

## **How Then Shall We Pray? Public Prayer in the Chaplain Corps and the Challenge of Pluralism**

Chaplain (Captain) Adam Tietje, U.S. Army

Whenever you pray, go into your room and shut the door and pray to your Father who is in secret.

-Matthew 6:6b, *NRSV*

Public prayer at government events has been subject to legal challenges for decades.<sup>1</sup> As America becomes more religiously diverse such challenges will, no doubt, continue. The number of Americans who identify as Christian has declined significantly, while those with non-Christian affiliation or no affiliation are on the rise. At present, non-Christian and no religious affiliation among Millennials totals over forty percent and it can safely be assumed that the future of America will only look more pluralistic.<sup>2</sup> In this context, public prayer continues to be a flash point of concern for religious liberty at the local, state, and federal levels.

At the federal level, challenges to public prayer have been particularly intense within the armed services. The 2004 allegations of religious discrimination at the Air Force Academy stand out as the most prominent example in recent memory. Many of the allegations centered on overtly Evangelical prayers at command sponsored events.<sup>3</sup> There are, however, others,

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<sup>1</sup> These challenges date back to the landmark case that removed prayer from public schools. See *Engel v. Vitale* 370 U.S. 421 (1962).

<sup>2</sup> Pew Research Center: Religion and Public Life, "America's Changing Religious Landscape," Pew Research Center, May 12, 2015, <http://www.pewforum.org/2015/05/12/americas-changing-religious-landscape/> (accessed September 13, 2015).

<sup>3</sup> Mickey Weinstein complained that "cadets have been coerced into non-secular prayers during mandatory and official events at the Academy." See *Weinstein v. U.S. Air Force*, 468 F.Supp.2d 1366, 3 (D.N.M. 2006). For the complaints that formed the basis of the suit see "USAFA/HCX Memo dated 30 Jul 04, Subject: After Action Report: BCT II Chaplain Practicum Training: Special Program in Pastoral Care, with the resources, supervision, and selected students of Yale Divinity School," available as Attachment E, pp. 45-46 of the United States Air Force, *Report of the Headquarters Review Group Concerning the Religious Climate at the US Air Force Academy*, Washington, D.C., 2005, [http://www.foxnews.com/projects/pdf/HQ\\_Review\\_Group\\_Report.pdf](http://www.foxnews.com/projects/pdf/HQ_Review_Group_Report.pdf) (accessed September 28, 2015).

including a Navy chaplain who staged a hunger strike after being reprimanded for praying “in Jesus name.”<sup>4</sup> Congress unsuccessfully attempted to weigh in on chaplain prayers as part of the H.R. 5122: National Defense Authorization Act for Fiscal Year 2007.<sup>5</sup> While not in the final version of the bill, sec. 590 of H.R. 5122 states: “Each chaplain shall have the prerogative to pray according to the dictates of the chaplain’s own conscience, except as must be limited by military necessity, with any such limitations being imposed on the least restrictive manner feasible.”<sup>6</sup> Litigation is ongoing, but no challenge has yet to rise to the Supreme Court.

There was a time in American history when chaplains making accommodations for religious pluralism meant taking into consideration Protestants, Catholics, and a handful of Jews in their ranks. Certainly, these traditions represent a considerable amount of theological diversity and nuance, even within each major tradition. Still, there was a common Abrahamic tradition around which religious leaders and their faithful could come together, often in common worship and prayer. The story of the four army chaplains on the *Dorchester* who gave up their lifejackets and remained on board the ship—praying as it sank in the north Atlantic—remains quintessential of that now bygone era. Two Protestant pastors, a Catholic priest, and a Jewish rabbi gave their

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<sup>4</sup> Not incidentally, Lt. Gordon Klingenschmit was also reprimanded for wearing his uniform during these protests outside the White House. See Alan Cooperman, “Navy Chaplain Guilty of Disobeying an Order,” *The Washington Post*, September 15, 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/09/14/AR2006091401544.html> (accessed September 24, 2015).

<sup>5</sup> Ann Loveland, *Change and Conflict in the US Army Chaplain Corps Since 1945*, (Knoxville, TN: The University of Tennessee Press, 2014), 199.

