

Congress of the United States
Washington, DC 20515

May 14, 2020

The Honorable Mark T. Esper
Secretary of Defense
1000 Defense Pentagon
Washington, D.C. 20301

Dear Secretary Esper,

As you well know, the ongoing global health crisis has touched all corners of American life. We are proud of our nation's troops for continuing to work diligently to defend our nation and its freedoms, including the right to religious liberty. We know that many in our Armed Forces are leaning on their faiths in this unprecedented hour. It is our hope that the Department of Defense (the Department) and the several branches of our military will recognize the needs of our troops, follow federal law in protecting their religious liberties, and ensure that the ongoing pandemic is not exploited by nefarious organizations bent on removing faith from the U.S. military.

In recent weeks, you and Army commands across the globe have received multiple, unfounded complaints from an organization that has a reputation for preying on military chaplains. These complaints show that this organization and its leaders refuse to see the difference between evangelizing and proselytization and wish to ruin the careers of the hardworking men and women who serve as military chaplains. Unfortunately, the Department and the Army have been far too quick to restrict the religious freedom of chaplains and the servicemembers they serve as a result of this group attacks.

We write today to remind you of the Department's obligations under Federal law and to highlight Army regulations that permit the faith-based actions taken by military chaplains in recent weeks. As you know, the 2013 and 2014 National Defense Authorization Acts (NDAA) included provisions aimed at protecting the rights and consciences of our servicemen and women, including chaplains. Specifically, these provisions together protect the expression of religious beliefs in the military unless those beliefs could have an adverse impact on readiness, cohesion, good order, and discipline.

On April 24, 2020, the Army Chaplain Corps (CHC) released guidance on social media use to publicize religious or spiritual content. This guidance states that the CHC "has broad latitude to use diverse means of social media to broadcast religious services, messages, and educational materials." It also notes that the Army is "generally prohibited from content-based restrictions on religious speech absent a 'compelling government interest' and only by use of the 'least restrictive means.'" Finally, this guidance offered to Army chaplains states that "Army policy does not prohibit 'evangelizing' or 'proselytizing'...so long as they are communicated in a manner avoiding appearance of official Army/DoD endorsement or promotion of the particular religious viewpoint or group."

Despite these Federal mandates and guidance from the Army Chaplain Corps, commands have taken action that restrict the religious freedoms of military chaplains and servicemembers. This pattern of behavior must be addressed. To demonstrate not only these downfalls but also the Army's willingness to concede to a third party's baseless demands, below are recent instances of infringement upon the First Amendment rights of chaplains and servicemembers.

Col. Moon H. Kim, Camp Humphreys, South Korea

In April, Col. Moon H. Kim, the garrison chaplain at Camp Humphreys in South Korea, authored an email to his chaplain colleagues including a PDF of a faith-based book he thought may help them and the families they serve. On April 29, the Military Religious Freedom Foundation (MRFF) sent you a letter demanding adverse action be taken against Col. Kim in response to his lawful email. Now, Col. Kim's lawful actions are under review.

Col. Kim, who made a selfless effort to help his colleagues during this global health crisis, is now being subject to a review that could harm his career and reputation. Given the content of his email and Federal law protecting religious speech, it is clear that Col. Kim should not and cannot be disciplined for his email.

Removal of Facebook Videos from Cpt. Amy Smith and Maj. Scott Ingram (Army's 10th Mountain Division Sustainment Brigade, Fort Drum, N.Y.) and Maj. Christian Goza (Redstone Arsenal, AL)

Given the limitations on gatherings due to the coronavirus, military chaplains are turning to digital opportunities to fulfill their obligations to their fellow servicemen and women. At Fort Drum, two military chaplains posted videos on the Facebook page for their brigade. One of these videos – from Cpt. Smith – invited servicemembers to pray and encouraged people to visit the Fort Drum Labyrinth. The other – from Maj. Ingram – had a simple message of encouragement for his fellow servicemembers. Both of these videos were removed from the Army's 10th Mountain Division Sustainment Brigade's page after a demand letter from MRFF.

Additionally, shortly following a demand letter from MRFF on April 23, 2020, the command at U.S. Army Garrison Redstone Arsenal removed a similar video from Maj. Christian Goza on its Facebook page's Chaplain's Corner.

