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December 11, 2006

Thomas F. Gimble
Acting Inspector General
Department of Defense
The Pentagon
Washington, D.C. 20301-1900

VIA MAIL AND FAX: 703-604-8567

My firm is counsel to the Military Religious Freedom Foundation ("MRFF"), an organization dedicated to ensuring that all members of the United States Armed Forces fully receive the Constitutional guarantees of religious freedom to which they and all Americans are entitled by virtue of the Establishment Clause of the First Amendment and other constitutional provisions. We respectfully request that the Office of the Inspector General commence an immediate investigation into the circumstances surrounding the creation of a videotape promoting the Christian Embassy. The video includes interviews with several members of the Army and the Air Force, appearing in uniform in the Pentagon, praising the Christian Embassy. A copy of the video is enclosed for your review; it can also be found on the organization's website, www.christianembassy.com.

The Christian Embassy is a self-described "non-political, multi-denominational ministry that has been caring for, encouraging and equipping our country's leaders and decision-makers for nearly 30 years." See www.christianembassy.com. The organization's stated purpose is "to care for, serve, encourage and equip leaders at the White House, at the Pentagon, in foreign embassies and on Capitol Hill," by helping "people in these communities reflect on and integrate their values with their work life to develop personally, professionally and spiritually." *Id.* The video's narrator states, "there are over 25,000 Department of Defense leaders working in the rings and corridors of the Pentagon. Through Bible studies, discipleship, prayer breakfasts and outreach events, Christian Embassy is mustering these men and women into an intentional relationship with Jesus Christ"

According to the organization's website, the Christian Embassy offers Pentagon employees morning prayer breakfast meetings each Wednesday from 0700 to 0750 in the Executive Dining

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Room (Room 3B1062), small group meetings where active and retired military leaders and Pentagon staffers “share and sharpen one another in their quest to bridge the gap between faith and work” and Bible studies.

The video depicts numerous scenes of groups of unidentified, uniformed military personnel, as well as interviews with a number of named, uniformed officials (in order of appearance): Army Brigadier General Vince Brooks, Air Force Major General Pete Sutton, Army Lieutenant Colonel Lucious Morton, Army Brigadier General Bob Caslen, Air Force Major General Jack Catton, Air Force Colonel Cynthia Islin and Pentagon Chaplain (Colonel) Ralph Benson. The video also depicts unnamed civilian and named civilians, in order of appearance: Judy Guenther, Pete Geren, Dan Cooper (retired U.S. Naval Vice Admiral), and Steve Johnson.

In the interviews, each of the officers discusses the benefits of the Christian Embassy. For example, Army Brigadier General Vince Brooks explains that the Christian Embassy has helped him “realize we have a need for the lord in our lives.” Army Brigadier General Bob Caslen, discussing the meetings of Generals and Admirals for Flag Officer Fellowship states, “I see a brother and the lord in these Flag Fellowship groups and I immediately feel like I am being held accountable because we’re the aroma of Jesus Christ” Pentagon Chaplain (Colonel) Ralph Benson states, “Christian Embassy is a blessing to the Washington area, it is a blessing to our campus, it’s a blessing to our country ... being able to share the message of Jesus Christ in a very, very important time in our world as we’re in a worldwide war on terrorism. What more do we need than Christian people leading us in values?”

In the video, Major General Jack Catton says: "I found a wonderful opportunity as a director on the Joint Staff, as I meet the people that come into my directorate, and I tell them right upfront who Jack Catton is, and I start with the fact that I'm an old fashioned American, and my first priority is my faith in God, then my family, and then my country. I share my faith because it describes who I am. I would say Christian Embassy, in my interaction with other flag officers, has helped inspire some of that, you know, we talk about that kind of stuff, and I think it's a huge impact because you have many men and women who are seeking God's council and wisdom as we advise the Chairman and the Secretary of Defense. Hallelujah."

