

**The Bill Blackwood
Law Enforcement Management Institute of Texas**

God in Police Departments...Can He Legally Be There?

**An Administrative Research Paper
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ABSTRACT

A 21-year old police cadet stands to repeat his oath of office. He concludes it with these sobering words: so help me God. In the academy, this same cadet learned about professionalism and ethics. He learned that the earliest meaning of the term professionalism came from those professing the vows of a religious order, and his training staff even offered that morality could perhaps be attributed to biblical teachings. The cadet quickly realized that God was an integral part of the department he was now joining.

The First Amendment of the Constitution declares that Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof (Jurinski, 2004). The purpose of this research is to capture the tension that is related to the wall of separation of church and state and pit that separation against law enforcement traditions, which, more often than not, include God. This is relevant because many of law enforcement's traditions can be traced back to Judeo-Christian ethics, as articulated in oaths and ethical canons. The question left unanswered, then, is whether these traditions violate the First Amendment.

The method of inquiry used by the researcher included the review of several books related to the wall of separation of church and state, internet sites, a DVD on this issue, and a survey completed of both Law Enforcement Management Institute of Texas (LEMIT) participants and Federal Bureau of Investigation (FBI) National Academy executives who graduated in Session 226, July 2006. The LEMIT participants were comprised of law enforcement executives throughout the State of Texas who had convened for a three-week module of instruction that was designed to assist them with

the demands of leading a modern law enforcement agency. The FBI National Academy is a similar program, hosted by the FBI in Quantico, VA, and it offers courses designed to help law enforcement executives manage their agencies.

By using these methods of inquiry, the researcher discovered that several of law enforcement's traditions do breach the wall of separation of church and state. If pressed in a court of law, many law enforcement departments would be forced to modify their traditions.

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INTRODUCTION

So help me God. Nowhere is this sentence found in the United States Constitution. In fact, nowhere is God mentioned in the entire Constitution; President George Washington simply added it to his oath of office (Church, 2007). Yet today, most American law enforcement officers swear under oath that they will uphold the Constitution, so help them God. Law enforcement officers even dedicate themselves before God to their chosen profession, as articulated in their Law Enforcement Code of Ethics. It seems American law enforcement has closely intertwined religious principles with their traditions. The issue to be examined, then, is whether God can legally be in law enforcement departments or if police traditions violate the First Amendment.

The First Amendment of the Constitution declares that Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof (Jurinski, 2004). If, in fact, this amendment builds a wall that separates religion from the state, it would seem law enforcement traditions stand in violation of the First Amendment. The purpose of this research is to examine whether law enforcement can include God in their traditions. This research will determine if law enforcement traditions breach the wall that reportedly separates the church from the state, as first articulated by President Thomas Jefferson in 1802. Specifically, three traditions will be scrutinized, including oaths of office, the Law Enforcement Code of Ethics, and the use of biblical precepts when teaching ethics.

Such research is relevant to law enforcement because many traditions include God, which raises a concern of legality considering the fact that law enforcement is a governmental institution. This research is timely because it comes at a time when

unethical behaviors have crippled many police agencies. Consequently, agencies have responded with ongoing ethical training. The question that remained unanswered, however, was exactly where agencies should get their moral precepts that are included in ethics classes. Secondly, the Law Enforcement Code of Ethics was written in 1957, and it articulated that officers were to strive to achieve ethical objectives and ideals, dedicating themselves before God to their chosen profession. This code implies that agencies could include God in their ethical training, whereas separation of church and state suggests that God cannot be included. Complicating this is the long-standing tradition by law enforcement to swear-in new recruits to uphold the laws of the Constitution, so help them God. It appears that law enforcement has included religious principles in their ethics and oaths, which may or may not stand in opposition to the very Constitution that they are swearing to defend.

The research question to be examined focuses on whether God can legally be reflected in traditions, such as ethical instruction and the swearing of oaths. The intended method of inquiry includes: internet sites, periodicals, journals, a survey distributed to LEMIT and FBI National Academy participants, a DVD, and books. The anticipated findings of the research will show that the First Amendment was intended only to prohibit the establishment of a single national denomination. Separation of church and state does not appear in the Constitution. America's government was not intended to be ruled without religious influence, except in that it must not be a single, specific religion. Law enforcement is a governmental institution and is, thereby, subject to all Constitutional constraints. These constraints do not include the absence of God.

Consequently, the anticipated finding is that law enforcement's traditions do not violate the First Amendment.

