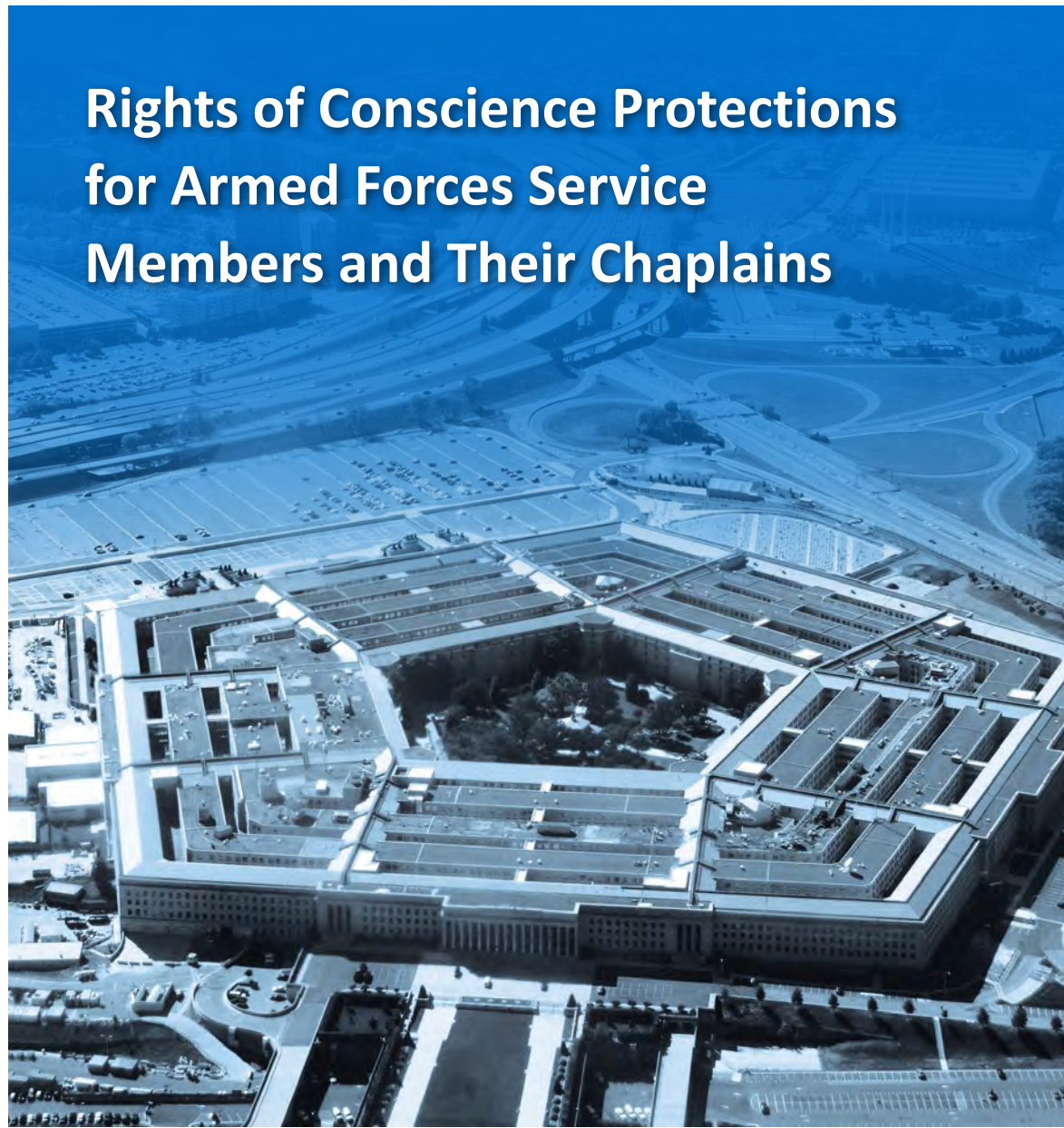




INSPECTOR GENERAL

U.S. Department of Defense

JULY 22, 2015



Rights of Conscience Protections for Armed Forces Service Members and Their Chaplains

INTEGRITY ★ EFFICIENCY ★ ACCOUNTABILITY ★ EXCELLENCE

INTEGRITY ★ EFFICIENCY ★ ACCOUNTABILITY ★ EXCELLENCE

Mission

Our mission is to provide independent, relevant, and timely oversight of the Department of Defense that supports the warfighter; promotes accountability, integrity, and efficiency; advises the Secretary of Defense and Congress; and informs the public.

Vision

Our vision is to be a model oversight organization in the Federal Government by leading change, speaking truth, and promoting excellence—a diverse organization, working together as one professional team, recognized as leaders in our field.



For more information about whistleblower protection, please see the inside back cover.



Results in Brief

Rights of Conscience Protections for Armed Forces Service Members and Their Chaplains

July 22, 2015

Objectives

The National Defense Authorization Act for Fiscal Year 2014 required the DoD Inspector General to submit a report to the congressional defense committees setting forth the results of an investigation “into the compliance by the Armed Forces with the elements of such regulations on adverse personnel actions, discrimination, or denials of promotion, schooling, training, or assignment for members of the Armed Forces based on conscience, moral principles, or religious beliefs.” The objectives for this assessment were to determine:

1. The extent to which the Department of Defense issued and complied with regulations designed to protect the rights of conscience for service members.
2. The extent to which the Department of Defense issued and complied with regulations designed to protect chaplains’ rights of conscience.
3. The number of contacts received by the Inspector General of the Department of Defense and Inspectors General of U.S. Military Departments regarding incidents involving the rights of conscience of a service member or chaplain.

Results and Recommendations

Objective 1

Results

As of April 2015, DoD and the Army had issued updates to regulations implementing the protections afforded by Section 533, while Navy regulations were pending approval and Air Force regulations were partially complete. We identified four issues with these regulations.

- The Services were not consistently evaluating religious accommodation requests within established timeframes.
- Approved accommodation for certain requests did not apply for the duration of the military career of the requestor, raising concerns for certain faith practitioners.
- Updates to DoD Instruction 1300.17, “Accommodation of Religious Practices within the Military Services,” dated January 22, 2014, allowed approval requests for the use of otherwise controlled substances in religious practices by local commanders.
- Noncommissioned officers handled many requests that did not require a decision by the commander.

Recommendations

- The Under Secretary of Defense for Personnel and Readiness (USD [P&R]), in coordination with the Military Services, should review the 30- and 60-day standard for the final disposition of requests to the Secretaries of the Military Departments.
- The Army and Navy should evaluate requests for accommodation requiring waivers within required timeframes.
- The Air Force should track requests for accommodations requiring waivers and update regulations to clarify roles and responsibilities for approval of accommodation requests requiring waivers.



Results in Brief

Rights of Conscience Protections for Armed Forces Service Members and Their Chaplains

Results and Recommendations (cont'd)

- The USD (P&R) should modify DoD Instruction 1300.17 to allow waivers approved by Service Secretaries to remain in effect until revoked and, in coordination with the Office of General Counsel, publish guidance for adjudicating religious accommodation requests that seek the use of controlled substances.
- Finally, the Army, Navy, and Air Force should include updated religious protections in their programs of instruction for officers and noncommissioned officers.
- the lack of availability of kosher and halal foods in defense commissaries overseas, and
- commanders' response to service members' use of social media for reporting of rights of conscience protection concerns.

Recommendations

We recommended that USD (P&R) should:

- determine a more efficient and effective means of gauging and reporting the status of rights of conscience protections for service members,
- determine a more effective method to match the availability of kosher and halal foods to demand overseas, and
- develop a response kit that summarizes available resources and potential responses to the use of social media and other nonofficial reporting channels.

Objective 2

Results

Within the data we examined, we identified no instance in which a commander forced or attempted to force a chaplain to perform a service contrary to his or her conscience, moral principles, or religious beliefs.

Recommendations

We made no recommendations relating to Objective 2.

Objective 3

Results

Our query of DoD and Military Department Inspectors General databases, including Combatant Command Inspectors General, yielded 232 contacts relating to religious rights of conscience for calendar years 2011 to 2014. We expanded our review to include databases from the Defense Privacy and Civil Liberties Division and the Equal Opportunity offices of the Military Services, yielding an additional 166 contacts for the same period, for a total of 398 contacts. We identified three issues concerning:

- the suitability of contact data to understand departmental compliance with rights of conscience protections,

Management Comments and Our Response

We received comments from the Offices of the Under Secretary for Personnel and Readiness; Army Deputy Chief of Staff for Personnel; Chief of Naval Personnel; Air Force Deputy Chief of Staff for Manpower, Personnel, and Services; and the Air Force Office of the Inspector General. In addition, the Defense Privacy and Civil Liberties Division and the Department of Defense Office of General Counsel concurred with relevant recommendations, but did not provide comments. In response to comments from the Services' Personnel Offices, we modified Recommendation 1. We request additional comments as detailed in the Recommendations Table on page iii.

Recommendations Table

Management	Recommendations Requiring Comment	No Additional Comments Required
Under Secretary Defense for Personnel and Readiness	1	4, 5, 7, 8, 9
Army Deputy Chief of Staff for Personnel		2, 6
Chief of Naval Personnel	6	2
Air Force Deputy Chief of Staff for Manpower, Personnel, and Services		2, 3, 6, 7

Please provide Management Comments by August 30, 2015.





**INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
4800 MARK CENTER DRIVE
ALEXANDRIA, VIRGINIA 22350-1500**

July 22, 2015

MEMORANDUM FOR UNDER SECRETARY DEFENSE FOR PERSONNEL AND READINESS
ARMY DEPUTY CHIEF OF STAFF FOR PERSONNEL
CHIEF OF NAVAL PERSONNEL
AIR FORCE DEPUTY CHIEF OF STAFF FOR MANPOWER,
PERSONNEL, AND SERVICES

SUBJECT: Rights of Conscience Protections for Armed Forces Service Members and
Their Chaplains (Report No. DODIG-2015-148)

We are providing this report for review and appropriate action. We conducted this assessment from July 2014 to April 2015 in accordance with the "Quality Standards for Inspections and Evaluations," published in January 2012 by the Council of Inspectors General on Integrity and Efficiency.

We considered management comments to a draft of this report when preparing the final report. We request additional information on implementation of recommendations as outlined in the Recommendations Table on page iii.

We should receive your comments by August 30, 2015. Your comments should describe what actions you have taken or plan to take to accomplish the recommendations and include the completion dates of your actions. Please send copies of documentation supporting the actions you may have already taken. Please provide comments that conform to the requirements of DoD Instruction 7650.03. If possible, send your comments in electronic format (Adobe Acrobat file only) to SPO@dodig.mil. Copies of your comments must have the actual signature of the authorizing official for your organization. We are unable to accept the /Signed/ symbol in place of the actual signature. If you arrange to send classified comments electronically, you must send them over the SECRET Internet Protocol Router Network (SIPRNET).

We appreciate the courtesies extended to the staff. Please direct questions to [REDACTED] or [REDACTED] at [REDACTED]. If you desire, we will provide a formal briefing on the results.

A handwritten signature in black ink, reading "K. P. Moorefield", is positioned above the typed name.

Kenneth P. Moorefield
Deputy Inspector General
Special Plans and Operations



Contents

Introduction

Objective	2
Background	2

Objective 1 Results

Issuance and Compliance with Regulations Designed to Protect the Rights of Conscience of Service Members	9
Recommendations, Management Comments, and Our Responses	14
Duration of Accommodations Approved by the Delegated Authorities of the Secretaries of the Military Departments	17
Recommendation, Management Comments, and Our Response	18
Requests for Accommodation Not Requiring Waivers to Service Policy	19
Recommendation, Management Comments, and Our Response	20
Noncommissioned Officer Adjudication of Religious Accommodation Requests	21
Recommendation, Management Comments, and Our Responses	21

Objective 2 Results

Issuance and Compliance with Regulations Designed to Protect the Rights of Conscience of Chaplains	23
---	----

Objective 3 Results

Number of Contacts Received by DoD from Service Members Concerning Rights of Conscience	27
Relevant Contacts by Category	29
Recommendation, Management Comments, and Our Responses	30
Relevant Contacts by Location	32
Recommendation, Management Comments, and Our Response	33
Relevant Contacts by Faith Group	34
Recommendation, Management Comments, and Our Response	36

Contents (cont'd)

Appendixes

Appendix A. Scope and Methodology _____	37
Appendix B. Examples of Accommodations Not Requiring a Waiver of Military Department or Service Policy _____	43
Appendix C. Chaplaincy Changes, Accessibility, and Worship Spaces _____	46
Appendix D. Data Categories _____	49

Management Comments

Under Secretary of Defense for Personnel and Readiness _____	51
Army Deputy Chief of Staff for Personnel _____	53
Chief of Naval Personnel _____	55
Air Force Deputy Chief of Staff for Manpower, Personnel, and Services _____	56

Introduction

Public Law 112-239 section 533, “Protection of Rights of Conscience of Members of the Armed Forces and Chaplains of Such Members,” as amended by Public Law 113-66 section 532, “Enhancement of Protection of Rights of Conscience of Members of the Armed Forces and Chaplains of Such Members” (Section 533) states:

- (a) PROTECTION OF RIGHTS OF CONSCIENCE.—
 - (1) ACCOMMODATION. Unless it could have an adverse impact on military readiness, unit cohesion, and good order and discipline, the Armed Forces shall accommodate individual expressions of beliefs of a member of the armed forces reflecting the sincerely held conscience, moral principles, or religious beliefs of the member and, in so far as practicable, may not use such expression of belief as the basis of any adverse personnel action, discrimination, or denial of promotion, schooling, training, or assignment.
 - (2) DISCIPLINARY OR ADMINISTRATIVE ACTION. Nothing in paragraph (1) precludes disciplinary or administrative action for conduct that is proscribed by chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), including actions and speech that threaten good order and discipline.
- (b) PROTECTION OF CHAPLAIN DECISIONS RELATING TO CONSCIENCE, MORAL PRINCIPLES, OR RELIGIOUS BELIEFS. No member of the Armed Forces may—
 - (1) require a chaplain to perform any rite, ritual, or ceremony that is contrary to the conscience, moral principles, or religious beliefs of the chaplain; or
 - (2) discriminate or take any adverse personnel action against a chaplain, including denial of promotion, schooling, training, or assignment, on the basis of the refusal by the chaplain to comply with a requirement prohibited by paragraph (1).
- (c) REGULATIONS. The Secretary of Defense shall issue regulations implementing the protections afforded by this section.

