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October 5, 2010

**VIA FACSIMILE AND U.S. MAIL**

The Honorable John McHugh  
Secretary of the Army  
1400 Defense Pentagon  
Washington DC 20301-1400  
Fax: (703) 697-8036

Re: Evangelical Christian Concert Held at Fort Bragg on September 25, 2010

Dear Secretary McHugh,

As Legal Director of the American Civil Liberties Union of North Carolina Legal Foundation (ACLU-NCLF), I write to express deep concern about an evangelical Christian concert that was held on base at Fort Bragg on September 25, 2010. According to a letter sent on Department of the Army letterhead by Chaplain Colonel David P. Hillis (see enclosed letter), this event was not an occasion at which Fort Bragg simply opened the base to an outside group to express the outside group's individual ideas in a limited public forum. Rather, the Department of the Army itself was involved in sponsoring and planning this religious event. Colonel Hillis states in his letter that the event, entitled "Rock the Fort," was "evangelistic in nature." Further, Colonel Hillis invited local ministers to participate in the event in order to "work together in this unifying Christian event." It is our understanding that this event took place over the objections of several groups that were contacted by soldiers stationed at Fort Bragg, seeking assistance.

Please let me know if any of these representations is inaccurate. If they are accurate, we write to advise you that the actions of Colonel Hillis and the Department of the Army appear to violate the Establishment Clause of the First Amendment to the United States Constitution. The United States Supreme Court has noted that "[w]hatever else the Establishment Clause may mean (and we have held it to mean no official preference even for religion over nonreligion, see, e.g., *Texas Monthly, Inc. v. Bullock*, 489 U.S. 1, 109 S.Ct. 890, 103 L.Ed.2d 1 (1989)), it certainly means at the very least that government may not demonstrate a preference for one particular sect or creed (including a preference for Christianity over other religions)." *County of Allegheny*, 492 U.S. at 605. See also *Larson v. Valente*, 456 U.S. 228, 244 (1982) ("The clearest command of the Establishment Clause is that one religious denomination cannot be officially preferred over another."). Religious endorsement is also forbidden in the statements of government officials made in their official capacity, such as those found in Colonel Hillis's letter, referenced above. See *N.C. Civil Liberties Union v. Constangy*, 947 F.2d 1145, 1152-53 (striking down judge's practice of opening court with a prayer).

Further, it is no defense to argue that soldiers and their families were not coerced to participate in the event (although there appears to be evidence of coercion as well). Although coercion is "sufficient" to prove an Establishment Clause violation, it is "not necessary." *Lee v. Weisman*, 505 U.S. at 604 (Blackmun, J., concurring); see also *County of Allegheny*, 492 U.S. at 597

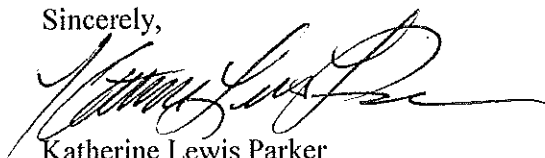
n.47 (rejecting the defendants' argument that proof of coercion should be required in Establishment Clause cases); *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203, 224-25 (1963); *Engel v. Vitale*, 370 U.S. 421, 430 (1962). Any time the government puts its stamp of approval on religious activity, it creates an atmosphere of coercion in which individuals must choose between participating against their will and protesting in embarrassment. *Lee*, 505 U.S. at 592.

Consequently, we seek more information about the "Rock the Fort" event held at Fort Bragg on September 25, 2010. This letter constitutes a Request under the federal Freedom of Information Act, 5 U.S.C. § 552 ("FOIA") and the Department of Justice implementing regulations, 28 C.F.R. § 16.11, by the ACLU-NCLF on its own behalf. We seek the following:

- All documents related to any funding sources for this event;
- All correspondence to, from and between any official of the Department of the Army related to this event;
- All documents related to Fort Bragg's policy of opening the base to other outside groups for events;
- All documents establishing Fort Bragg as any kind of public forum;
- All policies and procedures related to the authority of military chaplains to coordinate, sponsor and promote overtly religious events; and
- In addition to documents related to Fort Bragg's policy of opening the base to other outside groups, all documents reflecting Fort Bragg's actual practice of opening the base to outside groups over the last five (5) years – i.e., any documents reflecting actual visits by outside groups for events during that time period.

Please provide a response to this request by **Monday, October 25, 2010**. Thank you again for your consideration of this letter.

Sincerely,



Katherine Lewis Parker  
Legal Director

cc: Lieutenant General Frank G. Helmick  
Commanding General  
XVIII Airborne Corps & Fort Bragg  
2175 Reilly Road, Stop A  
Fort Bragg, NC 28310  
Fax: (910) 432-0520

Dr. Robert M. Gates, Secretary of Defense  
Department of Defense  
1400 Defense Pentagon  
Washington, DC 20301-1400

Colonel David P. Hillis  
david.hillis@us.army.mil



DEPARTMENT OF THE ARMY  
HEADQUARTERS, UNITED STATES ARMY GARRISON, FT BRAGG  
2175 REILLY ROAD, STOP A  
FORT BRAGG, NORTH CAROLINA 28310

REPLY TO  
ATTENTION OF:

OFFICE OF THE  
GARRISON CHAPLAIN

2 June 2010

Dear Fellow Minister in the Gospel!

I am privileged to announce an exciting event which will change Fort Bragg and the surrounding area! On Saturday, September 25, 2010, the Billy Graham Association is coming to Fort Bragg to offer a free concert and the Christian message to all of Fort Bragg and the surrounding community! The event will be called *Rock the Fort* and has had several successful and similar events at Army Posts around the country. *Rock the Fort* is evangelistic in nature and will feature a free Children's Program from 2 to 3:30 pm and a free Adult Program from 5 to 7:30 pm with a Christian rock concert that will headline two high-visibility Christian artist groups. The concert will conclude with a clear Gospel message.

In view of the enormous impact this event can have on our Post and our area, my request to you is simple. Would you and your congregation join the Fort Bragg Unit Ministry Teams and me to be a crucial part of the success of this exciting outreach to the Fort Bragg community? Specifically, I pray that you and your church would join with us in several challenges: to work together in this unifying Christian event, to offer to your congregation to participate in one of the free "Christian Life Witness Courses", provided by the Billy Graham Association on September the 17<sup>th</sup>-18<sup>th</sup> (location to be announced), to help advertise, reach out and invite your neighbors and to pray for the Spiritual success of this event.

Fort Bragg has been blessed throughout the years because you have continued to be a Spiritual support to so many of our Soldiers and Families who have sought solace and refuge with your loving congregation! For your Ministry in the Gospel, I salute you! As well, I look forward to this opportunity to minister along side of you and to excel even more in Spiritual care and outreach to our Soldiers, their Families and to our entire community!

I would be honored to personally call you or visit you in order to share with you the vision of *Rock the Fort* and to answer any questions. You can reach me at 910-396-1121 or at [david.hillis@us.army.mil](mailto:david.hillis@us.army.mil). As well, I hope to send some of our Fort Bragg Chaplains to your congregation to share the *Rock the Fort* video, to answer questions and to encourage. I sincerely look forward to sharing in your fellowship and to labor for our Lord in His vineyard!

In His Service

DAVID P. HILLIS

Chaplain (Colonel) U. S. Army  
Fort Bragg Garrison Chaplain