
The Implications for Inmate Rights of the Voluntary Provision of Religious Services

Nancy T. Kinney
University of Missouri–St. Louis

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Throughout U.S. history, volunteers have had a persistent role in supporting the religious rights of prison inmates. In some states today, the only religious services available to inmates are provided by volunteers. The presence of volunteers inside prisons may potentially provide personal support to individuals in arguable need of ethical rehabilitation. However, because the provision of services is heavily reliant on the motivation of volunteers, the religious needs of inmates may not be met. The situation is compounded by America's increasing cultural diversity. To understand the magnitude of the trend toward voluntarism and its implications for the religious rights of inmates, this article presents a framework for understanding the constitutional issues involved in using religious services volunteers and a description of the process whereby states have adapted to volunteer-driven programs. It concludes by offering secondary analysis of national data about some implications of volunteer use in religious services to inmates.

Keywords: prison ministry; volunteer programs; church and state

Religious volunteers have had a long and visible role in the reform, rehabilitation, and reentry of offenders who have undergone incarceration in the United States. During the Founding period, religious groups were instrumental in shaping societal norms for the discipline and treatment of criminal behavior (Lewis, 1967; Shaw, 1995). Through groups such as the Philadelphia Society of Assisting Distressed Prisoners (founded in 1776) and similar organizations, volunteers in the emerging Republic often filled positions on boards of managers, provided Sunday school lessons as well as instruction in the three Rs, and advocated for the humane treatment of prisoners. During the 19th century, many notable innovations in the structure and reform of institutions were the product of the fervor of religionists (Katz, 1996; Rothman, 1971; Shaw, 1995). Over time, constitutional concerns and administrative expedience formalized the part religion would play in the administration of prisons, mostly through the function of chaplains and other ordained ministers in the employ of either state or federal prisons. The role played by religious volunteers, however, remains as unscripted as at any time during the history of corrections in either federal or state institutions with important consequences for the religious rights of offenders.

During the past few decades, significant changes affecting state prisons have once again focused attention on the participation of religious volunteers in the correctional system. The inmate population in the United States more than doubled in the decade between 1980 and 1990 to 1.1 million (Bureau of Justice Statistics, November, 1991). In 2002, about 701 out of every 100,000 Americans were held in jails or prisons in the United States, the highest confinement rate in the world (Harrison & Beck, 2003; United Kingdom Home Office Research Development and Statistics Directorate, 2003). Stiffer sentencing and a dramatic rise in drug-related convictions are considered major contributing factors to the exploding prison population. For many states, the spiraling cost of incarceration restricts funding for little beyond basic residential costs. Perhaps as a consequence, the climate for rehabilitation in U.S. prisons has also undergone dramatic change, leading some to conclude that the correctional system in America is essentially antirehabilitative (Krantz, 1988).

Although the federal corrections system continues to employ institutional chaplains in its facilities, state corrections systems have increasingly found the cost of prison clergy positions prohibitive. Since the 1990s, states such as New York, Georgia, South Carolina, Texas, and Arkansas have eliminated chaplain positions in their corrections systems. As a result, many state departments of correction have turned to volunteers to provide certain religious services to inmates. A 1997 survey of 31 state correctional departments found a decided trend toward use of volunteers to provide religious services to inmates (Rosenau, 1997). Although the 1997 survey did not capture data from all 50 states, at least 6 states surveyed had redirected funding from more conventional chaplaincy programs to the coordination of volunteer services. Respondents from 2 states in the 1997 study (South Dakota and Virginia) reported they had adopted all-volunteer approaches to the provision of religious services.

Budget constraints have been only part of the reason for the transition. Accommodating the increasingly diverse religious needs of inmates has surfaced as another reason for reliance on volunteer programs. Making allowances for the variety of religious expression in a multicultural prison population raises the specter of civil litigation on grounds of religious discrimination, and the cost in time and resources of such actions has become a disincentive for state provision of religious services.

This shift in emphasis toward the community or at-large volunteer signals an important change in the way that the religious rights of prisoners are allowed expression in the corrections environment. This article asks, "Has the increased use of volunteers and volunteer programs aided or obstructed expression of the religious rights of inmates?" On one hand, increasing the use of volunteers could actually increase participation overall or, importantly, improve the chance that minority religious expression might be enabled. On the other, there is a risk that prison volunteers may be representative of only dominant religious groups that could overshadow the choice of services available to inmates. However, no national-level data exist that probe these issues or report the views of prisoners across the states on the impact of volunteer programs. This article offers a tentative assessment of the scope of state provisions for religious expression under an increasingly volunteer-driven service environment. It begins with an overview of the relevant issues of state responsibility toward the reli-

gious rights of inmates and then presents a brief description of how states are making a transition to volunteer programs to supply religious services. The article concludes with analysis of data from several national studies that are suggestive of the implications of this trend toward voluntarism for offenders' religious rights.