Public Law 113-66 section 532 required the Secretary of Defense to prescribe the necessary implementing regulation not later than 90 days after the law was enacted, which occurred on December 26, 2013. The Under Secretary of Defense for Personnel and Readiness (USD [P&R]) met the mandate, issuing updates to DoD Instruction 1300.17, “Accommodation of Religious Practices within the Military Services,” on January 22, 2014, and DoD Instruction 1304.28, “Guidance for the Appointment of Chaplains for the Military Departments,” on March 20, 2014, incorporating the protections afforded by Section 533.

We completed this report in response to Public Law 113-66 section 533, “Inspector General Investigation of Armed Forces Compliance with Regulations for the Protection of Rights of Conscience of Members of The Armed Forces and Their Chaplains.” The statute requires that not later than 18 months after the Secretary of Defense issued implementing regulations, “the Inspector General of the Department of Defense shall submit to the congressional defense committees a report—

- (1) setting forth the results of an investigation by the Inspector General during that 18-month period into the compliance by the Armed Forces with the elements of such regulations on adverse personnel actions, discrimination, or denials of promotion, schooling, training, or assignment for members of the Armed Forces based on conscience, moral principles, or religious beliefs; and
- (2) identifying the number of times during the investigation period that the Inspector General of the Department of Defense or the Inspector General of a military department was contacted regarding an incident involving the conscience, moral principles, or religious beliefs of a member of the Armed Forces.”

We announced our review on July 30, 2014.¹

Objective

The objectives of this assessment were to determine:

- The extent to which the Department of Defense issued and complied with regulations designed to protect the rights of conscience for service members.
- The extent to which the Department of Defense issued and complied with regulations designed to protect the rights of conscience for chaplains.
- The number of contacts received by the Inspectors General of the Department of Defense and the Military Departments regarding incidents concerning rights of conscience for a service member or chaplain.

Background

Service Members Religious Beliefs and Their Expression

DoD application of “sincerely held conscience, moral principles, or religious beliefs” encompasses traditional religious groups, such as Christians, Jews, and Muslims; nontraditional faith groups, such as Wiccans and Jedis; and groups

¹ Based on the January 22, 2014, implementation date of DoD Instruction 1300.17, this report was due to the congressional defense committees no later than July 22, 2015.



Figure 1. Shipboard Service
Source: U.S. Navy

with nonreligious systems of belief, such as humanists and atheists. Service members joining the Armed Forces agree to follow all DoD and Service policies and procedures. At times, sincerely held beliefs and/or associated practices of service members have conflicted with established policy or procedure.

Service members could resolve conflicts by choosing either to follow the regulation or to request a waiver to the regulation for religious reasons (religious accommodation). DoD Instruction 1300.17 established two types of requests: those requiring a waiver of Military Department or Service policy and those that do not. Secretaries of the Military Departments adjudicate requests that require a waiver of policy, while local commanders are authorized to approve or deny the others. Military chaplains assist commanders at all levels of command by giving advice, conducting interviews with service members, and assisting with request processing.

DoD established five categories of religious accommodation requests: dietary, grooming, medical, uniform, and worship practices.²

- **Dietary:** typically, these are requests for kosher or halal foods in the military commissaries or dining facilities, or authorization for “separate rations.”³
- **Grooming:** generally, these are requests to grow facial hair, wear hair longer than prescribed by Service regulations, or openly display religious tattoos.
- **Medical:** typically, these are requests for a waiver of mandatory immunizations.
- **Uniform:** typically, these are requests to wear religious jewelry or religious headgear, including, but not limited to, kippot (yarmulkes), turbans, and hijabs or religious jewelry.
- **Worship:** generally, these are requests to attend worship services, to participate in other faith-based events, or for relief from attendance at events conflicting with sincerely held beliefs.

Service members can appeal accommodation requests disapproved below the delegated authority of their Service Secretaries. If their appeal is not approved, they could either continue to serve in the Armed Forces while complying with regulations, or request a separation from service on the basis of religion, resulting in discharge consistent with the regulations of their Military Service.

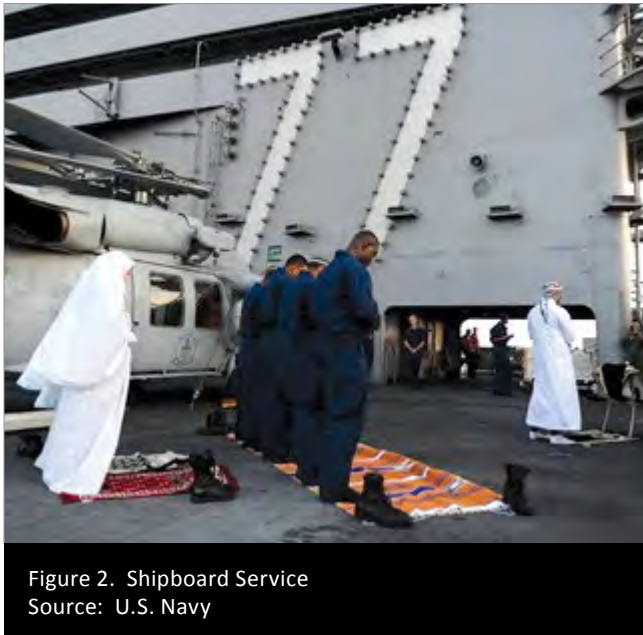


Figure 2. Shipboard Service
Source: U.S. Navy

Military Chaplains

DoD Directive 1304.19, “Appointment of Chaplains for the Military Departments,” dated April 23, 2007, states that the Chaplaincies of the Military Departments were “established to advise and assist commanders in the discharge of their responsibilities to provide for the free exercise of religion in the context of military service, to assist commanders in

² See Appendix B for further detail regarding the classification of requests for accommodation for religious reasons.

³ Approval of “separate rations” for unmarried enlisted personnel provides Basic Allowance for Subsistence, which is a monthly stipend for meals outside unit dining facilities.

managing Religious Affairs, and to serve as the principal advisors to commanders for all issues regarding the impact of religion on military operations.” As a primary duty, chaplains are required to perform faith-specific ministries that do not conflict with the tenets or faith requirements of their religious organizations. Additionally, chaplains are required to provide or facilitate religious support, pastoral care, and spiritual wellness to all service members, regardless of religious affiliation, in accordance with DoD policy, Service regulations, and the tenets or faith requirements of their endorsing organization. Specific to this report, chaplains were tasked to assist commanders with decisions regarding the protections of rights of conscience of service members in their units.

Requirements

A chaplain applicant is required to meet DoD medical and physical standards for commissioning as an officer in Military Service.⁴ In addition, chaplain applicants must obtain ecclesiastical endorsement from a qualified religious organization prior to appointment as a chaplain. The endorsement validates the applicant’s qualifications: ecclesiastical (two years of religious leadership experience), educational (baccalaureate plus post-baccalaureate degree in theological or related studies), and pluralistic (willingness to directly and indirectly support the free exercise of religion by all persons authorized to be served by the chaplaincies).

Roles and Responsibilities for the Administration of Rights of Conscience Protections

The administration and oversight of the rights described in Section 533 are distributed throughout DoD and the Military Services. Specific administrative responsibilities include the following:

- Within USD (P&R), the Office of Military Personnel Policy develops DoD policy regarding rights of conscience protections, while the Office of Diversity Management and Equal Opportunity promulgates and oversees DoD diversity management and equal opportunity policies, including those pertaining to discrimination on the basis of religion.
- The Armed Forces Chaplains Board, consisting of the Military Department Chief and Deputy Chief of Chaplains, makes recommendations to the USD (P&R) on religious and moral matters for the Military Services. The Board also advises on policy matters regarding the free exercise of religion; the procurement, professional standards, requirements, training, and assignment of military chaplains; all religious support providers; and procurement and use of supplies, equipment, and facilities for religious use.

⁴ See DoD Instruction 6130.03, “Medical Standards for Appointment, Enlistment, or Induction in the Military Services,” dated September 13, 2011, and DoD Instruction 1310.02, “Original Appointment of Officers,” dated March 26, 2015.

- Commanding officers grant or deny requests for religious accommodation that do not require waivers of Military Department or Service policies, which is often based on the guidance of chaplains, noncommissioned officers, legal officers, or Equal Opportunity Office staff.
- Chaplains of the Military Services advise commanders, noncommissioned officers, and service members on spiritual matters. They facilitate the expression of rights of conscience or religious beliefs, including the evaluation of accommodation requests. Service Chief of Chaplains Offices advise Service chiefs and administer the chaplain career field.
- Service personnel offices prepare and respond to requests for religious accommodation requiring a waiver of Military Department or Service policies.

Specific oversight responsibilities include the following:

- The Defense Privacy and Civil Liberties Division prepares the mandated report to Congress detailing DoD civil liberties oversight efforts, including those regarding religious freedoms. This office reports directly to the Office of the Secretary of Defense through the Office of the Deputy Chief Management Officer.
- Department of Defense and Military Department Inspectors General collect and investigate complaints regarding professional misconduct and misuse of command authority.
- Military Services' Equal Opportunity Offices oversee the collection and evaluation of discrimination complaints and provide education and outreach within each Service regarding discrimination. These offices also conduct command climate surveys used by commanders to assess the health of unit culture, and by senior commanders to detect potential abuse of power by their subordinate commanders.

Nonofficial and Nontraditional Reporting

In addition to the official options for reporting grievances previously described, service members aired disagreements with authority by contacting religious interest groups outside the military or broadcasting their disagreements on social media. Civilian advocacy groups were active on social media sites and were particularly interested in the Armed Forces chaplaincy and the protections of rights of conscience for service members. Some groups maintained that chaplains paid with taxpayer dollars did not belong in the Military Services, while other groups viewed the chaplaincy as a vital extension of Constitutional rights to service members. DoD and Service policies addressed the use of social media by service

members and did not restrict online expressions of belief beyond what is expected in the regular exercise of their duties. Its use by service members to voice disagreements engaged interest groups and amplified issues normally addressed within the military chain of command.

Scope and Methodology

Our assessment addressed DoD compliance with Section 533 for members of the Armed Forces as defined in title 10 of the United States Code: the Army, Navy, Marine Corps, and Air Force, excluding the Coast Guard.⁵ We did not review compliance by the Army National Guard or Air National Guard.

We reviewed DoD and Military Service policy. We interviewed responsible officials in the Office of the USD (P&R), Office of Diversity Management and Equal Opportunity, Defense Privacy and Civil Liberties Division, Armed Forces Chaplains Board, and Chaplain Schools of the Military Departments. We discussed policy implementation with Service recruiting commands, training commands, personnel offices, and Offices of the Chief of Chaplains.

In order to gauge general compliance with the protections, we conducted panel discussions with selected commanders, chaplains, and noncommissioned officers assigned to units in the continental United States, outside the continental United States, and deployed locations.⁶ These semi-structured interviews resulted in all panels discussing a few topics, and many issues raised during only a couple of interviews. Hence, the use of statements by commanders, chaplains, and noncommissioned officers as testimonial evidence in the body of this report refers to those instances when the topic was discussed and should not be inferred to represent all interviewees of any group. Finally, we contacted 27 religious interest/advocacy groups and endorsing bodies to learn of their concerns and gain a better understanding of existing issues.

To determine the number of contacts made to DoD regarding rights of conscience protections, we queried databases of the DoD, Military Department, and Combatant Command Offices of the Inspector General. We gave database owners a list of key-word search terms used to determine the number of contacts regarding the rights of conscience made by service members and chaplains from January 2011 through December 2014. We expanded our collection of relevant contacts to include databases from the Defense Privacy and Civil Liberties Division and the Equal Opportunity offices of the Military Services.

⁵ We elected to exclude the U.S. Coast Guard as it is assigned to DoD only in times of war; however, the Department of the Navy trains and staffs Coast Guard chaplains.

⁶ For the purposes of this report, we considered noncommissioned officers as service members ranked E-4 to E-9 (E-4 serving in unit leadership positions).