<sup>6</sup> *Ibid.*

lives together in a common witness of faith.<sup>7</sup> While this common religious heritage was once the mainstay of American culture, it is fast fading. The reality with which military chaplains must contend is that accommodating for religious pluralism now means providing support for theists, polytheists, non-theists, atheists, agnostics, humanists, secularists, and the list goes on. In this increasingly pluralistic context, public prayer will only become more controversial.

Recently, the practices surrounding prayer at The Sabalauski Air Assault School at Ft. Campbell were brought to light. During chaplain led prayers at the graduation ceremonies for the school, students are directed to bow their heads and at the end of the prayer sound off with “Amen.”<sup>8</sup> A public outcry from the Military Association of Atheists and Freethinkers led to a revision of the long-standing, yet unwritten, policy of overtly enforced participation.<sup>9</sup> But, in the increasingly pluralistic context of both America and the military, it remains to be seen whether such efforts toward accommodation go far enough. Public prayer in the military is a widespread practice. In a 2014 survey of military chaplains, it was found that ninety-seven percent had “prayed at a command ceremony or public event in the past 12 months.”<sup>10</sup>

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<sup>7</sup> The four chaplains, George Fox, Alexander Goode, Clark Poling, and John Washington, were all posthumously awarded the Medal of Honor. For a detailed account of their story see Francis Beaufort Thornton, *Sea of Glory: The Magnificent Story of the Four Chaplains* (New York: Prentice-Hall, Inc., 1953). It is relevant to note that during World War II, the diversity of the Army Chaplain Corps was directly tied to the diversity of the force at-large through a quota system. See Robert L. Gushwa, *The United States Army Chaplaincy*, vol. 4, *The Best and Worst of Times: 1920-1945* (Washington, DC: Office of the Chief of Chaplains, 1977), 208. The quota system is no longer employed. It remains an open question whether its reinstatement would increase sensitivity to concerns regarding religious pluralism.

<sup>8</sup> In the interest of full disclosure, it should be noted that the author participated in this practice in September 2009 (*mea culpa, mea culpa, mea máxima culpa*.)

<sup>9</sup> Billy Hallowell, “U.S. Army Responds to Atheist Activist’s Prayer Complaint: ‘Graduates Are Not Required to Bow Their Heads,’” *The Blaze*, June 25, 2015, <http://www.theblaze.com/stories/2015/06/25/u-s-army-responds-to-atheist-activists-prayer-complaint-graduates-are-not-required-to-say-amen/> (accessed September 9, 2015).

<sup>10</sup> Department of Defense, *Report to Congress on the Survey of Military Chaplains Views on Department of Defense Policy Regarding Chaplain Prayers Outside of Religious Services*, prepared by the Office of the Under Secretary of Defense for Personnel and Readiness, Washington, D.C, 2015, <http://forumonthemilitarychaplaincy.org/wp-content/uploads/2015/07/UPR002353-15-REPORT-TO-CONGRESS.pdf> (accessed September 28, 2015).

Certainly, issues of religious liberty in America and in her military stand at the intersection of complex and competing legal, political, moral, and theological claims. Yet, if the *raison d'être* of the Army, Air Force, and Navy chaplain corps remains enabling the constitutional right of service members to freely exercise their religious faith, then practices that potentially violate that right should be of grave concern. In his promotion address, the newest Army Chief of Chaplains, Paul Hurley, said this:

Just like the chaplains who have served before us, we will always be engaging a transitioning culture and shifting public opinion. Remember that through all this turbulence our mission remains unchanged. *It is simply this—to nurture the living, care for the wounded, and honor the fallen.* Everything else is secondary, and will take its proper place [emphasis original].<sup>11</sup>

The argument that follows is that public prayer where attendance is compulsory (hereafter: command prayer) directly undermines the execution of that mission and the practice should be brought to an end.

### **Legal Considerations**

Title 10 of the United States Code, which serves as the legal basis for the Armed Forces, provides chaplains for each branch of service.<sup>12</sup> The primary duty of the chaplain is to provide “appropriate religious services.”<sup>13</sup> In 1979, the constitutionality of this provision was challenged

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<sup>11</sup> Paul Hurley, “Amen” (promotion address at the Pentagon, Washington, D.C., May 22, 2015). Chaplain Hurley ends the section of his promotion address quoted above with this thought: “In the words of one who faced similar challenges...let others pursue questions of the legitimacy of our branch, of the health of religion in America, and of legal issues involving separation of church and state. Our mission remains fixed: and that is to enable our Soldiers, Family members, and DoD civilians to exercise their constitutional right to practice their religious faith.” On the surface, this undertaking appears to pursue such questions of legitimacy and legality. Yet, if command prayer, in fact, undermines the constitutional rights of soldiers, families, and DoD civilians, then it is chaplains who have a duty to seek a swift end to the practice.