Constitutional Issues Related to Religious Volunteers in Prisons

Given the potentially volatile nature of the corrections environment, prison officials have generally been given wide berth to determine the regulation of religious practice. Except for a period during Chief Justice Warren Burger's leadership, the approach taken by U.S. courts has been to defer to corrections administrators when evaluating the religious rights of prisoners. Whereas modern jurisprudence has defended the religious rights of inmates, their exercise of those rights may be severely restricted due to the prison environment. The ability to act on one's religious beliefs is not an absolute right, whether inside prison or out. The courts have maintained that although an individual's right to hold religious beliefs receives absolute protection, an individual's actions in the exercise of religious belief can be subject to regulation to protect society (*Cantwell v. Connecticut*, 1940). In prison, the freedom to act in the exercise of one's beliefs is regulated for much the same reason that it is constrained in society at large: for the peace and safety of the community.

However, after a long tradition of maintaining a hands-off attitude toward the administration of prisons, the nation's courts began in the 1960s and 1970s to articulate a set of standards for accommodation, largely in response to claims by adherents of minority religions (Rachanow, 1998). A series of legal decisions in the past 40 years has established that offenders do not forgo constitutional rights to the free exercise of religion when they enter the confines of prison. Despite an inmate's loss of freedom, he or she is not totally bereft of religious rights while incarcerated. The rights of the accused, a central principle of the rule of law, are not thoroughly disregarded when a conviction is reached (Evans, 1997; Palmer, 1991). In *Abington v. Schempp* (1963), Justice William Brennan wrote that because the government has "deprived such persons of the opportunity to practice their faith at places of their choice" (p. 298), it is permissible for the state to provide for their religious needs.

The court strengthened that position in *Cruz v. Beto* (1972), which affirmed an inmate's demands to have his Buddhist practices accommodated while in prison. "Reasonable opportunities must be afforded to all prisoners," the court stated in its decision, "to exercise the religious freedom guaranteed by the First and Fourteenth Amendments." The Supreme Court reiterated the principle of accommodation in 1974 when it argued that "a prisoner is not wholly stripped of constitutional protections when he is imprisoned" (*Wolff v. McDonnell*, 1974, p. 555).

Providing for such permissible and reasonable accommodations presents a delicate challenge to state prison administrators. To provide religious services to prisoners, correctional facilities must neither favor nor hinder religion, and balancing inmates' rights to exercise their faith while avoiding the establishment or aiding of religion is at

times a delicate task (Knight & Early, 1986). In *Gittlemacker v. Prasse* (1970), a Jewish inmate claimed the state should provide him with the services of a rabbi because Christian prisoners benefited from the presence of an institutional chaplain. *Gittlemacker* insisted that the state's provision of a Protestant chaplain constituted a violation of the Establishment clause. The court determined that providing space in state institutions for religious services was not a violation of the Establishment clause and that the prison's reasonable efforts would necessarily have economic limitations. Reflecting the tension between free exercise claims and Establishment concerns in cases such as these, jurists have determined that a "strict and absolute application of the protection against establishment of religion in the country's prisons would probably impermissibly deprive some inmates of their right of free exercise" (Knight & Early, 1986, p. 178).

Protecting the interests of adherents of minority religious groups has been at the core of many jailhouse Constitutional challenges. Inmates who identify with the Protestant, Catholic, or Jewish faiths have fared better in terms of services, resulting in a situation that has led to preferred privileges claims by prisoners of minority religions. Correctional institutions may not allow accommodations for individuals of one faith and deny comparable arrangements for members of another. In *Cruz v. Beto* (1972), for example, the court held that Cruz had experienced discrimination because he was denied "a reasonable opportunity to pursue his Buddhist faith comparable to that offered other prisoners adhering to conventional religious precepts" (p. 319). Similar forms of discrimination have been found when prisoners of minority religions were not allowed such privileges as passes to attend services at times other than Sunday (*Konigsberg v. Ciccone*, 1968), the right to grow a beard when members of other religious faiths were allowed to do so (*People ex rel. Rockey v. Krueger*, 1969), and the ability to correspond with ministers of one's faith when members of mainline religious groups were allowed those privileges (*Cooper v. Pate*, 1965).