Section 533 of Public Law 113-66 required the DoD Inspector General to review compliance with the elements of Department regulations implementing the protection of rights of conscience with respect to, “adverse personnel actions, discrimination, or denials of promotion, schooling, training, or assignment...” Virtually all negative and positive events in a service member’s career involve subjective, discretionary decisionmaking on the part of leaders and commanders. Identifying examples of discrimination based on conscience, moral principles, or religious beliefs was unrealistic because those reasons would almost never be cited as the basis for the decision. Many cases of discrimination, such as disparaging comments or insensitivity to beliefs, while not in keeping with the values of the Military Services, did not result in negative personnel actions. Further, denials of promotion, schooling, training, and assignment are a subset of adverse personnel actions. In June 2015, the Department of Defense updated its military equal opportunity program to treat sexual-orientation-based discrimination the same way it treats discrimination based on race, religion, color, sex, age, and national origin. The change enables service members to use command channels, the DoD Inspector General’s Office, and the military equal opportunity process to resolve complaints based on sexual orientation. While the change may impact contact levels regarding religious accommodations for gay and lesbian service members, its implementation fell outside the time frames of our data collection and fieldwork and is not reflected in this report.

Therefore, for the purpose of this report, we analyzed the data collected from all sources. We looked for instances of negative impacts on members of the Armed Forces that resulted from expression of their conscience, moral principles, or religious beliefs in order to generate our conclusions regarding overall Department compliance with the language of the statute.

Objective 1 Results

Issuance and Compliance with Regulations Designed to Protect the Rights of Conscience of Service Members

Section 533 requires the Armed Forces to accommodate individual expressions of beliefs unless it, “could have an adverse impact on military readiness, unit cohesion, and good order and discipline.” Application of this standard required military commanders to balance the needs of individual service members against the necessity of mission accomplishment. Commanders, chaplains, and noncommissioned officers we interviewed confirmed that the relative importance of these options varied by location, Service, and command. This meant that approval or denial of service member requests for similar types of accommodations not requiring waivers to Military Department or Service policies varied by unit and over time within units (as unit missions changed). Clear and open communication among commanders, chaplains, noncommissioned officers and service members concerning what constitutes “compelling governmental interest”⁷ was key to resolving requests to the satisfaction of all concerned.

The use of “lay leaders” to lead religious services was a notable practice. “Lay leaders” were service member volunteers who received training and were credentialed by their faith group, which allowed them to conduct portions of religious services that did not necessarily require the presence of ordained clergy. According to Navy officials, this helped accommodate the expression of religious beliefs in remote locations and aboard ships that lacked continuous coverage by an appropriate chaplain.

While the Navy and Air Force were still in the process of updating their regulations regarding protections of the rights of conscience, passage of Section 533 did not cause DoD Components to make major changes to existing practices. During our review, we did not discover any instance of an adverse action taken against service members as a direct result of their expressions of belief. However, we identified challenges concerning the processing time, duration, and tracking of requests for accommodation. We also identified a unique issue with the use of controlled substances in certain religious practices.

⁷ DoD Instruction 1300.17, “Accommodation of Religious Practices Within the Military Services,” dated January 22, 2014, pg. 3.

Status of Issuance of Regulations Containing Required Language

As of April 2015, DoD and the Army issued regulations implementing the protections afforded by Section 533, while approval of Navy regulations was pending and the Air Force was partially complete (see figure 3).

Figure 3. Regulations Updated to Protect the Rights of Conscience of Service Members

Department	Applicable Regulation	Date Language Incorporated
Defense	DoD Instruction 1300.17	January 22, 2014
Army	Army Regulation 600-20	November 6, 2014
Navy	SECNAVINST 1730.8B	March 28, 2012
Air Force	Air Force Instruction 1-1	November 12, 2014

DoD complied with the 90-day publication requirement set forth in Public Law 113-66 section 532. The update to DoD Instruction 1300.17 accurately transferred requirements of the statute into Department policy, specifically stating that requests for religious accommodation may be denied only when military policy, practice, or duty furthers a “compelling governmental interest” or is the least restrictive means of furthering that compelling governmental interest.

In addition, DoD Instruction 1300.17 describes how DoD Components should resolve requests for accommodation of religious practices, specifying those that immediate commanders may resolve and those requiring a waiver from the Secretary of the Military Department concerned regarding Military Department or Service policies.⁸

Army Regulation 600-20, “Army Command Policy,” incorporated the requirements of DoD Instruction 1300.17 on November 6, 2014. It included the positive requirement to approve requests for religious accommodation, unless such requests “will have an adverse impact on unit readiness, individual readiness, unit cohesion, morale, discipline, safety, and/or health.”⁹ The updated regulation included procedures for the adjudication of religious accommodation requests and appeals, and designated the Army Deputy Chief of Staff for Personnel as the approval authority for accommodation requests that required waivers to Service regulations.

⁸ The Secretaries may delegate authority to resolve these requests no lower than the Army Deputy Chief of Staff for Personnel; Chief of Naval Personnel and Deputy Commandant, Manpower and Reserve Affairs, U.S Marine Corps; and Air Force Deputy Chief of Staff for Manpower, Personnel, and Services.

⁹ Army Regulation 600-20, “Army Command Policy,” dated November 12, 2014, p. 44.

The Office of the Chief of Naval Personnel, with support from the Office of the Navy Chief of Chaplains, reported drafting updates to Secretary of the Navy Instruction (SECNAVINST) 1730.8B, “Accommodation of Religious Practices,” which included the requirements specified in DoD Instruction 1300.17. As of May 2015, the update was under review by the Assistant Secretary of the Navy for Manpower and Reserve Affairs. The regulation (1730.8B), in effect as of May 2015, stated that it was policy to make “every effort to accommodate religious practices absent a compelling operational reason to the contrary,”¹⁰ and included procedures for the adjudication of religious accommodation requests and appeals.

Officials in the Office of the Deputy Commandant for Manpower and Reserve Affairs, U.S. Marine Corps, stated they were prepared to update applicable Marine Corps orders and regulations as necessary after the publication of the updated regulation from the Department of the Navy.



Figure 4. Jewish Worship Space, Camp Foster, Okinawa, Japan
Source: DoD Inspector General

The U.S. Air Force updated Air Force Instruction 1-1, “Air Force Standards,” on November 12, 2014, to state that all Airmen have the right to individual expression of sincerely held beliefs, “unless those expressions would have an adverse impact on military readiness, unit cohesion, good order, discipline, health and safety, or mission accomplishment.”¹¹ Air Force Instruction 36-2903,

“Dress and Personal Appearance of Air Force Personnel,” dated May 28, 2015, was consistent with DoD Instruction 1300.17, stating, “Commanders must grant requests for accommodation of religious practices unless they determine and articulate that a ‘compelling’ (i.e., especially important) governmental (not just Air Force) interest takes precedence over the requested accommodation.”¹² The Instruction also identified the Air Force Deputy Chief of Staff for Manpower, Personnel, and Services as the authority for final review of all religious accommodation requests that require a waiver to Air Force policy as required by DoD Instruction 1300.17.

¹⁰ SECNAVINST 1730.8B CH-1, “Accommodation of Religious Practices,” dated March 28, 2012, p. 1.

¹¹ Air Force Instruction 1-1, “Air Force Standards,” dated November 12, 2014, p. 19.

¹² Air Force Instruction 36-2903, “Dress and Personal Appearance of Air Force Personnel,” dated May 28, 2015, p. 130.

Officials from the Office of the Air Force Deputy Chief of Staff for Manpower, Personnel, and Services stated that they were in the process of incorporating DoD Instruction 1300.17 language into the new policy. They further said that the Service drafted Air Force Policy Directive 52-2, "Accommodation of Religious Practices in the Air Force," and Air Force Instruction 52-201, "Religious Accommodation Requests," to reflect the updated waiver process for uniform wear and grooming standards.

Status of Compliance with Regulations Designed to Protect the Rights of Conscience of Service Members

Requests for Accommodation That Require a Waiver to Service Policy

We identified two issues—processing time and the duration of accommodations—concerning the process for requests for religious accommodation that required a waiver of Military Department or Service policies regarding the wearing of military uniforms; the wearing of religious apparel; or Service grooming, appearance, or body art standards. As shown in Figure 5, the Services identified 19 requests for waivers that were processed through command channels for adjudication in the offices of the chiefs of personnel of the Military Departments.

Waiver Processing Time

The update to DoD Instruction 1300.17 established a requirement for the Secretaries of the Military Departments to approve or deny all religious accommodation request cases within 30 days for cases arising in the United States and 60 days for all other cases. As shown in figure 5, only the Marine Corps met the standard for service member requests made in 2014; requests made in the other Services, with a few exceptions, did not. Representatives from Service Chiefs of Chaplains offices commented that the 30- and 60-day requirement may not be practical. In addition, according to Service officials, the criteria for determining the days to disposition varied among the military Services, specifically when to begin the count to meet the 30- or 60-day standard for final review.

Figure 5. Service Waiver Outcome and Wait Times for 2014

Service	Classification of Request	Disposition	Days to Disposition
Army	Grooming	Denied	110
	Apparel	Denied	37
	Grooming	Denied	108
	Grooming	Denied	24
Navy	Medical: Immunization	Approved	123
	Medical: Immunization	Denied	74
	Grooming: Hair	Denied	97
	Grooming: Beard	Denied	69
	Grooming: Beard	Denied	92
	Grooming: Hair	Denied	64
	Grooming: Beard	Denied	70
	Medical: Immunization	Denied	89
	Medical: Immunization	Denied	54
	Grooming: Beard	Denied	157
Air Force	Did not track timeliness of response nor disposition		
Marine Corps	Apparel	Approved	19
	Apparel	Approved	11
	Apparel	Approved	8
	Apparel	Approved	24
	Apparel	Denied	26

We were unable to determine Air Force timeliness, as representatives from the Office of the Air Force Deputy Chief of Staff for Manpower, Personnel, and Services reported that the Air Force did not track the status or trends for final disposition of accommodations requiring a waiver to Service policies.

Recommendations, Management Comments, and Our Responses

Recommendation 1

We recommend the Under Secretary of Defense for Personnel and Readiness, in coordination with the Military Services, review the practicality of the requirement for final review of requests for accommodation of religious practices by the Secretaries of the Military Departments within 30 days for cases arising within the United States and 60 days for all other cases, and modify the requirement accordingly.

Under Secretary of Defense for Personnel and Readiness Comments

The Deputy Assistant Secretary for Military Personnel Policy concurred with the recommendation, stating that the Department will submit changes to DoD Instruction 1300.17 that, if approved, would result in adjudicating the requests for religious accommodation such that requests would reach the final approval authority for a decision within 30 days for cases arising within the United States and within 60 days for all other cases.

Our Response

Comments from Deputy Assistant Secretary for Military Personnel Policy, responding on behalf of USD (P&R), were partially responsive. While the comment addresses the period prior to receipt by the final approval authority, it does not address the time requirement for the final approval authority to make a decision. In addition, Military Service responses to Recommendation 2 increased uncertainty concerning the 30- and 60-day standard. We therefore modified our recommendation to request the Deputy Assistant Secretary for Military Personnel Policy coordinate with the Military Services to verify the feasibility of completing religious accommodation cases requiring Secretarial-level approval. We request that the Deputy Assistant Secretary for Military Personnel Policy comment to this final report.

Recommendation 2

We recommend the Army Deputy Chief of Staff for Personnel, the Chief of Naval Personnel, and the Air Force Deputy Chief of Staff for Manpower, Personnel, and Services streamline existing procedures to ensure requests for accommodation requiring waivers are evaluated within the timeframes established by Department of Defense Instruction 1300.17, including any changes made as a result of Recommendation 1.

Army Deputy Chief of Staff for Personnel Comments

Based on the response, we infer that the Army Deputy Chief of Staff for Personnel concurred with the recommendation. The Deputy Chief of Staff stated that they will review current administrative requirements to determine how to streamline existing procedures to meet timeframes required by DoD Instruction 1300.17. The Deputy Chief of Staff for Personnel further stated the need for a review of the practicality of the 30- and 60-day timeframes contained in DoD Instruction 1300.17, and clarity regarding the point in the process when the 30- or 60-day count begins.

Our Response

Comments from the Army Deputy Chief of Staff for Personnel were responsive. No further comment is required.

Chief of Naval Personnel Comments

The Acting Assistant Secretary of the Navy for Manpower and Reserve Affairs concurred with comment to Recommendation 2, stating that requests for accommodation requiring waiver of Military Department or Service policy require coordination among multiple staff sections. The Acting Assistant Secretary cautioned that eliminating one or more of these stakeholders in order to meet the 30-day time requirement may streamline the waiver process, but it could reduce the efficacy of the process. They proposed individual stakeholder review and streamlining to coincide with the release of the updated SECNAVIST 1730.8, "Accommodation of Religious Practices."

Our Response

Comments from the Acting Assistant Secretary of the Navy for Manpower and Reserve Affairs, responding on behalf of Chief of Naval Personnel, were responsive. No further comment is required.

Air Force Deputy Chief of Staff for Manpower, Personnel, and Services Comments

Air Force Deputy Chief of Staff for Manpower, Personnel, and Services concurred with the recommendation, stating the Air Force will incorporate language from DoD Instruction 1300.17 into new Air Force Policy Directive 52-2, "Accommodation of religious practices in the Air Force," and Air Force Instruction 52-201, "Religious Accommodation Requests." The Deputy Chief of Staff further stated that they planned to research the feasibility of completing religious accommodation cases requiring Secretarial-level approval to meet the 30-day processing requirement for cases arising within the United States and 60-day requirement for all other cases.

