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# The Survey of Religious Hostility in America

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## Executive Summary



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## INTRODUCTION

### **An Open Letter to the American People**

The free exercise clause of the First Amendment to the Constitution prohibits the government from interfering with a person's practice of his or her religion.

Our Founding Fathers considered religious liberty our "first freedom," and the bedrock upon which all other freedoms rest. They understood that one's right to worship God and follow his conscience according to the principles of his religious faith was foundational to civic tranquility. A man whose religious faith was repressed could never be a loyal citizen since the state was usurping his first allegiance and costing him his primary freedom. This is one of the most important distinctions that makes America an exceptional nation — if not the most important.

America today would be unrecognizable to our Founders. Our first freedom is facing a relentless onslaught from well-funded and aggressive groups and individuals who are using the courts, Congress, and the vast federal bureaucracy to suppress and limit religious freedom. This radicalized minority is driven by an anti-religious ideology that is turning the First Amendment upside down.

In 2004, Liberty Institute President and CEO Kelly Shackelford, along with a number of the organization's clients, testified before the U.S. Senate about the growing religious hostility in America. Because the opposition insisted these select testimonies were simply isolated incidents, Senators Kennedy and Cornyn asked Liberty Institute to provide additional information, which led to the development of the first "hostilities document." The shocking number of cases made it clear ... hostility to religion was a very real problem, and it affected every age, and every religious group, in every community across the country.

Fast-forward eight years, and hostility against religious liberty has reached an all-time high. America's First Freedom — the freedom of religion — is being pushed out of public life, our schools, and even our churches.

The Obama administration no longer even speaks of freedom of religion; now it is only "freedom of worship." This radical departure is one that threatens to make true religious liberty vulnerable, conditional, and limited. As some have said, it is a freedom "only within four walls." That is, you are free to worship within the four walls of your home, church, or synagogue, but when you enter the public square the message is, "leave your religion at home." President Obama and Secretary of State Hillary Clinton have repeatedly echoed this same message in international forums, acknowledging only a right to the "freedom of worship." This is no accident, and it has huge ramifications.

Liberty Institute and the Family Research Council have joined forces to take a bold stand to protect and restore religious liberty in America. This includes opposing and exposing the escalating efforts by government bureaucrats to regulate religious freedom. So, from the local district courts to the U.S. Supreme Court and in the halls of Congress, we will face each challenge head-on to ensure that our sacred First Amendment rights are protected.

The following collection of cases, detailing religious bigotry throughout America, offers stunning insight into the attacks against people of faith that are permeating our nation. We invite you to visit [www.religioushostility.org](http://www.religioushostility.org) to view the full version of this powerful document, which includes more than 600 recent examples of religious hostility.

As our country enters into one of the most critical elections of our time, we ask that people of all faiths join together and stand with us as we continue the important work of defending our most precious liberty — our freedom of religion.

Kelly Shackelford, Esq.  
President & CEO  
Liberty Institute

Tony Perkins  
President  
Family Research Council

## Kelly Shackelford, Esq.

Kelly Shackelford, Esq., has been President and CEO of Liberty Institute since 1997.

Mr. Shackelford is a constitutional scholar who has argued before the United States Supreme Court, testified before the U.S. House and Senate on constitutional issues, and has won three state landmark First Amendment and religious liberty cases in the past few years alone.



He was recently named one of the 25 greatest Texas lawyers of the past quarter-century by Texas Lawyer, and is the recipient of the prestigious William Bentley Ball Award for Life and Religious Freedom Defense for his leadership and pioneering work protecting religious freedom.

Mr. Shackelford is a highly sought after speaker and frequent guest on national TV news and talk show programs including The O'Reilly Factor, Fox and Friends, Hannity, Good Morning America, NBC's Today Show, CNN, and MSNBC. He also has been featured in the National Law Journal, Associated Press, The New York Times, The Washington Times, The Washington Post, and The L.A. Times, among many others.

Mr. Shackelford is on the Board of Trustees of the United States Supreme Court Historical Society and is a graduate of Baylor University.

# Tony Perkins

Tony Perkins is President of the Washington, D.C.-based Family Research Council.

Mr. Perkins is a former member of the Louisiana legislature where he served for eight years, and he is recognized as a legislative pioneer for authoring measures like the nation's first Covenant Marriage law. Although he had no opposition for re-election, he kept his pledge to serve only two terms and left office at the completion of his term in 2004. He was a Republican candidate for the United States Senate in 2002. Since joining FRC in the fall of 2003 he has launched new initiatives to affirm and defend the Judeo-Christian values that this nation is founded upon.



