

STUDY GROUP ON RELIGIOUS DIETARY ACCOMMODATION IN FLORIDA'S STATE PRISON SYSTEM

**Professor Marc Gertz
Pastor Don Greulich
Imam Rashad Mujahid
Rabbi Jack Romberg
Franchetta Barber
Kathleen Fuhrman
Celeste Kemp**



**Sharon Nicholson
Alex Taylor
Gary Templeton
Charlie Terrell
Albert Thigpen
James Upchurch
C.J. Weinman**

Final Report With Findings and Recommendations

*Presented to James R. McDonough
Secretary of the Florida Department of Corrections
July 26, 2007*

TABLE OF CONTENTS

<u>INTRODUCTION</u>	1
<u>RECOMMENDATIONS</u>	2
<u>MEETINGS</u>	3
<u>April 26, 2007</u>	3
<u>May, 17, 2007</u>	3
<u>June 27, 2007</u>	3
<u>RELIGIOUS ACCOMMODATION MEAL PROGRAMS CURRENTLY PROVIDED BY THE DEPARTMENT</u>	5
<u>FINDINGS</u>	7
<u>The Jewish Dietary Accommodation (JDA) Program</u>	7
<i>Eligibility</i>	7
<i>Enrollment Process</i>	7
<i>Removal from the JDA Program</i>	8
<i>Inmate Grievances</i>	9
<i>Inmate Participation Statistics</i>	10
<i>Implementation</i>	11
<i>Report on the Tour of the Kosher Kitchen at Washington Correctional Institution</i>	11
<i>Cost of Implementation</i>	12
<u>Reports from Study Group Members Representing Judaism, Al-Islam, and Seventh-Day Adventists in Regard to Basic Dietary Requirements Under Various Religious Laws, Recognition of Converts, and Elements of Conversion</u>	14
<i>Judaism</i>	14
<i>Al-Islam</i>	14
<i>Seventh - day Adventist</i>	15
<u>Problems with Administration of the Jewish Dietary Accommodation Program</u>	17
<u>Federal, State and Private Religious Dietary Accommodation Programs</u>	19
<i>Federal Religious Dietary Accommodation</i>	19
<i>State Religious Dietary Accommodation</i>	19
<i>Private Prison Contractor Religious Dietary Accommodation</i>	20
<u>Opinions Submitted by Institutional Staff Regarding the JDA Program</u>	22
<u>LEGAL OVERVIEW OF ISSUES ARISING FROM THE JDA PROGRAM AND RELIGIOUS DIETARY ACCOMMODATION</u>	23
<u>The First Amendment</u>	23
<i>Free Exercise Clause</i>	23
<i>The Establishment Clause</i>	24
<u>The Fourteenth Amendment (Equal Protection Clause)</u>	25
<u>The Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA)</u>	26

<u>The Religious Freedom Restoration Act (RFRA) and the Florida Religious Freedom Restoration Act (FRFRA)</u>	28
---	----

APPENDIX A

Public Announcement and Purpose Statement	Error! Bookmark not defined.
---	-------------------------------------

APPENDIX B

JDA Program Participation Reports April, May, June, and July 2007	Error! Bookmark not defined.
--	-------------------------------------

APPENDIX C

Cost Estimates from Vendors for Prepackaged Kosher Food Products. .	Error! Bookmark not defined.
---	-------------------------------------

APPENDIX D

Matrix Showing Responses of States' Survey of Religious Dietary Accommodations	Error! Bookmark not defined.
---	-------------------------------------

STUDY GROUP ON RELIGIOUS DIETARY ACCOMMODATION IN FLORIDA'S STATE PRISON SYSTEM

**Professor Marc Gertz
Pastor Don Greulich
Imam Rashad Mujahid
Rabbi Jack Romberg
Fran Barber
Kathy Fuhrman
Celeste Kemp**



**Sharon Nicholson
Alex Taylor
Gary Templeton
Charlie Terrell
Albert Thigpen
James Upchurch
C.J. Weinman**

July 26, 2007

INTRODUCTION

Secretary McDonough announced the formation of the Religious Dietary Study Group (Study Group) on April 26, 2007.¹ In conjunction with the formation of the Study Group, Secretary McDonough placed a hold on inmate participation in the Jewish Dietary Accommodation Program (JDA Program) at participation levels as of that date, permitting no new enrollment until the Study Group completed its work. The Study Group was charged with conducting a review of religious dietary meal requirements:

- To conduct an analysis of the requirements of the religious dietary laws of the major faith groups represented in the Department of Corrections' inmate population which have dietary requirements as part of the tenets of the faith.
- To review and analyze the impact of an additional influx of participants to the religious dietary accommodation program and how the department may be able in the future to accommodate the religious dietary requirements of various faiths.
- To conduct an analysis of religious meal accommodations within the parameters of an institutional prison setting in federal, state, and private prison systems.
- To review the religious meal programs currently provided by the Department of Corrections pursuant to Florida Administrative Rules and pursuant to the Jewish Dietary Accommodations Procedure Number 503.005, reviewing, among other things, data in regard to food purchase and preparation, physical plant requirements, security and classification issues, administrative matters, utilization and participation, and cost.

¹ See Appendix A: Public Announcement and Purpose Statement

RECOMMENDATIONS

Based on the findings presented and discussed by the Religious Dietary Study Group during the course of its meetings, as set forth in this report, the following are the Study Group's recommendations to Secretary McDonough.

- Eliminate all pork and pork products from the Department of Corrections' food service menus.
- Retain a kosher dietary program, but limit the participants to those inmates who have been expertly appraised or vetted by a rabbi as eligible to participate.
- Eliminate the JDA Program kitchens currently used if vetting of inmates who claim to be Jewish, as recommended above, significantly reduces the officially recognized Jewish inmate population, replacing the kosher meals prepared in the JDA kitchens with purchased pre-packaged meals.
- If an inmate misses ten percent or more of the kosher meals purchased or prepared for him/her in the course of one month, that inmate be removed from the kosher dietary program.

Respectfully Submitted,

The Religious Dietary Study Group

MEETINGS

The Study Group first convened on April 26, 2007, and met subsequently on May 17, 2007, and June 27, 2007. During these meetings, information was presented and reports were heard and discussed.

April 26, 2007

The Study Group members heard information relating to the JDA Program presented by department staff and information presented by members of the Study Group representing various religious groups, specifically, Jewish, Muslim, and Seventh-day Adventist in response to JDA Program information.

The Study Group members discussed the information presented by department staff, specific institutional and program areas, and information presented by members of the Study Group representing various religious groups in regard to the basic dietary requirements of each religion.

May 17, 2007

Members of the Study Group representing various religions each addressed the following questions.

1. What are the basic dietary requirements of the faith they represent?
2. What are the requirements for a person to convert to that faith?
3. How do others recognize who is a member of that faith?

The Study Group members discussed existing meal plans, accommodations that can and cannot be made, and how possible new accommodations might be managed in an institutional setting.

The Study Group members heard a report and discussed a department-conducted survey of states, in regard to the manner in which religious dietary accommodations are addressed in federal and other state prison systems.

June 27, 2007

The Study Group heard and discussed a report presented by department as an update on a department-conducted survey of states in regard to how religious dietary accommodations are addressed in other state prison systems.

The Study Group heard and discussed the report of Rabbi Jack Romberg on his tour of the JDA kitchen and storage facilities and interview of inmates in charge of JDA food preparation at Washington Correctional Institute.

The Study Group discussed the procedures of a private prison contractor, The GEO Group, Inc., with regard to its implementation of religious dietary accommodations.