The field of law enforcement will benefit from this research because agencies will better understand whether God can legally be in their workplace. Agencies will better understand if God's morality, as articulated in the Bible, can be included in their ethical teachings. Recruit officers will know whether their oath of office can be sworn to God. As this nation's ethical yardstick, law enforcement's very survival may be predicated on their belief in and on their inclusion of God in their workplace.

REVIEW OF LITERATURE

The First Amendment of the Constitution declares that Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof. Jurinski (2007) pointed out that the first clause is often referred to as the Establishment Clause, and it serves to prohibit the establishment of a single, national denomination. The second half of the amendment, the Free Exercise Clause, is known to prohibit governments from enacting laws that will restrict religious freedoms. These two clauses are the entirety of the First Amendment as it pertains to religion. There is no further stipulation that there must be a wall of separation between church and state, yet most Americans could more easily recite this phrase than they could the actual amendment. Most Americans would likely be surprised to learn that the Constitution does not include the phrase separation of church and state.

In the late 18th century, many early Americans were concerned about their religious freedoms. Before the Constitution was penned, many states already had organized religions. This, in turn, disenfranchised many minority religious groups. In

the case of Virginia, before the Constitution was written, the legislators were considering passing a bill that would pay Christian teachers. James Madison, who would eventually write the Constitution, argued against such a measure, insisting that religion is not within the 'cognizance of civil government'" (McWhirter, 1994, p. 3). During this same time, Thomas Jefferson proposed a bill that was later passed that established religious freedom in Virginia. His bill ended favoritism toward Virginia's official church, which, at the time, was the Church of England. In summary, McWhirter (1994) presented an argument that not all early Americans were supportive of government intervening in religion. Some Americans wanted the church to be separate from the state, insisting that religion is an inalienable right, not a governmental liberty.

Church (2007) presented a very different picture. Even before George Washington was inaugurated as the first president, Church (2007) pointed out that Congress was much divided over titles and who should be called what in the new government. Some suggested that Washington should be called President, while others, including John Adams, vehemently insisted that such a mundane title would earn ridicule among the world's leaders. Adams and others wanted to incorporate religious titles to add pomp, thereby adding credibility to Washington's title. Church (2007) pointed out that very early in this nation's history, national leaders were already working to co-mingle church and state. Also, before Washington's inauguration, the issue of congressional chaplains came up, as well as religious services being part of the inauguration. Church (2007) noted:

Congress may have held fast to Constitutional guidelines on the title question, but when it came to penciling in a line of separation between church and state

regarding chaplaincy and inaugural worship many senators deemed the lack of any mention of religion in the Constitution irrelevant. To them, the imperative to secure Divine favor and provide moral and spiritual uplift superseded any lesson concern that might be raised concerning the “Englandization” of the United States. (p. 30)

On this note, it seems that modern day police departments are in the same predicament as the early fathers. Departments are faced with two options: seek God’s intervention on their behalf and, in doing so, publicly endorse Him and His values or refrain and possibly run the risk of moral decline. Such tension captures the purpose of this research. Modern police departments are facing the same issues the founding fathers did, and the answer seems no clearer to law enforcement than it did to them.

Hart (2006) argued that the church and government should not be mixed because Christianity cannot solve the government’s problems. Hart (2006) remarked that the basic teachings of Christianity “are virtually useless for resolving America’s political disputes, thus significantly reducing, if not eliminating, the dilemma of how to relate Christianity and American politics” (p. 11). Hart (2006) argued that Christianity’s focus is on a kingdom not of this world, and so it is not able to address society’s problems. He also pointed out that Christianity is an exclusive faith, excluding other faiths that do not adhere to the centrality of Christ. Because society seldom agrees on any one thing, particularly God, Christianity cannot address the needs of a varied society without alienating many within the society.

Much literature has been written concerning the wall of separation between church and state. The most notable exception to works cited has been the Bible, which

is ironic at best. In the book of Matthew, Chapter 5 (NIV, 1995), Jesus told his disciples that they are the light of the world: “A City on a hill cannot be hidden. Neither do people light a lamp and put it under a bowl. Instead, they put it on its stand, and it gives light to everyone in the house. In the same way, let your light shine before men...” (p. 1445). The implication seems clear. Those professing a belief in God are called to reflect God in all circumstances; they are to be light in the world. The question many secularists would pose, however, is whether that light should be shone in the public workplace.

