated, however, the prison officials would have required him to establish exactly what RLUIPA does not require—that his requested diet was ‘compelled by’ or ‘central to’ his faith.”¹³

Unlike the religiously required test that is prohibited by RLUIPA, the clergy verification requirement does not clearly violate RLUIPA, but in the context of *Koger* such requirement in effect rendered Koger’s religious exercise impracticable. OTO lacked clergy members in the traditional sense having only a handful of officers who tended to the group’s administrative affairs. The lack of traditional clergy along with a lack of uniform practices by OTO and other similarly situated religions resulted in the denial of religious exercise with the imposition of a clergy verification requirement. Even with a traditional clergy and uniform practices, “a clergy verification requirement forms an attenuated facet of any religious accommodation regime because clergy opinion has generally been deemed insufficient to override a prisoner’s sincerely held religious belief.” The institution did not show that the clergy verification requirement furthered a compelling governmental interest.¹⁴

Chaplains are faced with numerous requests from inmates to participate in kosher diet meals. This places serious burdens on institutions with the logistics of finding beds in kosher facilities and the cost of continual transports. Often inmates utilize kosher transfers as a means of

¹² *Koger v. Bryan*, 523 F.3d 797-798 (7th Cir. 2008).

¹³ *Ibid.*, 798.

¹⁴ *Ibid.*, 799.

getting to a different facility. They may not like the prison where they are so they ask for kosher participation and they are shipped to another facility that can accommodate their request. The costs of kosher meals has been used by various states as a compelling governmental interest in the denial, limitations, or restrictions on providing kosher meals to inmates. Courts have addressed this issue with varying results. Two such cases are *Barnakowski v. Hart*, 486 F.3d 112, (5th Cir. 2007) and *Willis v. Comm'r, Dep't of Corr.* 753 F.Supp. 2d 768 (SD Ind. 2010)

Kosher denotes a comprehensive dietary system. Its laws pertain not only to the types or varieties of food that may be consumed but to the manner of preparation. It is necessary that the ingredients be kosher and those core ingredients of kosher food must not be contaminated during preparation with other items of food. Total separation is required during not only the preparation thereof but also the consumption. In fact, it is necessary to separate plates and utensils that have come in contact with non-kosher items. An observant Jew is not to eat meat for one hour after consuming dairy and six hours after eating meat before consumption of dairy products. It is a fundamental tenet of kosher that there be complete separation of kosher food products and non-kosher food during preparation and consumption.¹⁵

Know the Law on Grooming

Chaplains will have grievances filed on them during their tenure in a penal institution. Most are frivolous and without merit. But, due to lack of knowledge some may be legitimate. A review of cases involving grooming regulations and their enforcement reveals that grievances most often arise in the context of the length of an inmate's hair, including facial hair. Even though grooming policies and regulations are most often based on security and hygiene concerns, the law remains

¹⁵ *Williams v. Bitner*, 359 F. Supp 370 (MD Pa 2005) affirmed *Williams v. Bitner*, 455 F.3d 186 (3rd Cir. 2006).

a constant. Does the grooming policy or regulation place a substantial burden on the inmate's religious exercise?

In *Warsoldier v. Woodford*, 418 F.3d 989 (9th Cir 2005), Warsoldier, a minimum security prisoner, sought injunctive relief against the California Department of Corrections (CDC) which had a regulation that all male inmates were prohibited from wearing their hair longer than three inches. He was a Cahuilla Native American who had always participated in all cultural, social, and religious affairs of the tribe. He held the belief that cutting his hair would cost him his wisdom and strength, that he would not be able to join his ancestors in the afterlife, and that he would be subjected to taunting and ridicule. The last time that he had cut his hair was in 1971 upon the occasion of the death of his father.¹⁶