The Study Group generally discussed what adjustments, if any, should be made in religious dietary accommodations in view of all information gathered and presented how such accommodations may be managed in an institutional setting, and the financial impact of such accommodations.

The Study Group discussed various options and came to agreement regarding the recommendations which should be made to Secretary McDonough in this Final Report.

RELIGIOUS ACCOMMODATION MEAL PROGRAMS CURRENTLY PROVIDED BY THE DEPARTMENT

Food Service in the Department of Corrections is governed by Florida Administrative Code chapter 33-204,² which provides that the department shall supply inmates with three meals a day, at least two of which are hot meals,³ and includes stipulations on the manner in which food must be served. Rule 33-503.001 requires the department to ensure that inmates who wish to observe religious dietary laws receive a diet sufficient to sustain them in good health without violating those dietary laws.

Rule 33-204.003(5) of the Florida Administrative Code establishes the standards and restrictions imposed on providing inmates with religious diets. In an effort to provide for inmates concerned with obeying the dietary laws of their respective religions,⁴ the department permits such inmates to join one of two regular meal programs: either the alternate entrée program, or the vegan meal pattern.⁵ Both of these meal options are available to all inmates. The JDA Program is a third option for inmates seeking to conform to religious dietary laws.

The alternate entrée program provides “meal options for inmates whose religions require a pork-free, lacto-ovo or lacto-vegetarian diet.”⁶ The alternate entrée is a non-meat entrée that consists of a protein such as peanut butter, soy, or beans.⁷ In accordance with the alternative entrée program, the entrée served to the general population with a particular meal is substituted with the alternative non-meat entrée. The alternate entrée option is always available to all inmates upon request.

Another option, the vegan meal pattern, “provides meal options for the religious requirements of inmates who choose to avoid all animal products.”⁸ Chapter 33-204 requires that all vegetables be prepared without animal fat, meat, margarine, or butter in order to be better suited for religious and strict vegetarian diets.⁹ The department is also required to prepare and identify food in such a way that those inmates who wish to abstain from eating pork products may do so.¹⁰ This meal option is available to inmates on special request.

The JDA Program is a meal pattern specifically designed to meet the needs of inmates desiring to conform to religious dietary standards. The JDA Program, established in 2004 and set

² The authority of the department's establishment of a food service program was granted by the Florida Legislature through § 20.315 and § 944.09 Florida Statutes.

³ Fla. Admin. Code R. 33-204.003(1).

⁴ In accordance with Florida Administrative Code section 33-503, Chaplaincy Services, the department extends to all inmates the greatest amount of freedom and opportunity for pursuing individual religious beliefs that the constraints of safety and security will allow at the institutional level. Fla. Admin. Code R. 33-503.001(2)(a).

⁵ Fla. Admin. Code R. 33-204.003(5).

⁶ *Id.*

⁷ Fla. Admin Code R. 33-204.001(3).

⁸ *Id.*

⁹ Fla. Admin. Code R. 33-204.003(3)(e).

¹⁰ Fla. Admin. Code R. 33-503.001(11)(d).

forth in department procedure number 503.005, holds very specific standards for the preparation of food in accordance with Jewish dietary laws. The exacting standards for food preparation mandated by Jewish law meet or exceed the requirements established by many other faiths, including Al-Islam and Seventh-day Adventist. This meal option is available to inmates through a process of application and enrollment.

FINDINGS

The Jewish Dietary Accommodation (JDA) Program

The JDA Program is an additional provision for religious dietary accommodation. Established in April 2004, the procedures for the JDA Program are set forth in the department's Procedure Number 503.005. The procedure enumerates the specific steps an inmate must take to join the program as well as the requisite department action.

Eligibility

Currently inmates claiming to be Jewish, as indicated in the department's Offender Based Information System (OBIS) or as recorded in the inmate's religion file, are eligible to apply to the JDA Program.¹¹ Also eligible for the JDA Program are inmates espousing belief in a religion other than Judaism, such as Islam or Seventh-Day Adventist, where the tenets of the faith require them to conform to certain dietary restrictions and no department meal plan other than the one provided by the JDA Program will satisfy those restrictions. All applications to the JDA Program are reviewed on a case by case basis.

An inmate is *not* eligible to participate in the JDA Program if he or she has recently been transferred to a reception center or medical facility, has voluntarily withdrawn from the program in the previous six months, is a reception and orientation status inmate at a reception center,¹² has been denied enrollment privileges upon review within the last six months, or has been denied enrollment privileges upon return of an application due to the inmate's failure to provide enough information to determine sincere religious belief within the last sixty days.

Enrollment Process

Upon determination that an inmate is eligible to apply, the classification supervisor must arrange for two eligibility interviews; one interview is to be conducted jointly by the classification supervisor¹³ and chaplain and the other is to be conducted by the security threat group coordinator.

During the interview conducted by the classification supervisor and the chaplain, the inmate must demonstrate, by a preponderance of the evidence, that the self-identified religious faith is sincerely held. In other words, the greater weight of evidence must weigh in favor of

¹¹ This is where an inmate has changed his/her faith preference to "Jewish" from another faith preference or a non-faith preference. Inmates who have recently changed their faith preference must wait sixty days before being considered eligible.

¹² Inmates at such reception centers are not eligible to participate in the JDA Program, but they may apply for the program. On transfer to an institution which participates in the JDA Program, inmates that are approved to participate in the JDA Program pursuant to an application filed from a reception and orientation center will be enrolled in the JDA Program.

¹³ The classification supervisor may assign a designee that holds the status of a senior classification officer. The interview must occur within two working days of the inmate's application and must consist of the questions listed on the Jewish Dietary Accommodations Participation Agreement, form DC5-307. In addition, some limited fact-finding and clarification questions may be asked.

affirming the inmate's belief. An example of the preponderance of the evidence weighing *against* an inmate's profession of Jewish faith and need for dietary accommodation would be canteen records that demonstrate the inmate had purchased pork rinds on the day of the interview.

Personal, political, ideological, secular, moral, social, health, or other similar beliefs are not taken into account and will not satisfy the sincerely held belief standard. During the course of the interview, the chaplain is obliged to explain the requirements and conditions of the JDA Program to the inmate. Any failure to abide by the requirements and conditions of participation in the JDA program may result in the inmate's involuntary removal from the JDA Program and formal disciplinary action.

The security threat group coordinator interview is conducted in order to determine if an inmate applicant is a suspected member, confirmed member, or former member of a security threat group and whether the inmate's participation would be a threat to the program or program participants.

The chaplain and the security threat group coordinator each issue a recommendation concerning the inmate's participation in the JDA program to the classification supervisor. The classification supervisor gathers information regarding the applying inmate's eligibility, including the recommendations of the chaplain and the security threat group coordinator and an additional report created by the classification supervisor. The three recommendations the classification supervisor (or designee) and the chaplain are permitted to make under department procedure number 503.005 are that the inmate *is* recommended for the JDA Program, that the inmate is *not* recommended for participation, or that no recommendation either for or against the inmate's participation is possible for whatever reason.

The classification supervisor will provide the collected documentation to the warden of the institution for review. The warden of the institution housing the inmate will then review the application and all submitted documents in order to make a final recommendation on the inmate's enrollment status to the JDA review team.

The JDA review team is composed of the deputy assistant secretary for institutions for programs, the general counsel or designee, the chaplaincy services administrator or designee, and the JDA liaison and may also include officers and representatives from other department sections. The JDA review team has the authority to make the final determination regarding the inmate's status.

