International Municipal Lawyers Association

2015 Annual Conference
Las Vegas, Nevada

Work Session X

Exploring the History and Future of Legislative Prayer in Light of *Town of Greece v. Galloway*

Deborah J. Fox, Principal
Lindsay D'Andrea, Associate
Meyers Nave
707 Wilshire Blvd., 24th Floor
Los Angeles, CA 90017
213-626-2906
dfox@meyersnave.com
ldandrea@meyersnave.com

This is an informational and educational report distributed by the International Municipal Lawyers Association during its 2015 Annual Conference, held October 3-7, 2015 in Las Vegas, NV. IMLA assumes no responsibility for the policies or positions presented in the report or for the presentation of its contents.

Exploring the History and the Future of Legislative Prayer in Light of *Town of Greece v. Galloway*

Deborah J. Fox, Meyers Nave
Lindsay D'Andrea, Meyers Nave

Introduction

Legislative invocations reach back to the origins of the Republic and beyond. What was once considered a relatively settled area of constitutional law came under significant scrutiny as a result of the Due Process revolution of the 1960s. Since that time, the Supreme Court has attempted to achieve a balance between First Amendment protections and the government's desire to achieve certain policy interests. The issue of whether to include invocations before local government bodies can be an intensely local one and policy objectives often differ between communities in neighboring jurisdictions much less between states. The same is true with regard to the content of invocations, which can vary widely depending on the goals and beliefs of the community.

This paper briefly discusses the history of legislative invocations in the United States, including the origins of Supreme Court jurisprudence. Further, it will outline the disagreement among federal circuit court decisions leading up to the Supreme Court's decision in *Town of Greece v. Galloway*. It will then analyze the decision itself and recent events and case law in light of the decision. Finally, it will provide tips for practitioners to consider when evaluating the constitutionality of a legislative invocation policy.

I. INVOCATIONS

A. *History*[1]

On April 25, 1789, the United States Senate elected its first chaplain and the House of Representatives followed suit six days later setting in motion the practice of congressional invocations that continues uninterrupted to this day.[2] Although the practice was questioned by some members of the Senate in the mid-1900s, it would be almost two hundred years before the United States Supreme Court examined whether it

[1] A special thanks and acknowledgment is due to David S. Warner, former Of Counsel at Meyers Nave, for his historical analysis offered in this paper.

[2] S. Jour., 1st Cong., 1st Sess., 10 (1820 ed.) and H.R. Jour., 1st Cong., 1st Sess. 26 (1826 ed.)

was a violation of the First Amendment's Establishment Clause to open a legislative session with a prayer.[3]

The "Establishment Clause" provides that "Congress shall make no law respecting an establishment of religion" and it was incorporated into the states by the Fourteenth Amendment. In 1980, Ernest Chambers, a member of Nebraska's unicameral legislature, brought suit to enjoin his state legislature from commencing each session with a prayer as had been the state's practice since it entered the Union in 1867. In the 16 years prior to Chambers' lawsuit, the prayer had been offered by the same Presbyterian minister, who was paid out of public funds.[4]

Initially the District Court found the prayers constitutional, but deemed it unconstitutional to pay the minister out of public funds.[5] On appeal, the Eighth Circuit found both the prayers and the payments unconstitutional.[6] In a 6-3 opinion authored by Chief Justice Warren Burger, the Supreme Court held the legislature's practice did not violate the Establishment Clause given "the unbroken practice for two centuries in the National Congress and for more than a century in Nebraska and in many other states." Absent impermissible motives or attempts to proselytize or advance any one, or disparage any other, faith or belief, the Court appeared unwilling to examine the content of the invocations.

As pointed out in a dissent authored by William Brennan and joined by Thurgood Marshall, the majority chose to ignore the "most commonly cited formulation of prevailing Establishment Clause doctrine" developed in *Lemon v. Kurtzman*, only twelve years earlier, in favor of a history-based analysis.[7] Subsequent Supreme Court decisions seemed to suggest that *Marsh* was an exception to traditional Establishment Clause jurisprudence and federal courts appeared to treat it the same way. When faced with a similar fact pattern in 1992, for example, the Supreme Court applied the *Lemon* test to

---

[3] *Marsh v. Chambers*, 463 U.S. 783, 788 n.10 (1983) [The Chaplaincy was challenged in the 1850s but after consideration by the Senate Judiciary Committee it was decided the practice did not violate the Establishment Clause. The Senate reasoned, in part, that since prayer was said by the very Congress that adopted the Bill of Rights, the Founding Fathers could not have intended the First Amendment to forbid legislative prayer or viewed prayer as a step toward an established church.]