The United States Constitution, which was ultimately ratified, makes no reference to God. The question that begs asking then is why most Americans believe there is a wall that separates the church and the state. If God is not mentioned, then exactly how is He excluded? At the time the Constitution was written, Thomas Jefferson was out of the country visiting France. After getting word of the Constitution’s contents, he quickly advocated the need for a bill of rights. Many states agreed, recognizing that the Constitution did nothing to protect religious liberties. Consequently, James Madison proposed 12 amendments to the Constitution, which was eventually reduced to 10 and ratified (McWhirter, 2002). The controversy did not end there. Many people thought the First Amendment was dubious, and some argued that religion is an inalienable right and should not be a matter of consideration for civil government. Many believed the First Amendment did little to settle the issue of what role the government was to play in religion. However, an exchange of presidential letters was soon to help steer this nation’s religious identity.

In the late 1700s, the Danbury Baptist Association was comprised of a minority religious group in the Connecticut Valley. The primary church found in that area was Congregationalism. Of primary concern to the Danbury Baptists was the issue of national fasting and thanksgiving, which was being pushed by the Federalists, who supported the government mandating such legislation. The Danbury Baptists appealed to President Jefferson, knowing he was not a man of strong religious convictions. In fact, the 1800 election was extremely divisive because many painted Jefferson as an atheist, and thus pitted the very pious John Adams against the anti-God Jefferson (Dreisbach, 2002). This perceived lack of religion met the Danbury Baptists' needs because they believed he would be sympathetic to their cause of not passing legislation that would mandate fasting and thanksgiving.

In October 1801, the Baptist Association sent President Jefferson a letter congratulating him on his new appointment (Dreisback, 2002). The Danbury Baptists were anxious to foster a relationship with a president who they perceived as an "ardent defender of religious liberty" (Dreisback, 2002, p. 25). On January 1, 1802, President Thomas Jefferson responded to their letter, and his words have resonated throughout this nation ever since:

Believing with you that religion is a matter which lies solely between Man & his God, that he owes account to none other for his faith or his worship, that the legitimate powers of government reach actions only, & not opinions, I contemplate with sovereign reverence that act of the whole American people which declared that *their* legislature should "make no law respecting an

establishment of religion, or prohibiting the free exercise thereof,” thus building a wall of separation between Church & State. (Driesback, 2002, p. 17)

In this nation’s history, this was the first reference to a wall that was to separate church and state. It would seem, then, that President Jefferson was certain that a wall should exist. An argument could be made in this favor if it were not for the many other religious sentiments he expressed throughout his presidency, which contradicted his own wall of separation. It seems he, too, had difficulty excluding religion from the state.

Some supported his theory of a wall, however, which has become more and more espoused in modern history. In the 1947 decision of *Everson v. Board of Education* in which school prayers were banned, Justice Hugo L. Black wrote, “That wall must be kept high and impregnable” (Dreisback, 2002, p. 4). It seems modern judicial reviews have reinforced the notion that a wall does exist, but historical evidence proves that the wall has not always been tall or impregnable.

By all accounts, this nation was deeply influenced by religion when the Constitution was penned; many would argue that the most influential religion was Christianity. Others would argue that the government needs not meddle in a matter that should be entirely private, between man and his god. The First Amendment has seemingly done little to settle this debate. In fact, some have pointed out that the two clauses of the First Amendment are not always reconcilable. Jurinski (2007) cited an example of banning the reading of Bibles in schools because that would favor Christianity. That ban then violates the Free Exercise Clause because it violates the free exercise of a religion. Dreisbach (2002) points out that Jefferson’s alleged wall has “long been among the most contentious issues in America” (p. 7).

Concerning police departments, law enforcement traditions that co-mingle church and state have included an oath of office that includes the phrase: So help me God. Another police tradition that mixes the two can be dated back to 1957, with the first written code of ethics. It contained the phrase, "I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession . . . law enforcement" (IACP, 1995). Lastly, some police departments use biblical precepts, such as the 10 Commandments, when discussing ethics and morality for both academy and in-service instruction. Do these traditions, then, breach the wall that separates church and state? The answer to this question lays in recent Supreme Court decisions, some of which conflict with decisions made much earlier in history. As McWhirter (1994) pointed out: "In no other area of constitutional decision making have so many justices changed their minds over time" (p. 9). Consequently, what society perceives as definitive today may ultimately change in the future.