<sup>12</sup> 10 USC 3073, 10 USC 3547, and 10 USC 3581 form the legal framework for the Army Chaplain Corps.

<sup>13</sup> See *Armed Forces*, U.S. Code 10 (1956), § 3547. The full quote betrays the limited religious pluralism at the time of publication. Sunday is established as the day for such religious services. “Each chaplain shall, when practicable, hold appropriate religious services at least once on each Sunday for the command to which he is assigned, and shall perform appropriate religious burial services for members of the Army who die while in that command.”

by two Harvard Law School seniors. They contended that the presence of uniformed clergy in the Army violates the First Amendment Establishment Clause and proposed the employment of privately funded civilian chaplains instead. In *Katcoff v. Marsh* (1985), the Second Circuit of the U.S. Court of Appeals rejected that argument.<sup>14</sup> Writing for the majority, Justice Mansfield concluded: “Unless the Army provided a chaplaincy it would deprive the soldier of his right under the Establishment Clause not to have religion inhibited and of his right under the Free Exercise Clause to practice his freely chosen religion.”<sup>15</sup> Rather than establishing a religion, chaplains uphold service members right to freely exercise their religion. As Army Regulation 165-1 puts it: “The First Amendment to the U.S. Constitution prohibits enactment of any law ‘respecting an establishment of religion’ or ‘prohibiting the free exercise thereof.’ Congress recognizes the necessity of the Chaplain Corps in striking a balance between the Establishment and Free Exercise Clauses.”<sup>16</sup> Thus, chaplains must take into account both constitutional rights in their ministrations by ensuring the free exercise of religion for those in their care, while simultaneously avoiding practices that might violate the Establishment Clause. Rather than “striking a balance between the Establishment and Free Exercise Clauses,” public prayer at command events remains open to the charge of violating the Establishment Clause.

It should be said at the outset that no solid legal precedents exist regarding the specific practice of command prayer. Michael Weinstein’s suit regarding religious discrimination at the

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<sup>14</sup> For a complete history of the case and an argument for the constitutionality of the chaplaincy see Israel Drazin and Cecil B. Currey, *For God and Country: The History of a Constitutional Challenge to the Army Chaplaincy* (KTAV Publishing House, 1995).

<sup>15</sup> *Katcoff v. Marsh*, 755 F.2d 223, 234 (2d Cir. 1985).

<sup>16</sup> U.S. Army, *Army Regulation 165-1 Religious Activities: Army Chaplain Corps Activities* (Washington, D.C: Department of the Army, 2015), 1.

Air Force Academy was dismissed.<sup>17</sup> The appeal of Navy Chaplain Gordon Klingenschmitt was also dismissed without opinion.<sup>18</sup> The courts have largely deferred to Congressional oversight of the military in such cases. Given the dearth of court opinion regarding command prayer, it is useful to examine similar cases involving prayer before various legislative bodies. The Supreme Court has weighed in several times in the last decade on the issue of legislative prayer, each time affirming a place for legislative prayer, most significantly in *Marsh v. Chambers* (1983).<sup>19</sup> While the Court's affirmation generally proceeds based on an argument from history, it is not given *carte blanche*.<sup>20</sup> Robert Tuttle and Ira Lupu draw conclusions from the case based on context and content that are instructive for any question of public prayer at command events.<sup>21</sup> First, the context of a legislative assembly is such that adult participants may come and go freely. Attendance at such events is not mandatory and dissenters may simply walk out.<sup>22</sup> Second, the Supreme Court acknowledged a limit on the content of such prayer. Legislative prayer should not be used to "proselytize or advance any one, or to disparage any other, faith or belief."<sup>23</sup>

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<sup>17</sup> *Weinstein v. U.S. Air Force*, 468 F.Supp.2d 1366, 3 (D.N.M. 2006).

<sup>18</sup> *Klingenschmitt v. Winter*, 275 F. 12 (D.C. Cir. 2008).

<sup>19</sup> *Marsh v. Chambers*, 463 U.S. 783 (1983).