[4] *Marsh*, 463 U.S. at 784.

[5] *Chambers v. Marsh*, 504 F.Supp. 585 (Neb. 1980), *rev'd in part*, 675 F.2d 228 (8th Cir. 1982).

[6] *Chambers v. Marsh*, 675 F.2d 228 (8th Cir., 1982), *rev'd*, 103 S.Ct. 3330 (1983).

[7] *Marsh*, 463 U.S. at 796 (dissent).

declare unconstitutional the use of clerical members who offered prayers as part of official school graduation ceremonies.[8] However, the Supreme Court's recent decision in *Town of Greece v. Galloway*, discussed below, relies heavily on *Marsh* and calls into question this characterization of *Marsh* as an anomaly in Establishment Clause jurisprudence.

B. Interpreting *Marsh v. Chambers*

Perhaps not surprisingly given its highly-charged subject matter, the Supreme Court's decision in *Marsh* failed to settle the field of constitutional law with regard to legislative prayer. Significant disagreement persisted between the Circuit Courts whether *Marsh* stood for the proposition that only non-sectarian prayers were permissible or whether courts should avoid evaluating content altogether unless there is evidence in the record to suggest the government is unfairly excluding certain denominations. In addition, it was unclear whether if content was to be evaluated, where to draw the line between sectarian and non-sectarian language and whether overt acts of government officials, such as requesting persons bow their heads or stand had any relevance to the question. The differences of opinion stemmed in part from the fact that the Nebraska chaplain had removed all sectarian references in his invocations after 1980 and the Court did not make it clear whether this was an essential fact in its decision.[9]

The persistent division among the Circuit Courts was further highlighted in the 2012 Second Circuit Court of Appeals case, *Galloway v. Town of Greece*, and the 2013 Ninth Circuit Court of Appeals case, *Rubin v. City of Lancaster*. In *Galloway v. Town of Greece*, the Second Circuit Court of Appeals held a town's prayer practice was too closely affiliated with Christianity to survive an Establishment Clause challenge.[10] The Town of Greece had been inviting local clergy to offer an opening prayer at town board meetings since 1999. The town contacted the religious organizations published by the Chamber of Commerce and created a list of chaplains willing to perform the task. Each month, a town employee would go down the list until he or she found someone available.

---

[8] *Lee v. Weisman*, 505 U.S. 577 (1992); *see also*, *McCreary Cnty. v. ACLU*, 545 U.S. 844, 859 n.10 (2005) ["Establishment Clause doctrine lacks the comfort of categorical absolutes. In special instances, we have found good reason to hold governmental action legitimate where its manifest purpose was presumably religious. *See, e.g., Marsh v. Chambers* . . ."]. For an example of federal district court analysis of the Supreme Court's unique approach to legislative prayer, see *Rubin v. City of Lancaster*, 710 F.3d 1087, 1091-92 (2013).

[9] *Rubin*, 710 P.3d at 1092 ["A cursory read of *Marsh* does not disclose whether all or only some of Palmer's prayers were 'not of concern'."]

[10] 681 F.3d 20 (2nd Cir. 2012), *rev'd*, 134 S.Ct. 1811.

Until 2008, without exception, all were of the Christian faith. After the Town of Greece began receiving complaints, however, several clergy from non-Christian denominations were added to the city's list and a Wiccan priestess, Baha'i chairman, and lay Jewish man provided invocations in 2008. Eventually, however, for reasons unexplained in the Court's decision, only Christian clergy performed invocations in 2009 and 2010.

