

## Government Support of Faith-Based Social Services: A Look at Three Potential Pitfalls

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President George W. Bush's faith-based initiative, introduced with great fanfare in early 2001, may seem at first glance to represent little more than a clever rebranding of various church-state partnerships that have been mainstays on the federal domestic policy landscape for years. After all, religiously affiliated organizations such as Catholic Charities USA, Lutheran Social Services, and the Jewish Board of Family and Children's Services have been receiving significant federal support of their charitable works since at least the early 1900s.<sup>1</sup> Church-linked hospitals and nursing homes likewise have been participating in federal health care programs such as Medicare and Medicaid for generations. At the local level, churches and other religious bodies have long since become the primary providers in many communities of publicly funded counseling, job training, disaster relief, and family support services. At the same time, members of the clergy now have long track records of service as mentors, counselors, spiritual leaders, and role models within the nation's military and in its prisons.

Clearly, then, the basic idea of using people of faith as vehicles in the delivery of public services is hardly an innovation of the current Administration. Still, to characterize the Bush faith-based initiative as simply "more of the same" would be to downplay just how much the nature of the church-state partnership in social services has changed over the past half-decade. Under the guidance of a new White House-based Office for Faith-Based and Community Initiatives, agencies throughout the federal government now operate under affirmative presidential mandates to open up more public funding opportunities

and to expand the technical assistance, training, and regulatory relief afforded to religious groups. Specially designated offices in eleven of the fifteen Cabinet-level federal departments have been opened since 2001 to coordinate outreach activities and manage information about participation by faith-based organizations in federally funded grants and contracts.<sup>2</sup> On Capitol Hill, meanwhile, administration officials have lobbied extensively to eliminate statutory barriers to public funding and expand the pool of available resources. At the same time, the Bush Administration has forged a broad range of new partnerships on faith-based policymaking with states and local governments as well.

The results? According to White House estimates, religious entities received over \$2.15 billion in federal grants in fiscal year 2005 alone—altogether, 10.9 percent of the total federal grant monies for which faith-based groups were eligible to apply that year. Within some departments, the percentage reached much higher; in Housing and Urban Development, for instance, religious charities received \$520.9 million—or 24 percent of all discretionary funds awarded competitively by that agency last year.<sup>3</sup> At the same time, the overall number of federal grants awarded to faith-based organizations increased significantly—up 38 percent between 2003 and 2005,<sup>4</sup> and state-level offices tasked specifically with the enhancement of social service participation by religious charities rose in number to twenty-five.<sup>5</sup>

As advocates of closer church-state linkages see it, such developments provide clear evidence of Bush Administration success in removing outmoded legal and regulatory barriers to participation and in enhancing the quality of public services for the poor and needy.<sup>6</sup> Yet, in the eyes of critics, the current Administration's efforts have created a host of new threats to core American principles of church-state separation and to the constitutionally sanctioned freedom of religion. Among these concerns, three seem especially worrisome. For one, critics argue that clients of social service groups, long protected by legal and regulatory restrictions on faith-based groups, are now exposed to unwanted proselytization and pressure at the hands of activists operating at taxpayer expense. For another, public funds may now be going to perpetuate discriminatory hiring practices that strike at the core of the American commitment to equality under the law. Finally, critics contend, the dramatic increase in church-state cooperation during the Bush years has opened broad new opportunities for inadvertent bias—and even favoritism—on the part of government officials to creep in. In light of the discretion inherent in the federal grant and contract process, critics worry, public officials in many instances are now essentially left to pick and choose freely when deciding which applicants

for assistance under the faith-based initiative are worthy of federal financial support.

In light of such concerns, the Reverent Barry Lynn, Executive Director of Americans United for Separation of Church and State, probably just voiced a common view of critics when he termed the Bush faith-based initiative “the worst idea since they took King Kong from Skull Island and brought him to New York.”<sup>7</sup> However, six years into the president’s initiative, have critics’ objections been borne out by events? In the pages that follow, we briefly examine some of the evidence.