<sup>20</sup> Thus, the Supreme Court's conclusion: "In light of the unambiguous and unbroken history of more than 200 years, there can be no doubt that the practice of opening legislative sessions with prayer has become part of the fabric of our society. To invoke Divine guidance on a public body entrusted with making the laws is not, in these circumstances, an "establishment" of religion or a step toward establishment; it is simply a tolerable acknowledgment of beliefs widely held among the people of this country." See *Marsh v. Chambers*, 463 U.S. 783, 792 (1983). The intent of the framers seems clear, especially given the fact that the authorization for the appointment of paid legislative chaplains for the House and Senate was secured just three days before final agreement on the language of the Bill of Rights. See *Marsh v. Chambers*, 463 U.S. 783, 788 (1983).

<sup>21</sup> Ira C. Lupu and Robert W. Tuttle, "Instruments of Accommodation: The Military Chaplaincy and the Constitution," *West Virginia Law Review* 110 (2007), 89-166. (92ff)

<sup>22</sup> The Supreme Court recognizes this freedom from coercion: "Here, the individual claiming injury by the practice is an adult, presumably not readily susceptible to 'religious indoctrination.'" See *Marsh v. Chambers*, 463 U.S. 783, 792 (1983).

<sup>23</sup> *Marsh v. Chambers*, 463 U.S. 783, 794-795 (1983).

In *Allegheny v. American Civil Liberties Union*, the Court interpreted the Establishment Clause to preclude sectarian prayer.<sup>24</sup> Most recently, however, in *Town of Greece v. Galloway*, the Supreme Court explicitly allowed for sectarian prayer in the context of legislative prayer, leaning heavily on the argument from history. While the decision rejects the earlier preclusion of sectarian prayer,

the Court does not imply that no constraints remain on its content. The relevant constraint derives from the prayer's place at the opening of legislative sessions, where it is meant to lend gravity to the occasion and reflect values long part of the Nation's heritage. From the Nation's earliest days, invocations have been addressed to assemblies comprising many different creeds, striving for the idea that people of many faiths may be united in a community of tolerance and devotion, even if they disagree as to religious doctrine. The prayers delivered in Greece do not fall outside this tradition.<sup>25</sup>

As in *Marsh*, limitations on the content of legislative prayer remain, but they are no longer interpreted as being a function of a generic theism. The limitations that may be imposed surround the purpose of legislative prayer to provide “gravity” and inspire unity and tolerance. Furthermore, even though sectarian prayer is deemed permissible, the context must not coerce participation. In the case of *Greece*, the prayer is “delivered during the opening ceremonial portion of the town's meeting, not the policymaking portion,” which ensures that “its purpose and effect are to acknowledge religious leaders and their institutions, not to exclude or coerce nonbelievers.”<sup>26</sup>

In the context of public prayer at a command event, questions regarding the Establishment Clause quickly surface. While legislators and observers are free to come and go

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<sup>24</sup> *Allegheny v. American Civil Liberties Union*, 492 U.S. 573 (1989).

<sup>25</sup> *Town of Greece v. Galloway*, 572 U.S. \_\_\_\_\_ (2014), 12-696.

<sup>26</sup> *Ibid.*

during legislative prayer, such freedom is not available to service members at command events. By definition, participation at a command-directed event involves some form of explicit or implicit compulsion to participate. Participation may not be as explicitly directed, as in the case of the invocation at the Air Assault School graduation. Yet, whether it is an invocation at a change of command or a dining in ceremony (or any other command event), continued presence and reverent silence are surely expected. This feature of command prayer immediately distinguishes it from legislative prayer. As Lupu and Tuttle suggest: “A court might be unwilling to treat the simple coda ‘in Jesus’ name’ as exploitative in a legislative setting, where listeners are at liberty to excuse themselves, but the same phrase might be treated quite differently in prayer before a ‘captive audience.’”<sup>27</sup> Sectarian prayers, in a command-directed coercive context, could very well violate the injunction of *Marsh* against prayers that “advance any one . . . faith or belief.” Yet, Lupu and Tuttle argue,

Even if sectarian prayer at military ceremonies does not represent a categorical violation of the Establishment Clause, the possibility that it might be such a violation generates discretionary authority in the military to forbid prayer of that character. Under *Marsh*, sectarian prayer that is “exploited to proselytize or advance any one . . . faith or belief” at ceremonies would violate the Establishment Clause. The concern to guard against violation of that standard would provide the military with a zone of discretion, in which courts would be highly unlikely to second-guess determinations of the appropriate content for such prayers, especially given the “captive audience” for ceremonial prayers in the military setting.<sup>28</sup>

Of course, the courts have yet to speak on this issue. Command prayers, generally taken, may not represent a violation of the Establishment Clause—especially if the prevailing winds of constitutional law at the Supreme Court continue to blow in favor of prayer’s presence in public

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<sup>27</sup> Ira C. Lupu and Robert W. Tuttle, 95-96.