Once the JDA review team has made a final determination, the institution housing the inmate is notified. If the inmate is accepted into the JDA Program, preparations for his or her accommodation are made, including transferring the inmate if necessary.

Removal from the JDA Program

Inmates may voluntarily withdraw from the JDA Program or may be involuntarily terminated.

An inmate may voluntarily remove himself or herself from the JDA Program at any time after enrollment; to withdraw an inmate must simply submit an inmate request to the chaplain. The chaplain must verify by interview that the inmate wishes to withdraw from the JDA Program. Upon confirmation of the inmate's desire to withdraw and approval of the request by the warden, the removal will be documented.

Involuntary termination from the JDA Program may result from the inmate's breach of the stipulations set forth in the Jewish Dietary Accommodations Participation Agreement which is signed by the inmate upon enrollment. An inmate may be terminated from the JDA Program following review if the inmate purchases, possesses, or consumes food from the dining hall or canteen that is not approved under the JDA Program; if a JDA inmate engages in conduct that threatens security or discipline; or if an inmate creates a security problem by willfully committing certain acts; for example, throwing or misusing food, beverage, food utensils, human waste products or spitting at staff; the destruction of food trays or utensils; or any other violent acts that would place staff in jeopardy.

A minimum of six months must pass before an inmate may request to be reinstated into the JDA Program following removal for any reason. The inmate must make the request in writing and the request must be subsequently approved according to the application procedure in order for the individual to be reinstated into the JDA Program.

Inmate Grievances

In an effort to seek review of official determinations of eligibility, inmates denied enrollment privileges or terminated after enrollment may file a direct appeal to the Office of the Secretary through the inmate grievance process outlined in Florida Administrative Code rules 33-103.007 and 33-103.011. Inmates are also permitted to file grievances relating to the operation of the JDA Program at the institution level.

In the year 2006 there were 126 grievances filed in regard to the JDA Program and religious accommodation in general. Department records show that there were three major issues grieved: denial of an inmate's request for admission into the JDA Program; removal of an inmate from the JDA Program for violations of the JDA Agreement; and food preparation, handling, or service. These three topics encompass 60 per cent of the total number of grievances filed regarding the JDA Program and religious accommodation generally.

Other topics over which grievances have been filed include complaints that the proper condiments have not been served with meals, that the food was not served at the proper temperature, that there are no special holiday meals or programs for Jewish inmates, that there was delay in the completion of an inmate's transfer to a JDA facility, that specific food items are not included on the program menus, and that inmates are being discriminated against.

Inmate Participation Statistics

The Office of Classifications obtains JDA Program participation figures in the normal course of business. The JDA participation report for April 9, 2007, shows that there were 259 inmates participating in the program, but only 196 actually ate the JDA food prepared on that day, showing that 24 percent did not eat the JDA food even though they were enrolled in the program; the July 23, 2007, JDA participation report shows that 232 inmates were participating, but only 177 actually ate the food prepared, showing that 24 percent of JDA participants were not eating the JDA food. The number of inmates in the JDA program who are not eating the specially prepared JDA food has averaged about 21 percent during the months of April, May, June, and July 2007.¹⁴

As of April 26, 2007, approximately 95 inmates had applications pending review for approval or denial for participation in the program. In total, 784 inmates have participated in the JDA Program since its inception in 2004. There have been nearly 1,170 enrollment events since the program was launched. Enrollment events include admission into the program, involuntary removal, voluntary withdrawal, reassignment, death, or release from department custody.

Of all inmates enrolled, over 500 inmates have voluntarily withdrawn from the JDA Program since May 2004. Of that number, 489 remained in prison after withdrawal. Ninety of those individuals changed their religious preference to something other than Jewish following withdrawal. Currently, the majority of inmates participating in the program have registered their religious preference as Jewish; 13 of the total number of inmates participating in the JDA Program officially claim a religious preference for a religion other than Judaism.

Currently, department numbers show that nearly six percent of the inmates enrolled in the JDA Program have become gang members after entering the program.

Many of the inmates currently participating in the JDA Program are in close management. Currently there are 129 participants in close management, which is almost half of the total number of inmates enrolled in the JDA Program.

The department currently has the capacity to feed approximately 900 inmates through the JDA Program.

In July 2006, JDA Program procedures were modified to make it clear that the department will not refuse to admit a person into the JDA Program, whether or not they are Jewish, if they otherwise qualify. Under the new criteria, it is estimated that the total number of inmates who may qualify for the JDA Program is nearly 6,500, including Jewish, Muslim, and Seventh-day Adventist inmates. Five Muslim inmates have applied for and been admitted to the JDA Program prior to April 26, 2007.

¹⁴ Appendix B: JDA Participation reports for April, May, June, and July 2007.

Implementation

Implementation of the JDA program requires a residential-type JDA kitchen and space for storage of foodstuffs that is separate from the food supply for the general inmate population. The JDA kitchen is a designated food preparation area, including a utensil cleaning area, established exclusively for the preparation of JDA Program meals. The JDA kitchen, operated by authorized and trained inmates only, is separated from the general kitchen by a physical barrier. All cookware used to prepare JDA meals is kept within the confines of the JDA kitchen to avoid contamination from non-kosher foodstuffs in the general kitchen.

The JDA kitchens are employed in order to provide inmates with kosher meals. Jewish dietary law is both strict and complicated and therefore special facilities are necessary to ensure compliance. Currently, thirteen institutions are equipped to accommodate the JDA Program; seven institutions maintain a JDA kitchen and six institutions provide JDA meals via satellite kitchens. Stringent requirements for food preparation, maintenance of the preparation areas and utensils, sanitation of food preparation areas, and service and transfer of prepared food are observed as dictated by department Procedure 503.005.

Report on the Tour of the Kosher Kitchen at Washington Correctional Institution

At the Study Group's June 27, 2007 meeting, Rabbi Romberg presented a report on the JDA kitchen at Washington Correctional institute. Rabbi Romberg drafted the report following a May 30, 2007, visit to the JDA kitchen at Washington CI. During the course of the inspection, an inmate who supervises the JDA kitchen explained the program and answered Rabbi Romberg's questions.

Rabbi Romberg reported that the kitchen is in a separate section of the institutional kitchen, cordoned off by a chain link fence style barrier. All of the cooking and cleaning facilities of the kitchen are completely separate from the general prison kitchen. The kitchen has a separate stove, oven, sink, and storage arrangements for pots and pans. There is also significant distance between the kosher kitchen and the general food preparation areas of the prison. Entrance to and exit from the kosher kitchen by individuals is severely restricted. There is a gate that is almost always locked and only those prisoners in charge of the kitchen and certain prison officials have a key. There are numerous pots and pans hanging from bars around the top of the kitchen, but all are inside the fenced-in area. The facility looked spotlessly clean.

The food is stored in either a master pantry, that is the same pantry where food for the general population is stored, or in the master refrigerator/freezer. Specific shelves and storage space in these areas are dedicated exclusively for the storage of food for the kosher kitchen. The food stored there is all wrapped in the original containers or packaging and the wrappings are not broken down until the food is inside the kosher kitchen area for preparation. The prisoner who conducted the members of the Study Group around the kosher kitchen was very aware of the need for separation of the kosher food, and demonstrated his ability to maintain the separation between the food for the kosher kitchen and the general population. Only those prisoners participating in the preparation of the kosher meals take food from the storage areas into the kosher kitchen.