Tony Perkins and FRC have led the way in defending religious freedom in the public square, protecting the unborn and their mothers, defending and strengthening one man/one woman marriage and promoting pro-family public policy. Tony hosts a regular national radio program, "Washington Watch Weekly," broadcasts a daily commentary heard on over 300 stations nationwide, and sends daily email updates to tens of thousands of grassroots activists. An effective communicator, he frequently appears on national broadcast and cable news programs. Tony's first book, *Personal Faith, Public Policy*, co-authored with Bishop Harry Jackson, Jr., was released in March 2008. In addition, he has been a keynote speaker for organizations across the country.

Tony has a tremendous burden to reclaim the culture for Christ and believes that this revival will begin in the churches across America, reach across denominations and racial and economic lines, and build on shared values of family and freedom. Under his leadership FRC has established a thriving Church Ministries program that is rapidly expanding and engaging Christians in civic affairs as never before.

A veteran of the U.S. Marine Corps, and a former police officer and television news reporter, Tony brings a unique blend of experience and leadership to the pro-family movement. He received his undergraduate degree from Liberty University and a Master's Degree from Louisiana State University in Public Administration. In May 2006 he received an honorary doctorate in theology from Liberty University. Tony and Lawana, married in 1986, have five children.

## EXECUTIVE SUMMARY

This updated edition of the *Survey of Religious Hostility in America* is a testament to the radical shift in our culture's worldview that started with the rise of secularism following World War II and has accelerated with each passing year of the twenty-first century. While by no means exhaustive, this survey now presents over 600 incidents of religious attacks and hostility in the United States—most of which occurred within the past 10 years.

Examples of the increasing hostility to religion described in this survey include:

- A federal judge threatened “incarceration” to a high school valedictorian unless she removed references to Jesus from her graduation speech.
- City officials prohibited senior citizens from praying over their meals, listening to religious messages or singing gospel songs at a senior activities center.
- A public school official physically lifted an elementary school student from his seat and reprimanded him in front of his classmates for praying over his lunch.
- Following U.S. Department of Veterans Affairs’ policies, a federal government official sought to censor a pastor’s prayer, eliminating references to Jesus, during a Memorial Day ceremony honoring veterans at a national cemetery.
- Public school officials prohibited students from handing out gifts because they contained religious messages.
- A public school official prevented a student from handing out flyers inviting her classmates to an event at her church.
- A public university’s law school banned a Christian organization because it required its officers to adhere to a statement of faith that the university disagreed with.
- The U.S. Department of Justice argued before the Supreme Court that the federal government can tell churches and synagogues which pastors and rabbis it can hire and fire.
- The State of Texas sought to approve and regulate what religious seminaries can teach.
- Through the Affordable Healthcare Act (ObamaCare), the federal government is forcing religious organizations to provide insurance for birth control and abortion inducing drugs in direct violation of their religious beliefs.
- The U.S. Department of Veterans Affairs banned the mention of God from veterans’ funerals, overriding the wishes of the deceased’s families.
- A federal judge held that prayers before a state House of Representatives could be to Allah but not to Jesus.

These examples—indeed, all of the examples presented in this survey—are but a few of the innumerable acts of hostility to religion occurring in the United States each year.

To aid the reader in understanding how these hundreds of incidents are related, this survey is divided into three broad categories: attacks on religious liberty in the public

arena, attacks on religious liberty at the school house, and attacks against churches and ministries.

### ***Attacks on Religious Liberty in the Public Arena***

Attacks on religious liberty in the public arena is perhaps the most widely recognized form of religious hostility in the United States today. These cases traditionally include challenges to praying at legislative assemblies, challenges to publicly displaying crèches (nativity scenes) or menorahs, and challenges to displaying the Ten Commandments in courthouses. Since the first edition of this survey, however, secularism has pushed the boundaries of religious hostility in the public arena into new areas in which personal religious freedom was heretofore left inviolate. For example, secularists are now challenging memorials to fallen soldiers and veterans if those memorials include religious imagery, such as a cross. As of this writing, the U.S. Court of Appeals for the Ninth Circuit has held that two veterans memorials that include crosses in California violate the Establishment Clause. Even ten years ago, successful challenges to veterans' memorials because they are in the shape of a cross were unthinkable. The many crosses in Arlington National Cemetery, in Normandy, and in veterans' cemeteries around the nation were widely accepted as fitting symbols of the sacrifices made by so many for this country. Even more shocking, the U.S. Department of Veterans Affairs instituted a policy that effectively mandated that funerals for veterans at national cemeteries be secularized, stripped of any reference to God or the veteran's faith, even when it was the express wishes of the veteran and his family that he be given a religious funeral. The following are some of the most significant cases in this category:

#### **Attacks on Veterans Memorials**

- *Salazar v. Buono*
- *Trunk v. City of San Diego*

In these cases, the U.S. Court of Appeals for the Ninth Circuit held that two veterans' memorials containing crosses violated the Establishment Clause. Congress saved one of these memorials by transferring the land to private ownership, but the government required that a fence be built around the memorial. The Ninth Circuit held that the other memorial is unconstitutional.