<sup>28</sup> *Ibid.*, 96-97.

life on the basis of history—but the possibility that sectarian command prayers do is high. In light of this, Lupe and Tuttle suggest that the military would have a “zone of discretion” within which to carve out clear directives regarding the content of command prayers so as to avoid such violations.

Of course, courts are not wont to wade into theological matters (and neither is the military) and discerning the appropriate content of a prayer, before and above any legal considerations, is a decidedly theological matter. The wisdom of the Supreme Court in *Greece* is instructive:

It is doubtful that consensus could be reached as to what qualifies as a generic or nonsectarian prayer. It would also be unwise to conclude that only those religious words acceptable to the majority are permissible, for the First Amendment is not a majority rule and government may not seek to define permissible categories of religious speech.<sup>29</sup>

The horns of the dilemma are now clear. Given enforced participation, without prescribing the limits of what counts as appropriate content for command prayer, the practice may very easily violate the Establishment Clause. Yet, to define what counts as permissible religious speech also leads to murky constitutional waters. With this dilemma in view, perhaps history, tradition, gravity, solemnity, and all other such reasons given for the place of prayer at command events are legally insufficient justifications for the practice to continue. Moreover, the nature of prayer is such that, even if it is not used to proselytize or disparage another faith, it nevertheless advances a particular religious belief, making all prayer essentially sectarian.

### **Theological Considerations**

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<sup>29</sup> *Town of Greece v. Galloway*, 572 U.S. \_\_\_\_\_ (2014), 12-696.

The legal considerations are significant when it comes to considering command prayer, yet more compelling still are the theological considerations. The fundamental problem with command prayer is that as *Greece* seems to acknowledge, prayer, as such, is sectarian. Prayer is speech directed to God based on a particular knowledge of God.<sup>30</sup> Or put more broadly, prayer is speech directed to a god or gods based on the particular knowledge of the god or gods. In the Christian tradition, for example, prayer is always trinitarian. When Christians pray they pray to the Father, through the Son, and in the power of the Holy Spirit. Whether God is named as such in a given prayer does not negate the trinitarian knowledge of God that prayer is grounded upon. Of course, when a Wiccan prays, that prayer is grounded in a very different knowledge of very different gods and an atheist's knowledge of god is that there is no god. Nonsectarian prayer, as a suggestion of the courts, seems to promote the idea that there might be some shared knowledge of divinity between the Christian, Wiccan, and atheist.<sup>31</sup> This notion is, of course, absurd.

A more sensible understanding of the courts definition of nonsectarian prayer is common prayer among members of the Abrahamic faith traditions. While there are stark points of divergence, Jews, Christians, and Muslims claim faith in the one God who revealed himself in covenant with Abraham. Common prayer is possible among the Abrahamic faith traditions

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<sup>30</sup> Karl Barth suggests that this prayerful speech is an obedient response to God's command, which takes the form, primarily, of petition. See Karl Barth, *Church Dogmatics*, vol. III.4, The Doctrine of Creation, trans. A.T. Mackay, T.H.L. Parker, H. Knight, H.A. Kennedy, and J. Marks (New York: T&T Clark International, 2004), 87ff. For a good overview of Barth's theology of prayer see I. John Hesselink, "Prayer," in *The Westminster Handbook to Karl Barth*, ed. Richard Burnett (Louisville, KY: Westminster John Knox Press, 2013), 167-168.