Our Response

Comments from the Air Force Deputy Chief of Staff for Manpower, Personnel, and Services were responsive. No further comment is required.

Recommendation 3

We recommend the Air Force Deputy Chief of Staff for Manpower, Personnel, and Services track accommodations requiring waivers and the timeframes for approval to ensure compliance with Department of Defense Instruction 1300.17.

Air Force Deputy Chief of Staff for Manpower, Personnel, and Services Comments

Air Force Deputy Chief of Staff for Manpower, Personnel, and Services concurred with the Recommendation, commenting that in the future they will track all religious accommodation requests that require the Air Force Deputy Chief of Staff for Manpower, Personnel, and Services actions.

Our Response

Comments from the Air Force Deputy Chief of Staff for Manpower, Personnel, and Services, were responsive. No further comment is required.

Duration of Accommodations Approved by the Delegated Authorities of the Secretaries of the Military Departments

DoD Instruction 1300.17 requires the Military Departments to inform service members of approval of requests for accommodation of religious practices. Specific elements of that approval, “will include that such approval does not apply for their entire military service commitment and that, at the discretion of the Secretary concerned, new requests for the same accommodation are necessary upon new assignment, transfer of duty stations, or other significant change in circumstances, including deployment.” As written, DoD Instruction 1300.17 allows each Military Department to exercise discretion regarding whether service members need to reapply for accommodations with each new duty station or other significant change in unit mission.

As of May 2015, according to Service officials, each Service’s policy required service members to reapply for approved accommodations, including accommodations requiring waivers, with each change of duty station. Commanders, noncommissioned officers, and representatives of religious interest groups interviewed agreed that this policy was for the most part effective.

Army officials we interviewed cited instances in which the Services’ practice of requiring members to reapply for approved accommodations may have created barriers to planning a long-term military career. For example, active practitioners of certain faith groups, such as Muslims, Rastafarians, or Sikhs, needed waivers to grooming, uniform, or appearance standards for the duration of their service. The requirement to revalidate an approved waiver with every “significant change in circumstances,” burdened members of some faith groups specifically recruited for their language, culture, and technical skills. This was a potential contributor to a loss of investment in human capital essential to completing missions.

Requiring application and approval of an accommodation that a service member will likely require for the entire length of service at every “significant change in circumstances” places a significant burden on the service member. Conversely, any accommodation resulting in a permanent waiver to grooming, uniform, or appearance standards could limit the flexibility of the military Service to assign the individual and the availability of the service member for deployment. One way to balance these competing interests would be to consider waivers to standards for religious accommodation that reach the designated official of the military Service

as “enduring.” This would imply that while local commanders could suspend the accommodation in support of mission requirements, such as deployment, the suspension would lift when no longer necessary, such as upon return to permanent duty station. According to Army officials, Army policy provided for “enduring” accommodations for members of certain faith groups, but the update to the DoD Instruction ended this practice.

Recommendation, Management Comments, and Our Response

Recommendation 4

We recommend the Under Secretary of Defense for Personnel and Readiness amend Department of Defense Instruction 1300.17 to state that requests by service members for accommodation of religious practices that are approved by the delegated authorities of the Secretaries of the Military Departments remain in effect unless suspended or revoked by said authority at the request of a commander following the reassignment, transfer, or significant change in circumstances of the service member.

Under Secretary of Defense for Personnel and Readiness Comments

Deputy Assistant Secretary for Military Personnel Policy concurred with the recommendation, stating that the Department will submit changes in accordance with this recommendation in the next update of DoD Instruction 1300.17.

Our Response

Comments from Deputy Assistant Secretary for Military Personnel Policy, responding on behalf of USD (P&R), were responsive. No further comment is required.

Requests for Accommodation Not Requiring Waivers to Service Policy

DoD Instruction 1300.17 states that immediate commanders could resolve requests for accommodation that did not require waivers of Military Department or Service policies regarding the wearing of military uniforms or religious apparel and grooming, appearance, or body art standards. This supported the stated principle that, “requests for religious accommodation will be resolved in a timely manner and will be approved when accommodation would not adversely affect mission accomplishment...” Several commanders and noncommissioned officers we interviewed indicated that accommodation requests that did not require a waiver were frequently delegated to the lowest level of authority, depending on the nature of the request.

We identified that accommodating religious requests during Service-sponsored school attendance was a unique challenge, mostly due to the school’s relatively short duration and fixed program of instruction. A Training Command official stated that, in those cases when accommodation was approved for the duration of a course of training, service members were required to request a new accommodation at their gaining command after completing the course.

Evidence indicated that the system of addressing accommodation requests at the lowest level, with exception, was working as intended. However, we identified two issues worth further discussion and consideration: use of controlled substances in religious ceremonies and noncommissioned officer adjudication of religious accommodation requests.

Use of Controlled Substances in Religious Ceremonies

Various religious ceremonies called for what DoD considers “problematic substance use,”¹³ with complicated legality. For example, peyote, a controlled substance, was used in certain rites in Native American religious ceremonies, and use was allowed for certain tribes under Federal law. Pagan faith practitioners requested alcohol for ceremonial use in deployed areas where alcohol was prohibited by General Order 1. Finally, Rastafarians used marijuana in personal and communal rituals, which was legal in some states but remained illegal under Federal law and a violation of the Uniform Code of Military Justice.

¹³ As defined in DoD Instruction 1010.04, “Problematic Substance Use by DoD Personnel,” dated February 24, 2014.

Further, in accordance with the DoD Instruction 1300.17, the adjudication authority for a religious accommodation requesting the use of controlled substances was the “immediate commander.” A request for the use of controlled substances falls outside the criteria for requests requiring a waiver of Military Department or Service policies, which are limited to the wearing of military uniforms or religious apparel and grooming, appearance, or body art standards. During our interviews, one chaplain said that he recommended approval of an accommodation request for a Native American Soldier to participate in a ritual in which peyote was used.

Approved use of controlled or problematic substances for religious ceremonies could lead to adverse consequences. These include potential referrals for judicial punishment for those substances not legal in all jurisdictions, and challenges to security clearances in the case of positive urinalysis tests. Additional guidance is necessary to protect service members and commanders from unintended consequences resulting from the use of approved controlled substances during religious rites.

Recommendation, Management Comments, and Our Response

Recommendation 5

We recommend that the Under Secretary of Defense for Personnel and Readiness, in coordination with the Office of General Counsel, develop and publish additional guidance regarding the criteria and process for adjudicating religious accommodation requests that include the use of controlled substances.

Under Secretary of Defense for Personnel and Readiness Comments

Deputy Assistant Secretary for Military Personnel Policy concurred with the recommendation, stating that the Department will submit changes in accordance with this recommendation in the next update of DoD Instruction 1300.17.

Our Response

Comments from Deputy Assistant Secretary for Military Personnel Policy, responding on behalf of USD (P&R), were responsive. No further comment is required.

Noncommissioned Officer Adjudication of Religious Accommodation Requests

Commanders stated that noncommissioned officers handled many requests that did not require a decision by the commander, including time off to attend religious services, adjustment to duty hours, and modifications to weekend duty assignments. This practice supported a military culture in which senior leaders encouraged decisionmaking at lower levels within the chain of command in order to build leadership abilities. Senior leaders provided their intent, which guided subordinates in making day-to-day decisions.

Noncommissioned officers interviewed reported that they received instruction on religious matters during basic training, and that training continued through noncommissioned officer leadership schools. They also stated that if they were not sure about how to handle a particular request, they would seek counsel from their chaplain and then consult the unit commander. However, some commissioned and noncommissioned officers interviewed stated they were unaware of updated Service guidance regarding religious accommodations resulting from changes to DoD Instruction 1300.17. Several chaplains interviewed also confirmed that commissioned and noncommissioned officers with whom they worked were unaware of regulation changes.

Recommendation, Management Comments, and Our Responses

Recommendation 6

We recommend Army Deputy Chief of Staff for Personnel; Chief of Naval Personnel; and Air Force Deputy Chief of Staff for Manpower, Personnel, and Services ensure that programs of instruction for commissioned and noncommissioned officers include the updated guidance regarding religious accommodations contained in Department of Defense Instruction 1300.17.

Army Deputy Chief of Staff for Personnel Comments

Based on the response, we infer that the Army Deputy Chief of Staff for Personnel concurred with the recommendation. The Deputy Chief of Staff stated that in coordination with the Deputy Chief of Staff, G3/5/7 and the Office of the Chief of Chaplains, they planned to review and assess current training to determine how best to incorporate religious accommodation policy in DoD Instruction 1300.17 into professional military education courses.

Our Response

Comments from the Army Deputy Chief of Staff for Personnel were responsive. No further comment is required.

Chief of Naval Personnel Comments

Acting Assistant Secretary of the Navy for Manpower and Reserve Affairs concurred with the recommendation, stating that they planned to release a revision of SECNAVIST 1730.8 this calendar year that will include the updated guidance regarding religious accommodations contained in DoD Instruction 1300.17 in order to provide the best guidance to all Sailors and Marines.

Our Response

Comments from the Acting, Assistant Secretary of the Navy for Manpower and Reserve Affairs, responding on behalf of the Chief of Naval Personnel, were partially responsive. In response to the final report, we request that the Chief of Naval Personnel describe any plans to include updated guidance regarding religious accommodations to training programs of instruction for commissioned and noncommissioned officers.

Air Force Deputy Chief of Staff for Manpower, Personnel, and Services Comments

Air Force Deputy Chief of Staff for Manpower, Personnel, and Services concurred with the recommendation, stating that the Air Force updated Air Force Instruction 1-1, "Air Force Standards," on November 12, 2014, to comply with DoD Instruction 1300.17, and modified religious training at professional military education courses to include the updated language from DoD Instruction 1300.17. The Deputy Chief of Staff also said that the Air Force was publishing an updated computer-based "Religious Freedom Training," for all airmen.

Our Response

Comments from the Air Force Deputy Chief of Staff for Manpower, Personnel, and Services, were responsive. No further comment is required.

Objective 2 Results

Issuance and Compliance with Regulations Designed to Protect the Rights of Conscience of Chaplains

As previously stated, chaplains are required to perform faith-specific ministries within the tenets or faith requirements of their endorsing organizations, and to provide or facilitate religious support, pastoral care, and spiritual wellness to all service members. These requirements may conflict. Section 533 states that no member of the Armed Forces may “discriminate or take any adverse personnel action against a chaplain” for refusing to perform a rite, ritual, or ceremony that is contrary to his or her conscience, moral principles, or religious beliefs. For example, religious differences prohibiting certain chaplains from baptizing infants are covered in the protections provided by Section 533. The repeals of the Defense of Marriage Act and the prohibition against service by openly homosexual service members led to concerns by some chaplains regarding the performance of same-sex marriage services and the impact on the provision of religious support and spiritual wellness for all service members.

Status of Issuance of Regulations Containing Required Language

DoD updated DoD Instruction 1304.28, “Guidance for the Appointment of Chaplains for the Military Departments,” in March 2014, within the 90-day timeframe mandated by Public Law 113-66 section 532. The update implemented the protections afforded by Section 533.

Military Services regulations met the requirement of paragraph (b) of Public Law 113-66 section 532.¹⁴ Regulations protected chaplains against being forced to perform a rite, ritual, or ceremony contrary to their beliefs or religious practices. It also protected them against discrimination or adverse action when they refused to perform a rite, ritual, or ceremony that was contrary to their beliefs or religious practices.

Prior to publication of the updated DoD Instruction 1304.28, regulations governing the appointment of chaplains already prohibited anyone from requiring chaplains to perform any service contrary to their beliefs or religious practices. The requirement for chaplains to maintain the endorsement of an ordaining body to

¹⁴ Military Services regulations protecting the rights of conscience protections for chaplains were Army Regulation 165-1, “Army Chaplain Corps Activities,” dated December 3, 2009; Air Force Policy Directive 52-1, “Chaplain Corps,” dated December 19, 2013; Air Force Policy 52-101, “Planning and Organizing,” dated December 5, 2013; Navy SECNAVINST 1730.10, “Chaplain Advisement and Liaison,” dated January 23, 2009; and Navy SECNAVINST 1730.7D, “Religious Ministry Within The Department of the Navy,” dated August 8, 2008.

remain in military service added further protection from their having to take any action contrary to religious beliefs and practices. A chaplain who elected to perform rites or rituals not doctrinally accepted by the endorsing agent could lose the endorsement of his or her ordaining body, and, thereby, no longer remain a military chaplain.

DoD Directive 1350.2, "Department of Defense Military Equal Opportunity (MEO) program," dated November 21, 2003, also prohibits discrimination consistent with the language of DoD Instruction 1304.28. Specifically, DoD Directive 1350.2 forbids practices that unlawfully discriminate against military personnel, including chaplains, based on religion. The equal opportunity policies of the Military Services also prohibited a commander from taking adverse action against a chaplain for failing to comply with a request contrary to the chaplain's beliefs or religious practices. These protections were also in place prior to publication of the updated DoD Instruction 1304.28.¹⁵

Commanders, chaplains, and noncommissioned officers participating in our panel discussions were aware of the impacts resulting from the repeal of the Defense of Marriage Act and the repeal of the policy prohibiting open homosexuality in the Services. Several chaplains expressed relief that legal protections were in place to help address any anxiety caused by changing military policies resulting from changes to U.S. law regarding same-sex marriage. In addition, chaplains interviewed indicated that training and guidance from their Chief of Chaplains Offices clearly described expectations concerning support for homosexual service members within the constraints imposed by chaplain's religious beliefs or endorsing bodies. However, while discussing the topic, some chaplains reported that the policies of their endorsing bodies needed clarification. Chaplains and commanders said the Services had enough diversity across the doctrines of endorsing bodies to provide for the needs of same sex couples. Officials cited examples of chaplains working to meet the needs of same sex couples when these needs could not be met by a unit chaplain.