The ability to act fairly toward a diverse prison population is further constrained by economic limitations, an all-too-common situation for budget-strapped states. Furthermore, important developments in the Supreme Court's interpretation of religious expression generally have also affected the rights of prisoners, especially as American society has become increasingly diverse. For almost 30 years, the religious rights of individuals (either in or out of prison) were outlined by a three-part test established in *Sherbert v. Verner* (1963). The Sherbert test required that laws limiting religion would be considered constitutional only if they "served a compelling state interest, provided the least intrusion on free exercise, and did not discriminate against religion on their face or as applied" (Rachanow, 1998, p. 126). By using the rigorous compelling state interest standard, the Court placed a greater burden on the state to demonstrate its interest in constraining free exercise, a reflection of the importance of the religious rights of individuals (Solove, 1996).

The court's incursion into such matters of prison administration was relatively brief but influential (Evans, 1997). During the 1980s, the nation's highest court began to narrow the reach of the free exercise clause in regard to the prison population (Knight & Early, 1986). Until two decisions in 1987, the Sherbert test guided many religious

rights decisions in the prison context. In *Turner v. Safley* (1987), the Court used the less rigorous standard of reasonableness for determining the state's interest in restricting correspondence between prison inmates. In *O'Lone v. Estate of Shabazz* (1987), the Court again applied the less onerous reasonable test to decide whether the state's limits on the religious activity of Muslim prisoners were justified. The Court decided in *O'Lone* that the restrictions on religious exercise that the Leesburg State Prison in New Jersey placed on the ability of Muslim prisoners to observe a Friday afternoon service (called *Jumu'ah*) did not have to meet the stricter compelling interest standard. The discipline and control required by prison management, the Court argued in *O'Lone*, need only serve a reasonable interest and did not necessitate the higher standard. The pattern of case law from *Sherbert* to *O'Lone* traces the Court's increasing concern for corrections administrators to maintain discipline in the volatile prison environment, during a time period when the rate of incarceration in the United States grew rapidly.

The status of inmates' rights was then profoundly affected by a decision that would have consequences for religious expression both in and out of prison. In 1990, the Supreme Court further relaxed use of the compelling interest standard when it decided in *Employment Division, Department of Human Resources of Oregon v. Smith* (1990) that an employee who was fired for his religious use of peyote was ineligible for unemployment pay. The Court held that "as long as a law was generally applicable and not designed to discriminate against a particular religion, the fact that it burdened religious freedom was irrelevant" (*Employment Division, Department of Human Resources of Oregon v. Smith*, 1990, pp. 888-890). Smith's claim could not be considered under a compelling interest standard, the Court argued, because *Sherbert's* test was developed in a particular context that made an across-the-board prohibition inappropriate.

Rights advocates feared further expansion of the less rigorous reasonableness standard. In reaction, a broad-based coalition of religious rights organizations pushed for legislation to reinstate the stricter *Sherbert* standard, and in 1993, Congress passed the Religious Freedom Restoration Act (RFRA, 107 Stat. 1488). Although the act had impressive bipartisan support, it was not without its detractors, and serious concern was expressed for the implications of RFRA, particularly for prison administration. During deliberation, a move to exempt prisons from RFRA was hotly contested in the Senate, based on fears that the legislation would initiate a flood of frivolous lawsuits by inmates ("Religious Freedom Bill OK'd," 1993). The bill passed without the amendment, and correctional officials and states' attorneys general braced themselves for an onslaught of litigation and other challenges to prison administrators' control. Unsettled by the possibility of widespread appeals for religious rights, some prison administrators actively contemplated a move to "eliminate all financial aid for religious programs" (Hansen, 1994, p. 20) to avoid meeting impossible demands for accommodation.

Their concerns were justified, as a wave of religious rights litigation flowed into the nation's courts following RFRA, many involving the rights of inmates (Coalition for the Free Exercise of Religion, 1997). The Supreme Court eventually struck the act

down in 1997 when it ruled that Congress had overstepped its bounds by attempting to interpret constitutional rights in RFRA, a privilege reserved for the courts alone (*City of Boerne v. Flores*, 1997). Ironically, the direct impact on those in prison of RFRA's meteoric passing was a permanent withdrawal by some state departments of corrections from direct provision of religious services (Hansen, 1994). Many have since turned to using volunteers to satisfy the reasonable provision for free exercise by offering an array of religious services to inmates.