<sup>31</sup> Another alternative is to interpret public prayers as being "essentially patriotic, ceremonial, and *secular* ritual." This interpretation of nonsectarian prayer as "ceremonial deism" is offered up and rejected by Grace Kao in "Mission Impossible: 'Nonsectarian' Prayer in the Military Chaplaincy," *Political Theology* 11 (2010): 585ff. She too concludes that the practice of public prayer outside of religious worship in the military should be ended.

because there is a common knowledge of God.<sup>32</sup> Prayerful speech to God may be uttered in such a way that it highlights the common knowledge and at the same time such prayer will also always be grounded in the absolute particularity of the faith of the one praying.<sup>33</sup> Thus, a Christian may pray in an interfaith gathering with Jews and Muslims without invoking the name of Jesus. A Christian's prayer is always prayed through Christ because the faith through which the speech is uttered is in Christ. The efficacy of prayer, at least in the Christian tradition, is found through faith and not in the power of the words themselves.<sup>34</sup> Yet, the problem still remains. Even if a chaplain prays according to the common Abrahamic tradition, the Soldiers in the military now come from polytheistic, non-theistic, and atheistic traditions with which no common knowledge of divinity may be responsibly assumed. The problem of command prayer is much more fundamental than the offense of a prayer that seeks to proselytize<sup>35</sup> or that is focused on unnecessarily divisive points of doctrine.<sup>36</sup> The solution is not a sanitized prayer that respects the common ground of the monotheistic traditions. That is the religious pluralism of a bygone era. The pluralism that exists today in the military and the United States encompasses religious traditions across the globe as well as secularists, humanists, agnostics, atheists, and

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<sup>32</sup> Common knowledge of God between Christians and Jews is likely to be a less controversial thesis. Whether there is such common knowledge or not between Christians and Muslims or Jews and Muslims is not important to the advancement of the present argument. It would only serve to further illustrate the claim that prayer is always sectarian.

<sup>33</sup> This is no less true of ecumenical settings. There are many divergences within the Christian, Islamic, and Pagan traditions, respectively. Thus, common prayer, in either interfaith or ecumenical settings, relies on a common knowledge of God.

<sup>34</sup> The point is missed if Jesus' charge in John 14:13-14 (or 16:23-24) to ask "in my name" is taken in the sense of an incantation or formula. John's interest throughout the gospel is to engender faith in the person of Jesus as the full revelation of God. See the preceding discussion in John 14. Thus, to pray "in my name" is to pray to God based on the knowledge of God revealed through Jesus.

<sup>35</sup> Karl Barth writes: "There is certainly no prayer which does not lead on to proclamation, just as there is no proclamation which does not proceed from prayer and lead back to it. But fundamentally, prayer is not proclamation." See Karl Barth, 88.

<sup>36</sup> As it seems is the concern in *Marsh v. Chambers*, 463 U.S. 783 (1983).

many other non-religious identities. Chaplains praying at public command-directed events directly undermines the Establishment Clause, even if a chaplain prays in light of some Abrahamic or monotheistic common knowledge. Therefore, a more radical solution is required. If chaplains are to defend both the Free Exercise and Establishment Clauses, then command prayer must fall by the wayside.

In an effort to preserve the sectarian authenticity of prayer and provide an opening for the religious or non-religious observance of all those present for public prayer at command-directed events, many chaplains provide some sort of up front proviso. One common example is “please pray according to your tradition while I pray according to mine.”<sup>37</sup> Another is “I invite you to pray with me.” The thought in both cases is that by offering that those present pray in their own tradition or not at all in some way opens up space for both the audience at the event and the chaplain to freely practice their faith or non-faith, as the case may be. However well intentioned these gestures may be, they fall remarkably flat. If the intention is to create a space where everyone present would be able to pray in accordance with their tradition, then offering a moment for silent reflection would seem to be the obvious choice to accomplish that. The point of a chaplain praying at a command-directed event is precisely to lead the assembled body in prayer, to summon those present to the praise of God. This, of course, is the role of common prayer in the context of worship.<sup>38</sup> There was a time when, perhaps, all of the service members in a given formation did have a common Abrahamic knowledge of God from which common

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<sup>37</sup> The best intention seen with the use of this proviso is an honest effort to provide for the religious needs of all. The worst intention observed has been to use the statement as way to use divisive language (“according to one’s tradition”), while notionally accommodating for the needs of all present.

<sup>38</sup> As Barth puts it: “Prayer is the aspect of the praise of God which is directed only towards God, and to this extent it is strictly its inward aspect. This is true of both personal and common prayer. . . . Prayer is not prayer if it is addressed to anyone else but God.” See Karl Barth, 88.

prayer could be summoned forth. That time is long past. Providing a proviso before a command prayer only highlights the disconnect between the intended purpose of having prayer at such an occasion (summoning those gathered into prayer before God) and the reality that there is no longer a basis upon which to do so.