Status of Compliance with Regulations Designed to Protect the Rights of Conscience of Chaplains

Dissemination of the requirements of Section 533 of the Public Law by the Military Services was ongoing. Representatives from the Services' Offices of the Chief of Chaplains collaborated with training commands to modify professional military education courses to include rights of conscience protections for service

¹⁵ Military Service Equal Opportunity regulations were Army Regulation 600-20, "Army Command Policy," dated November 6, 2014; Chief of Naval Operations Instruction 5354.1F, "Navy Equal Opportunity Policy," dated September 20, 2011; Marine Corps Order P5354.1D, "Marine Corps Equal Opportunity (EO) Manual," dated October 5, 2011; and Air Force Instruction 36-2706, "Equal Opportunity Program," dated August 28, 2006.

members and chaplains. Officials from the DoD Office of Diversity Management and Equal Opportunity stated that equal opportunity officers conducted training at local commands. Also, representatives from the Services' Chiefs of Chaplains stated that they had instructed command chaplains in their role as advisors to commanders to increase awareness of Section 533 requirements. Instructors and officials at the Service Chaplain Professional Military Education Schools said they offered training on religious pluralism, accommodations processes, and current DoD and Service regulations spread widely throughout the curricula of the schools.

DoD databases contained three contacts in which chaplains alleged they were the subject of unfair personnel actions.¹⁶ All three instances described conflicts between chaplains and their respective senior chaplains in deployed locations.

We identified no instances during interest group interviews, panel discussions, or the review of allegation databases in which a commander required a chaplain to perform a service contrary to his or her conscience, moral principles, or religious beliefs. Further, chaplains we interviewed explained that the protections offered by Section 533 reinforced existing practices.

The principal issues raised during interviews with active duty members, endorsing group representatives, and religious interest groups included service member accessibility to a religious representative of their desired faith, the numbers of chaplains representing "low-density" religious groups, and the suitability of meeting space and facilities for religious services. These concerns are outside the scope of this report. While we did not obtain sufficient information to discuss these issues in depth, relevant data collected during this assessment is summarized in Appendix C.

Two representatives from chaplain endorsing bodies stated that they had received reports of chaplains feeling pressured to perform services or duties that conflicted with their beliefs and instructions given by endorsing organizations. However, both representatives characterized the pressure as coming from senior chaplains and not the unit chain of command.

Interviews also yielded a couple of instances of unit commanders enforcing the protections for chaplains. A representative from an endorsing body discussed two cases in which commanders supported their chaplains against demands by senior chaplains. In both cases, adverse action against the chaplains was prevented, and, in one case, the relief of the senior chaplain resulted.

¹⁶ For the period from January 1, 2011, through December 31, 2014.

Chaplains interviewed did cite examples of requests from commanders to perform services outside the doctrinal guidance of their endorsing bodies. In some of these instances, the chaplains stated that they addressed the situation by explaining that they could not conduct the requested service and/or found suitable substitutes. In certain instances, chaplains reported receiving support from the chaplain command chain. Interviews with chaplains indicated a high level of support for less experienced chaplains regarding their rights of conscience protections and responsibilities to provide services for all service members.

Objective 3 Results

Number of Contacts Received by DoD from Service Members Concerning Rights of Conscience

As shown in figure 6, our query of DoD and Military Department Office of the Inspector General databases, including Combatant Command Inspectors General, yielded 232 contacts made by service members, including chaplains, potentially concerning their rights of conscience from 2011 to 2014. We chose this timeframe to ensure data would include the impacts of the repeal of the Defense of Marriage Act and the prohibition against service by openly homosexual service members.

In order to consider as many relevant contacts as possible, we expanded our review to include databases from the Defense Privacy and Civil Liberties Division and the Equal Opportunity offices of the Military Services. These databases yielded an additional 166 unique contacts potentially concerning the rights of conscience of service members and chaplains over the same period, for a total of 398 relevant contacts over the four-year time period.

Figure 6. *Contacts Received by DoD Regarding Rights of Conscience, 2011–2014*

Contact Source	Totals	Contacts per Year			
		2011	2012	2013	2014
Inspector General Contacts					
Defense Inspector General*	27	6	8	5	8
Military Services Inspectors General	202	16	72	66	48
Combatant Command Inspectors General	3	0	0	0	3
Subtotal—Inspectors General Contacts	232	22	80	71	59
Non-Inspector General Contacts					
Defense Privacy and Civil Liberties Division**	93	25	17	34	17
Military Services Equal Opportunity Offices	73	16	16	32	9
Subtotal—Non-Inspector General Contacts	166	41	33	66	26
Total Contacts	398	63	113	137	85

* Data submitted by the Defense Inspector General included duplicate data from the Military Services Inspectors General, which was eliminated in the office's total count.

** Data submitted by the Defense Privacy and Civil Liberties Division included duplicate data from across the department, which was eliminated in the office's total count.

In all, we requested data from 18 offices, 12 of which found records pertaining to potential rights of conscience violations.¹⁷ Because none of the databases from which we requested information were coded for “rights of conscience,” we supplied each office with a list of key words for query based on our interviews with interest groups. While sufficient to satisfy this objective, it was impracticable to verify the completeness of the data. Potential data inaccuracies could have resulted from:

- mischaracterization of the nature of the complaint by either the complainant or the recipient as a result of not having a defined code for “rights of conscience” issues and/or
- individuals choosing not to report through official complaint channels.

Additionally, we generated the number of related contacts using a key-word search of databases, which served as a proxy for or indicator of rights of conscience. Because of confidentiality/anonymity requirements, we were unable to consistently differentiate contacts generated by service members from those made by DoD civilians. Acknowledging these constraints, an analysis of the 398 identified contacts by category, location, and related faith groups generated issues and concepts worth discussion.

¹⁷ The 18 databases queried were: DoD Inspector General (1), Defense Privacy and Civil Liberties Division (1), Military Service Inspectors General (4), Combatant Command Inspectors General (9), and Military Department Offices of Equal Opportunity (3).

Relevant Contacts by Category

Twenty-seven percent (107 of 398) of the contacts fit into the five categories of accommodation created by USD (P&R) (as described on page 4). We broke the remaining 291 contacts into 17 self-generated categories for analysis: 11 relating to leadership and command climate and 6 concerning external forces or process questions.¹⁸ Figure 7 shows the result of this classification.

Figure 7. Subject of Contacts by Year

	2011	2012	2013	2014	Total
Total Contacts by Year	63	113	137	85	398
Subject of Contact by Year					Percentage of Total Contacts by Subject
Dietary	0	8	10	3	5.3%
Grooming	1	1	3	4	2.3%
Medical	1	1	3	2	1.8%
Uniform	2	4	1	2	2.3%
Worship	12	18	20	10	15.1%
Total					26.6%
Other: Command Climate Related					59.5%
External or Process Related					13.8%

Note: Numbers do not equal 100 percent due to rounding

Source: DoD Inspector General analysis

Based on our sorting of the data, the majority of contacts initiated through official channels related to rights of conscience were the result of decisions by unit leadership or of the unit command climate. Given the limitation of the data described in Figure 6, we could not definitively conclude the prevalence of violations of the rights of conscience of service members. In the future, one method by which the Military Services could improve data accuracy would be the use of Command Climate Surveys, periodically conducted by the Service Equal Opportunity branches. Expanding existing questions on religious matters to more clearly include nontheistic belief systems would generate valuable, confidential information.

¹⁸ For a list of subject definitions, see Appendix D.

In addition, many of the DoD offices that provided data were required to feed information regarding rights of conscience violations to the Defense Privacy and Civil Liberties Division for inclusion in the Department's reports to Congress on Civil Liberties protections. These databases did not include a code identifying "rights of conscience" issues. This was understandable because instances seemed to be infrequent and the protections were recent. However, our data query of the Inspectors General and Equal Opportunity Offices of the Military Services yielded more results than those provided by the Defense Privacy and Civil Liberties Division. This raised questions about the efficiency and completeness of the data exchange supporting the quarterly report. Minor changes to the coding requirements in the Military Services databases would allow responsible officials to effectively capture data and to separate contacts generated by service members (protected by Section 533) and by Department civilians who have different protections for their expression of rights of conscience.

Recommendation, Management Comments, and Our Responses

Recommendation 7

We recommend the Under Secretary of Defense for Personnel and Readiness, in coordination with the Office of Diversity Management and Equal Opportunity, the Service Military Equal Opportunity and Inspectors General Offices, and the Defense Privacy and Civil Liberties Division, develop a more efficient and effective means of gathering data in support of the mandated report to Congress detailing DoD civil liberties oversight efforts, including those data regarding the status of rights of conscience protections for service members.

Under Secretary of Defense for Personnel and Readiness Comments

Deputy Assistant Secretary for Military Personnel Policy concurred with the recommendation, stating that the Department will establish a working group to review the data collection efforts reflected in the recommendation.

Our Response

Comments from Deputy Assistant Secretary for Military Personnel Policy, responding on behalf of USD (P&R), were responsive. No further comment is required.

Air Force Inspector General Comments

While not required to provide comment to the recommendation, the Air Force Inspector General gave evidence that they added a special category for “Rights of Conscience” to their database, allowing for quicker extraction of all related complaints or contacts.

Our Response

Once established, the Department working group should consider the database changes made by the Air Force Inspector General. No further comment is required.

Relevant Contacts by Location

Of the 398 records identified, 238 contained information identifying the location of the complainant as in the United States (188 contacts), stationed outside the United States (25), or deployed to a contingency operation (25). Notably, four of the 25 contacts generated from service members stationed outside the United States



Figure 8. Chanukah Service
Source: U.S. Navy

and several comments during interviews related to dietary accommodations. Among them were those regarding kosher or halal foods in the military dining halls, childcare facilities, or military commissaries.

Chaplains we interviewed reinforced the concern over the unavailability of religious food items at overseas locations. For example, they noted challenges associated with obtaining food for

Passover or Chanukah, for which proper observance requires kosher food items not normally stocked throughout the year. One chaplain reported purchasing the necessary items with personal funds to ensure timely meal preparations. Another chaplain, stationed in Europe, reported that the commissary's stock of kosher meat was limited. Service members had to travel to another city to purchase kosher red meat.

A chaplain in U.S. Pacific Command believed that the Defense Commissary Agency lacked general knowledge of kosher requirements, requiring submission of the food order for Passover a full four months before the holiday. The chaplain further pointed out that the relatively small number of Jewish service members and dependents were unable to purchase kosher items from the local community and had no practical source other than the military commissary. While most of the reports concerned the unavailability of kosher foods, chaplains also discussed issues with the unavailability of halal foods, affecting Muslim service members.

Recommendation, Management Comments, and Our Response

Recommendation 8

We recommend the Under Secretary of Defense for Personnel and Readiness, in conjunction with the Armed Forces Chaplains Board and the Defense Commissary Agency, determine a more effective method to match the availability of kosher and halal foods in overseas locations to faith community demands.

Under Secretary of Defense for Personnel and Readiness Comments

Deputy Assistant Secretary for Military Personnel Policy concurred with the recommendation, stating that chaplains continually work with installation commanders to facilitate meeting the religious needs of military personnel and their families, including holy days. However, the Armed Forces Chaplains Board will initiate a review with the organizations providing perishables to military families to help ensure that there are no gaps in resources.

Our Response

Comments from Deputy Assistant Secretary for Military Personnel Policy, responding on behalf of USD (P&R), were responsive. No further comment is required.

Relevant Contacts by Faith Group

USD (P&R) classified groups with smaller numbers of self-identifying members as “low density” faith groups, which included Judaic, Muslim, Buddhist, Hindu, Pagan, and Wiccan faith traditions. Service members could self-identify with a faith group at any point in their career. Service members who self-identify as having a nontheistic belief system were also recognized as a formal group and were considered low density. Figure 10 shows that 84 of the 398 contacts (21 percent) related to low density groups, and 42 of the 84 (50 percent) related to the Muslim faith.