Service men and women shown in uniform, and civilian DoD personnel, at the Pentagon enthusiastically promoting a private, sectarian religious organization appears to violate a number of Department of Defense Directives, Joint Ethics Regulations, Army Regulations, Air Force Instructions, and the "Little Blue Book" of Air Force Core Values, as detailed below.

Failure to Abide by Community Relations Policy

The Department of Defense Community Relations Policy states that official community relations support must be confined to those activities that are of common public interest and of benefit to a broadly representational community. Department of Defense Directive 5410.18, paragraph

4.2.3. Paragraph 4.2.3.5, authorizes official participation in events sponsored by “organizations with a narrow membership base or interest, such as ... religious or sectarian organizations ... when it is clear that the support primarily benefits the community at large, rather than the sponsoring organization.” Examples of such authorized official support include the use of a “church for a public concert, speech or display when the activity is not part of a religious service.”

Paragraph 4.2.9. of the Directive states:

Community relations activities shall not support, or appear to support, any event that provides a selective benefit to any individual, group, or organization, including any religious or sectarian organization, ideological movement, political campaign or organization, or commercial enterprise ... when DoD support is provided to one non-Federal entity, the DoD Component commands or organizations providing such support must be able and willing to provide similar support to comparable events sponsored by similar non-Federal entities.

Army Regulation 360-1, paragraphs 3-2.b.(2)(b) basically mirrors the DoD Directive, providing:

Public affairs support may be provided to events sponsored by organizations with a narrow membership base or interest (for example, civilian enterprises, religious or sectarian movements and organizations, ideological movements, and political organizations and campaigns) when it is clear that the support primarily benefits the community at large and/or the Army as opposed to benefiting the sponsoring organization.

In the chapter entitled “Community Relations,” Air Force Instruction 35-101, paragraph 8.6. states that to ensure every planned event complies with public law and DoD policy, at least one condition must be met in the categories “Program, Sponsor, Support, and Site.”

Under the “program” criteria, paragraph 8.6.1.2.1. “disapproved” events include those that are “[U]ntended, or which appear to endorse, selectively benefit, or favor, any private individual, special interest group, business, religious, ideological movement, commercial venture, political candidate, or organization.” Pursuant to paragraph 8.6.2.1.7., only if a religious group’s programs are “of community-wide interest, nonsectarian, and broadly promoted,” will the sponsor be approved.

Because the Christian Embassy’s video - which includes repeated references to Jesus Christ as the lord - clearly endorses a particular private organization (the Christian Embassy) as well as a particular religion (Christianity), according to DoD directives, Army regulations and Air Force instructions, neither Army nor Air Force personnel should have appeared in the video.

Improperly Appearing in Uniform

DoD Directive 1334.1., section 3.1.3. prohibits DoD employees from wearing their uniforms:

Except when authorized by competent Service authority, when participating in activities such as public speeches, interviews, picket lines, marches, rallies or any public demonstration ... which may imply Service sanction of the cause for which the demonstration or activity is conducted.

AR 670-1, paragraph 1-101.(2) states that wearing Army uniforms is prohibited “[w]hen participating in public speeches, interviews, picket lines, marches, rallies, or public demonstrations, except as authorized by competent authority.”

Air Force Instruction (“AFI”) 36-2903, table 1.3 provides that wearing Air Force uniforms is prohibited when “participating in public speeches, interviews, picket lines, marches or rallies, or in any public demonstration when the Air Force sanction of the cause for which the activity is conducted may be implied.”

Because all of the Army and Air Force officials appearing in the Christian Embassy video were filmed in uniform, all are in violation of DoD Directive 1134.1, Army regulations and Air Force instructions.