Jewish dietary law forbids mixing dairy and meat. Most of the food prepared in the kosher kitchen is parve. Parve food is considered to be neutral – neither dairy nor meat. Parve foods may refer to any food that does not contain any meat or dairy products and, therefore, can be consumed freely with either meat or dairy. This includes all fruits and vegetables and foods derived exclusively from such sources, salt, and other non-organic foodstuffs. Fish is also considered parve and may be eaten directly before or after both meat and milk.

The only meat meal prepared in the kosher kitchen is chicken and is served only once a week. The only dairy meal prepared there is stroganoff. So the possibilities of mixing milk and meat are very limited. The stroganoff is prepared in one designated pot that is stored in a clearly separated manner from the rest of the pots and pans. The chicken arrives in prepackaged containers which are placed in the oven and heated. As a result, the chicken does not come into contact with the general utensils. The chicken is self-contained on serving plates that are disposed of after the meal is eaten.

Generally, there are several concerns which may arise in this context. The first concern in a facility of this nature is the possibility that food or utensils from outside the kosher kitchen area would be brought into the kosher kitchen, thus rendering the kitchen ceremonially unclean. Because of the distance from the general kitchen, the locked gate, and the relatively small number of prisoners working in the kitchen, each of whom demonstrated adequate caring and knowledge, it is highly unlikely that such mixing would occur unintentionally. Further, there is little possibility of mixing milk and meat, as most of what is served is parve and only one meat and one dairy meal are cooked per week. If the stroganoff pot were to be contaminated accidentally, it could be used instead in the general kitchen and be replaced in the kosher kitchen.

If the JDA kitchen were considered commercial or institutional, then the kashrut, or compliance with the Jewish dietary laws, would be in doubt as there is no rabbi on hand to certify and supervise in the JDA kitchen. The JDA kitchen, however, is treated as if it is part of the inmates' home and is, therefore, not subject to constant rabbinic supervision. Rabbi Romberg suggested that it would be helpful if rabbinic volunteers could make periodic visits to JDA Program kitchens to help answer inmates' questions and maintain kashrut.

Concern was expressed to Rabbi Romberg by the inmates in charge of the JDA Program kitchen that many of the meals they prepare go unclaimed. There are many more inmates enrolled in the JDA Program than actually claim the meals.

Cost of Implementation

There is additional expense involved with maintaining the JDA Program when compared to providing meals for the general population. The extra cost incurred per inmate participating in the JDA Program is estimated to average \$16.80 per month for disposable containers and insulated carriers; for 250 JDA inmates, this is \$50,000 a year. The estimated cost for transportation and staffing required to transport food from satellite kitchens to the six institutions that currently provide the JDA Program but are not equipped with JDA kitchens is approximately \$8,000 per

month, for an estimated total of \$96,000 per year. At a participation rate of approximately 250 inmates, the cost of maintaining the JDA Program for one year is approximately \$146,000. The approximate cost of the JDA Program to serve 250 participants is summarized as follows:

- Cost for disposable containers and carriers @ \$16.80 per month..... \$50,000 per year
- Cost for transporting food from satellite kitchens @ \$8,000 per month...\$96,000 per year

Annual cost of JDA program for an average of 250 participants \$146,000 per year

In an effort to compare the cost of maintaining the JDA Program with alternative methods of satisfying inmates' religious dietary needs, the Study Group examined the prices charged by private corporations providing pre-packaged kosher meals for institutional use. The Study Group found that, generally, private corporations provide two types of meal plans that consist of either two or three frozen meals a day. The specific cost and number of calories provided in each meal varies by company, but all require supplementation in that the meals would not fulfill the number of calories that must be provided per inmate per day.

The prices and products offered by vendors vary greatly.¹⁵

- One vendor provides 10 types of 10-ounce shelf-stable meals which contain 400 calories each at a cost of \$2.75 per meal.
- A second vendor offers a selection of more than 25 frozen meals that weigh between 12 and 16 ounces and contain 500 calories each for \$4.00 a meal.
- A third vendor will supply a variety of 16-ounce frozen meals at a cost of \$4.79 for each meal which contain 400 to 500 calories each.
- A fourth vendor proposes a meal plan that consists of 8 types of frozen entrees that contain between 300 and 400 calories each. The meals of the fourth vendor weigh between 12 and 13 ounces and cost between \$4.50 and \$6.00 each.

Pre-packaged meals provide an average of between four hundred and four hundred fifty calories per meal. Two pre-packaged meals provide less than one half of the number of calories served daily to the general inmate population. It is necessary, therefore, to heavily supplement the meals with additional kosher food items. Kosher meals may be supplemented by the department with items such as eggs, fruits and vegetables, cereal, juice, peanut butter and similar items. These food items would still need to be prepared and stored separately from food items for the general population according to kosher standards. Not including the cost of necessary supplemental food items, special equipment, or disposable serving items, the average cost per meal under these plans ranges from approximately \$4.00 to \$4.50.

¹⁵ See Appendix C: Cost Estimates from Vendors for Prepackaged Kosher Food Products.

Reports from Study Group Members Representing Judaism, Al-Islam, and Seventh-Day Adventists in Regard to Basic Dietary Requirements Under Various Religious Laws, Recognition of Converts, and Elements of Conversion.

Judaism

Individuals who intend to comply with Jewish dietary restrictions must only eat food that is kosher. Kosher foods are those that meet certain criteria of Jewish law. Invalidating characteristics may range from the presence of a mixture of meat and milk, or even the use of cooking utensils which had previously been used for non-kosher food.¹⁶

A Jew is someone born of a Jewish mother, or is someone who has converted to Judaism in a manner according to Jewish law. In 1983 the Union for Reform Judaism of North America adopted a measure that allows for limited patrilineal descent as well. The Child of a Jewish father and a non-Jewish mother can be considered Jewish if, and only if, that child is raised in a Jewish home and receives a Jewish education leading to Confirmation. Someone claiming a Jewish father but who has not received a Jewish education is not considered Jewish even by the Reform Movement.

According to Jewish law, there are three ritual components that must be observed in order for a conversion to Judaism to be valid. The first is appearance before a *beit din*. A *beit din* is a Jewish religious court consisting of three learned Jews, usually rabbis. Second, circumcision must be carried out. If a man has already been circumcised, he is to undergo a symbolic circumcision called a *hatafat dam brit*. Third, immersion in a *mikveh* is required in order for the conversion candidate to be purified. A *mikveh* is a specially constructed pool of water used for total immersion in a purification ceremony. In the case of a woman, only appearance before a *beit din* and immersion in a *mikveh* are required.

Under traditional Jewish law, failure to do any of these invalidates the conversion. There is absolutely no authority from any of the three main forms of modern Judaism (Orthodox, Conservative and Reform) that would allow an individual who simply declared himself or herself to be Jewish to be recognized as truly Jewish.

In addition to the ritual component of conversion, there is usually an educational component as well. The conversion candidate, under the tutelage of a rabbi, is required to study a full range of Jewish subjects including theology, rituals, holidays, history, life cycles, Hebrew, and prayer. The conversion candidate must demonstrate enough facility in these areas to satisfy the supervising rabbi.

Al-Islam

¹⁶ Extensive dietary restrictions are found in Jewish religious texts, and many are included in the book of Leviticus.

Muslims are instructed to eat only that which is Halal or things which are lawful according to the Quran and the Sunnah of the Prophet Muhammad. The most basic dietary tenet of Muslims is not to eat pork or pork bi-products.¹⁷

The Quran also states that Muslims are permitted to eat the food of the People of the Book, both Jews and Christians.¹⁸ The primary choice of a Muslim should be to eat Halal, but if Halal is not available to him or her, the rule is to eat what is *Tayyabatu*. Food which is *Tayyabatu* is food which is good and pure, or which is not offensive to good taste and has not been universally regarded as repugnant by cultured people. Imam Rashad Mujahid, a member of the Study Group, agreed that if there were no pork or pork products used in the department's food service, the Muslim dietary law would be satisfied.