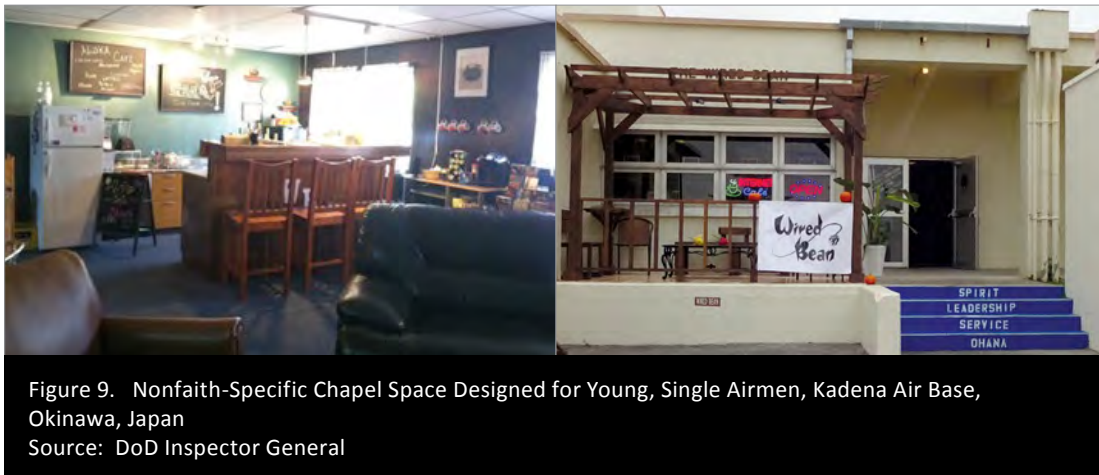


Figure 9. Nonfaith-Specific Chapel Space Designed for Young, Single Airmen, Kadena Air Base, Okinawa, Japan
Source: DoD Inspector General

Figure 10. Contact Regarding Low Density Faith Group Concerns

	Contacts Containing Key Words for Islam	Contacts Containing Key Words for Judaism	Contacts Containing Key Words for Nontheists	Contacts Containing Key Words for Other Low Density Faith Groups	Combined Contacts by Low Density Faith Groups*
Total Contacts by Key-Word Searches	42	22	10	10	84

Source: DoD Inspector General Analysis

*This category combined key-word searches that indicated the contact dealt with matters related to Buddhist, Hindu, Pagan, Rastafarian, and Wiccan faiths.

One likely reason for the number of contacts is because, as of March 2015, DoD had few chaplains representing long recognized “low density” faiths, such as Judaism or Islam. Chaplains assigned to the Navy described traveling from ship to ship via helicopter (nicknamed “Holy Helos” or “Kosher Copters”) to administer services to widely dispersed service members. Chaplains described deploying to combat

zones during holidays to ensure troop access. The Military Services did not have any chaplains representing other low density groups or faiths, such as Humanists, Rastafarians, Sikhs, Pagans, or Wiccans, represented in the Military Services.

During initial fieldwork, we interviewed one rabbi, one imam, and one Eastern Orthodox priest, who all indicated that low density faiths had unique needs that the existing mix of military chaplains may be challenged to satisfy. After identifying this gap, we added an additional interview session exclusively with chaplains endorsed by low density faith groups. We found the information from all sources to be generally in agreement. More comprehensive data regarding rights of conscience issues will allow USD (P&R) to better understand and address this issue.

Social Media and Nontraditional Reporting Channels

During the time period we conducted our assessment, multiple instances of rights of conscience protection issues were broadcast in social and traditional media. Correcting the initial responses by commanders unnecessarily consumed command time and other resources. Coverage in social media allowed issues to become distorted regardless of the facts.

For example, a civilian nontheistic advocacy site posted a complaint from a service member describing how, during a command-sponsored resiliency training event, a chaplain handed out a flyer listing secular and Christian suicide prevention resources with Christian scripture verses on the back. In response, the commander of the brigade issued a letter of concern to the chaplain and the chaplain's battalion commander citing improper inclusion of religion on a training aid. The chaplain then contacted a different civilian advocacy group, which posted a response supporting him. While the complaints and documentation supporting this exchange were publicly available, official complaint channels were not engaged and the incident did not appear in our data set. Comprehensive data would raise awareness of problems, but only if issues are captured.

In another example, a service member entering the gate of an Air Force facility complained on social media of guards telling everyone to "have a blessed day." After a commander issued an order that the guards should not use that greeting, a Facebook page protesting the order generated more than 6,500 "likes" in less than a week. The wing commander later rescinded the order, but not until the situation was covered in the traditional national news media.

In November 2014, the Air Force published a “Religious Freedom and Religious Accommodation Communication Card” to assist commanders, supervisors, and senior enlisted advisors. The card contained applicable standards, a recommended response methodology, and suggested language for an official response. However, DoD policies and resources to guide both commanders and service members do not sufficiently address the use and impact of social media concerning matters of conscience, moral principles, or religious beliefs.

Recommendation, Management Comments, and Our Response

Recommendation 9

We recommend the Under Secretary of Defense for Personnel and Readiness, in conjunction with Office of Diversity Management and Equal Opportunity and the Armed Forces Chaplains Board, develop guidance summarizing resources and potential responses to the use of social media and other nonofficial reporting channels for rights of conscience issues.

Under Secretary of Defense for Personnel and Readiness Comments

Deputy Assistant Secretary for Military Personnel Policy concurred with the recommendation, stating that the Armed Forces Chaplains Board will review existing training and guidance provided to service members.

Our Response

Comments from Deputy Assistant Secretary for Military Personnel Policy, responding on behalf of USD (P&R), were partially responsive. The Deputy Assistant Secretary should ensure that the review by the Armed Forces Chaplains Board includes input from the Office of Diversity Management and Equal Opportunity and other DoD organizations familiar with the topic. No further comment is required.

Appendix A

Scope and Methodology

We conducted this assessment from July 2014 through April 2015 in accordance with the “Quality Standards for Inspections and Evaluations,” published by the Council of Inspectors General on Integrity and Efficiency in January 2012. Our objective was to assess DoD compliance with Public Law 112-239 Section 533, “Protection of Rights of Conscience of Members of the Armed Forces and Chaplains of Such Members,” as amended by Public Law 113-66 section 532, “Enhancement of Protection of Rights of Conscience of Members of the Armed Forces and Chaplains of Such Members” (Section 533) for members of the Armed Services. We believe that the evidence obtained was sufficient and appropriate to provide a reasonable basis for our findings and conclusions based on our assessment objective.

Our scope was defined by the statutory request regarding implementation of the protections provided by Section 533 by DoD and the Military Services. This applied to the Armed Forces, as defined in title 10 of the United States Code as the Army, Navy, Marine Corps, and Air Force. As such, we excluded the Coast Guard, Army National Guard, and Air National Guard.

To assess our objective, we reviewed Federal laws and Department policy, including DoD directives and instructions and appropriate Military Service policy and regulations. We reviewed prior oversight reports related to our objectives and tracked stories appearing in social and traditional media that were reported during the conduct of this project.

As identified in figure 11, we interviewed 27 religious interest/advocacy groups and ecclesiastical endorsing agencies to inform our research. These groups and agencies were chosen based on an analysis of their theologies, beliefs, or tenets in an effort to gain a balanced perspective. We analyzed the issues they presented as a proxy for interviewing service members or conducting a DoD-wide survey.

We interviewed relevant officials at the USD (P&R), Office of Diversity Management and Equal Opportunity, Defense Privacy and Civil Liberties Division, Armed Forces Chaplains Board, and Military Departments’ Chaplain Schools. We also engaged offices in the Military Services Chiefs of Chaplains, Personnel Offices, Training Commands, Service Recruiting Commands, and Military Service Academies, interviewing officials directly responsible for Service policy implementation of Section 533.

Figure 11. Interest Groups Contacted Regarding Rights of Conscience Protections

Interest Groups and Ecclesiastical Endorsing Agencies	
Aleph Institute, Chaplaincy Program	Jewish Chaplains Council
American Civil Liberties Union	Military Association of Atheists and Freethinkers
American Military Partner Association	Military Religious Freedom Foundation
Americans United for the Separation of Church and State	National Council on Ministry to the Armed Forces
Archdiocese for the Military Services	North American Mission Board, Southern Baptist Convention
Baptist Joint Committee for Religious Liberty	Presbyterian Council for Chaplains and Military Personnel
Chaplain Alliance for Religious Liberty	Secular Coalition for America
Church of God in Christ	Seventh-Day Adventists
Church of Jesus Christ of Latter Day Saints (Military Readiness Division)	Sikh Coalition
Circle Sanctuary	The Liberty Institute
Council on American Islamic Relations	The Military Chaplains Association USA
Episcopal Office of Armed Service and Federal Ministries	Unitarian Universalist Association
Hindu American Foundation	United Methodist Church, General Board of Church and Society
Interfaith Alliance	

Source: DoD Inspector General

Assessment team members interviewed commanders, chaplains, and senior noncommissioned officers at Fort Bragg, North Carolina; Naval Station, Norfolk, Virginia; Camp Lejeune, North Carolina; Seymour-Johnson Air Force Base, North Carolina; and the Chaplain Schools at Ft. Jackson, South Carolina. We also interviewed commanders, chaplains, and noncommissioned officers at military facilities in Okinawa, Korea, Qatar, Hawaii, and Afghanistan, using video- and audio-teleconference. These interviews gave the team an understanding of Section 533-related policy impacts on service members across the Services in accompanied and unaccompanied assignments, and policy implementation among units with various operational tempos at bases in the United States and deployed overseas. Finally, we conducted teleconference discussions exclusively with chaplains representing low density faith groups.

Public Law 113-66 Section 533 required the Inspector General of the Department of Defense to identify the number of contacts made to Department Inspectors General during the 18 months after the Secretary of Defense issued regulations

implementing Section 533 protections. We extended the time period for our request to include the repeal of the prohibition against service by homosexuals (repealed in September 2011) and the repeal of the Defense of Marriage Act (repealed in June 2013), collecting data from January 2011 through December 2014.

To meet this requirement and enable comparison, we expanded our data collection beyond both the Inspectors General, requesting data from the Defense Privacy and Civil Liberties Division and military department Equal Opportunity Offices. Our request therefore encompassed 18 databases that could contain contacts relating to rights of conscience:

- DoD Inspector General Whistleblower Reprisal and DoD Hotline;
- Defense Privacy and Civil Liberties Division;
- Military Service and Combatant Commands Inspectors General of the Army, Navy, Marine Corps, Air Force, U.S. Africa Command, U.S. Central Command, U.S. European Command, U.S. Northern Command, U.S. Pacific Command, U.S. Southern Command, U.S. Special Operations Command, and U.S. Strategic Command; and
- Military Department Equal Opportunity Offices of the Army, Navy, Marine Corps, and Air Force.

Of the 18 organizations queried, 12 returned relevant data, the remaining 6 provided negative reports.

We provided database owners with a list of query terms determined after our interviews with, and using feedback from, religious interest groups and endorsing bodies. Database owners executed the query using the following terms:

atheist	hair	LDS Church	Rosh Hashanah
beard	hajj	mechanical devices	Rosh Hoshanah
Bible	Hanukah	Muslim	Sabat
ceremony	Hanukkah	new year	Sabbath
Chanukah	head gear	nontheist	salah
Christians	head scarf	orthodox	salat
convert	hell	pants	scripture
damn	hijab	pentacle	Sikh
diet	holy days	persecuted	spiritual protection
disciple	Humanist	pilgrimage	Torah
dominion	Islam	prayer	turban
emergency contact	Jesus Christ	proselytize	undergarment
evangel	Jumm'ah	Ramadan	witnessing
fundamentalist	kosher	religion	yarmulke
hage	lay leader	religious liberty	Yom Kippur

We then grouped data into broad categories in order to identify potential patterns. We used these patterns to guide our panel discussions with commanders, chaplains, noncommissioned officers, and Inspector General representatives. Where multiple categories could apply to one record we determined a primary category and did not conduct any analyses of secondary codes. To simplify reporting we assigned these categories to two main classes: those related to leadership and command climate and questions addressing processes or topics external to units.

Our third objective required a description of the existing condition, for which summarized data from queries of the databases was sufficient. In support of our first and second objectives, we used contact data as one source to discuss DoD compliance with regulations. Testimonial evidence from commanders, chaplains, noncommissioned officers, and representatives from chaplain endorsing bodies and religious interest groups corroborated our analysis of the contact data.

We combined information obtained from contact data, panel discussions, and interviews with senior DoD officials and interest group officials to answer our objectives and increase data reliability. We concluded that the data obtained was reliable enough for our purpose because we only presented general indications, rather than specific cases, from the data sets.

Limitations

Several factors impacted the performance of this assessment. The underlying theme of this assessment is religious pluralism, a topic from which it is very difficult to eliminate personal bias. We attempted to mitigate this by interviewing a wide range of religious interest groups. We allowed commands to self-select commanders, chaplains, and noncommissioned officers for our interviews, but believe that had no significant impact on our results. We considered these along with other interviews with religious interest groups and chaplains and the content of contact data as sufficient proxies to meet project objectives. Finally, we considered verification of the content of contact data to be outside the scope of this review.

Use of Computer-Processed Data

We used computer-processed data drawn from the 18 databases previously identified in this appendix to determine the number of times DoD was contacted regarding an incident involving the conscience, moral principles, or religious beliefs of a member of the Armed Forces. In addition, we used the data sets gained from these inquiries to inform our assessment of the Military Service's implementation and compliance with the protections granted by Section 533.

Once received, we screened the data sets to remove any records made by individuals outside the scope of this assessment, including civilians, those incarcerated in DoD facilities, or members of the Army National Guard. We also screened the data to remove duplicate entries resulting from summarized information, such as Military Service data supplied to the Defense Privacy and Civil Liberties Division data set. We did not, however, remove multiple contacts responding to what appeared to be the same incident.