It is uncertain whether volunteer-led programs can meet the state's limited responsibility to afford permissible opportunities for religious expression. The rights of adherents of minority religious groups are likely to be most vulnerable under this evolving voluntary system, if the availability of volunteers or opportunity to visit prison are limited. Furthermore, the access granted to volunteer groups and clergy is purposely constrained by prison administration, another possible factor that may favor some religious traditions over others and thus violate establishment of religion. Minority religious groups may have difficulty overcoming such constraints, particularly because clergy do not have a right to enter prison, conduct services, or meet with inmates, as the Court has held. In *O'Malley v. Brierley* (1973), the court determined that granting such rights to religious leaders would effectively give them entrée to government institutions "beyond what the general public enjoys" (Knight & Early, 1986, p. 190).

In short, under the less rigorous rubric of reasonableness, almost any restriction might be justified in the demanding prison environment. As Brooks (1997) argues, the reasonable standard is meaningless because "almost any rule or regulation could be described as being 'reasonably related' or logically connected to penological concerns" (p. 5). Although the Supreme Court's long-standing position from *Wolff v. McDonnell* (1974) has been that inmates are "not wholly stripped of constitutional protections" (p. 555) when they are imprisoned, these rights are thoroughly subject to the authority of prison administrators. Furthermore, with a transition to volunteer programs, the religious rights of inmates may also be subject to the vicissitudes of voluntary arrangements that are allowed at a warden's discretion. The mechanisms by which states have transformed their systems of religious services offers insight into the potential for administrative control.

Transitions to Volunteer Programs

Although information about this process is somewhat fragmentary and anecdotal, the transition to volunteer religious services programs has differed by state. Some states have apparently focused on expanding existing volunteer programs, whereas others have implemented new institutional structures to facilitate the inclusion of community volunteers (Greene, 1993; Hart, 1989; Yu, 1995). A number of states have created new staff structures or modified existing positions to more intentionally promote the efforts of volunteers in state correctional facilities, renaming staff positions with titles such as religious coordinator. The title has not fit all circumstances, how-

ever. South Dakota changed the title to cultural activities coordinator, ostensibly because of the specific character of Native American traditions in the state (Rosenau, 1997). Although states have retained religious personnel for some institutions, the days when every correctional facility was served by a staff chaplain appear to be long gone.

In addition to changes in staffing configurations that include volunteer directors or coordinators, many prisons throughout the country have opened their doors to non-profit organizations that use volunteers in aspects of their programs. A limited search on Guidestar.org of groups that file IRS form 990 as prison ministries produced a list of 356 organizations across the country. These organizations can be sizable, with extensive systems of volunteers, and some are linked through a web of national and international affiliates. For example, Prison Fellowship International at one time reported 280 employees working in the United States and continues to oversee an estimated 50,000 volunteers in 1,668 state and federal prisons (Prison Fellowship International, 2004; Sachs, 1993). Furthermore, these groups can tout impressive rehabilitation statistics. The association of Prison Congregations of America reported a recidivism rate of only 9% for inmates involved in its Community of St. Dymas, which serves two Maryland prisons. In contrast, recidivism for the entire state system was 65% (Prison Congregations of America, 2001; Ed Nesselhuf, Prison Congregations of America Director, personal communication, 1998).

The state of Colorado presents an instructive case that illustrates the progression of change toward a volunteer structure. In 1993, Colorado's General Assembly reduced the number of chaplains in its corrections system from 13 to 6, a move justified in part by an expressed need to cut costs. Prison officials reassigned chaplains at this first reduction phase, asking them to assume duties at several facilities. The next wave of change occurred in 1995, when the remaining 6 positions were threatened with elimination. Despite protest from the Colorado Council of Churches and other community groups, legislators approved a department of corrections budget that created 6 new volunteer coordinator positions in place of the chaplain spots. Those previously employed as chaplains were allowed to apply for the new positions but had no assurance they would be hired (Culver, 1995). According to department estimates, about 3,000 individuals were expected to be authorized by 1996 as volunteers in Colorado corrections facilities (Volunteer Services Subprogram Description, 1997).