A Muslim is someone whose behavior reflects certain fundamental beliefs and feels that certain actions must be taken during the course of the individual's life. Important among these beliefs and actions are that the individual accepts Allah as G_d and Muhammad as his last Prophet, that he or she fast the month of Ramadan, and that he or she pay the Zakat. The Zakat is an obligation on Muslims to pay 2.5% of their wealth to specified categories in society when their annual wealth exceeds a minimum level (nisab).

It is also important that the individual make the Hajj, a pilgrimage which occurs during the Islamic month of Dhu al-Hijjah in the city of Mecca, at least once during his or her lifetime if the individual is able to do so. A Muslim must express belief in the last revelation (the Quran), in the Books before the Quran (the Torah and the Bible), in all the Prophets of the Books, and in the angels, the hell fire, Satan, the judgment day, and paradise.

In order to convert to Al-Islam, an individual must make an open declaration of faith. This declaration, called the Shahadahtan, must be made without coercion and must be the informed decision of the individual. One translation of the Shahadahtan is, "I bear witness that there is no god, besides Allah, and that there Muhammad is the seal of Allah's messengers."

Seventh - day Adventist

The basic dietary requirements of Seventh-day Adventists stem from the belief that the bodies of believers are the dwelling place of the Holy Spirit. It is therefore considered imperative that the Biblical counsel for a healthy diet be followed. That diet includes fruits, vegetables, grains, and nuts. Kosher meats are a secondary diet choice; however, abstention from foods enumerated in the Old Testament of the Bible as unclean, such as pork, is essential. Pastor Don Greulich of the Seventh-day Adventist church and a member of Study Group agreed that the

¹⁷ Department food services staff stated that during the four-week meal cycle pork currently appears twice, one is pork sausage and the other is pork roast. The smoked pork sausage could be replaced with a smoked turkey sausage, and the pork roast, which is expensive, could be replaced with any muscle meat, such as meat loaf which is much more popular. Meat loaf has a high participation rate and is preferred by the inmate population; whereas, pork roast has a low participation rate.

¹⁸ The Quran 5:6.

alternate entrée meal pattern provided by the department would satisfy Seventh-day Adventist dietary law.

The foods considered unclean by Seventh-day Adventists are enumerated in the instruction of the Old Testament. As the first five books of the Old Testament of the Seventh - day Adventist Bible are the same books contained within the Torah of the Jews, and many of the dietary restrictions of the Jewish faith are found in the Torah, the dietary laws regarding what is unclean are very similar in the two religions.

A Seventh-day Adventist is someone who accepts as true the official teachings of the denomination which are expressed in the Twenty-Eight Fundamental Beliefs. Important among these beliefs are that salvation is found only in Jesus Christ, that the believer is saved by grace, through faith and will receive immortality on Resurrection Day, that the Ten Commandments of God must be kept, and that the “Seventh-day Sabbath” (Saturday) is the day set aside for the worship of God.

As a denomination, Seventh-day Adventists proclaim *Sola Scriptura* as the rule of faith. In other words, the entire Bible, consisting of the Old and New Testaments together, contains the imperative elements of the faith.

Conversion is effectuated through baptism by immersion and a declaration of faith which includes the proclamation that the individual loves God with all their heart, soul, and mind, and that the convert promises to keep all of God’s commandments.

Problems with Administration of the Jewish Dietary Accommodation Program

Administration of the JDA Program has proven difficult for several reasons and many more dilemmas may present themselves as the program continues. Much of the strife that has arisen with the implementation of the JDA Program is a direct result of the limited number of locations in which the JDA Program is now put into practice. One technical problem reoccurs often because inmates entering the JDA Program are likely to require transfer to another institution. Only seven institutions out of a total of sixty-seven are outfitted with properly equipped separate kitchen facilities for preparation of kosher meals. Six additional facilities provide the JDA program for inmates, but use satellite kitchens to prepare the food. An inmate who wants to participate in the JDA Program who is housed in an institution not equipped to maintain the JDA Program must be transferred to one of the 13 institutions capable of providing the accommodation at the time of the inmate's admittance into the JDA Program.

There is a great deal of movement into and out of the JDA Program often necessitating transfers of inmates to institutions offering the JDA Program initially and then transfers back to the original institution when the inmate is removed from the program, either voluntarily or because of a program infraction. Because such transfers are necessary, inmates are able to exploit the JDA Program to achieve transfers to institutions which may not otherwise be authorized. Inmates appear to be manipulating the program, possibly to be transferred closer to family, to avoid supervision by particular correctional officers, or to create additional work for corrections personnel.

More importantly, the security interests that accompany inmate transfers are of great concern. There is some indication that gang members may be manipulating the transfer process to their advantage so that members of a particular gang may be housed in the same institution.

Close management inmates pose a special threat during transfer. Statistically, nearly half of all participants in the JDA Program are close management inmates and many must be transferred to facilities equipped with JDA kitchens after receiving permission to participate in the JDA Program. Unfortunately, the department is only equipped with a limited number of close management housing locations. In order to transfer a close management inmate into a new facility, it is highly likely that a close management inmate already housed at the receiving facility must be transferred away from that facility, thereby virtually doubling the number of necessary transfers.

There is also cause for concern regarding security of the administration of the JDA Program, in that program trays have been used to conceal contraband.

Additionally, there are many inmates who apply to the JDA Program; each application requires chaplains and classification staff to engage in the time-consuming process of reviewing applications and interviewing inmates to determine eligibility. Even the removal or withdrawal of an inmate from the JDA Program requires authorization and review. The amount of effort involved in maintenance of the JDA Program increases with each enrollment event. As such, maintenance of the JDA Program requires a heavy investment of resources from a purely administrative perspective.

Increasing the already substantial burden of administration of the JDA Program is the distinct possibility that the program, once opened again for enrollment, will be overwhelmed by increased participation. Currently, it is estimated that 6,500 inmates are eligible to participate in the JDA Program.

The JDA Program cannot support the number of eligible inmates because the JDA kitchens simply cannot accommodate such a large number of inmates at this time. Currently, the department's JDA kitchens are able to accommodate food preparation for an absolute maximum of 900 inmates.

The department's Institutional Support Service Office estimates that only 21 institutional kitchens could be renovated to serve additional number of JDA inmates. However, even after extensive renovation of institutional kitchens at a total estimated cost of nearly \$900,000, the department would be able to accommodate only approximately 2,100 inmates, which is less than one third of the total number of eligible inmates. Extreme reconstruction of virtually all other institution kitchens at astronomical cost would be required in order to serve all eligible inmates.

Federal, State, and Private Religious Dietary Accommodation Programs

Federal Religious Dietary Accommodation

The Study Group contacted the United States Department of Justice, Federal Bureau of Prisons (Bureau) in order to determine the nature, if any, of religious dietary accommodation provided to inmates in the custody of the federal penal system. The Food Service Manual of the Bureau establishes meal preparation and service techniques to ensure uniformity throughout federal institutions.

The Bureau's Food Service Manual provides for the Religious Diet Program which gives inmates two dietary accommodation alternatives. The "no-flesh option" dictates that no meat from animals, fish, or birds will be served in any form. Any vegetables supplied to the general population through the main line which are normally prepared with meat or meat by products also have an alternate no-flesh option. The no-flesh option is available at all times to any inmate through the main line. This option is equivalent to the alternate entrée program provided by the department.