The data sets had limitations because the information was not collected specifically for the purpose of tracking rights of conscience complaints. The accuracy of the contact data provided by each organization depended on the content of text fields and the precision of data entry. The choice of key words, data entry errors, and reliance upon owning organizations to generate results all potentially impacted the completeness of each data set. We coded the data for analysis using subjective categories we developed based on our understanding of the issues. Our efforts to screen the data were limited by truncated data entries not designed to be queried across disparate data systems. For example, entries may not have indicated whether an individual contacting an office was a civilian because the purpose of the data collection may not have required such information to be recorded. Finally, the databases capture only those challenges to "rights of conscience" for which a service member or chaplain initiated a formal contact.

In addition, we monitored traditional and social media websites to gain an understanding of the prevalence of issues surrounding rights of conscience protections. Many websites and social media feeds use algorithms to determine content. The scope of our monitoring may have been impacted by the content these algorithms generated.

Use of Technical Assistance

We consulted the Quantitative Methods Division within the DoD Inspector General to assist with our analysis of the contacts made to the Department regarding rights of conscience protections.

Prior Coverage

The Department of Defense Office of the Inspector General, Department of Defense Independent Review, and Congressional Research Service had issued reports that were relevant within the context of our assessment objective. These reports discussed the extent to which the Department of Defense issued and complied with regulations designed to protect the rights of conscience for service members and chaplains and the number of contacts received by the Inspectors General.

Unrestricted Department of Defense Office of the Inspector General reports can be accessed on the Internet at <http://www.dodig.mil/pubs/index.cfm#4>.

Unrestricted DoD reports can be accessed on the Internet at <http://www.defense.gov/pubs/>.

DoD Inspector General

Report No. DODIG IE-2004-001, "Evaluation Report on the DoD Chaplain Program," dated November 10, 2004

Department of Defense

DoD Independent Review, "Protecting the Force: Lessons from Fort Hood," dated January 2014, pages 16-17 http://www.defense.gov/pubs/pdfs/dod-protectingtheforce-web_security_hr_13jan10.pdf

Congressional Research Service

Report No. CRS R41171, "Military Personnel and Freedom of Religious Expression: Selected Legal Issues, Congressional Research Service," dated April 8, 2010, pages 5-7, 15-16 <http://fas.org/sgp/crs/misc/R41171.pdf>

Appendix B

Examples of Accommodations Not Requiring a Waiver of Military Department or Service Policy

According to DoD officials, accommodations that did not require waivers occurred frequently and were not tracked at any level of the enterprise. Representatives from USD (P&R) reported that most accommodation requests fell into five general categories: dietary restrictions, grooming standards, uniform, medical, and worship practice requests. During our discussions with commanders, chaplains, and noncommissioned officers, participants provided examples of each of the types of accommodations not requiring a waiver.

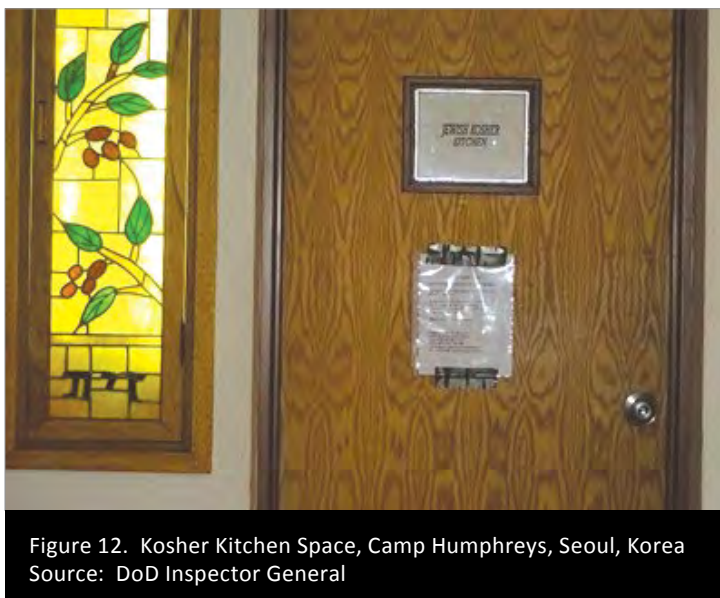


Figure 12. Kosher Kitchen Space, Camp Humphreys, Seoul, Korea
Source: DoD Inspector General

Dietary Restrictions.

One Army chaplain reported observing multiple Jewish Soldiers submit accommodation requests for kosher foods. The chaplain noted that while the accommodation requests were eventually granted, approval took several months. An Army battalion commander described his experience with dietary accommodation requests

by stating that Soldiers submitted requests for items, such as halal meals, to their immediate supervisor or through chaplains assigned to the units.

Grooming standards. An Air Force commander explained that, in his experience, the approval of accommodation requests depended on mission requirements. He explained that in deployed environments officials may not have been able to approve accommodation requests, but on U.S. bases there was greater flexibility. A Muslim chaplain reported that he frequently received requests for assistance regarding service members who desired to wear a beard. While generally requiring a waiver to regulations, participants in several panels described service members requesting and obtaining medical waivers to wear beards (based on skin conditions) instead of requesting a waiver to regulations.

Uniform. Service member requests for accommodation included tattoos, jewelry, or headgear. One noncommissioned officer described how a Mormon Airman wearing a religious undergarment that showed under his uniform was challenged by a noncommissioned officer outside of his unit. The noncommissioned officer was informed that the Airman had an approved accommodation for wearing the garment.

Chaplains discussed a variety of experiences regarding the wearing of kippot (yarmulkes). The chaplains stated that they believed the updated DoD Instruction 1300.17 created confusion as to whether or not service members are permitted to wear the kippot. For example, Navy chaplains stated that before being allowed to wear the kippot, the Marine Corps required Marines to submit a waiver request to the Deputy Commandant for Manpower and Reserve Affairs, and that the request took months for approval. They viewed this as a new requirement. Army, Navy, and Air Force regulations allowed for a waiver by lower-level commanders.

Interest groups also discussed challenges regarding service members wearing religious headgear. Representatives explained that service members could not submit religious accommodation requests prior to joining the Service. Once they entered the Service, recruits were required to comply with regulations until they received approval of a waiver. Service members, with the exception of the Army, could not submit a waiver until reaching their post-training duty station, a process that could take more than a year. The lack of availability of a waiver forced recruits to violate tenets of their religion upon joining the Service.

Medical. Accommodations involving relief from blood transfusions, surgeries, or immunizations were approved by Service Medical Commands and occurred less frequently. An official from a Chief of Chaplains Office explained that an immunization waiver required approval from a general officer. A chaplain told us that this directly impacted a service member of the Christian Scientist faith.



Figure 13. Muslim Worship Place,
Fort Bragg, North Carolina
Source: DoD Inspector General



Figure 14. Nonfaith-specific Meeting Chapel Worship
Space, Kadena Air Base, Okinawa, Japan
Source: DoD Inspector General

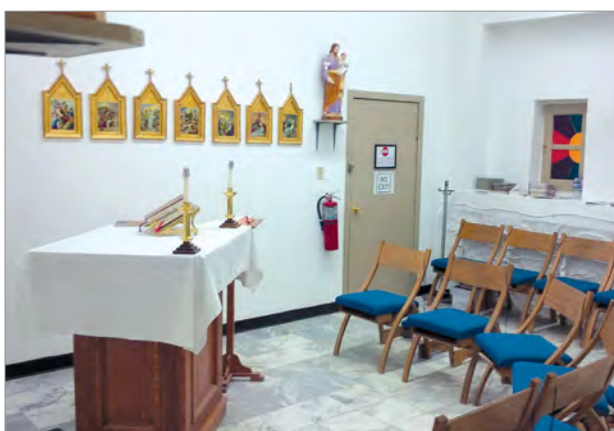


Figure 15. Catholic Worship Space,
Bagram Air Base, Afghanistan
Source: DoD Inspector General

Worship Practice. Officials in USD (P&R) stated that most accommodation requests were related to scheduling conflicts arising from service members who wished to attend religious services on days less traditionally set aside for worship. For example, Seventh Day Adventists and Jewish service members observe worship on Saturdays, while Muslims have daily prayer times and typically reserve Friday as a day of worship. Battalion commanders at one location reported that while most accommodation requests involved time off for worship, these requests were typically resolved at lower levels in the unit unless the service member would miss training or a unit deployment. An Air Force commander gave a second example, describing an Airman who requested a change of duty hours to accommodate religious fasting. The commander stated that he approved the accommodation request after consulting with his chaplain. Chaplains explained that scheduling multiple services at various times was the preferred mitigation strategy to accommodate service members' desire to attend religious services—particularly in deployed locations with a high operational tempo.

Appendix C

Chaplaincy Changes, Accessibility, and Worship Spaces

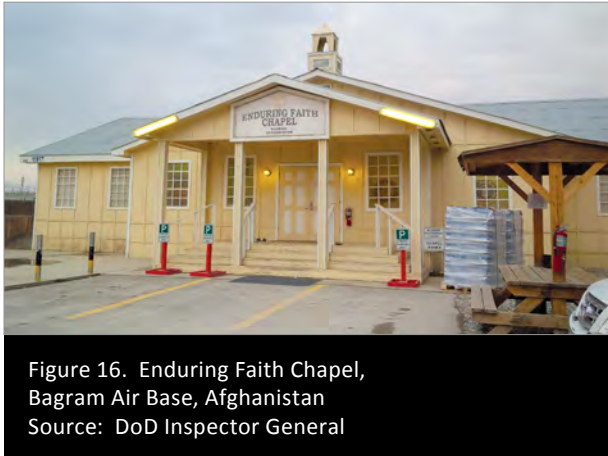


Figure 16. Enduring Faith Chapel, Bagram Air Base, Afghanistan
Source: DoD Inspector General

Figure 17 illustrates available and filled chaplain billets for each Military Service with a comparison to data from 2003. Service Chief of Chaplains officials stated that chaplain billets and staffing were determined by some combination of command structure and manpower or force structure functions within each Service. Many officials we interviewed indicated that

the numbers of chaplains available across the force was not sufficient to meet the demand for their Service. In particular, Navy representatives indicated that chaplain billets for the Marine Corps had been reduced over the past several years, even though as of March 2015 the Marine Corps’ 272 billets were all filled.

Figure 17. Available Chaplains Billets in 2003 and 2015

		2003 Available Chaplain Billets*	2015 Available Chaplain Billets	2015 Filled Chaplain Billets	2015 Percent Filled Chaplains Billets
Department of the Army	Active Duty	1,367	1,537	1,556	101%
	Reserves	N/A	723	782	108%
Department of the Navy**	Active Duty	912	849	803	95%
	Reserves	N/A	249	240	96%
Department of the Air Force	Active Duty	612	504	482	96%
	Reserves	N/A	381	287	75%

Source: Chief of Chaplains Offices and DoD Inspector General Analysis

Notes: Army data as of March 1, 2015. Navy data as of March 4, 2015. Air Force Active duty data as of February 23, 2015; Air Force Reserves data as of January 25, 2015.

* 2003 data from DoD Inspector General Report No. DODIG IE-2004-001, “Evaluation Report on the DoD Chaplain Program,” dated November 10, 2004. “N/A” indicates data not available from that report.

** The Department of the Navy supplies chaplains for the Navy, Marine Corps, Coast Guard, and the Merchant Marine Academy. The 2015 total for the Active Duty Navy does not include the 41 billets provided to the Coast Guard or 1 billet provided to the Merchant Marine Academy. The 2003 total included Coast Guard and Merchant Marine billets.



Figure 18. Eastern Orthodox Worship Space,
Camp Foster, Okinawa Japan
Source: DoD Inspector General



Figure 19. Muslim Worship Space,
Fort Bragg, North Carolina
Source: DoD Inspector General

Low Density Faith Group Chaplains

As of March 2015, the overwhelming majority of the chaplain corps still consisted of Protestant denominations. Chaplains from low density faith groups said they acted as subject matter experts at large to advise on matters concerning their particular faith group. Some chaplains reported that the demands of meeting the needs of their units and performing services for their own faith group at large created a heavier workload. This was particularly true for those who are overseas where service members were accompanied by their families and additional resources were not available in the community, and/or deployed in support of overseas contingency operations. This was also reportedly the case for Catholic priests. Though priests serve a faith group that is not considered low density, they are in short supply and their presence is required to perform certain sacraments of the Catholic faith.

Meeting Space and Facilities

In locations the assessment team visited, the conditions of chapels and meeting spaces used by faith groups varied greatly. We observed dedicated chapel space in addition to general use facilities with capabilities and specific amenities to support faith groups, such as kitchens capable of delivering kosher foods, Muslim prayer facilities, and dedicated spaces for Eastern Orthodox and Catholic services. For example, chapel facilities in the area of responsibility of the Commander, U.S. Pacific Command exhibited many of the same maintenance and aging challenges exhibited by the surrounding general use facilities.



Figure 20. Chapel 3, Kadena Air Base, Okinawa, Japan
Source: DoD Inspector General



Figure 21. Main Post Chapel, Fort Bragg, North Carolina
Source: DoD Inspector General



Figure 22. Chapel Complex, Osan Air Base, Korea
Source: DoD Inspector General

Appendix D

Data Categories

We developed 17 categories for analysis of contact databases that did not fit into one of the five categories developed by USD (P&R). Eleven categories related to leadership and command climate and six pertained to external forces or process questions.