Failure to Include Disclaimer

Department of Defense 5500.7-R, Joint Ethics Regulation (“JER”) section 3-307a. states:

A DoD employee who uses or permits the use of his military grade or who includes or permits the inclusion of his title or position as one of several biographical details given to identify himself in connection with teaching, speaking or writing ... shall make a disclaimer if the subject ... deals in significant part with any ongoing or announced policy, program or operation of the employee’s Agency . . . and the DoD employee has not been authorized by appropriate Agency authority to present that material as the Agency’s position.

Further, the JER states that the disclaimer “shall expressly state that the views presented are those of the speaker ... and do not necessarily represent the views of DoD or its Components.”

In addition, Army Regulation (“AR”) 360-1, paragraph 6-8, subparagraph d. provides “Any individual who uses a title or other identification connected with DoD in an unofficial writing or speech will include with such material the disclaimer at (2) above.” Subparagraph 2 states:

The following disclaimer must be used: ‘The views expressed in this article (book) are those of the author and do not reflect the official policy or position of the Department of the Army, Department of Defense, or the U.S. Government.’

Although the Air Force does not appear to have an instruction specifically requiring the use of a disclaimer, AF135-101, section 6.53., “Payment and Honoraria for Writing,” refers to DoD 5500.7-R, JER.

The "Little Blue Book" of Air Force Core Values states: "*Religious toleration*. Military professionals must remember that religious choice is a matter of individual conscience. Professionals, and especially commanders, must not take it upon themselves to change or coercively influence the religious views of subordinates."

All of the officials in the Christian Embassy video were identified by their positions with the Department of Defense, yet the video failed to include any disclaimers indicating that the views expressed were not those of the Department of Defense or the U.S. Government as required by DoD 5500.7-R, JER or AR 360-1. Accordingly, all of these officials violated Department of Defense regulations,

Questions for Consideration

MRFF respectfully requests that, as part of its investigation into this matter, the Office of Inspector General consider the following questions:

Who gave permission for the Christian Embassy to film its promotional videotape at the Pentagon?

Did the person or persons who approved the filming follow proper procedures and take into account the relevant DoD Directives?

Did the Christian Embassy fully explain to the DoD Office of the Secretary, Office of Public Affairs or the offices of Public Affairs for the Army and Air Force the promotional and sectarian nature of the video?

Did each of the service members depicted in the video seek approval from his or her appropriate supervisors, legal advisors, public affairs officials, or other military personnel before agreeing to be interviewed on camera?

Did each of the service members depicted in the video seek approval from his or her appropriate supervisors, legal advisors, public affairs officials, or other military personnel, before appearing in uniform on camera?

If permission was sought to appear in the video, did each of the service members interviewed therein reveal the sectarian nature of the Christian Embassy to his or her appropriate supervisors, legal advisors, public affairs officials, or other military personnel?

Why does the video not include a disclaimer indicating that the service men and women appearing therein are not expressing the views of DoD or any of its components?

Has DoD allowed other sectarian religious organizations to use Pentagon facilities and uniformed personnel in videos? Similarly, have other organizations, religious or otherwise, been

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denied permission to utilize Pentagon facilities and uniformed personnel in videos?

If, in fact, the Christian Embassy is holding weekly Bible studies in the Pentagon or on other military property, have other religious groups been afforded the same opportunity to hold meetings at comparable places and times? Similarly, are there any groups that have requested the opportunity to hold meetings and been refused?

Has the Pentagon, the Army or the Air Force improperly given its support to a private, sectarian organization by allowing the video to be filmed at the Pentagon and by allowing service men and women to appear in the video in uniform, identified by position and rank?

Not only does the appearance of military personnel in the Christian Embassy video likely violate numerous DoD directives, Army regulations, Air Force instructions, and Core Values, it likely also violates both the Establishment Clause of the First Amendment to the U.S. Constitution, as well as Clause 3, Article 6 of the U.S. Constitution, which respectively, prohibits the government from preferring one religion over another, and prohibits the government from creating a "religion test" requirement. High level Army and Air Force officials appearing in uniform, in the Pentagon, touting the Christian Embassy implies a government endorsement of the organization and its sectarian religious mission. As a result, MRFF requests that the Office of Inspector General commence an immediate investigation not only into the circumstances leading to the Pentagon's participation in the creation of the Christian Embassy video, but also into whether that participation was appropriate in light of the Constitution, federal laws and military regulations.