The second option, the "certified food component," is also called "common fare" in reference to the availability of this program to all religious groups. Essentially a kosher food program, the Bureau offers enrolled inmates a pre-packaged entrée which is heavily supplemented to furnish inmates with enough calories. The nationally approved menu, which may not be altered except on unavailability of specific fresh produce, is available to approved inmate participants at all institutions. The certified food component program asserts precise instructions for the use, maintenance, and storage of utensils in addition to those for food preparation and service. Federal institutions designate separate areas within the institutional kitchen for common fare food preparation and utensil storage.

Participation in the certified food component is restricted to approved inmates only. To determine eligibility, the institution chaplain verifies that an applying inmate holds a sincere religious conviction through an application and interview process. Inmates may voluntarily leave the program or be involuntarily removed from the program. The institution chaplain also determines if a violation of program rules should result in an inmate's removal from the program.

The Bureau provides annual ceremonial meals, accommodates inmates who are fasting in accordance with days of public fasting, allows inmates to observe Ramadan and Passover, and gives the chaplain of an institution the capacity to request special religious meal accommodation on behalf of inmates involved in particular religious ceremonies.

State Religious Dietary Accommodation

The Study Group conducted a survey of other state prison systems in order to gain perspective on the way in which Florida's religious dietary accommodation programs compare to

those of other states. A total of 41 states provided information upon which the following statistics are based.¹⁹

Thirty-eight out of forty-one states surveyed say that they provide some form of religious dietary accommodation. Only 22 out of 35 states offer an alternate entrée program. The alternate entrée programs in those states usually consist of a meatless choice with a substitution of peanut butter, boiled egg, or cheese as a protein. Fifteen out of thirty-three states offer a vegan meal and most offer a vegetarian diet. Twenty-five percent of the states offer a lacto-ovo alternative.

Eighteen out of thirty-three states serve no pork. The states that are pork free have been pork free for an average of 10 years.

Twenty-six out of thirty-two states offer a kosher menu while only five out of thirty-three states offer a Muslim or Halal meal, the majority of the responses were that vegetarian or kosher menus are considered an acceptable alternative. Eighteen out of forty-one states have been court mandated to provide religious meals.

Four out of thirty-five states have privatized their food service programs. The remaining 31 states are self operated.

Just two out of thirty-three states prepare religious meals in a separate kitchen. Eight states have separate areas within their kitchens to prepare religious meals. Seventeen out of thirty-one states supply pre-packaged meals for religious use, some once a day and others only on special holidays. A few states with small inmate populations utilize pre-packaged for every meal.

Eight out of thirty-four states allow individuals from the religious community to provide special food items on special holidays. The majority do not allow volunteers to provide food for inmates because of security and food borne disease concerns.

Private Prison Contractor Religious Dietary Accommodation

Information presented to the Study Group indicates that at least one private prison contractor attempts to implement the policies and practices of their clients. The states' programs dictate the nature of the contractor's programs from location to location. The contractor follows four general rules to facilitate implementation.

First, all menus are restricted to exclude the use of pork in order to accommodate most religious diets. Second, the contractor provides a vegetarian diet for members of those faiths that do not consume any meat products.

Third, kosher meals are provided for Jewish inmates because the mixing of meats and dairy products is strictly forbidden by the Jewish faith. The contractor provides breakfast and lunch using kosher food products and serves the frozen kosher entrée for the evening meal. Frozen

¹⁹ See Appendix D: Matrix Showing Responses of States' Survey of Religious Dietary Accommodation.

meals are supplemented as necessary to provide sufficient calories. All kosher meals are served on Styrofoam trays.

Finally, the private contractor verifies that those inmates who request a kosher diet are truly in need of such accommodation. In order to do so, the contractor has partnered with the Aleph Institute. The Aleph Institute has employed its strict assessment criteria in vetting inmates who claim to be Jewish.

Opinions Submitted by Institutional Staff Regarding the JDA Program

The Study Group contacted classification supervisors and chaplains in an effort to gain information regarding their observations, opinions, and concerns arising from implementation of the JDA Program. The general sentiment is, simply stated, that the JDA Program is being abused to such an extent that it complicates day to day operation of the institutions.

Chaplains and classification supervisors are overwhelmed by the number of applications to the JDA Program. Each inmate who applies must go through an extensive interview and assessment process. The multi-step application process consumes a great deal of administrative time and effort.

This process is often frustrating for officials because, as prison officials indicate, inmates are often attempting to deceive their interviewers. To this end, during interviews which are usually conducted cell front, inmates are communicating amongst themselves what they believe to be the correct answers to interview questions, lying about their religious history, and feigning sincerity of belief.

Inmates are consistently being removed from the JDA Program due to clear violations of restrictions. Examples of violations include purchasing non-kosher food from the canteen, eating food made for the general population, and the like. The violations indicate a lack of genuine belief. When inmates are subsequently removed from the program, the classification supervisor and chaplain receive the additional burden of altering inmate files to reflect the changes.

In turn, the rejection of inmates' applications to the JDA Program or removal from the program due to infractions leads to an increase in the number of grievances filed. The proliferation of paperwork sometimes interferes with the ability of the classification supervisor and chaplain to carry out their other duties.

Beyond the irritation prison officials experience due to the overwhelming multiplication of work, they are also clearly discouraged by the abuse of the JDA Program. In their experience, insincere inmates are often applying for the JDA Program in an effort to get what they believe is better food or transfer to a better institution. The high turnover rate within the JDA Program and high rate of change of religious preferences indicates to officials that a comparatively small number of inmates actually utilize the program in order to comply with their religious beliefs.

Officials also indicate concern that inmates are consolidating the locations of gang members by abusing the JDA Program. In the opinions of those prison officials most closely associated with the JDA Program, in its current state the program benefits few inmates and is manipulated by many.

LEGAL OVERVIEW OF ISSUES ARISING FROM THE JDA PROGRAM AND RELIGIOUS DIETARY ACCOMMODATION

In addition to the administrative, security, and monetary hindrances involved in implementing the JDA Program, there are also several legal issues implicated by the realities of religious dietary accommodation management.

The First Amendment

The First Amendment of the United States Constitution dictates that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof....”²⁰ This single phrase forms the original basis of Americans’ right to freedom of religion and protects citizens from the creation of laws that might be established in an effort to encumber an individual’s ability to engage in religious conduct.

Free Exercise Clause

In any case brought before a court about an individual’s rights under the Free Exercise Clause,²¹ the individual claiming his or her rights have been infringed upon must prove that the regulation at issue affects conduct that is “rooted in religious beliefs.”²² If the court determines that the conduct is fundamentally religious in nature and is affected by the regulation, the court will move on to examine the regulation in question. Ordinarily, laws that are found to specifically restrict or enhance an individual’s ability to practice religion under the Free Exercise Clause are considered unconstitutional unless justified by a compelling government interest.²³

When dealing with questions of prisoners’ constitutional rights, however, the United States Supreme Court has lowered the standard against which prison regulations are measured. The actions and regulations of prison officials do not violate prisoners’ constitutional rights, their Free Exercise rights in particular, if the actions and regulations are reasonably related to legitimate penological interests.²⁴ The United States Supreme Court determined that creating an exception for prison regulations was appropriate because of several factors, including the complicated nature of prison regulations, the absolute need to protect society from dangerous situations, and the expertise of prison officials.²⁵

The U.S. Supreme Court established a four-part test for determining the reasonableness of government action in the prison context through a case called Turner v. Safely.²⁶ First, under the four-part test, the court ascertains whether there is a “valid, rational connection” between the

²⁰ U.S. CONST. amend. I.