### **1. Are clients of publicly funded social service programs being coerced into participating in religious activities?**

One concern often expressed by critics of the Bush-era expansion of faith-based programs is that, by eroding longstanding firewalls separating a religious organization’s worship-related functions and its social service delivery activities, the Administration has fostered the development of conditions wherein the clients of faith-based providers will often face undue pressure to participate in religious rites or adopt sectarian points of view. More specifically, critics point to at least three ways in which the involvement of religious organizations in service delivery may create coercive conditions for the client. For one, publicly funded service providers, despite federal rules against overt proselytization, may still urge the client in more subtle—and thus more covert—ways to consider issues of religion or faith in the course of delivering otherwise secular public services.<sup>8</sup> For instance, workers at a church-run soup kitchen, while serving food, may speak casually with clients about God’s word or urge them to seek salvation and repentance of sins. For another thing, publicly supported programs may—either by design or by happenstance—create considerable incentives for clients to participate in sectarian rites that they might otherwise decide to forgo. For instance, jail administrators may offer putatively “voluntary” religious programs to inmates—but then provide better living conditions or terms of confinement for those who choose to opt in. Finally, critics point out, faith-based programs may also operate in particular environments where, at least in practice, needy clients ultimately have little option but to participate in religious programming of one type or another as a condition for receiving any publicly financed aid at all. Especially in rural and less-populated areas, critics suggest, there simply may be no other option but to seek help at a local church that may pressure clients to participate in prayer, Bible study groups, or other overtly religious activities.<sup>9</sup>

Such possibilities raise troubling issues of religious freedom to be sure. Yet to what extent have they actually come to fruition? As a general matter, there is simply no way of knowing; after all, the behavior in question is notoriously difficult to monitor. Yet, at least anecdotally, there is sufficient reason to believe that critics' concerns about coercion cannot be simply dismissed out of hand. Take, for instance, the case of a publicly funded prison ministry program in Grants, New Mexico, that is currently undergoing federal court review.<sup>10</sup> According to court-filed documents, the state women's facility in question offers qualified inmates the option of living in an exclusively faith-based segregation pod as part of a "Life Principles Community/Crossings Program" run cooperatively with several Christian groups. To be sure, inmates at no point face overt pressure to participate in the program; indeed, formal program guidelines make participation in this "God pod" entirely voluntary. Yet, critics charge that inmates are effectively enticed to sign up by the segregated pod's larger personal living spaces, greater level of safety, quieter surroundings, and higher-quality furnishings.<sup>11</sup> In exchange for such amenities, however, the segregated inmates must participate in hundreds of hours of religion-centered activities, including spiritual counseling, religious meetings, prayer walks, New Testament study, and regular viewing of Scripture-based movies. What is more, inmates housed in the pod must agree to stay involved in a faith community upon their release from prison.

Another troubling example may be found in a Bradford County, Pennsylvania, jail's faith-based program, also the subject of a pending federal lawsuit.<sup>12</sup> In this instance, county authorities offer a religiously oriented vocational training program for county inmates operated by the Firm Foundation, a self-styled "prison ministry" under funding provided by a U.S. Department of Labor "faith-based" grant. Again, participation by clients is formally voluntary; yet Bradford inmates are effectively encouraged to enroll in the program by the promise of extensive job training during incarceration as well as the opportunity, from time to time, to leave the jail facility for off-site work assignments. In its specifics, moreover, critics argue that the Bradford County program creates an especially coercive climate for inmates in two basic respects. For one, participating inmates are supervised by program trainers—all self-professed Christians—who are instructed to seize every available opportunity to share Christian theology and principles with their charges. As a result, inmates reportedly spend significant amounts of time in the program engaged not in job training *per se* but rather in religious discussions, Bible study, and prayer. What is more, any Bradford County inmates who wish to receive job training while incarcerated simply *have no other alternatives* to the faith-

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infused program that the Firm Foundation provides in-house. Due largely to resource constraints and personnel limitations, local authorities opted not to provide purely secular vocational training options to inmates incarcerated at the facility.