By 1997, the chaplaincy corps had effectively been replaced by the Office of Volunteer Services, a new entity organized to oversee not only ministry efforts but other voluntary programs such as general education development preparation, recreation, English for Speakers of Other Languages, music performance, and child care. A department official estimated that about 70% of all prison volunteers were involved in activities related to religious services (Tom Lopez, personal communication, April 10, 1998). The stated purpose of the Office of Volunteer Services was "to effectively coordinate, maintain and protect the religious rights and freedoms of all under the care of the chaplaincy programs as well as recruit from religious sects authenticated representatives of the faith groups represented in the inmate population" (Volunteer Services Subprogram Description, 1997, p. 1372). The six full-time employees of the Office of

Volunteer Services had successfully shifted the emphasis from the direct provision of religious services to the recruitment, screening, training, and supervision of community volunteers.

In addition, the transition to volunteer coordinators was accompanied by a growing trend toward privately funded full-time chaplains. Within about 1 year after the decision to eliminate staff chaplains, 18 individuals were engaged full-time as volunteer chaplains whose salaries and expenses were paid entirely by religious groups (Tom Lopez, personal communication, April 10, 1998). Each of these chaplains was ordained in accordance with his or her particular faith group, had undergone suitable clinical pastoral education, and had received an endorsement from the appropriate ecclesiastical authority. As full-time employees, they were expected to complete a 3.5 week stint at the Department of Corrections' training academy in addition to fulfilling 40 hrs of comprehensive facility orientation. The volunteer chaplains were also required by regulation to serve all inmates without regard for their particular religious bias. Early on, however, the department made an exception to this rule; apparently, the volunteer Islamic chaplains were exempted from having to serve inmates of all faiths (Bill Potter, Volunteer Services Administrator, personal communication, April 14, 1998).

As of 2004, the Colorado Department of Corrections has about 2,000 volunteers actively serving state-run and private facilities. The proportion of all volunteers involved in religious services remains about constant at 75%. The number of full-time, volunteer chaplains has increased to 24 and virtually all of them are affiliated with Protestant Christian groups (Brent Parker, personal communication, August 24, 2004).

Newspaper accounts of the transition to volunteer programs in other states bear many similarities to the process taken by Colorado. In short, positions once held by institutional chaplains were either reduced or converted to volunteer coordinator posts. Then the mobilization of volunteers occurred, accompanied by a surge in privately compensated, volunteer chaplains. Whether this process constitutes a pattern for service provision by volunteers that compares or exceeds those offered previously by chaplains is difficult to say. Have programs fueled by volunteer energy been able to satisfactorily serve the varied religious needs of inmates? Unfortunately, data collected to provide an accounting to state legislatures such as Colorado do not indicate whether religious expression in state facilities has been expanded or constrained. Analysis of data from several national studies can shed further, if limited, light on these developments in prison programs.

Implications of Volunteer Services From Secondary Data Analysis

More than 10 years after *Smith* (1990) and RFRA sent a shockwave of change through state prison systems, departments of corrections continue to narrow their direct service role in religious programs for inmates. As a result of minimized state

responsibility for such services, the environment for volunteers appears remarkably ill-defined in light of the role they assume in supporting the religious rights of inmates. Despite the importance of the prison religious services volunteer, no nationally representative study is available that examines the prevalence, scope, or intensity of voluntary action in state prisons.

This article concludes with a few tentative findings from secondary analysis of relevant data from the Bureau of Justice Statistics. Although the data do not directly measure the work of religious services volunteers in state prisons, they provide an indication of the environment for religious rights during a period when staffing reconfiguration has taken place. The analysis presented here is drawn from two series sponsored by the U.S. Department of Justice, Bureau of Prison Statistics: the *Survey of Inmates in State Correctional Facilities, 1991* (1993) and its successor; the *Survey of Inmates in State Federal and Correctional Facilities, 1997* (2001); and the *Census of State and Federal Adult Correctional Facilities* for years 1990, 1995 and 2000 (1998, 2001, 2004).

Data from the *Survey of Inmates in Federal and State Correctional Facilities* (1993) provide limited information on the participation of inmates in programs of a religious nature. Although many factors could be included in an assessment of inmate religious services, only two factors (gender, parental status) were used to compare basic differences in participation rates. Gender was used because of the separation of correctional facilities and programs by sex and, as well, because of mounting concerns about the effectiveness of programs for an increasing female prison population. If an inmate was a parent, they might be more inclined to take advantage of religious programs out of a desire to hasten rehabilitation and be reunited with children. In addition, parental status was considered to be an appropriate factor for comparison because of the number of family preservation and reunification programs reportedly run by religious groups.

