

## **The Constitutionality of Community Service Chaplains**

This entire section will be specific to the chaplains serving in America. Its principles will be informative to all chaplains, but not necessary to implement unless the agency which the Community Service Chaplain serves, is bound by the First Amendment to the Constitution of the United States of America.

Lemon vs. Kurtzman is a 1971 Supreme Court finding which resulted in a three prong decision, which would interpret the constitutionality of ministries or church related services which may conflict with the position of church and state relationships.

The Community Service Chaplain will need to have a very strong understanding of this finding. He/she should be able to articulate the implications involved with relating to an agency which is sponsored by or endorsed by a government agency. Additionally, the chaplain will need to have a comprehensive understanding of why some agencies are allowed chaplains and others may be brought into question or not allowed them at all.

The question arises as to why the US Military is allowed paid chaplains even though the armed forces are completely budgeted and funded by US tax dollars. Why is this apparent conflict permitted to exist? The reason is basic to constitutional rights of the citizenry of America. The armed forces have the prerogative to send its members anywhere it deems necessary. This may be into an area where an individual would not be able to have freedom of worship, or where the possibility of religious services might not be available without a chaplaincy. Hence, chaplains are authorized in prisons, state hospitals and other such agencies where the participants are taken out of their normal ways of life. The constitution provides for freedom of religion and, therefore, such allowances are made for chaplaincy.

With all of this in mind, the question may arise, "how does this justify a chaplaincy among law enforcement, jails, state or community government sponsored nursing homes, or other agencies?" The answer is found in Lemon vs. Kurtzman.

## **The Three Prongs of the Establishment Clause**

1. Does the Governmental action (chaplaincy program) have a secular purpose?
2. The Governmental action must not have the primary or principle effect of enhancing or inhibiting religion.
3. Does the Governmental action foster an excessive entanglement with religion?

FIRST AMENDMENT  
The Establishment Clause

1) Whether the governmental action has a secular purpose.

What would be some of the duties of the KPD Chaplains that would obviously and conclusively meet this prong of Lemon v. Kurtzman?

- o Marriage and family counseling of officers and staff
- o Instructing and teaching, Stress management, etc.
- o Suicide intervention and afteractions
- o Hostage negotiations advisor

2) Which does not have principal or primary effect of enhancing or inhibiting religion;

How can the KPD Chaplains meet this prong of Lemon v. Kurtzman?

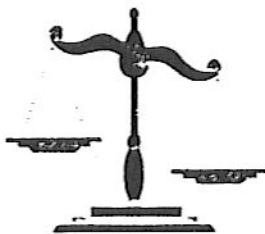
- o By not excluding other caretaker professions from the chaplain's corps.
- o By not imposing religion because of privileged position or situational mandate.
- o By offering spiritual advise and counsel upon request of employee

It is important to note that a "chaplain" cannot inhibit religion. (explain)

3) Which does not foster an excessive entanglement with religion.

How can the KPD Chaplains meet this prong of Lemon V. Kurtzman?

- o Chaplains have to be prepared to respond to issues without the KPD having to make special allowances for ones specific theological nuances. (examples)
- o The KPD is seen to be reliant upon religious institutions for the maintenance of the chaplain corps.



INSIDE INFORMATION

Certification Committee .....	4
Computer .....	3
Development Committee .....	3
Honor Roll .....	4
Ideas to Copy .....	7
In Memoriam .....	5
New secretary .....	5
News .....	1,2
Nominations .....	7
Personals .....	5
Prayer .....	6
Question: "Certification" .....	2
Region and State News .....	10
Resources .....	3
To Think About .....	6,8,9
Welcome - New Members ...	3

The following editorial appeared in the Tacoma *News Tribune* on May 2, 1997.  
Reprinted by permission.

## High court makes good call on chaplains

A state Supreme Court ruling upholding the constitutionality of a Pierce County chaplaincy program was a victory for common sense--and for victims of tragedy who sorely need the comfort chaplains provide.

Perhaps the state chapter of the American Civil Liberties Union, which ended up on the short end of last week's 5-3 ruling, can now focus on something truly worth worrying about. Unless the ACLU decides to appeal, the court's decision ends a ridiculous, seven-year legal battle over the program run by the Tacoma-Pierce County Chaplaincy. Despite two lower court rulings in the county's favor the ACLU persisted in attacking the program as a perceived violation of both the state and federal constitution.

The volunteer ministers are not paid with public funds; they're not even reimbursed for mileage in their own cars. The sheriff's department only provides an old county car for the program

Continued on page 2

## O-F-F-I-C-I-A-L N-O-T-I-C-E

The Annual Meeting of the International Conference of Police Chaplains will be held in Duluth, Minnesota, on July 14 through 18, 1997. Business to be conducted will include hearing the reports of Officers and Committees and acting upon recommendations of the same; setting the 1997-8 budget; electing officers; and any other business necessary and proper to come before said meeting.

## ? QUESTION:

Does certification mean that I have ICPC endorsement as a chaplain?

Answer on page 4

## High court good call (Con't. from page 1)

coordinator, radios and identifying jackets for the participants, liability insurance and some training in crisis counseling. The county spends an average of \$3,000 a year on the program.

What the ministers provide in return is invaluable. They serve on 24-hour call to comfort both ordinary citizens and police officers devastated by accidents, murders, suicides and other tragedies. The county couldn't afford to offer the service if it were not offered for free by these volunteers.

The ACLU, however, argued even this minimal level of public support for a program involving Christian ministers violates constitutional provisions requiring separation of church and state. Even the act of calling a minister dressed in a police chaplain's jacket to the scene of a tragedy constitutes an official "endorsement" of religion, the ACLU contended.

This skewed, absolutist view of things was appropriately rejected by the court majority. Applying the U.S. Supreme Court's famed "Lemon test", the majority found the chaplaincy program has a secular purpose, does not have the primary effect of advancing religion, and does not constitute "excessive entanglement" between church and state.

With past constitutional amendments, Washington's voters have approved state-employed chaplains for prisons, mental institutions, hospices and public hospitals. It's hard to see how allowing unpaid volunteer chaplains to provide solace to the distraught poses a threat to religious liberty. ♦

## Chaplains on hand throughout "Republic of Texas" standoff

Chaplain Ed Jennings of the Presidio County (Texas) Sheriff's Department was on the scene to aid lawmen throughout the "Republic of Texas" standoff in Jeff Davis County. He worked on logistics and ministry during the standoff, helping provide beds, toiletries, food, counseling and prayer to law enforcement personnel.

He reports his most difficult task was "to visit with the officer who had to shoot one of the guys who had run off" after the majority of the separatists had surrendered peacefully, he said.

Newspapers reported that part of Jennings contribution was "two or three prayer walks" each day.

The siege, which started on April 27th, ended on Saturday, May 3rd. Chaplain Jennings was prepared to hold Sunday worship services at the law enforcement command area, had the standoff lasted until then. ♦

## Chaplains assist at North Dakota floods

Chaplain Bob Barnes, Santa Fe, New Mexico, was one of the first chaplains on the scene in Fargo, North Dakota. Bob is a disaster responder for his denomination. He took on the extra duty of contacting the chiefs of police in both Fargo and Grand Forks.

Dakota chaplains George Walker (Bismarck, North Dakota) and Charlie Wharton (Pierre, South Dakota) responded in the early days of the floods. Because George was on the scene, ICPC asked him to do the needs assessment to see if more chaplain aid was needed. His excellent

Continued on page 3