Warsoldier was not physically forced to cut his hair, but a series of punishments was imposed by CDC to coerce him to comply with its grooming regulation. These included cell confinement, additional hours of duty, reclassification into a work group denying him credits and privileges associated with higher work groups, suspension of phone privileges, expulsion from educational classes, removal of him a member of the Executive Body of the Inmate Advisory Council, prohibition from the recreation yard, reduction in his monthly draw at the prison store, and restriction on certain purchases at the prison store. CDC reasoned that these restrictions would force Warsoldier to be amenable to the standards of grooming. The Court concluded instead that this type of pressure imposed a substantial burden on the prisoner's religious practice because it compelled an abandonment of his religious beliefs and practices.¹⁷

¹⁶ *Warsoldier v. Woodford*, 418 F.3d 989, 992 (9th Cir. 2005).

¹⁷ *Ibid.*, 995-996.

The court acknowledged CDC's justification for its hair grooming policy. CDC argued that three compelling interests were served by its hair grooming policy. First, the hair length standards facilitated the security of prison inmates and staff by allowing the quick and accurate identification of inmates. In addition, inmates might hide contraband or weapons in their hair or on their bodies. Absent the grooming standards, prison guards would be forced to make physical contact with an inmate to check for contraband. During such contact, prison guards would risk suffering a puncture wound from sharp implements possibly concealed in the inmate's long hair. Further, such policies reduced animosity and tension by removing a method by which inmates might signal a gang affiliation. Second, because short hair is easier to keep clean, requiring that male inmates maintain short hair reduced the spread of head-borne parasites such as lice within the prison. Health and safety were also further facilitated by short hair because it reduced the risk of injury during the inmate's use of heavy machinery. Finally, CDC argued that requiring male inmates to cut their hair ensured public safety because it "enhance[s] identification of inmates who are attempting to escape or who have escaped."¹⁸

After concluding that prison security was a compelling governmental interest, the court determined that was not the question. Rather, it was "whether CDC's grooming policy [was] the least restrictive alternative available to CDC to reach its compelling interest."¹⁹ This stood in stark contrast to the Fifth Circuit's not requiring a hearing on the least restrictive means of furthering a compelling governmental interest.²⁰ The government must demonstrate consideration of other alternatives. It cannot rely on mere conclusory statements about ensuring

¹⁸ *Warsoldier v. Woodford*, 418 F.3d 997 (9th Cir. 2005).

¹⁹ *Ibid.*, 998.

²⁰ *Longoria v. Dretke* 507 F.3d 898, 904, (5th Cir. 2007).

prison security by imposing a hair grooming policy. For them to merely recite cases on least restrictive means without revealing other modes of regulation that had been considered and rejected was unacceptable.²¹

Also significant was the absence of hair length policies in other prison systems. CDC had no explanation why its compelling governmental interest would be distinguishable from those in other jurisdictions. Nor did CDC explain why women's prisons in California did not have equally strict grooming policy because "[c]oncerns about inmate identification, lice infestation, and the ease with which an escaped inmate may alter his or her appearance are the same regardless of the sex of the offender."²²

Chaplains must be aware of how their local federal circuit leans on these issues. Each federal circuit may vary differently on the same issue. The Sixth Circuit, which covers Kentucky, has also addressed a grooming regulation in *Hoevenaar v. Lazaroff*, 422 F. 3d 366 (6th Cir. 2005). The specific code provision of the Ohio Administrative Code was very strict. It did not allow hair longer than three inches from the scalp. They also would not allow designs, letters, or names carved out of hair in an inmates head. The policy on facial hair is just a stringent.²³ The District Court ruled that Hoevenaar, a Native American of Cherokee ancestry, should be allowed to grow a kouplock, which is a two-inch square of hair grown at the base of the skull. The Sixth Circuit reversed the District Court. It ruled that the District Court had not given due deference to the opinions of officials of the prison system.²⁴

²¹ Longoria v. Dretke 507 F.3d 998, 904, (5th Cir. 2007).

²² Ibid., 998.

²³ Hoevenaar v. Lazaroff, 422 F. 3d 366 (6th Cir. 2005)

²⁴ Ibid., 371.