According to the Second Circuit, the town's policy evinced no religious animus but, rather, the totality of the circumstances reflected an endorsement of a particular religious viewpoint.[11] According to the Court, long before 2008, the town should have reached out to denominations outside its borders or publicly solicited volunteers to ensure that the religious views of the town's non-Christians were adequately respected.[12] In addition, while not dispositive, the Court also cited the overtly-Christian content of the prayers, the failure of the town to advise prayer-givers to conform to an ecumenical message, and affirmative acts of the prayer-givers, such as asking audience members to stand or bow their heads, as supportive of its decision.[13]

On the other side of the country, the Ninth Circuit Court of Appeals found that Lancaster, California's actions did not violate the Establishment Clause. In *Rubin v. City of Lancaster*, plaintiffs claimed the city council's invocation practice was unconstitutional where a substantial majority of the prayers were Christian in nature employing overtly sectarian references to "Jesus." Lancaster's policy for selecting clergy, while similar in some respects to that of the Town of Greece, had several safeguards that lead to a validation of its invocation practice. The city clerk maintained a database of religious congregations with an established presence in the City of Lancaster which was compiled from the Yellow Pages, internet, chamber of commerce and newspapers. Each organization was invited to participate and informed that the city in no way affiliates itself with a particular religion. Each congregation was limited to three appearances per year.[14]

---

[11] 681 F.3d at 30.

[12] *Id*. at 31 ["In our view, whether a town's prayer-selection process constitutes an establishment of religion depends on the extent to which the selection process results in a perspective that is substantially neutral amongst creeds. The town asserts, and there is no evidence to the contrary, that it would have accepted any and all volunteers who asked to give the prayer. But the town neither publicly solicited volunteers to deliver invocations nor informed members of the general public that volunteers would be considered or accepted, let alone welcomed, regardless of their religious beliefs or non-beliefs. Had the town publicly opened its prayer practice to volunteers in this way, its selection process could be defended more readily as random in the relevant sense."]

[13] *Id*. at 32-33.

[14] *Rubin*, 710 F.3d at 1089.

According to the Ninth Circuit, the mere fact sectarian references were used in invocations did not violate *Marsh*, since the Supreme Court clearly understood the minister in Nebraska had been using sectarian references throughout most of his 16 years as legislative chaplain.[15] In addition, the city's policies provided adequate safeguards to ensure the city was being evenhanded by (i) not requiring anyone attending council meetings to participate, (ii) ensuring that a variety of invocational speakers were scheduled, and (iii) not reviewing the content of the prayer beforehand.[16]

On the question of whether a court should be reviewing the content of invocations, the Seventh Circuit Court of Appeals interpreted *Marsh* quite differently. In *Hinrichs v. Bosma*, the Seventh Circuit in refused to stay a permanent injunction issued by the trial court which prohibiting the Indiana State Legislature from using denominational appeals in its invocations, such as the use of the name Jesus Christ.[17] Although only 29 of 45 invocations were identifiably Christian, the Court took exception to the overtly Christian content of certain prayers as a violation of *Marsh's* prohibitions against proselytizing or advancing any one belief.[18] The Court contrasted such content with prayers it deemed permissible that were nondenominational in nature and did not use Christ's name or title or any other denominational appeal.[19]

Adding to the confusion, in 2008 the Eleventh Circuit Court of Appeals in *Pelphrey v. Cobb County* expressly rejected *Hinrichs* by refusing to evaluate the content of invocations before a county board even where evidence showed certain non-Christian religions were prohibited from participating.[20] In *Pelphrey*, the county clerk maintained a list of religious organizations from the local Yellow Pages and clergy from various faiths were permitted to provide invocations. Evidence submitted in the case showed that for a period of time the clerk had drawn a light line through the names of certain non-Christian denominations, but later a mosque and synagogue were contacted and invited to participate. While the Court deemed the act of crossing off the names of certain denominations based on their beliefs an unconstitutional affiliation of the government

---

[15] *Rubin*, 710 F.3d at 1092.

[16] *Id*. at 1097-98.

[17] *Hinrichs v. Bosma*, 440 F.3d 393 (7th Cir. 2006).

[18] The evidence disclosed that Christian prayers included numerous supplications to Christ and the power to be saved as well as one example of a prayer followed by a sing-along to the tune of "Just a Little Talk with Jesus" where some legislators and members of the public stood and clapped in time as they sang.

[19] *Hinrichs*, 440 F.3d at 402.

