

United States Senate

August 3, 2020

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

Dear Secretary Esper,

Last month, in response to reports that the Department of Defense was censoring religious speech, we sent you a letter urging you to comply with the religious freedom mandates of the Constitution and to issue clear guidance protecting religious freedom within the Department. Unfortunately, it appears that the Department has not taken significant steps to comply with these mandates and instead has engaged in overt religious discrimination in violation of the Constitution.

The First Amendment unambiguously protects the “free exercise” of religion. More to the point, it protects “religious observers against unequal treatment . . . on the basis of religious status.”¹ The government is prohibited from discriminating against individuals based on their religious faith or religious practice.

Nevertheless, the Department is unabashedly discriminating against religious individuals.

Last month, United States Marine Corps (USMC) reserve lawyers met online for a two-week annual training usually held in-person. Jay Lorenzen, a former Air Force Academy professor, was slated to lead a guided discussion on military tactics used during the Battle of Gettysburg—a subject Lt. Col. (Ret.) Lorenzen has studied for decades. The training materials included an itinerary for the entire program, as well as an online biography for each speaker. Lt. Col. (Ret.) Lorenzen’s biography set forth his outstanding credentials and stated that, in his personal capacity, he is affiliated with a religious organization and hosts a separate, private course on faith and leadership.

¹ *Espinoza v. Mont. Dep’t of Revenue*, No. 18-1195, 2020 WL 3518364, at *5 (U.S. June 30, 2020) (citing *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 136 S. Ct. 2012, 2021 (U.S. 2017)).

Michael Weinstein, the MRFF President, quickly contacted the Department and demanded that Lt. Col. (Ret.) Lorenzen—who Mr. Weinstein derogatorily labeled an “extremist parachurch official”²—not be included as a speaker. He made this demand based only on his false speculation that, because Lt. Col. (Ret.) Lorenzen’s biography stated the role of religion in his life, he must intend to proselytize during the Gettysburg discussion. Sixty-four minutes after Mr. Weinstein complained, the Department acceded.

But as a retired Air Force Academy professor, Lt. Col. (Ret.) Lorenzen knew that his participation in the training would only include military strategy and tactics. The Department’s decision to remove him—a decision that Mr. Weinstein attributed to “senior leadership in Washington”³—further proves that the Department, at best, is unwilling to defend religious liberty against those who seek to purge religious individuals from our armed services, and, at worst, is itself deeply hostile to religion. In public statements, and a response to my office, the Marine Corps stated that the decision to remove Lt. Col. (Ret.) Lorenzen was due to, “a lack of vetting.” Without clarification, this suggests instructors are being vetted for religious connections or beliefs.

The Department must do better. It must take affirmative steps to stop those in its ranks from targeting religious individuals and violating the United States Constitution. Our brave servicemen and women deserve to have their religious and spiritual needs met without fear that their faith will subject them to special burdens.

Given that the Department was well-aware of this type of religious discrimination prior to this most recent incident, please provide the following information by Monday, August 10.

- What actions, if any, the Department has taken in response to the June 9, 2020 letter urging the Department to implement the religious liberty training program that Congress has mandated?

² Chris Rodda, *MRFF Stops Mandatory Campus Crusade-Connected Training for Reserve JAGs in Record Time*, Daily Kos (July 17, 2020, 1: 49 PM) (quoting Michael Weinstein), <https://www.dailykos.com/stories/2020/7/17/1961500/-MRFF-Stops-Mandatory-Campus-Crusade-Connected-Training-for-Marine-Reserve-JAGs-in-Record-Time>.

³ Sam Dorman, *Marine Corps Under Fire After Canceling Training Session Amid Concerns About Speaker’s Christian Background*, Fox News, (July 21, 2020), <https://www.foxnews.com/faith-values/marine-corps-cancel-training-speaker-christian-background>.

- What actions, if any, the Department has taken to discipline the individual who unlawfully prohibited Lt. Col. (Ret.) Lorenzen from leading the Gettysburg discussion because of his faith?
- What other actions, if any, is the Department taking to address its culture of hostility towards religion?

We look forward to your response.

Sincerely,



Ted Cruz
United States Senator