There was a conflict among the circuits created by *Holt v. Hobbs*, No. 13-6827. And it will be decided by the Supreme Court of the United States during its next term. The Supreme Court issued a writ of certiorari on March 3, 2014 to the Eighth Circuit Court of Appeals to determine whether RLUIPA was violated by the Arkansas Department of Corrections (ADC) by prohibiting Holt, a fundamentalist Muslim, from growing a one-half inch beard in accordance with his religious beliefs. The Supreme Court will review the unpublished *per curiam* decision of the Eight Circuit allowing ADC to enforce its grooming policy permitting only trimmed mustaches without any other facial hair except for diagnosed dermatological problems.

Know the Law on Group Worship

Another area that prison chaplains will most certainly deal with is group worship. In prison a chaplain will encounter a multitude of different religions. Some of which they would have never even heard of before beginning employment in the penal system. Human nature tugs at bias within each person and even chaplains. So chaplains must be vigilant in accommodating all religions that desire group worship.

A Sunday morning drive over almost any rural road will reveal a landscape sprinkled with open-doored churches welcoming its parishioners. Likewise, city streets are home to some of this nation's most historic buildings—its churches. Marriages, baptisms, funerals, and homecomings with church dinners are all manifestations of group worship. “The ‘exercise of religion’ often involves not only belief and profession but the performance of . . . physical acts [such as] assembling with others for a worship service [or] participating in sacramental use of bread and wine.”²⁵ “The ability to engage in group worship is the type of religious exercise protected under RLUIPA.”²⁶

²⁵ *Cutter v. Wilkinson*, 514 U.S. 709, 720 (2005).

In the case *Rouser v. White*, the plaintiff, a Wiccan, successfully challenged a policy on group worship. Rouser made a prima facie case by demonstrating restrictions on use of chapel space, failure to disseminate information to the inmate population of group worship, denial of the use of religious items such as a fire pit and limiting locker access to religious items. In addition, guards had failed to escort in a timely fashion the inmate, removed him from group worship before complete, or otherwise interrupted his worship on at least 46 different occasions. The government based its argument of a compelling government interest on costs of providing these services.²⁷

Often chaplains will encounter inmates who demand to preach in chapel services. This can cause several issues. One of the primary issues includes the fact that inmates are not supposed to be in charge of other inmates. Another legitimate issue would encompass the idea that this inmate could be gathering a following. This type of activity can be dangerous inside a prison. Does the right to free exercise one's religion with congregational or group worship also include the right to preach in such meetings? "The right to the free exercise of religion unquestionably encompasses the right to preach, proselyte, and perform other similar religious functions."²⁸ Does imposition of a ban on preaching impose a substantial burden on one's free exercise of religion? *Spratt* answered in the affirmative when faced with the issue of whether or not the threat of disciplinary sanctions for violation of a rule prohibiting preaching anytime or anywhere.²⁹

²⁶ *Rouser v. White* 630 F. Supp2d 1165 (ED Cal 2009) citing *Greene v. Solana County Jail*, 513 F.3d 982, 987 (9th Cir. 2008).

²⁷ *Ibid.*, 1182.

²⁸ *McDaniel v. Paty*, 435 U.S. 618, 626 (1978); *Spratt V. R.I. Dep't of Corr.* 482 F.3d 31 (1st Cir 2007).

²⁹ *Ibid.*, 38.

“[T]o meet the least restrictive means test prison administrators ought to explore some alternatives.”³⁰ Chaplains should become creative in processing alternate methods of group worship if there is a genuine compelling governmental interest to hinder that request. For example, the Wicca community would desire a ritual dagger. But, allowing a dagger inside a prison would be like placing a five foot shark in a pool with children swimming. So, in order to adhere to the federal law chaplains must become creative. This situation could be remedied with a mere photo copy of the dagger so that the Wicca community to utilize it in their group worship. Prison administrators are not required to negate every conceivable option in order to meet the burden of proving the least restrictive means.