During the time period that incorporates the passage of RFRA, participation by inmates increased substantially in both authorized religious study groups and less formal religious programs. Participation increased in all program areas for which there are comparable data for the years 1991 and 1997, as Table 1 indicates. As Table 2 shows, the participation of all inmates in religious study groups increased more than 45%, with the participation of male inmates reflecting the strongest growth during the time period. Women offenders participated at a notably higher rate than men in both study years, exceeding their male counterparts in participation by about 10% in 1991 and 1997. Although increases occurred across gender and parental status categories, participation by inmate parents in 1997 (31.4%) fell below the rate shown by inmates overall (32.5%) for that same year. In contrast, inmates in the 1991 study who were parents had participated in religious study groups at a higher level (24.3%) than all inmates (22.4%). These differences are slight but notable in a set of measures going consistently in the opposite direction.

The rate of involvement in other sorts of religious programs showed similarly impressive growth, increasing by about 39% between 1991 and 1997. Again, women generally participated at a higher rate than men in both years. Involvement by parents

Table 1
Change in State Facility Inmate Participation, Selected
Rehabilitation Activities, 1991 (N = 13,986) and 1997 (N = 14,285)

Activity	1991	1997	% Change
Other religious programs	24.9	34.2	+37.35
Bible or religious study group	22.4	32.5	+45.09
Personal improvement and self-help	11.3	14.0	+23.89
Life skills program	10.3	16.7	+62.14
Pre-release program	8.1	8.2	+ 1.23
Prisoner assistance program	4.4	8.3	+88.64
Outside community activities	2.7	3.2	+18.52
Ethnic and racial group	2.4	4.3	+79.17

Note: From U.S. Department of Justice, Bureau of Prison Statistics, *Survey of Inmates in State Correctional Facilities, 1991* (1993) and the *Survey of Inmates in Federal and State Correctional Facilities, 1997* (2001).

Table 2
Change in State Inmate Respondents Who Participated in
Religious Programs, 1991 (N = 13,986) and 1997 (N = 14,285)

	1991	1997	% Change
Bible club or other religious study			
Total respondents	22.4	32.5	+45.09
Men	20.7	30.9	+49.28
Women	29.1	41.2	+41.58
Parents, total	24.3	31.4	+29.22
Parents, male	22.3	29.4	+31.84
Parents, female	30.7	40.6	+32.25
Other religious programs			
Total respondents	24.9	34.7	+39.36
Men	22.8	31.9	+39.91
Women	33.2	45.5	+37.05
Parents, total	27.0	33.8	+25.19
Parents, male	24.5	31.6	+28.98
Parents, female	35.1	44.4	+26.50

Note: From U.S. Department of Justice, Bureau of Prison Statistics, *Survey of Inmates in State Correctional Facilities, 1991* (1993) and the *Survey of Inmates in Federal and State Correctional Facilities, 1997* (2001).

showed a reversal similar to religious study participation between 1991 and 1997 when compared to inmates overall. The downturn in parental participation is perplexing; however, other new or expanded programs may have filled the particular needs of parents.

To gain insight on changes in the structure of prison programs, data were analyzed from the *Census of State and Federal Adult Correctional Facilities* (1998, 2001, 2004). The census collects data on general administrative concerns as well as the

Table 3
**Comparison of Mean Percentage Professional Treatment or
 Technical Staff by Facility Operation (1990, 1995, & 2000)**

	1990	1995	2000
Federal	.22	.21	N/A
State .09	.12	.14	
Private	.17	.18	.25
Joint local or other	.06	.13	.14

Note: From U.S. Department of Justice, Bureau of Prison Statistics, *Census of State and Federal Adult Correctional Facilities* for years 1990, 1995 and 2000 (1998, 2001, 2004).

inmate population, staff characteristics, and physical properties of prisons in the United States. References to religious activities (volunteer driven or not) were extremely limited in the instruments used in 1990, 1995, and 2000, the most recent years the survey was conducted. Only the 1990 series queried institutions about the frequency of programs run by self-help groups or volunteers and then only in the context of programs not explicitly religious in nature.