²¹ “Congress shall make no law respecting the establishment of religion or *the free exercise thereof*...”

²² Wisconsin v. Yoder, 406 U.S. 205, 215 (1972).

²³ Church of the Lukumi Babalu Aye v. City of Hialeah, 508 U.S. 520 (1993).

²⁴ O’Lone v. Estate of Shabazz, 482 U.S. 342 (1987).

²⁵ Turner v. Safely, 482 U.S. 78 (1987) (establishing a four factor test to determine whether prison regulations so violate prisoners’ rights as to make the regulation unconstitutional).

²⁶ Turner v. Safely, 482 U.S. 78 (1987). See also Hakim v. Hicks, 223 F. 3d 1244 (11th Cir. 2000) (applying Turner, *supra* to First Amendment rights).

regulation in question and a legitimate governmental interest. The second relevant question asked is “whether there are alternative means of exercising the right that remain open” to the inmate. The third important consideration is “the impact accommodation of the asserted constitutional right will have on guards and other inmates, and on the allocation of prison resources generally.” The final factor examined by the court in the four-part reasonableness determination is “the absence of ready alternatives.”

An incredibly wide variety of claims have been brought throughout the United States by inmates claiming their First Amendment rights have been violated. One example of the application of these principles can be demonstrated by a scenario in which a prison regularly serves pork products, generally regarded by many religions as an unclean food, and provides no alternate meal plan. An inmate in this institution might claim that his right to exercise religious freedoms by abstaining from eating pork is being violated. In order to proceed with such a claim, the inmate must demonstrate that the rule actually impacts his ability to conduct himself in a manner consistent with deeply rooted religious beliefs. This provision eliminates frivolous lawsuits because it roots out moot claims. Under these circumstances the inmate would be precluded from winning at trial if he is an agnostic who does not subscribe to the belief that pork is unclean and consistently eats pork voluntarily.

If the inmate is able to convince the court that his right to free exercise of religion is actually being impeded, the court would then employ the four-part test. In this setting, first, the court would determine there is little to no logical connection between serving pork and furthering the goals of the correctional system, and that second, inmates do not have the opportunity to obtain food from alternative sources. Third, the court would probably find that preparing food other than pork or providing some alternative has little impact on the allocation of prison resources. In fact, the provision of an alternative entrée by the prison would likely be considered a ready alternative under the final factor.

The Establishment Clause

This aspect of the First Amendment²⁷ ensures the separation of church and state and prevents the government from enacting laws that aid one religion over another or over secular principles.²⁸ In Lemon v. Kurtzman, the U.S. Supreme Court explained that there are “three main evils against which the Establishment Clause was intended to afford protection: ‘sponsorship, financial support, and active involvement of the sovereign in religious activity.’”²⁹ Lemon lays out a three-part test to determine whether a neutral law, a law that does not explicitly contradict the mandates of the First Amendment, violates the establishment clause.

Typically, in order to be considered constitutional, the law must have a secular purpose. In addition, the primary or principal effect of the law must neither advance nor inhibit religion. Finally, the law must not foster an excessive government entanglement.³⁰ Just as in the framework

²⁷ “Congress shall *make no law respecting the establishment of religion* or the free exercise thereof...”

²⁸ School Dist. v. Schempp, 374 U.S. 203 (1963).

²⁹ Lemon v. Kurtzman, 403 U.S. 602 (1971) at 612

³⁰ Lemon, 403 U.S. at 612-613.

of free exercise, however, the actions and regulations of prison officials are not held to the more stringent Lemon standard. Instead, the analysis the court applies is the Turner test.

An extreme example of a situation in which this type of constitutional challenge might be brought to bear is where an institution with an evangelical protestant warden established a policy with the stated purpose of reducing recidivism. The hypothetical regulation establishes that only evangelical protestant chaplains and volunteers could enter the institution to volunteer and that they could only visit inmates who claim to be protestant and have made a profession of protestant faith while in the institution in order to convert inmates to Protestantism. This state of affairs clearly violates the rights of inmates under the establishment clause and fails all four factors of the Turner test.

Any connection between precluding the practice of beliefs other than Protestantism and the legitimate government interest of reducing recidivism is tenuous at best. Second, if all avenues of contact are restricted, there is virtually no way in which an individual of a faith other than Protestantism may participate in religious services. In addition, to allow representatives of other faiths to enter the institution can have little adverse impact on guards or inmates, or on the allocation of resources. There are certainly alternate methods of reducing recidivism that are less intrusive than prohibiting non-protestant inmates from seeking religious guidance from volunteers so the policy fails the fourth Turner factor as well.

The Fourteenth Amendment (Equal Protection Clause)

Essentially, section one of the Fourteenth Amendment requires that all individuals similarly situated be treated by the government in a similar manner. In pertinent part, the Equal Protection Clause of the Fourteenth Amendment³¹ reads,

“All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

The primary accusation faced by the department at this time with regard to equal protection claims is that the department unfairly discriminates against Muslims by providing Jewish inmates with a kosher diet through the JDA Program, but providing no similar halal program expressly designed for Muslim inmates.

In order to prevail on this claim, an inmate would be required to show three things. First, he or she would be required to demonstrate that the department is purposefully engaging in discrimination. Second, a court must be convinced that the inmate is part of an identifiable class of inmates which is “similarly situated” in comparison with another identifiable class of inmates. Third, the inmate would need to illustrate that the two classes of inmates are treated differently.

³¹ ³¹ U.S. CONST. amend. XIV.

In practical terms, if a Muslim inmate claims that his Equal Protection rights were being violated as in the above example, he is obliged to prove that the department intentionally provides for Jewish inmates and not Muslim inmates by showing, for example, that the department intended that Muslim inmates not receive dietary accommodations. He must establish that Muslim and Jewish inmates are similarly situated in that both groups require accommodation that may be established with a similar amount of department effort. He must also provide evidence that Muslims receive no dietary accommodation where Jewish inmates do. It could be argued that a Muslim inmate's religious diet is accommodated by the department by providing the alternate entrée or vegetarian or vegan diets which are free from all animal fats and are readily available. Thus, the department may show that the Muslim inmate is not similarly situated to a Jewish inmate.

If an inmate is successful in proving that his constitutional right to equal protection has been violated, the department may still escape liability under the four-part Turner v. Safley³² test by demonstrating that the department is protecting a legitimate penological interest through the application of the restrictive regulation.

The plaintiff inmate in this example would not likely prevail on an equal protection claim. It is true that the JDA Program was designed specifically to meet Jewish dietary specifications; nevertheless, the dietary accommodations needed by inmates to conform to the dietary requirements called for under Al-Islam, and many other religions for that matter, are consistent with Jewish dietary laws. The department ensures that every inmate of all faiths has access to the JDA Program as long as he or she can demonstrate a sincere belief. A Muslim inmate may, therefore, be accommodated as readily as a Jewish inmate through the JDA Program.

The Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA)

Section 3(a) of the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA)³³ provides that, "No government shall impose a substantial burden on the religious exercise of a person residing in or confined to an institution ... even if the burden results from a rule of general applicability."³⁴ Applied solely in the institutional context, this law prohibits prison officials from severely curbing an inmate's ability to observe his or her religion through any regulation or action, whether or not the regulation or action explicitly restricts religious practices.

The only exception to this rule is where the government can prove that the burden on religious exercise is both "in furtherance of a compelling governmental interest" and "the least restrictive means of furthering that compelling governmental interest."³⁵

³² Turner v. Safely, 482 U.S. 78 (1987).