Know the Law on Religious Items and Literature

Religious items, symbols, and literature can cause security problems in a prison. In sweat lodges alone there is fire, split wood, deer antlers, rocks, shovels and poles, all of which could be used to cause serious bodily harm or death. In additions, certain literature that advocates violence could incite strongly held religious beliefs. This would be particularly true in those instances where racial or ethnic purity or superiority is taught.

Most chaplains will be given an “Inmate Belief and Practices Manual” which defines all religions accepted at their facility and what religious items they are allowed. This manual will be highly used throughout a chaplain’s career. The policy of listing the specific religious items for each religion was challenged in *Charles v. Verhagen*, 220 F. Supp. 937 (WD Wis. 2002). The Muslims were limited to religious books and literature, prayer beads, a prayer rug, and a kufi-cap. Prayer oil was not on the list. A total of 16 items were on the list for Wisconsin’s religiously

³⁰ *Spratt v. Rhode Island Dep’t Corr.*, 482 F.3d 33, 41 n.11 (1st Cir 2007).

heterogeneous population. The court held that the list was too rigid and austere. Recognizing the need to cap the amount of personal property that an inmate possesses, it suggested that a prisoner could sacrifice a secular item and retain a spiritual item.³¹

As chaplains deal with numerous different religions, they will be challenged to find companies that offer the religious items for each of these differing religions. Then to complicate that process, each vendor has to be approved by the Warden of the institution before inmates are allowed to order. There are several security issues that the Warden must take into consideration before allowing a vendor to send products to the institution. This is known as the approved vendor list. Approved vendor lists have also been held to place a substantial burden on one's right to religious exercise. Some inmates in the California Department of Corrections, who were confined and indigent, depended on Jesus Christ Prison Ministries for religious materials, but were denied access to them because JCPM was not on the approved vendors list. The unique worship materials desired by the inmates were unavailable through any approved vendor.³²

In *Borzych v. Frank*, 439 F.3d 388 (7th Cir. 2006), the court determined that the least restrictive means of curbing violence within the prison, where safety is a compelling state interest, was barring books that promote violence based on a racist view. However, it distinguished books that simply expressed a racist content apart from the tenets of a religion. "A prison's attempt to exclude all literature that 'advocates racial or ethnic supremacy' would be hard to sustain against a challenge under RLUIPA by an adherent to a religious sect whose creed includes distinctions among racial or ethnic groups."³³ The request to redact the passages

³¹ *Charles v. Verhagen*, 220 F. Supp. 937 (WD Wis. 2002).

³² *Jesus Christ Prison Ministries v. Cal. Dep't of Corr.*, 456 F.Supp.2d 1188 (ED Cal. 2006).

³³ *Borzych v. Frank*, 439 F.3d 388 (7th Cir. 2006)

advocating violence was specifically rejected as being unrealistic because works were from 175 to in excess of 400 pages. In view of the language of the statute it is prudent not to make any determination as to whether or not the institutionalized person's complaint is a central tenet of any particular religion. However, he or she is not relieved of the burden of establishing that the burdened activity is in fact a "religious exercise." Each must demonstrate the "honesty and accuracy of his contention that the religious practice at issue is important to the free exercise of his religion."³⁴

³⁴ Adkins v. Kaspar, 393 F.3d at 570.

CHAPTER 6

CONCLUSION

This work has been for the purpose of addressing a multitude of issues that newly hired chaplains will encounter in the Kentucky Department of Corrections. Prison chaplaincy is unique. Its uniqueness is not based on the ministry per se, but the true difficulty of the environment. Due to the lack of any resource for newly hired chaplains in the Kentucky Department of Corrections, this document will serve as a manual for the purpose of education for new hires.