In 1943, the Supreme Court ruled on a case involving the Pledge of Allegiance. Specifically, a group of Jehovah Witness parents sued the school district after their children were forced to recite the Pledge of Allegiance (McWhirter, 1994). An earlier case was ruled on in 1940 in which the Court refused to overturn the lower courts decision, and as such, the pledge remained in schools. However, by 1943, the United States was fully engaged in World War II, and the judges reconsidered their earlier ruling. They overturned the pledge case and wrote:

Words uttered under coercion are proof of loyalty to nothing but self interest.

Love of country must spring from willing hearts and free minds, inspired by a fair

administration of wise laws enacted by the people's elected representatives within the bounds of express constitutional prohibitions. (McWhirter, 1994, p. 78)

Clearly, this Supreme Court decision would apply to the law enforcement oath of office. The provision that new officers must swear to God, therefore, would be religiously motivated and perhaps unconstitutional.

Law enforcement's Code of Ethics best falls under the category of a symbol. The Supreme Court has concluded that symbols only violate the Constitution when they convey too great of a message in support of any one particular religion. McWhirter (1994) pointed out that the Supreme Court, regarding symbols, has stopped short of creating a high wall that separates church and state but has, instead, focused on accommodating both sides. In the case of the Code of Ethics, it could be argued that it is clearly in support of a Christian or Judean God, and thus, it would likely have to be amended if scrutinized in a court of law. There is some room for ambiguity, however, as this same precedent would seemingly be at play with nativity scenes. The Court has ruled that nativity scenes do not violate the First Amendment; so again, the Court seems to be giving latitude concerning symbols. If the Code of Ethics were challenged and required changing, it would then lead to the question of where law enforcement should get their moral foundation from, if not from God.

If society gets to define what is moral and ethical, then, arguably, morality will decline as society's values change. Today's society is characterized by people defining their own truths, and many are intolerant of people judging their truths. Absolute truth seems to have given way to situational truth. If morality, however, is derived from parentage, some could argue that, once again, morality is subject to changing as

society changes. One could presume, then, that religion can, and perhaps should, help develop society's morality. Biblical law seems to be the most steadfast source of morality. Consequently, law enforcement trainers are simply using a source of morality that is the most consistent over time. Ethics, after all, are about absolutes, and law enforcement should be able to use religious precepts to further ethical discussions. On this issue, the Supreme Court has given latitude, recognizing that people are free to verbalize their religious beliefs, even in a public setting. This is consistent with another leg of the First Amendment, which is freedom of speech. Law enforcement trainers must teach ethics, and inarguably, those ethics would be difficult to develop without some reference to religious principles. By simply discussing these principles in conjunction with other sources of morality, these trainers are not in jeopardy of violating the Constitution.

Ethics can contain references to God and His moral precepts, but the Supreme Court delineated a clear line regarding school-aged children. The Supreme Court ruled that in the case of Bible reading during the school day, children could be easily influenced to believe in a particular religion. That same argument could not be made about police cadets in an academy; they are not likely to be swayed in their religious beliefs by simply discussing biblical, ethical precepts. Thus, of all three law enforcement traditions scrutinized, it seems that the use of religion in ethics stands furthest from violating the First Amendment.

METHODOLOGY

The research question to be examined considers whether or not God can legally be in police departments. Specifically, the researcher will examine whether God can be

included in oaths of office for beginning officers, whether religious material like the Code of Ethics can be posted in police departments, and whether the 10 Commandments and similar biblical precepts can be used in police ethics training. The researcher hypothesizes that most Americans would agree that this nation's founding fathers were religious people. One example supporting this is the nation's monies, on which is written "In God We Trust." Law enforcement traditions, then, simply reflect that devout heritage. The researcher hypothesizes, however, that most law enforcement officials would shy away from including God in their workplaces, quickly pointing toward a wall that they believe separates church and state. However, if pressed for specific facts relating to the First Amendment, most of these officials would not be able to articulate the historical setting for Thomas Jefferson's famous letter. Instead, they would simply rely on the most recent Supreme Court decisions that have seemingly removed God from many facets of public domain, such as schools and public buildings. These law enforcement officials would surmise that they, too, must remove God from their workplaces, which, in turn, would cause them to question the legality of their oaths of office, their code of ethics, and whether they could include biblical teachings in their ethics classes. This researcher hypothesizes that such a shift from God will adversely affect law enforcement. This research is relevant, therefore, if for no other reason than to educate police administrators as to their religious liberties within their workplaces.