[20] 547 F.3d 1263 (11th Cir. 2008).

with the Christian faith, it refused to otherwise evaluate whether the prayers themselves contained improper sectarian references. According to the Court, *Marsh* never contemplated courts would evaluate the content of prayers unless there was sufficient evidence that the prayer opportunity had been exploited to advance or disparage a religious belief.[21]

C. The Supreme Court's Decision in *Town of Greece v. Galloway*

On May 20, 2013, the Supreme Court granted the Town of Greece's petition for writ of certiorari. On May 5, 2014, the Supreme Court issued its decision reversing the Second Circuit and upholding the Town of Greece's prayer practice. Justice Anthony Kennedy drafted the 5-4 majority opinion relying heavily on the Court's prior decision in *Marsh*. In ruling for the town, the Court held that the town's prayer practice fits within the tradition long-followed in Congress and the state legislatures. In doing so, the Court found that (1) the sectarian references in prayers before the town board did not "denigrate, proselytize or betray an impermissible government motive" and thus, did not constitute a constitutional violation; (2) the fact that a majority of prayer-givers at the town's meetings belonged to one faith did not, by itself, constitute a constitutional violation where the town made reasonable efforts towards inclusion and welcomed any minister or layman who wished to give a prayer; and (3) the timing and nature of the prayers were not coercive.

The majority opinion discussed the history of legislative prayer at length. The Court highlighted the fact that legislative prayer has been in near continuous existence at the federal level since the First Congress and that there is historical precedent for the practice at both the state and local legislative level.[22] The majority noted that Congress appointed chaplains shortly after approving the language of the First Amendment and stated that "the Framers considered legislative prayer a benign acknowledgement of religion's role in society."[23] Furthermore, the majority asserted that *Marsh* stands for the proposition that the precise boundaries of the Establishment Clause need not be defined where history shows that a specific practice is permitted.[24]

Respondents argued that in order to pass constitutional muster, legislative prayers must be non-sectarian and not identifiable with any one religion. The majority opinion specifically rejected this contention stating that evaluating the sectarian content of

---

[21] *Id*. at 1271.

[22] *Town of Greece v. Galloway*, 134 S. Ct. 1811, 1819 (2014).

[23] *Id*.

[24] *Id.*

prayers "would force the legislatures that sponsor prayers and the courts that are asked to decide these cases to act as supervisors and censors of religious speech."[25] The Court maintained that evaluating the sectarian content of prayers would involve government in religious matters to a far greater degree than a policy of neither editing nor approving prayers in advance. In addition, the Court explained that while the prayers at issue in *Marsh* may have been largely non-sectarian, *Marsh* nowhere suggested that the constitutionality of legislative prayer turns on the neutrality of its content. Instead, the majority highlighted language from *Marsh* stating that the content of prayers is of no concern to judges provided "there is no indication that the prayer opportunity has been exploited to proselytize or advance any one, or to disparage any other, faith or belief."[26]

The respondents argued that the ministers in the town did in fact disparage their faith or lack thereof and pointed to certain invocations that characterized objectors to the prayer practice as a "minority" who are "ignorant of the history of our country." The Court responded that while the prayer at issue did stray from the principles outlined in *Marsh*, the practice on the whole is still constitutional because the town's practice does not reflect a "pattern of prayers" that "*over time* denigrates, proselytizes or betrays an impermissible government purpose" as discussed in *Marsh.*[27] Consequently, the fact that some prayers may contain disparaging or critical language does not render a prayer practice unconstitutional, when the prayers on the whole do not include such language or references. In addition, the Court found the idea of a non-sectarian prayer requirement further problematic because the Court was doubtful that consensus could even be reached as to what qualifies as generic or sectarian.[28]

The Court also found that the town did not violate the Establishment Clause by inviting and hosting predominantly Christian ministers. Justice Stephen Breyer noted in his dissent that during the more than 120 monthly meetings at which prayers were delivered to the town board during the record period (1999-2010), only four were delivered by non-Christians.[29] The majority found that the disparity in representation was not problematic because the town made reasonable efforts to identify all congregations located within its borders and represented that it would welcome a prayer by any minister or layman who wished to give one.[30] An aggressive quest to promote diversity, the Court reasoned, would require the town to make inappropriate judgments

---

[25] *Id.* at 1822.

[26] *Id.* at 1821 quoting *Marsh v. Chambers,* 463 U.S. 783, 794-795 (1983).

[27] *Id.* at 1824.

[28] *Id.* at 1822.

[29] *Id.* at 1839 (dissent).