Such anecdotes hardly stand alone; in fact, similar reports of *de facto* pressure have arisen with respect to programs in residential drug treatment, adult day care, the mentoring of teenagers, and early childhood education as well. Still, do such instances suggest widespread problems in the implementation of faith-based social service programs? Not necessarily—but they *do* indicate at the very least that the potential for undue pressure and infringement on personal religious choice may be present in a wide variety of institutional settings. Supporters of religious freedom should definitely take note.

### **2. Are public funds being used to promote employment discrimination by religious groups?**

Another concern shared by many critics of faith-based programming by government is that, in effect, public social service funds can now be used to subsidize religious discrimination by private organizations. More specifically, federal administrative rules in place since 1965 had prohibited faith-based social service providers that discriminated in hiring from receiving funding under federal grants and contracts.<sup>13</sup> Religious providers, in other words, could restrict employment only to fellow believers if they liked—but they would be barred from receiving federal funding as a result. At the behest of a coalition of evangelical Christian organizations, however, President Bush in December 2002 set aside that restriction by executive order, citing both the need to “ensure equal protection of the laws for faith-based and community organizations” and “the strong Federal interest” in eliminating unwarranted barriers to participation.<sup>14</sup> As a result, opponents contend, the federal funding environment now effectively promotes discrimination in a manner fundamentally at odds with the nation’s commitment to equality and civil rights. As one group opposed to the faith-based initiative put it, “an American could help pay for a job but be declared ineligible for the position because of his or her religious beliefs. That’s not compassionate conservatism, that’s outrageous.”<sup>15</sup>

Have critics identified a practice here that actually occurs among publicly funded entities with any regularity? Again, general patterns remain unclear, but at least some reported developments in the field suggest that perhaps they have. One case in point involves MentorKids USA, an overtly Christian service organization in Arizona that received a \$225,000 grant from the U.S. Department of Health and Human Services in 2003 to provide mentoring and

support services to children of incarcerated prisoners in the Phoenix area. Under the terms of the grant, the organization was required to choose its clients without regard to religious affiliation or belief. Yet, in the selection of mentors for the federally funded program, MentorKids strictly adhered to its faith-based view that mentors must be “equipped to share the good news of who Jesus is and how He can provide a future and a hope for anyone.”<sup>16</sup> Accordingly, not only were all mentors self-professed Christians; they also were required to attend church regularly and to represent, whenever possible, the “presence of Christ to kids facing tough life challenges.” Beyond that, individuals selected for the program had to sign a statement affirming their belief that “the Bible is God’s authoritative and inspired Word” and that it “is without error in all its teachings, including creation, history, its own origins, and salvation.”<sup>17</sup> In light of these employment restrictions, church-state watchdog groups filed suit in 2004, claiming violations of the constitutional separation of church and state. In early 2005, a federal judge vacated funding under the grant on Establishment Clause grounds.<sup>18</sup>

Similar concerns have also been raised about Teen Challenge, a fundamentalist Christian ministry that operates over two hundred loosely affiliated drug and alcohol treatment programs throughout the nation. In this case, local affiliates of the organization rely in various ways—often only indirectly—on public funding; yet the organization makes no secret of the fact that it considers only Christians for employment within its ranks. From its perspective, there is good reason: Christian theology and the hope of a life-changing conversion experience lies at the very core of the Teen Challenge treatment philosophy. Teen Challenge, its mission statement explains, applies “biblical principles” to provide “an effective and comprehensive Christian faith-based solution to life-controlling drug and alcohol problems.”<sup>19</sup> Critics, however, see any public funding of such religion-based treatment programs as unacceptable breaches of the constitutional separation of church and state.