The method of inquiry will include a review of previously submitted LEMIT papers, books related to the separation of church and state, a DVD, internet sources, and a survey distributed to both LEMIT participants and FBI National Academy graduates. The size of the survey will consist of ten questions, distributed to 19 survey

participants in Class 73 of LEMIT, Module II, and 104 FBI National Academy graduates. The response rate to the survey instrument resulted in 50 surveys being returned.

The information obtained from the survey will be analyzed by comparing how many departments use faith-based traditions as opposed to those who do not. Secondly, the information will show whether the majority of police agencies consider themselves faith-friendly. After providing a comparison of how many agencies incorporate religious principles in their workplaces, the survey will show how many departments will be affected by any future Supreme Court rulings concerning law enforcement traditions and their constitutionality.

FINDINGS

A 10-question survey was submitted to members of Class 73, LEMIT, while in attendance at Module II. The survey was also sent to FBI National Academy graduates who had attended Session 226 in the year 2006. One hundred and twenty-three surveys were sent out, and 50 surveys were returned.

Of the departments surveyed, only two agencies had less than 20 officers. The majority of departments had more than 150 officers. Fifty-six percent of the departments were at-will departments as opposed to civil service departments, and one State of Texas agency was represented in the surveys.

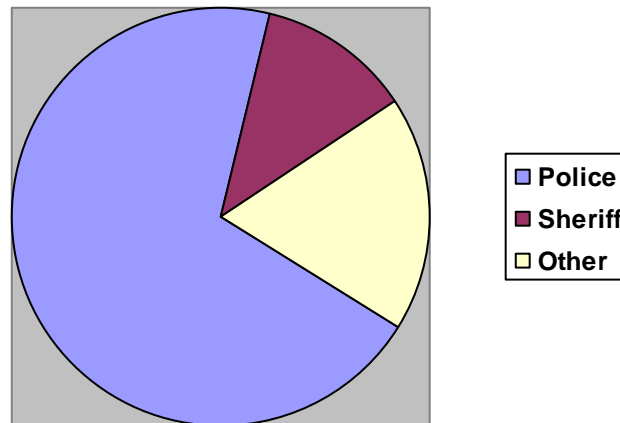


Figure 1. Types of agencies surveyed.

Of these agencies, 84% reported that they use an oath of office in which the recruit officer makes an oath of affirmation to God, in the form of “So Help Me God.” This researcher then asked survey respondents if they had ever changed their oaths of office to accommodate either a different religion or no religion at all. Eight percent reported that they had, while 70% had not; eleven respondents did not know if their departments had ever changed the oath.

Concerning ethical teachings, this researcher wanted to know how many departments use religious precepts in their curriculum, such as the 10 Commandments. The survey question specifically gave respondents the example of the 10 Commandments. Twenty percent reported they do use religious precepts to discuss ethics, which can be seen in Figure 2.

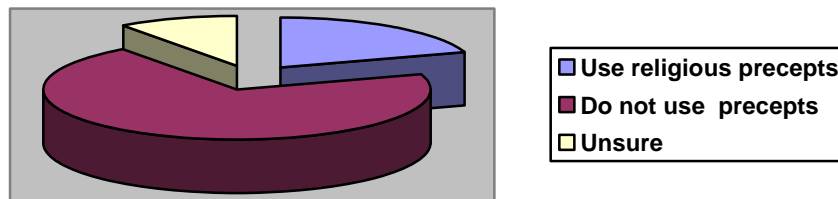


Figure 2. Use of religious precepts when teaching ethics.

When asked if they thought their departments were 'faith-friendly,' an overwhelming 88% said yes; only two respondents did not know. Seventy percent of these departments had police chaplains already in place, and 56 % of the departments allowed for the posting of religious material in the departmental workplace. The last question asked respondents if their department members were allowed to send religious emails. Fifty four percent said yes, while 32 % said no; 14 % did not know.

This survey clearly shows that the majority of police departments surveyed consider themselves faith-friendly, as evidenced by their oaths of office, chaplaincy programs, the ability to post religious materials and forward religious emails. The only exception was found in the use of religious precepts when teaching ethics to departmental members; 70% said they do not.

DISCUSSION/CONCLUSIONS

The problem or issue examined by the researcher considered whether or not God could legally be in police departments, as particularly seen in law enforcement traditions such as oaths of office, codes of ethics, and ethical teachings. The purpose of this research was to assist law enforcement agencies in understanding their legal rights as it pertains to religious liberties. Of issue was whether police departments

could continue to allow officers to swear an oath of office to God and whether police trainers could use biblical precepts when discussing ethics. Thirdly, the purpose of the research was to determine whether departments could continue to use the Law Enforcement Code of Ethics because of its reference to God. The research question examined focused on the alleged wall of separation of church and state that was referred to in President Thomas Jefferson's letter to the Danbury Baptist Association.