This project should answer numerous and diverse inquiries about prison ministry. The first section addressed the chaplain's connection to the inmate population. In this occasion, that means getting to discern the inmates that he will be ministering to. He must acquire the demographics of offences that may benefit in understanding the unique issues which arise in counseling sessions. Each inmate has his/her own distinctive familiarity with the justice system. But there are mutual experiences that all of them have dealt with which have instigated inner turmoil. Just the involvement of being detained, tried, convicted, sentenced, and then retained into a penal custody has its own emotional and spiritual consequences. The prison chaplain will most likely deal with countless of these issues as inmates come to him for spiritual guidance and hope.

Second, the chaplain must never overlook that he himself is contained by the walls of a prison. Life is entirely dissimilar on the inside. The inherent problem with many individuals in the ministry field is that they seek to be loving, kind, and trusting people. While these are all admirable traits, the chaplain must always proceed with caution, for these are hardened criminals he is dealing with. Numerous inmates will try to take advantage of the sympathetic and

compassionate nature of the minister. There will be security protocol that must be adhered to continuously. This new security mindedness might seem extreme and foreign to a novel employee. The chaplain must be cognizant of the dangers about him and retain a keen sense of security in the Chapel. This is not the customary church. The new chaplain must also know how he fits into the big picture. He must have a practical association with additional staff members and know what their roles are in the global structure of the prison organization. Chain of command is vital in the prison locale. Above all, chaplains need to know how to handle affiliations with inmates. The position of chaplain in the correctional environment creates its own issues. Chaplains are to afford spiritual care to inmates. This automatically fashions bonds between human beings. In this environment, favoritism is not tolerated. Therefore, chaplains must safeguard themselves from becoming inappropriately involved with certain inmates to whom they have given spiritual guidance. This places the chaplain in a challenging position. Is he a chaplain or an officer?

Third, the new chaplain also needs to know who it is that assists him. Volunteers and Administration are a vital help to the prison chaplain. In each case, he needs to know their role and how they are able to assist in his ministry field. Both of these groups are unique and should sustain a specific relationship with the chaplain. There are also specific training requirements for volunteer help. Volunteer communications will be one of the chaplain's primary responsibilities.

Fourth, the chaplain needs to know the governing principles of his life and profession. The Bible is the ultimate guide in the Christian's life. It has tremendous value to help enrich one's life and guide one in good or problematic situations. As a chaplain of a state government institution, the law is also a controller. This law is not from the Bible, but the legislation that the United States Government has enacted to set the parameters in which this country operates. The

Religious Land Use and Incarcerated Persons Act have affected the chaplain's office in a huge way. Federal law will continue to dominate how chaplains operate in the prison setting.

Fifth, this section investigated pertinent court cases that deal with important areas of inmate religious worship. These cases have been determined by federal courts and set the standard. These standards should help chaplains appropriately execute their office. This section briefly observed federal cases which deal with important areas. In the prison setting there are certain hotspots where inmates have a tendency to file lawsuits. These areas are addressed in more detail according to federal cases. These decided cases, if they are studied, can assist a new chaplain from losing lawsuits in court.

The research of prison chaplaincy has hardly been touched. This work was intended to be a general overview of a multitude of different areas that may cause a newly hired chaplain problems. Each one of the subject matters discussed above could be broken down into even more specific areas of interest. Also, the subjects discussed above are not a comprehensive list.

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May 22, 2013

Aaron Wendell Mobley

IRB Approval 1598.052213: A Manual for an Evangelical State Prison Chaplaincy

Dear Aaron,

We are pleased to inform you that your above study has been approved by the Liberty IRB. This approval is extended to you for one year. If data collection proceeds past one year, or if you make changes in the methodology as it pertains to human subjects, you must submit an appropriate update form to the IRB. The forms for these cases were attached to your approval email.

Please retain this letter for your records. Also, if you are conducting research as part of the requirements for a master's thesis or doctoral dissertation, this approval letter should be included as an appendix to your completed thesis or dissertation.

Thank you for your cooperation with the IRB, and we wish you well with your research project.

Sincerely,

Fernando Garzon, Psy.D. *Professor, IRB Chair Counseling (434) 592-4054 Liberty University*
/ Training Champions for Christ since 1971