Analysis of the data suggests that despite budget pressures during the years surrounding RFRA, the availability of programs of all sorts did not diminish. During this time period of reputed increases in volunteer usage, the percentage of state facilities with programs either held constant or actually increased. Conversely, the number of state facilities that offered no education or other special programs decreased almost by half. In 1995, about 12.4% of state correctional facilities offered no education programs, compared to only 6.8% in 2000. In terms of special programs (drug abuse, alcohol, psychological, employment, life skills, parenting, other), slightly less than 4% (3.8%) of state prisons reported they offered no such programs in 1995; the number of facilities without special programs of any kind fell to 1.4% in 2000.

It cannot be concluded that the presumed reduction in chaplain positions led to an increased use of volunteers or a subsequent increase of participation in religious activities. The *Census of State and Federal Adult Correctional Facilities* (1998, 2001, 2004) has not measured specifically any change in the numbers of chaplaincies. However, the position of chaplain is one of the staff types included in the survey's categorical questions about professional treatment and technical staff. Table 3 shows that as a percentage of overall payroll staff, professional treatment staff positions actually increased between 1990 and 2000 across all types of facilities. Although the increase in professional treatment staff on the state corrections payroll was impressive (from 9% in 1990 to 12% in 1995), the rate was a little less than half that of federal facilities (21% in 1995). Joint local and privately run correctional facilities had the largest increases in the percentage of professional treatment staff on the payroll (both about 7%), and the rate for private facilities surpassed that of states by more than 10% points by 2000.

Table 4
State Corrections Facilities Reporting Court Orders 1990 (N = 1,287),
1995 (N = 1,262) and 2000 (N = 1,295)

Purpose of Court Order	1990		1995		2000		% Change 1990 to 2000
	n	%	n	%	n	%	
Crowding	180	15.9	208	16.5	98	5.9	-62.89
Counseling	100	8.9	67	5.3	13	0.8	-91.01
Other	41	3.6	87	5.8	20	1.2	-66.67
Totality of conditions	201	17.8	145	9.7	50	3.0	-83.15
Religious practices			72	5.7	88	6.8	+19.30 ^a

Note: From U.S. Department of Justice, Bureau of Prison Statistics, *Census of State and Federal Adult Correctional Facilities* for years 1990, 1995 and 2000 (1998, 2001, 2004).

a. Data available for comparison for 1995 and 2000 only.

Findings about the rate of participation in religious activities, the prevalence of volunteer or self-help programs, and changes in staffing provide a limited but interrelated picture of religious programs in prison. Given the evidence that religious participation has increased rather than declined, that the number of related professional staff has held steady or increased, and that the incidence of facilities with no programs (which might include religious services) has declined, it might be safely concluded that the effect of volunteer programs has likely been positive. However, the signs of stable or even improving situations related to the provision of religious services tell us little about the constraints perceived by inmates in regard to expressing their religious rights. A survey measure that might offer an indication of inmate satisfaction during this transition period is the number of court orders leveled against correctional facilities for various conditions of confinement. As Table 4 indicates, the number of court orders of all sorts issued to state facilities decreased dramatically between 1990 and 2000 except in the category of conditions for religious practices. Although the incidence of other court orders declined by as much as 14% (*Totality of conditions*, 1990-2000), the number of court orders for religious practices increased by a small but notable 1%.

Conclusion

Volunteer religious service programs in state correctional institutions may provide a viable alternative for the constitutionally permissible exercise of prisoners' religious rights. The growth of the prison population in the past few decades has placed enormous demands on the states and their ability to safely confine offenders as well as reduce the likelihood that they will offend again in the future. The direct, personal involvement of community volunteers in the corrections system may help inmates to amend their lives and assume a productive place in society. At particular risk through voluntary provision are the rights of adherents of minority religions.

More current and longitudinal data are needed, especially during this transitional period when the constitutional rights of individuals may be compromised. Analysis of the data presently available suggests a need for continued vigilance and steady commitment to diversity in the provision of religious services. Despite the upsurge of interest in volunteer programs during this time of fiscal strain on the states, preserving an inmate's opportunities for religious expression remains a difficult but telling test of rights protection.

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Nancy T. Kinney, PhD, is an assistant professor of political science and public policy administration at the University of Missouri–St. Louis. Her research focuses on new developments in public policy that have allowed the expanded use of religious groups in the delivery of essential public services. An earlier version of this article was presented to the 27th Annual Conference of the Association for Research on Nonprofit Organizations and Voluntary Action in Seattle, Washington.