The researcher hypothesized that this nation was formed under the direction of devout men who embodied godly principles. Law enforcement traditions, therefore, were in line with American history and merely a reflection of the nation's founding fathers. As such, this researcher hypothesized that these traditions do not violate the wall that separates church and state. What the founding fathers articulated in the First Amendment, however, left doubt as to exactly what role government should take concerning religion. The very fact that they addressed religion caused some people anxiety, as they believed religion was an inalienable right and, therefore, not a matter to be considered by a civil government. Law enforcement traditions have, however, co-mingled church and state.

The researcher concluded from the findings that most of law enforcement's traditions would have to change if challenged in a court of law. The precedent set by Supreme Court rulings is centered on motive; if the act being committed is being done for purely religious reasons, it is unconstitutional. Law enforcement's oath of office, therefore, could no longer mandate that cadets swear an oath to God. Swearing to God is clearly religious. The Law Enforcement Code of Ethics would also have to be modified to take out any reference to God. However, ethical teachings using biblical

precepts could continue as long as agencies were mindful to avoid proselytizing. If the biblical references were included to sway a police cadet to a particular belief, then those ethical teachings would clearly breach the wall of separation of church and state. Mere mention of moral principles, as depicted in the Bible, however, is not a violation of the First Amendment. Of the three traditions scrutinized, the use of biblical precepts in ethics instruction stands the least chance of breaching the wall of separation of church and state. Ironically, it is the least used by the departments surveyed; only 20% of the respondents indicated they use such precepts.

The findings of the research did not support the hypothesis. The reason why the findings did not support the hypothesis is likely a combination of a lack of knowledge of the First Amendment and an overall deluge of opinions expressed by every American who has an opinion on this issue. Although police departments seemingly interact with the Constitution on a daily basis, the reality is that most officers have little understanding of the context of the Constitution. Instead, most officers rely upon knowledge gleaned from the media, friends, family, and church. Each of these entities, however, is equally divided over the separation of church and state, which further complicates a clear understanding.

Limitations that might have hindered this study resulted from the notion that the issue of separation of church and state is both a very personal issue and yet a national issue. It is even possible to agree with the principle on the national level, but object to it personally. Such tension exactly captures why the alleged wall between church and state still confounds authorities today. It is critical, however, to recognize that the study of the legality of God in police departments is relevant to contemporary law enforcement

because all police agencies are currently recruiting from society, and society's beliefs are just as varied as they were at the penning of the Constitution. Since police applicants reflect society, surely some of their religious beliefs will run counter to many of law enforcement's traditions. This friction will undoubtedly find its way into the courts, so it would behoove police administrators to know the historical argument both for and against a wall of separation.

Law enforcement stands to benefit from the results of this research because it will help steer departments as they struggle to co-mingle church and state as expressed in their traditions. It is, after all, fair demand that officers be of the highest moral constitution possible. Constructing such a moral constitution in an age of mounting secularism, however, will prove to be a huge obstacle for modern day police departments. Law enforcement's own applicants may reject its traditions and not willingly be added to the ranks until God is removed from the workplace. A thorough understanding of the wall that allegedly separates church and state, therefore, is critical for all law enforcement executives.

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APPENDIX

Leadership Command College Survey

God in Police Departments – can He legally be there?

The purpose of this research is to explore the wall of separation of church and state, and to pit that wall against law enforcement traditions. In doing so, this researcher hopes to determine if common practices such as oaths of office, religious material posted in departments, and ethical canons breach this wall of separation.

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1. What is the size of your department: <20 21-75 75-150
 >150
2. Is your department: Civil Service At Will
3. Is your agency a police department, sheriff's office, or other?
 Police Sheriff Other
4. When swearing in for the first time, do your recruit officers swear on oath to God (so help me God)? Yes No No oath is required
5. Has your department ever amended the oath of office to accommodate a different religion and/or atheism? Yes No Unknown
6. Does your department make use of religious principles when teaching ethics, such as the 10 Commandments? Yes No Unknown
7. Would you consider your department faith-friendly? Yes No
 Unknown
8. Does your department have chaplains? Yes No In the process of getting
9. Does your department allow religious material to be posted in the police department? Yes No

10. Does your department allow religious emails to be forwarded to other employees? Yes No Unknown