MRFF's demands regarding these videos on social media are baseless, and each commands' decision to remove the videos, which all included protected religious expression, is contradictory to the Army's April 24 guidance on social media use. While it has not been reported that Cpt. Smith, Maj. Ingram, or Maj. Goza are being subject to any sort of review, it is critical that the Army ensure its commands across the country are not only adhering to the Army's own guidance, but to Federal law.

USAF Lt. Col. David McGraw, Kelley Barracks, USAG Stuttgart, Germany

Earlier this month, MRFF sent a letter to Col. Jason Condrey, Commander of the U.S. Army Garrison, Stuttgart, Germany, demanding "punishment" for Lt. Col. David McGraw, a chaplain hosting "Sunday Christian Porch Preaching" on the balcony of his apartment building. In the weeks since this global health crisis began, his preaching has drawn growing crowds of his neighbors seeking solace in faith. We are concerned that Col. Condrey would conduct a "53-minute phone conversation" with the leader of MRFF on conduct that is so clearly lawful. Lt. Col. McGraw's actions are within his rights under the First Amendment and we were concerned to discover that his command and MRFF pressured Lt. Col. McGraw into halting his Sunday services. Even more concerning, MRFF is now calling for him to be disciplined and brought before a military court-martial. The command at USAG Stuttgart unlawfully halted Lt. Col. McGraw's services to appease an anti-faith organization. Lt. Col. McGraw should be allowed to continue his Sunday morning preaching and hymn-singing immediately.

It is clear that Army commands are not on the same page about how to address religious liberty issues that may arise. Congress has given the Department mandates on this very topic and, in 2018, directed the Department to implement a comprehensive training program in consultation with chaplains and judge advocates to ensure proper handling of these types of situations. We urge the Department to complete the establishment of this training and offer it to the servicemembers and commands of each branch. Additionally, we urge the Department to review and apply the Attorney General's Memorandum on Religious Liberty and issue prompt guidance in accordance with that memorandum to commands, chaplains, and judge advocates regarding the protections afforded to religious expression and how issues concerning religious freedom should be addressed amidst the pandemic.

We are growing frustrated as senior military leaders, often out of ignorance, continue to violate the religious liberty and clearly expressed, explicit intent of Congress when it comes to chaplains. Far too often, commanders react in a knee-jerk fashion to loud complaints from vocal anti-religion activists only to have their decisions immediately overturned upon scrutiny, but often only after congressional intervention pressing the Services to adhere to their own regulations (let alone the Constitution). This must end.

We applaud the hard work of the Department and our servicemen and women across the world during the global health crisis. We will continue monitoring these and any other religious liberty issues that arise. We look forward to your response.

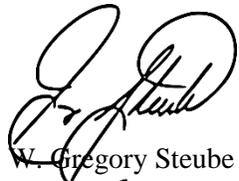
Sincerely,



Doug Collins
Member of Congress



Doug Lamborn
Member of Congress



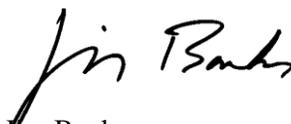
W. Gregory Steube
Member of Congress



Matt Gaetz
Member of Congress



Ralph Norman
Member of Congress



Jim Banks
Member of Congress



Louie Gohmert
Member of Congress



Mike Johnson
Member of Congress



Debbie Lesko
Member of Congress



Steve King
Member of Congress



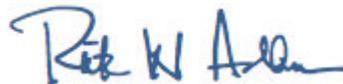
Kevin Brady
Member of Congress



Andy Harris, M.D.
Member of Congress



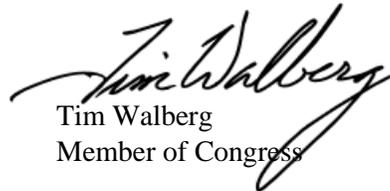
Brian Babin, D.D.S.
Member of Congress



Rick Allen
Member of Congress



Glenn Grothman
Member of Congress



Tim Walberg
Member of Congress



Bill Flores
Member of Congress



Vicky Hartzler
Member of Congress



Andy Biggs
Member of Congress



Austin Scott
Member of Congress

cc: The Honorable Ryan D. McCarthy, Secretary of the Army