Thank you for your prompt attention to this matter.

Very truly yours,



Ezra W. Reese
Counsel to the Military Religious Freedom Foundation

cc: Michael L. "Mikey" Weinstein
Founder & President, Military Religious Freedom Foundation

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December 11, 2006

Office of the Secretary of Defense
Freedom of Information & Security Review
1155 Defense Pentagon
Room 3A1066
Washington, D.C. 20301-1155

Re: Freedom of Information Act Request

Dear Sir/Madam:

My firm is counsel to the Military Religious Freedom Foundation ("MRFF"), an organization dedicated to ensuring that all members of the United States Armed Forces fully receive the Constitutional guarantees of religious freedom to which they and all Americans are entitled by virtue of the Establishment Clause of the First Amendment and other constitutional provisions. We make this request for records, regardless of format, medium, or physical characteristics, and including electronic records and information, audiotapes, videotapes and photographs, pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. §552, et seq. Specifically, we seek from the Office of the Secretary and the Office of Public Affairs any and all documents concerning a request or requests by the Christian Embassy to film a promotional videotape in any office or space of the Pentagon. This request includes, but is not limited to, the following:

Any and all documents that indicate what, if any, permission any person or office within the Department of Defense ("DoD") gave to the Christian Embassy, or any entity acting on behalf of the Christian Embassy, to conduct any filming at the Pentagon or speak with any employee of DoD at the Pentagon;

Any and all documents that indicate what, if any, permission any person or office within DoD gave to any employee of DoD to participate in any videotape or other promotional materials created by the Christian Embassy, or any entity on its behalf, including but not limited to: Army Brigadier General Vince Brooks, Air Force Major General Pete Sutton, Army Lieutenant Colonel Lucious Morton, Army Brigadier General Bob Caslen, Air Force Major General Jack Catton, Air Force Colonel Cynthia Islin and Pentagon Chaplain (Colonel) Ralph Benson; and

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civilians Judy Guenther, Pete Geren, Dan Cooper (retired U.S. Naval Vice Admiral), and Steve Johnson (in order of appearance in the Christian Embassy promotional videotape).

Any and all documents of DoD procedures and directives applicable to an entity such as the Christian Embassy and its filming of a promotional video at the Pentagon and its interviewing of DoD employees at the Pentagon for the purpose of creating any promotional materials;

Any and all documents submitted by the Christian Embassy, or any entity acting on its behalf, as part of its request to conduct any filming at the Pentagon, or to interview any specific employees of DoD;

Any and all documents concerning any request by any service member to seek approval to be interviewed by the Christian Embassy for its promotional video, or for any other purpose related to the Christian Embassy, including but not limited to: Army Brigadier General Vince Brooks, Air Force Major General Pete Sutton, Army Lieutenant Colonel Lucious Morton, Army Brigadier General Bob Caslen, Air Force Major General Jack Catton, Air Force Colonel Cynthia Islin and Pentagon Chaplain (Colonel) Ralph Benson;

Any and all documents concerning requests by any other religious organization to use Pentagon facilities and uniformed personnel in the creation of a videotape or any other promotional materials;

Any and all documents concerning any Bible studies conducted in the Pentagon or on other military property by the Christian Embassy or any other religious groups;

Any and all documents concerning a request by any employee of DoD to travel in conjunction with any event or trip sponsored in any way by the Christian Embassy, including but not limited to Air Force Colonel Cynthia Islin.