[30] *Id.* at 1824.

about the number of religions to invite and how frequently to invite them. Similar to reviewing the content of prayers, the Court found that a quest to promote diversity among prayer-leaders could lead to a "form of government entanglement with religion that is far more troublesome than the current approach."[31]

Respondents further sought to distinguish the town's prayer practice from the tradition upheld in *Marsh* on the grounds that the town's practice is coercive. They argued that in contrast to the procedures in Congress and state legislatures, citizens attend and participate in town board meetings, whether by accepting awards, speaking on matters of local concern or petitioning the board for action on varied requests, such as zoning variances or permits. This public participation and petitioning of the board, the respondents argue, may create subtle pressure on the public to participate in prayers that violate their beliefs in order to please board members from whom they are about to seek a favorable ruling.[32] The majority dismissed the assertion that a brief prayer at the opening of the town's board meeting compelled citizens to engage in religious practice, but highlighted the fact that a determination of this sort is a fact-sensitive inquiry that considers both the setting in which the prayer is given and the audience to whom it is directed.[33]

In conducting this fact-sensitive inquiry, the Court noted that prayers are delivered during the ceremonial portion of the town's board meetings, which does not include any policymaking functions and instead is reserved for general items, such as swearing in police officers, and presenting proclamations.[34] The majority also concluded that the principal audience for these ceremonial prayers are the lawmakers themselves, not the public. According to the Court, the purpose of prayers is to "accommodate the spiritual needs of lawmakers and connect them to a tradition dating back to the time of the Framers."[35] On the specific matter of coercion, the majority found that there was no evidence that the town based any of its decisions on entitlements on citizens' participation in prayers and that while guest ministers directed audience members to stand or bow their heads, none of these requests came from the lawmakers themselves.[36] The fact that members of the public are free to leave the room during the prayer or arrive late and were not discouraged from doing so was relevant to the Court's determination. The Court acknowledged that the respondents felt offended and excluded from the

---

[31] *Id.*

[32] *Id.* at 1825.

[33] *Id.*

[34] *Id.* at 1827.

[35] *Id* at 1826.

[36] *Id.*

proceedings due to the prayers; however, the Court stated that offense does not equal coercion and that "an Establishment Clause violation is not made out any time a person experiences a sense of affront from the expression of contrary religious views in a legislative forum."[37]

On the whole, the Supreme Court's decision in *Town of Greece v. Galloway* provides local governments with more leeway to establish or continue a ceremonial prayer practice and more narrowly defines what constitutes an Establishment Clause violation. It remains to be seen whether this more narrow interpretation will be expanded to other contexts or whether the Court's interpretation will be specifically limited to legislative prayer.

D. Decisions and Prayer Practices Since *Town of Greece v. Galloway*

In the intervening time since the Supreme Court issued its decision in *Town of Greece v. Galloway*, a number of district courts have had occasion to consider legislative prayer practices. In *Hudson v. Pittsylvania County, Virginia*, the Western District of Virginia was asked in light of *Town of Greece* to dissolve or modify a permanent injunction that was previously issued against a county board of supervisors in connection with its prayer practice.[38] Under the county's practice, elected board members exclusively led and controlled the content of opening prayers, which consistently espoused Christian doctrine. In *Hudson*, the trial court denied defendants request to dissolve the injunction and in doing so, distinguished *Town of Greece* from Pittsylvania County's practice because unlike in Greece, the county supervisors themselves gave the prayers and dictated the content, not invited clergy and laypersons. The district court reasoned that by exclusively leading Christian prayers themselves the county supervisors' practice had the effect of "officially endorsing, advancing and preferring one religious denomination."[39] However, the trial court did grant the defendant's motion to modify the portion of the injunction to the extent that it required prayers to be non-sectarian in light of the Supreme Court's decision in *Town of Greece*.

Further, in *Coleman v. Hamilton County, Tennessee*, the eastern district of Tennessee found that a county commission's legislative prayer practice complied with the dictates outlined in *Town of Greece* and thus, did not violate the Establishment

---

[37] *Id.*

[38] *Hudson v. Pittsylvania County, Virginia*, 2015 WL 3447776 (W.D. Va May 28, 2015).

[39] *Id.* at *1.