### **3. How do government officials choose which religious groups to fund?**

Finally, a third set of concerns arises out of what some opponents see as an excessive risk that improper considerations may end up polluting the process by which government officials decide which faith-based groups ultimately succeed in the competition for federal grants and contracts. On one level, these concerns merely reflect fears that an unlevel playing field may develop inadvertently as government officials exercise discretion in evaluating the relative strengths of various funding proposals. Evaluations of merit, the argument goes, are inherently subjective and difficult to oversee; as a result, officials’

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unconscious religious biases—or merely their ignorance of or indifference toward minority religious faiths—may often come into play—yielding at least on occasion a grant-making process tilted decidedly in favor of organizations representing “mainstream” religious views. Even worse, some suggest, the subjectivity and lack of oversight inherent in the funding awards process inevitably opens the door for more self-conscious forms of favoritism and cronyism to enter the process. In a worst-case scenario, critics suggest, public officials could even go so far as to use the funding process to reward their theological or political allies and effectively punish their opponents. Even the *appearance* of such favoritism or bias is ultimately unacceptable, especially in such a sensitive area of public policy. As a result, such dangers should be avoided at virtually any cost.

So again, what does the public record tell us about the validity of these concerns? The answer, it seems, ultimately lies in the eye of the beholder. Administration opponents, for their part, see proof of improper prejudgment in, among other things, comments by then-candidate George W. Bush in 2000 that the Nation of Islam would be ineligible to compete for funding under his planned federal initiative. Critics have likewise pointed to comments reportedly made by a White House policy advisor years ago that Wiccans would be ineligible for federal funding under the initiative as well.<sup>20</sup> Such statements, for opponents, represent clear evidence of the dangers inherent in allowing government officials to judge the qualifications and suitability of religiously affiliated groups to provide social welfare services. Inevitably, they say, the personal biases of public officials will color their funding decisions. Whether intended or not, such infusions of personal preference into the process inevitably threaten core First Amendment religious freedoms.

What is more, while few have gone so far as to suggest overtly political or theological motives, some critics have suggested that overall patterns of funding for faith-based groups have indeed created an unsettling appearance of unfairness in the ultimate distribution of federal financial support. After all, significant amounts of federal money *have* gone to groups aligned with the Administration on a range of political and social issues. As detailed in a recent *Washington Post* report, the Bush Administration has awarded at least \$157 million in federal grants since 2001 to faith-based and other private groups that are run by its political and ideological allies.<sup>21</sup> Much of that funding, it turns out, has indeed come from two federal programs at the heart of the faith-based initiative begun in 2001. One of these programs—the Compassion Capital Fund, housed in the U.S. Department of Health and Human Services—distributed almost \$150 million in federal grants to faith-based and community

groups between 2002 and 2005. The other—the Community-Based Abstinence Education grant program—has been appropriated \$391.7 million by Congress to date.<sup>22</sup>

Much of this money has gone to groups deeply involved in pro-life causes and other issues at the heart of the Bush Administration’s social policy agenda. In some instances, the impact of this funding on the ability of those groups to advance their causes has been unmistakable. For instance, Heritage Community Services, a socially conservative pro-abstinence group headquartered in Charleston, South Carolina, worked in the mid-1990s only within the local area—constrained largely by a total annual budget that barely exceeded \$50,000. Yet, according to the *Post* report, the organization’s budget by 2004 had grown to over \$3 million and its operations had expanded to three Southern states—thanks largely to grant funding provided by the federal government.<sup>23</sup> Similarly, the Door of Hope Pregnancy Center, a pro-life organization located in Madisonville, Kentucky, operated with only four part-time employees and an annual budget of less than \$80,000 until recently. Last year, however, Door of Hope successfully applied for a \$317,017 grant from the Community-Based Abstinence Education program. As a result, it has hired additional staff and plans to expand.

Is any of this clear evidence of bias, or worse yet, bad faith on the part of officials involved in faith-based initiative funding decisions? Of course not. For their part, of course, Administration officials strenuously insist that their actions are undertaken with complete impartiality. That said, however, critics may still be right at least to the extent that they have identified an *appearance* problem in the way that funding decisions so far have played out—and as a result, even the most ardent supporters of the faith-based initiative should be concerned. After all, such a problem may, at the very least, erode the continuing political support that the Initiative will need to sustain its momentum among the public, within the church-state community and on Capitol Hill.