Please search responsive records regardless of format, medium, or physical characteristics. Where possible, please produce records electronically, in PDF or TIF format on a CD-ROM. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs. Our request includes any telephone messages, voice mail messages, daily agenda and calendars, information about scheduled meetings and/or discussions, whether in-person or over the telephone, agendas for those meetings and/or discussions, participants included in those meetings and/or discussions, minutes of any such meetings and/or discussions, the topics discussed at those meetings and/or discussions, e-mail regarding meetings and/or discussions, e-mail or facsimiles sent as a result of those meetings and/or discussions and transcripts or notes of any such meetings and/or discussions.

If it is your position that any portion of the requested records is exempt from disclosure, we request that you provide it with an index of those documents as required under Vaughn v. Rosen,

484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1972). As you are aware, a Vaughn index must describe each document claimed as exempt with sufficient specificity “to permit a reasoned judgment as to whether the material is actually exempt under FOIA.” Founding Church of Scientology v. Bell, 603 F.2d 945, 949 (D.C. Cir. 1979). Moreover, the Vaughn index must “describe each document or portion thereof withheld, and for **each** withholding it must discuss the consequences of supplying the sought-after information.” King v. U.S. Dep’t of Justice, 830 F.2d 210, 223-24 (D.C. Cir. 1987) (emphasis added). Further, “the withholding agency must supply ‘a relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply.’” Id. at 224 (citing Mead Data Central v. U.S. Dep’t of the Air Force, 566 F.2d 242, 251 (D.C. Cir. 1977)).

In the event that some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. See 5 U.S.C. §552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. Mead Data Central, 566 F.2d at 261. Claims of nonsegregability must be made with the same degree of detail as required for claims of exemptions in a Vaughn index. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

Fee Waiver Request

In accordance with 5 U.S.C. §552(a)(4)(A)(iii), we request a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government and expenditures, and the disclosures will likely contribute to a better understanding of relevant government procedures by the MRFF and the general public in a significant way. Moreover, the request is primarily and fundamentally for non-commercial purposes. 5 U.S.C. §552(a)(4)(A)(iii). See, e.g., McClellan Ecological v. Carlucci, 835 F.2d 1282, 1285 (9th Cir. 1987). Specifically, these records are likely to contribute to the public’s understanding of the extent to which any component of DoD has endorsed the Christian Embassy and its sectarian religious mission

MRFF is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue code. MRFF is an organization dedicated to ensuring that all members of the United States Armed Forces fully receive the Constitutional guarantees of religious freedom to which they and all Americans are entitled by virtue of the Establishment Clause of the First Amendment and other constitutional provisions. MRFF uses a combination of research, litigation, and advocacy to advance its mission. The release of information garnered through this request is not in MRFF’s financial interest. MRFF will analyze the information responsive to this request, and will likely share its analysis with the public, either through memorandums, reports or press

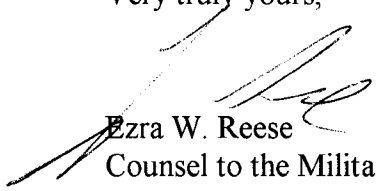
releases. In addition, MRFF will disseminate any documents it acquires from this request to the public via its website, <http://militaryreligiousfreedom.org>. Under these circumstances, MRFF fully satisfied the criteria for a fee waiver.

Conclusion

Please respond to this request in writing within twenty (20) working days as required under 5 U.S.C. §552(a)(6)(A)(I). If all of the requested documents are not available within that time period, we request that you provide it with all requested documents or portions of documents which are available within that time period.

If you have any questions about this request or foresee any problems in releasing fully the requested records within the twenty-day period, please contact me at (202) 628-6600. Also, if our request for a fee waiver is not granted in full, please contact me immediately upon making such determination. Please send the requested documents to me at 607 14th Street, Suite 800, Washington, DC 20005.

Very truly yours,



Ezra W. Reese

Counsel to the Military Religious Freedom Foundation

cc: Michael L. "Mikey" Weinstein
Founder & President, Military Religious Freedom Foundation