Leadership and Command Climate

- **Command climate:** Contacts concerning perceived hostile environment due to widespread discrimination or harassment.
- **Commander influence:** Contacts concerning perceived pressure or discrimination by command or superior or perceived command religious preference.
- **Display of religious items:** Contacts concerning public display of items, such as bibles, crosses, or quotes.
- **Discrimination:** Contacts concerning perceived general discrimination or harassment.
- **Freedom from religion:** Contacts concerning perceived forced engagement in religious practices or receiving communications about religion or certain beliefs.
- **Personnel action:** Contacts concerning perceived demotion, negative evaluation, adverse official action taken, or biased decisionmaking by officials.
- **Proselytization:** Contacts concerning perceived “pushing” of beliefs on others (by chaplain or commander).
- **Religious accommodation process:** Contacts concerning perceived delayed request processing for accommodation, not implementing policy, or unfair evaluation processes.
- **Religious liberty:** Contacts concerning perceived hindrance of religious expression/opinion.
- **Reprisal:** Contacts concerning perceived unfair treatment as a result of expressing belief (this includes the fear of potential reprisal).
- **Don’t Ask Don’t Tell Repeal:** Contacts concerning the repeal of Don’t Ask Don’t Tell, to include marriage retreats or other activities.

External Forces or Process Questions

- **Access, chaplains:** Contacts concerning difficulty obtaining services due to inadequate chaplain coverage.
- **Access, worship:** Contacts concerning difficulty obtaining items to worship, such as bibles, or a place to worship.
- **Conscientious objector:** Contacts concerning conscientious objector requests.
- **Written communication:** Contacts concerning religious based e-mails, letters, signature blocks, messages.
- **Inquiry:** Contacts concerning religion, religious complaints, or processes.
- **Unspecified religious complaint:** Not enough information to categorize.

Management Comments

Under Secretary of Defense for Personnel and Readiness



MANPOWER AND
RESERVE AFFAIRS

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000

JUN 25 2015

MEMORANDUM FOR DEPUTY INSPECTOR GENERAL

SUBJECT: Response to DoD-IG Draft Report "Rights of Conscience Protections for Armed Forces Service Members and Their Chaplains (Project No. D2014-D00SPO-0142.000)."

This memorandum provides the Office of the Deputy Assistant Secretary of Defense for Military Personnel Policy's response to the recommendations from the subject draft report.

Recommendation 1: We recommend the Under Secretary of Defense for Personnel and Readiness review the practicality of the requirement for final review of requests for accommodation of religious practices by the Secretaries of the Military Departments within 30 days for cases arising within the United States and 60 days for all other cases and modify the requirement accordingly

Response: Concur. The Department is submitting changes to the DoDI 1300.17 that if approved, would result in adjudicating the requests for religious accommodation in a timely manner, such that requests would reach the final approval authority for a decision within 30 days for cases arising within the United States and within 60 days for all other cases.

Recommendation 4: We recommend the Under Secretary of Defense for Personnel and Readiness amend DoDI 1300.17 to state that requests by Service members for accommodation of religious practices that are approved by the delegated authorities of the Secretaries of the Military Departments remain in effect unless suspended or revoked by said authority at the request of a commander following the reassignment, transfer, or significant change in circumstances of the Service member.

Response: Concur. The Department will submit changes in accordance with this recommendation in the next update of the Instruction.

Recommendation 5: We recommend that the Under Secretary of Defense for Personnel and Readiness, in coordination with the Office of General Counsel, develop and publish additional guidance regarding the criteria and process for adjudicating religious accommodation requests that include the use of controlled substances.

Response: Concur. The Department will include changes to comply with this recommendation in the next update of the Instruction.

Under Secretary of Defense for Personnel and Readiness (cont'd)

Recommendation 7: We recommend the Under Secretary of Defense for Personnel and Readiness, in coordination with the Office of Diversity Management and Equal Opportunity, the Service Military Equal Opportunity and Inspectors General Offices, and the Defense Privacy and Civil Liberties Division, develop a more efficient and effective means of gathering data in support of the mandated report to Congress detailing DoD civil liberties oversight efforts, including those data regarding the status of rights of conscience protections for service members.

Response: Concur. The Department will establish a working group to review the data collection efforts reflected in this recommendation.

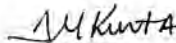
Recommendation 8: We recommend the Under Secretary of Defense for Personnel and Readiness, in conjunction with the Armed Forces Chaplains Board (AFCB) and the Defense Commissary Agency, determine a more effective method to match the availability of kosher and halal foods in overseas locations to faith community demands.

Response: Concur. Chaplains continually work with the installation commander to facilitate meeting the religious needs of military personnel and their families, including holy days; however, the AFCB will initiate a review with the organizations providing perishables to military families to help ensure that there are no gaps in resources.

Recommendation 9: We recommend the Under Secretary of Defense for Personnel and Readiness, in conjunction with Office of Diversity Management and Equal Opportunity and the Armed Forces Chaplains Board, develop guidance summarizing resources and potential responses to the use of social media and other nonofficial reporting channels for rights of conscience issues.

Response: Concur. The AFCB will review the existing training and guidance provided to service members.

The Department appreciates the opportunity to provide this follow-up status to the subject report. My point of contact is [REDACTED] who can be reached at [REDACTED]


A. M. Kurta
Deputy Assistant Secretary
(Military Personnel Policy)

Army Deputy Chief of Staff for Personnel



DEPARTMENT OF THE ARMY
OFFICE OF THE DEPUTY CHIEF OF STAFF G-1
300 ARMY PENTAGON
WASHINGTON DC 20310-0300

DAPE-ZA

30 June 2015

FOR Deputy Inspector General (IG) Special Plans and Operations, DoD IG

SUBJECT: Response to DoD Inspector General Draft Report "Rights of Conscience Protections for Armed Forces Service Members and Their Chaplains (Project No. D2014-D00SPO-0142.000)"

1. This memorandum provides the response from the Office of the Deputy Chief of Staff (DCS), G-1, to the recommendations from the subject draft report.

a. DoD IG Recommendation 2: *"We recommend the Army Deputy Chief of Staff for Personnel, the Chief of Naval Personnel, and the Air Force Deputy Chief of Staff for Manpower, Personnel, and Services streamline existing procedures to ensure requests for accommodation requiring waivers are evaluated within the timeframes established by Department of Defense Instruction 1300.17, including any changes made as a result of Recommendation 1."*

Response: My staff and I will assess current administrative requirements to determine how to streamline existing procedures to ensure that requests requiring waivers are evaluated within required timeframes established by Department of Defense Instruction 1300.17. As stated in Recommendation 1, however, a review of the practicality of these 30- and 60-day timeframes is needed. In addition, we recommend that Department of Defense Instruction 1300.17 be revised to clearly indicate whether the start date for these respective timeframes begins on the date the Soldier submits his request or the date the Soldier's request arrives to the departmental approving authority.

b. DoD IG Recommendation 6: *We recommend Army Deputy Chief of Staff for Personnel, Chief of Naval Personnel, and Air Force Deputy Chief of Staff for Manpower, Personnel, and Services ensure that programs of instruction for commissioned and noncommissioned officers include the updated guidance regarding religious accommodations contained in Department of Defense Instruction 1300.17.*


Response: In coordination with Army DCS, G-3/5/7, and the Office of Chief of Chaplains, my staff and I will review and assess current training to determine how best to incorporate required programs of instruction on the religious accommodation policy in Department of Defense Instruction 1300.17 into professional military education courses.

Army Deputy Chief of Staff for Personnel (cont'd)

DAPE-ZA

SUBJECT: Response to DoD Inspector General Draft Report "Rights of Conscience Protections for Armed Forces Service Members and Their Chaplains (Project No. D2014-D00SPO-0142.000)"

2. My point of contact for this memorandum is [REDACTED] at the Command Policy and Programs Division, Office of the Deputy Chief of Staff, G-1, at commercial telephone number [REDACTED]


JAMES C. MCCONVILLE
Lieutenant General, GS
Deputy Chief of Staff, G-1

Chief of Naval Personnel



DEPARTMENT OF THE NAVY
OFFICE OF THE ASSISTANT SECRETARY
(MANPOWER AND RESERVE AFFAIRS)
1000 NAVY PENTAGON
WASHINGTON DC 20350-1000

JUN 26 2015

MEMORANDUM FOR DEPARTMENT OF DEFENSE INSPECTOR GENERAL

SUBJECT: Report on Rights of Conscience Protections for Armed Forces Service Members and Their Chaplains

In response to your memorandum dated June 5, 2015, Department of the Navy has reviewed and concurs with the subject draft report, and provides the following two comments.

First, regarding Recommendation 2, a Sailor's request for accommodation is coordinated between the Commanding Officer, Chief of Naval Personnel (OPNAV N1), Navy Bureau of Medicine when applicable, and Chief of Chaplains (OPNAV N097) when a waiver of Military Department or Service policy is required. Eliminating one or more of these stakeholders in order to meet the thirty-day time requirement may streamline the waiver process, but it could reduce the efficacy of the process. Individual stakeholder review and streamlining is proposed to coincide with the release of the updated SECNAVINST 1730.8 "*Accommodation of Religious Practices.*"

Second, regarding Recommendation 6, the revision of SECNAVINST 1730.8 is projected for release this calendar year and will include the updated guidance regarding religious accommodations contained in DoDI 1300.17 in order to provide the best guidance to all Sailors and Marines.

If you have any questions please contact [REDACTED] Office of the Deputy Assistant Secretary of the Navy (Military Manpower and Personnel), at [REDACTED]

A handwritten signature in cursive script that reads "Anne R. Davis".

Anne R. Davis
Acting, Assistant Secretary of the Navy
(Manpower and Reserve Affairs)

Copy to:
NAVIG

Air Force Deputy Chief of Staff for Manpower, Personnel, and Services



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS UNITED STATES AIR FORCE
WASHINGTON, DC

MEMORANDUM FOR HQ DoD/IG

FROM: HQ USAF/A1
1040 Air Force Pentagon
Washington DC 20330-1040

SUBJECT: Response to DoD-IG Draft Report "Rights of Conscience Protections for Armed Forces Service members and Their Chaplains" (Project No. D2014-D00SPO-0142.000)

Recommendation 2

We recommend the Army Deputy Chief of Staff for Personnel, the Chief of Naval Personnel, and the Air Force Deputy Chief of Staff for Manpower, Personnel, and Services streamline existing procedures to ensure requests for accommodation requiring waivers are evaluated within the timeframes established by Department of Defense Instruction 1300.17, including any changes made as a result of Recommendation 1.

Concur w/ comment: The Air Force is in the process of incorporating DoDI 1300.17 language into a new Air Force Policy Directive, 52-2, *Accommodation of Religious Practices in the Air Force* and Air Force Instruction 52-201, *Religious Accommodation Requests*. In accordance with recommendation 1, we agree further research is required to determine the feasible timeframe for processing religious accommodation request waivers. The current timeframe of 30 days CONUS, 60 days OCONUS is potentially infeasible for religious accommodation waivers that require AF/A1 approval. Once this study has been completed, we concur that the Air Force should comply with the timeframe required in DoDI 1300.17.

Recommendation 3

We recommend the Air Force Deputy Chief of Staff for Manpower, Personnel, and Services track accommodations requiring waivers and the timeframes for approval to ensure compliance with Department of Defense Instruction 1300.17.

Concur w/ comment: Historically, the Air Force has not tracked religious accommodation requests and timeframes for approval. In the future, the Air Force will track all religious accommodation waiver requests that require the Air Force Deputy Chief of Staff for Manpower, Personnel, and Services actions.

Air Force Deputy Chief of Staff for Manpower, Personnel, and Services (cont'd)

Recommendation 6

We recommend the Army Deputy Chief of Staff for Personnel, Chief of Naval Personnel, and Air Force Deputy Chief of Staff for Manpower, Personnel, and Services ensure that programs of instruction for commissioned and noncommissioned officers include the updated guidance regarding religious accommodations contained in Department of Defense Instruction 1300.17.

Concur w/ comment: The Air Force has updated its religious training at PME to include the updated DoDI 1300.17 language. Furthermore, the Air Force is in the final stages of publishing an updated computer-based "Religious Freedom Training" for all Air Force Airmen. Finally, the Air Force updated AFI 1-1, *Air Force Standards*, on 12 November 2014 to comply with DoDI 1300.17.



Whistleblower Protection

U.S. DEPARTMENT OF DEFENSE

The Whistleblower Protection Enhancement Act of 2012 requires the Inspector General to designate a Whistleblower Protection Ombudsman to educate agency employees about prohibitions on retaliation, and rights and remedies against retaliation for protected disclosures. The designated ombudsman is the DoD Hotline Director. For more information on your rights and remedies against retaliation, visit www.dodig.mil/programs/whistleblower.

For more information about DoD IG reports or activities, please contact us:

Congressional Liaison

congressional@dodig.mil; 703.604.8324

Media Contact

public.affairs@dodig.mil; 703.604.8324

Monthly Update

dodigconnect-request@listserve.com

Reports Mailing List

dodig_report@listserve.com

Twitter

twitter.com/DoD_IG

DoD Hotline

dodig.mil/hotline



DEPARTMENT OF DEFENSE | INSPECTOR GENERAL

4800 Mark Center Drive
Alexandria, VA 22350-1500
www.dodig.mil
Defense Hotline 1.800.424.9098