## Notes

1. For instance, Shelia Kennedy reports that in 1994, public funding made up 65 percent of the annual budget of Catholic Charities and 75 percent of the total revenues of the Jewish Board of Family and Children's Services. See Shelia Kennedy, "Religion, Rehabilitation and the Criminal Justice System," in *Sanctioning Religion? Politics, Law and Faith-Based Public Services*, ed. David K. Ryden and Jeffrey Polet (Boulder, Colo.: Lynne Rienner Publishers, 2005), 40. See also Amy E. Black, Douglas L. Koopman, and David K. Ryden, *Of Little Faith: The Politics of George W. Bush's Faith-Based Initiatives* (Washington, D.C.: Georgetown University Press, 2004), introduction; Bernard J. Coughlin, *Church and State in Social Welfare* (New York: Columbia University Press, 1965); Stephen V. Monsma, *When Sacred and Secular Mix: Religious Nonprofit Organizations and Public Money* (Lanham, Md.: Rowman & Littlefield, 1996).
2. Ron Hutcheson, "Results Mixed for Religious Charities," *Cincinnati Enquirer*, March 10, 2006, A5.
3. White House Office of Faith-Based and Community Initiatives, "Grants to Faith-Based Organizations, Fiscal Year 2005," March 9, 2006 (available at [www.whitehouse.gov/government/fbci](http://www.whitehouse.gov/government/fbci)); Thomas Edsall, "Grants Flow to Bush Allies on Social Issues," *Washington Post*, March 22, 2006, A01; Jennifer Loven, "Religious Charities Get More Federal Money," Associated Press wire story, March 9, 2006.
4. White House Office of Faith-Based and Community Initiatives, "Grants to Faith-Based Organizations, Fiscal Year 2005," March 9, 2006, 5.
5. See Kirsten Steward, "Utah Joins Other States in Aiding Faith-Based Charities," *Salt Lake Tribune*, April 22, 2006.
6. See, for example, Statement by the President, Office of the Press Secretary, White House, August 16, 2001; Remarks by the President with Senator Joseph Lieberman, Oval Office Photo Opportunity, February 7, 2002.
7. See Event Transcript, "The Faith-Based Initiative Two Years Later: Examining Its Potential, Progress and Problems," Pew Forum on Religion & Public Life, Washington, D.C., March 5, 2003.
8. See Executive Order 13279, section 2(e), issued on December 12, 2003.
9. See, for example, Press Release, "The Bush 'Faith-Based' Initiative: Why It's Wrong," Americans United for Separation of Church and State, February 20, 2001.
10. See *Freedom from Religion Foundation v. Richardson*, 05-CV-1168 (filed November 7, 2005, U.S. District Court for District of New Mexico).

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11. See Press Release, “FERF Challenges ‘Faith-Based Prison Ministry,’” Freedom from Religion Foundation, November 8, 2005.
12. *Moeller v. Bradford County* (filed February 17, 2005, U.S. District Court for the Middle District of Pennsylvania).
13. See Executive Order 11246, issued on September 24, 1965.
14. Executive Order 13279, issued on December 12, 2002.
15. Press release, “The Bush ‘Faith-Based’ Initiative: Why It’s Wrong.”
16. “Frequently Asked Questions,” MentorKids USA Web site, [www.mentorkids-usa.org/faq.html](http://www.mentorkids-usa.org/faq.html).
17. Mission statement, MentorKids USA, on file with author.
18. News Release, “Landmark Decision: Health & Human Services Ordered to ‘Vacate’ Faith-Based Funding of MentorKids USA,” Freedom from Religion Foundation, January 12, 2005.
- 19.
20. See, for example, *Americans United*, “The Bush ‘Faith-Based’ Initiative.
21. Thomas B. Edsall, “Grants Flow to Bush Allies on Social Issues,” *Washington Post*, March 22, 2006, A01.
22. Ibid.
23. Ibid.