#### **Attacks on Ten Commandments Displays**

- *Van Orden v. Perry*
- *McCreary County v. ACLU*

These cases both involved challenges to Ten Commandments displays, one at the Texas capitol and one in a courthouse in Kentucky. The Supreme Court heard both cases at the same time and held that the Texas display is permissible because there were other, secular monuments around it but the Kentucky display is impermissible because there were insufficient secular displays nearby.

### **Attacks on Public Invocations**

- *Pelphrey v. Cobb County, Georgia*
- *Joyner v. Forsyth County, North Carolina*
- *Galloway v. Town of Greece*

These cases involved challenges to legislative assemblies' opening with prayer. In *Marsh v. Chambers*, a 1983 U.S. Supreme Court case on legislative prayer, the Court noted that Congress has opened with prayer since the beginning of the country and Congress hired a chaplain to give these opening prayers the same week that it passed the First Amendment. Despite the historical evidence and the Supreme Court's holding that legislative prayer is constitutional, threats and lawsuits challenging these prayers are growing more frequent. Both *Joyner* and *Galloway* are federal appellate court cases in which courts of appeals rejected the Supreme Court's decision in *Marsh* and held that having prayer before a legislative assembly violate the Establishment Clause.

### **Public Speech and Expression**

- *Rainey v. U.S. Department of Veterans Affairs*
- *Barton v. City of Balch Springs*

These two cases are examples of the increasing hostility to religious speech in public. In *Rainey*, the director of the Houston National Cemetery informed a pastor, Scott Rainey, that he could not pray "in Jesus' name" at a Memorial Day service. Following the filing of a lawsuit, it was discovered that the U.S. Department of Veterans Affairs had a policy that funerals at national cemeteries could not include religious content. Government officials told grieving families that wanted a religious funeral that the service could not reference God. A federal district court held that the government could not dictate prayers at memorial services and funerals, and the U.S. Department of Veterans Affairs agreed to change its policy at all national cemeteries to allow the families' wishes regarding religious content to be followed.

In *Barton*, city officials told senior citizens at a senior center that they could not pray before their meals, listen to religious messages, or sing gospel songs because religion is banned in public buildings. After the senior citizens filed a lawsuit, government officials told the senior citizens that if they won the lawsuit their meals would be taken away because praying over government-funded meals violates the "separation of church and state."

### ***Attacks on Religious Liberty in the Schoolhouse***

Attacks on religious liberty at the schoolhouse is the second broad category of religious hostility chronicled in this survey. These cases primarily involve school officials prohibiting students or parents from sharing their faith or schools prohibiting teachers

from exercising their religious free speech rights. Many of these cases arise because of the misinformation that secularist organizations send annually to school officials, threatening lawsuits should the officials not stamp out all religious expression within the school. While these types of cases have been common for decades, they continue with alarming frequency. The following are some of the most significant recent incidents of religious hostility in the school house:

- *Morgan v. Swanson*

Public school officials told Jonathan Morgan, a third-grader in Plano, Texas, that he could not include a religious message in the goodie bags that he was bringing to the “Winter Party” to share with his classmates. School officials prohibited other children at the school from distributing pencils that stated “Jesus is the Reason for the Season” and “Jesus Loves me this I know for the Bible tells me so.” A government school official ordered another student to discontinue distributing tickets to a Christian drama and to discard the remaining tickets. In a fractured *en banc* opinion, the U.S. Court of Appeals for the Fifth Circuit stated that the students are protected by the First Amendment but that their protection was not clearly enough established to award damages against the school officials involved.

- *Pounds v. Katy I.S.D.*

A Houston-area school district banned religious items at Christmas and Valentine’s Day cards that contained religious content, merely because they were religious. When one student was asked what Easter meant to her, she was told that she could not say, “Jesus.” A federal court held that the Katy I.S.D. violated the students’ constitutional rights because of its hostility to religion.