If chaplains are to remain faithful to their mission to provide for the free exercise of religion for their soldiers, it seems clear that the tradition of command prayer should be ended. To be clear, this thesis is not an attack on prayer or the religious support mission of the chaplain corps. Quite the contrary, as stated at the outset, we affirmed the call to refocus chaplains on core competencies. Chaplains should pray in their tradition and according to their particular knowledge of God, but in ways that are appropriate to the nature of prayer itself. Prayer is not an outward witness or proclamation. It is speech directed only to God based on a particular knowledge of God. We encourage chaplains to pray “without ceasing” as a matter of personal faith practice. Yet, prayer in the context of the larger community, whether with one service member or one hundred, should always be a matter of providing for the free exercise of their religion. Prayer is not only appropriate, but often a matter of necessity when exercising pastoral care and counseling, leading worship, or administering the ordinances, rites, and sacraments of a given religious tradition. Thus, in an increasingly pluralistic context where diverse faiths, theistic, non-theistic, and no faith at all continue to grow, the place for prayer, in all its forms, is in the context of sectarian religious practice.

### **Conclusion**

In light of both unsure constitutional ground and suspect theological mooring, the practice of command prayer should end. The public witness of chaplains as religious leaders

remains absolutely essential in the military, but command prayer no longer serves this end. Rather than creating unity or promoting tolerance, the practice only promises to lead to more division in the context of an increasing pluralism. While command prayer may provide religious nurture for some, it does by enforcing religious practice on others in violation of fundamental constitutional freedoms.<sup>39</sup> Command prayer highlights the particularity of all religious speech and the need for such speech to remain outside the purview of state oversight.

The question of command prayer is not a matter of personal conscience only. The place for objections of personal conscience is secure. As AR 165-1 outlines,

Chaplains will not be required to perform a religious role (such as offering a prayer, reading, dedication, or blessing) in worship services, command ceremonies, or other events, if doing so would be in variance with the tenets or practices of their religion. Chaplains will coordinate to provide for required ministrations which they cannot personally perform.<sup>40</sup>

It is noteworthy to highlight that in the midst of a military culture in which command prayer is commonplace, a full third of chaplains believe “policy or supervisory guidance limits their ability to pray or exercise the tenets of faith according to their *personal conscience* [emphasis original]” and fifty-one percent believe that “declining to pray at a command ceremony or public event will adversely impact a chaplain’s career.”<sup>41</sup> If chaplains are fearful to raise concerns regarding the integrity of their own religious identity, how can they be expected to look out for the free exercise of the service members in their care? How much more so when the issue is larger than simply perform or provide, but whether command prayer should be performed by

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<sup>40</sup> U.S. Army, *Army Regulation 165-1*, 8.

<sup>41</sup> Department of Defense, *Report to Congress on the Survey of Military Chaplains Views on Department of Defense Policy Regarding Chaplain Prayers Outside of Religious Services*.

anyone, at all? Careerism, it seems, remains one of the most deadly sin for military chaplains to overcome. Ending a tradition that has been embedded in military culture since the beginning will not be easy. Yet, the many recent cultural transformations suggest that such a policy, once agreed upon, would be enacted decisively across the force.

If the focus of chaplains is on religious support, then their place in uniformed service is secure. If, in the midst of a dangerous anxiety to establish relevance, constitutional rights are trampled, it should not come as a surprise when the invitation to do so is rescinded. Chaplains can shape the future of the branch or, at some point, it will be shaped for them. Command prayer should come to an end, both out of respect for the Constitution and the particularity of religious belief; and it is chaplains who should lead the charge.<sup>42</sup>

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<sup>42</sup> This conclusion is rooted, in part, in a particular understanding of prayer in the Christian tradition. It is my hope that because of its particularity, this study would provide a rationale for the place of prayer in military life that appeals to the religious and non-religious alike in their mutual desire to have their own particularity protected. It should be acknowledge, however, that there are those who seek the imposition of their particular religious beliefs upon others. No fruitful dialogue is possible with them. The religious wars in Europe that raged for more than a century are stark reminders of the dangers of coercive religious practice. Of course, this is just as true for the non-religious who would seek to impose their beliefs.