Clause.[40] The plaintiff requested that he be added to the county commission's prayer invitation list and be scheduled to deliver an invocation. The plaintiff informed the county that he did not represent a religious assembly or congregation and was not a member of the clergy.[41] The plaintiff was never added to the invitation list and was never scheduled to give an invocation. In granting the county's motion for summary judgment, the district court stated that "while legislative bodies cannot intentionally discriminate against particular faith systems, they can require invocation givers have some religious credentials."[42] The district court reasoned that the county's policy did not advance one religion over another, did not involve the county in the content of prayers, did allow for invocations from a variety of faiths with religious references and did not lead to denigration or proselytizing.[43] Further, the district court found that the Constitution does not require the county to permit any resident to give an invocation, but instead, consistent with the practice of appointing chaplains outlined in *Marsh*, may appoint qualified individuals of its own choosing.[44]

With regard to the Town of Greece itself, after the Supreme Court's decision the town was confronted with requests from across the country to give invocations at town board meetings. According to media reports, the town has received requests from "a man who wanted to sacrifice an animal, a man identifying himself as the devil and a representative from a movement calling itself the Church of the Flying Spaghetti Monster."[45] In response to such requests, the town adopted a modified prayer policy on August 19, 2014, which sought to limit invocations to established assemblies.[46] The modified prayer policy requires the clerk of the town board to compile and maintain a database of assemblies with "an established presence in the Town of Greece that

---

[40] *Coleman v. Hamilton County, Tennessee*, 2015 WL 1815617 (E.D. Tenn. April 22, 2015).

[41] *Id.* at *2.

[42] *Id.*

[43] *Id.* at *9.

[44] *Id.*

[45] Tina Susman, *Supreme Court Ruling on Prayer at Board Meetings Still Reverberates*, L.A. Times, July 16, 2014. http://www.latimes.com/nation/la-na-greece-prayer-20140717-story.html#page=1

[46] Dahlia Lithwick, *Checking In on the Town of Greece*, Slate.com, August 27, 2014, http://www.slate.com/articles/news_and_politics/jurisprudence/2014/08/the_town_of_greece_s_new_prayer_policy_atheists_need_not_apply.html

regularly meet for the primary purpose of sharing a religious perspective."[47] Some commentators have questioned whether such definition of "assemblies" would exclude atheists from giving invocations in such a way as to undermine the Supreme Court's reasoning in *Town of Greece*.[48] In oral argument before the Supreme Court, respondent's counsel represented that respondents understood *Marsh* to imply that atheists could not get full relief in regard to requiring sectarian prayer in legislative contexts.[49] However, in the majority opinion, Justice Kennedy did note that town leaders maintained that a minister of any faith or layperson of any persuasion, including an atheist, could give the invocation.[50] Such exclusion of atheists would be consistent with the eastern district of Tennessee's recent ruling in *Coleman.* Local governments should be wary of adopting any policy that advances, proselytizes, or disparages any faith over others. Whether the exclusion of atheists from giving invocations would ultimately lead the Supreme Court to strike a prayer policy finding such action is advancing a particular religious affiliation is an open and debatable question.

E. Take-Aways

To promote a constitutional legislative prayer practice post-*Town of Greece v. Galloway*, local governments should consider following the policies outlined below:

1. No audience member should be required to participate in any prayer.
2. Government employees should take reasonable steps to invite all congregations located within the jurisdiction to participate.
3. Government employees or officials should not review the content of prayers.
4. Government employees or officials should not ask or encourage the audience to take any overt act in connection with prayers (bow head, stand up, etc.).

---

[47] Town of Greece, New York, *Policy Regarding Opening Invocations Before Meetings of the Town Board of the Town of Greece*, adopted August 19, 2014.

[48] Dahlia Lithwick, *Checking In on the Town of Greece*, Slate.com, August 27, 2014, http://www.slate.com/articles/news_and_politics/jurisprudence/2014/08/the_town_of_greece_s_new_prayer_policy_atheists_need_not_apply.html

[49] *Town of Greece v. Galloway,* 134 S. Ct. 1811 (2014); Tr. of Oral Arg. 21-25

[50] *Town of Greece v. Galloway,* 134 S. Ct. 1811, 1816 (2014).

5. Government employees and officials should publicize that anyone is permitted to give an invocation, including by posting the invitation on the jurisdiction's website or announcing the invitation at meetings.

6. Invocations should be held at the beginning of meetings, not during policymaking portions of meetings.

7. Government employees and officials should not discourage or dissuade anyone from exiting during the prayer portion of the meeting.

8. Jurisdictions should adopt a written policy acknowledging that prayers are not intended to advance, proselytize, or disparage any faith over others.

9. While government employees and officials should avoid embarking in an aggressive quest to ensure religious diversity of prayer-givers, governments should ensure that the invitation-process is inclusive.