- *Schultz v. Medina Valley I.S.D.*

Angela Hildenbrand, the valedictorian of her class, wanted to say a prayer during her graduation ceremony from Medina Valley High. A fellow student from an agnostic family filed a suit to prevent Hildenbrand from praying. The federal district court judge issued an order prohibiting Hildenbrand from using words like “Lord,” “in Jesus’ name,” and “amen.” The U.S. Court of Appeals for the Fifth Circuit reversed the ruling and allowed the prayer. On June 6, 2011, Hildenbrand gave her speech, which included a prayer.

- *Barrow v. Greenville I.S.D.*

A public school district denied Karen Jo Barrow an assistant principal position because she refused to remove her children from a private Christian school. The U.S. District Court in Dallas ruled against Ms. Barrow, arguing that the right of parents to choose private education was not a fundamental right. The U.S. Court of Appeals for the Fifth

Circuit, however, found that the superintendent had violated Ms. Barrow's constitutional parental rights

### ***Attacks on the Religious Liberty of Ministries***

The final broad category of religious hostility covered by this survey is attacks against churches and ministries. These cases represent a new front that secularism has opened against religious liberty. Only five years ago, the idea that the federal government would argue before the Supreme Court that it could regulate churches to the extent of determining who a church may choose as its pastor was unthinkable, yet the government made that very argument—effectively arguing that the religious liberty clauses of the First Amendment are meaningless—in *Hosanna-Tabor Evangelical Lutheran Church & School v. EEOC*. Not only did the government, for the first time, argue that it may regulate churches and determine qualifications for pastors, but the past ten years have seen an explosion in cases involving local governments discriminating against churches, particularly in the local governments' use of zoning laws and granting of permits. The following cases illustrate this new front in the secularists' war on religious liberty:

- *Hosanna-Tabor Evangelical Lutheran Church & School v. EEOC*

A private Christian school fired Cheryl Perich, a minister and a teacher at Hosanna-Tabor Lutheran School, for threatening to sue the school after she was asked not to return because she had narcolepsy. Perich sued under the Americans with Disabilities Act. In response, the school argued its right to hire or fire Perich based on the “ministerial exception,” which legally protects the rights of churches to select its religious leaders without government interference. The Justice Department argued that the “ministerial exception” does not exist and the government may regulate churches' selection of pastors. The U.S. Supreme Court unanimously upheld the ministerial exception and specified that government regulation of the hiring and firing of ministry leaders would violate both the Free Exercise Clause and the Establishment Clause.

- *Plano Vietnamese Baptist Church v. City of Plano*

A city told a Vietnamese Baptist church that it could not use a former church building it purchased for a house of worship because the lot on which the church building was located was not two acres or more in size. The church appealed the city's decision to the district court, which overruled the city's denial and permitted the church to use the building.

- *Barr v. City of Sinton*

A city completely banned Pastor Barr's Christian organization, which provides housing and religious instruction to men who have been released from prison for misdemeanor offenses, from existing anywhere within its city limits. In a landmark decision, the Texas Supreme Court

applied the Texas Religious Freedoms Restoration Act to rule in favor of Barr and his ministry.

- *HEB Ministries, Inc. v. Texas Higher Education Coordinating Bd.*

A state passed a law forcing all seminaries to get state approval of their curriculum, board members, and professors. The state fined Tyndale Seminary \$173,000 for using the word “seminary” and issuing theological degrees without government approval. The ministry filed a suit to prohibit the government’s attempts to control religious training. Both the district court and the court of appeals upheld the law. Finally, after nine years of suffering and losses, the state Supreme Court reversed and held that the law violated the First Amendment and the state Constitution.

- *Westbrook v. Penley*

A member of a church had an unbiblical relationship and desired to divorce her husband without a biblical reason. She refused to repent of her sin, and the church, through its church disciplinary process according to the book of Matthew, sent a letter to the congregation informing them of the member’s lack of repentance and the unacceptability of her behavior. She sued the church, the elders, and the pastor, dragging secular courts into an internal church matter. The state Supreme Court unanimously held for the church.

While this survey shows that religious hostility in the United States is dramatically increasing, both in frequency and in type of cases, this survey also shows that those persons and organizations, like the Liberty Institute and the Family Research Council, that stand up for religious liberty are winning. When those who value religious liberty fight, they push back the secularists’ agenda. While *Hosanna-Tabor* is a stunning example of the executive branch’s rejection of religious liberty, the Supreme Court unanimously held that churches are free from government control. Furthermore, for the first time in *Hosanna-Tabor*, the Supreme Court held that *both* the Free Exercise Clause and the Establishment Clause provide protection for religious liberty, greatly strengthening the Establishment Clause as a tool to protect our freedom. As dark as this survey is, there is much light. The secularist agenda only advances when those who love liberty are apathetic. Let this be a call to stand for religious liberty in these United States.