³³ 42 U.S.C. § 2000cc-1.

³⁴ Id.

³⁵ Id.

In order to prevail on a RLUIPA claim, an inmate must first demonstrate that the challenged government action or policy substantially burdens his or her right to religious exercise.³⁶ Eleventh Circuit case law dictates that

a ‘substantial burden’ must place more than an inconvenience on religious exercise; a ‘substantial burden’ is akin to significant pressure which directly coerces the religious adherent to conform his or her behavior accordingly. Thus, a substantial burden can result from pressure that tends to force adherents to forego religious precepts or from pressure that mandates religious conduct.³⁷

Basically, a “substantial burden” is one which virtually compels an inmate to comply with a restriction without regard for the inmate’s religious beliefs and offers no real alternative to compliance which would allow the inmate to pursue his or her religious convictions. Where a government policy or action restricts one method of religious expression but an alternative method of expressing religion is available to the inmate, there is no substantial burden imposed.³⁸

If an inmate brings a RLUIPA claim and shows that the restriction is a substantial burden, the government must demonstrate that the action or policy both furthers a compelling interest and is the least restrictive means by which it can reach its ends in order to avoid liability. The least restrictive means of accomplishing a governmental objective is the method that least interferes with the free practice of religion by an inmate while providing a method for accomplishing the institutional goal. Examples of a compelling government interest include maintaining the safety of inmates, correctional officers, and the public, and maintaining the security of institutions.

Numerous inmates in the Florida prison system alone have made claims under RLUIPA. One example of a claim that might arise under this statute could be where a Jewish inmate, who is not provided with a kosher diet or with any alternative that would allow him to fulfill his religious obligation, seeks religious accommodation. The inmate in this hypothetical position would presumably be able to demonstrate that his ability to practice Judaism is substantially burdened by the disputed regulations and actions of prison officials because the regulations and actions leave him with no meaningful choice. He may either eat the non-kosher food and fail to obey his religious laws or not eat the non-kosher food and starve.

In this situation, to overcome the inmate’s substantiated claim that his rights have been violated, the department must show that not providing kosher food is the least restrictive means of furthering a compelling government interest. In other words, the department is required to prove that it has an imperative goal to meet and that denying the inmate access to kosher food is the least invasive option available to the department in the course of fulfilling its duty. In this context, it is improbable that the department can satisfy a court’s inquiry into whether the department is furthering a compelling interest, let alone that denying inmates’ religious accommodation is the least restrictive means available.

³⁶ 42 U.S.C. § 2000cc-1(b).

³⁷ *Midrash Sephardi, Inc. v. Town of Surfside*, 366 F. 3d 1214, 1227 (11th Cir. 2004).

³⁸ *Midrash Sephardi, Inc.* at 1227 citing *Cheffer v. Reno*, 55 F. 3d 1517 (11th Cir. 1995).

The Religious Freedom Restoration Act (RFRA) and the Florida Religious Freedom Restoration Act (FRFRA)

The Florida Religious Freedom Restoration Act (FRFRA)³⁹ was closely modeled after the federal Religious Freedom Restoration Act (RFRA).⁴⁰ While the federal RFRA does not apply to state and local government and is therefore not directly applicable to the department,⁴¹ the Florida and federal interpretive decisions and tests for application are very similar and will be addressed together here.⁴² Both the FRFRA and federal RFRA are very similar to the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA). The major difference is that where RLUIPA applies to institutionalized persons only, FRFRA and federal RFRA apply to all individuals.

The Florida Legislature enacted the Florida Religious Freedom Restoration Act (FRFRA) in order to protect the rights of individuals to practice religion without government interference. In pertinent part the statute⁴³ states:

- (1) The government shall not substantially burden a person's exercise of religion, even if the burden results from a rule of general applicability, except that government may substantially burden a person's exercise of religion only if it demonstrates that application of the burden to the person:
 - (a) Is in furtherance of a compelling governmental interest; and
 - (b) Is the least restrictive means of furthering that compelling governmental interest.

In order for a plaintiff to prevail on a FRFRA claim, “the plaintiff bears the initial burden of showing that a regulation constitutes a substantial burden on his or her free exercise of religion.”⁴⁴ In other words, “the plaintiff must demonstrate that the government has placed a substantial burden on a practice motivated by a sincere religious belief.”⁴⁵

A “substantial burden” under FRFRA is governed by the same definition given the term under the federal RFRA and RLUIPA. The Florida Supreme Court held “that a substantial burden on the free exercise of religion is one that either compels the religious adherent to engage in conduct that his religion forbids or forbids him to engage in conduct that his religion requires.” This definition, adapted from rulings of the Fourth, Ninth and Eleventh Federal Circuit Courts, approximates the most restrictive, or least protective, of three federal RFRA tests. With regard to the federal RFRA substantial burden tests, the Florida Supreme Court notes:

³⁹ 42 U.S.C. 2000bb et seq.

⁴⁰ §§ 761.01, Fla. Stat. (2003) et seq.

⁴¹ See City of Boerne v. Flores, 521 U.S. 507 (1997) (declaring as unconstitutional the application of the RFRA to state and local governments).

⁴² Reference will generally be made to the Florida Religious Freedom Restoration Act as the FRFRA applies to the department and the federal RFRA does not. Where differences between RFRA and FRFRA arise, such differences will be indicated with explanation.

⁴³ § 761.03, Fla. Stat. (2003). The pertinent RFRA language, codified at 42 U.S.C. 2000bb-1, reads in generally the same way.

⁴⁴ Warner v. City of Boca Raton, 887 So. 2d 1023, 1034 (Fla. 2004).

⁴⁵ *Id.*

The Eighth and Tenth Circuits use a broader definition – action that forces religious adherents ‘to refrain from religiously motivated conduct,’ or that ‘significantly inhibit[s] or constrain[s] conduct, or expression that manifests some central tenet of a [person’s] individual beliefs,’ or imposes a substantial burden on the exercise of the individual’s religion. The Sixth Circuit seems to straddle this divide, asking whether the burdened practice is ‘essential’ or ‘fundamental.’⁴⁶

The Florida Supreme Court wrote in justification of its determination to utilize the most restrictive test, “[i]f this Court were to make religious motivation the key for analysis of a claim, that would ‘read out of [FRFRA] the condition that only substantial burdens on the exercise of religion trigger the compelling interest requirement.’”⁴⁷

A FRFRA claimant, like a RLUIPA claimant, is required to establish that the interference is more than an inconvenience in order to prevent dismissal of his or her case.⁴⁸ The plaintiff is *not* required to substantiate a claim that the governmental regulation is targeted at religion in particular. Instead, the individual must only demonstrate that the regulation substantially interferes with his or her free exercise of religion.⁴⁹

If the plaintiff proves that the government has improperly restricted his or her right to exercise religion, it is the government’s responsibility to demonstrate that the regulation furthers a compelling governmental interest and that the restriction in question is, in fact, the least restrictive means of furthering the interest.

In order to convince a court that a regulation or action furthers a compelling interest, the state must first show that the regulation was created in order to facilitate the government’s performance of an essential duty owed to the public.⁵⁰ The term “essential duties” may encompass any number of imperative governmental functions. In addition, the state must establish that the restriction is the least intrusive option available to the state in its quest to carry out an essential duty.

Simply stated, in order to protect itself from liability once a plaintiff has shown that his or her rights under FRFRA have been violated, the state must prove that the infringing regulation is absolutely vital because the government is using it to carry out a critical responsibility and there are no options available that would infringe less upon the rights of individuals than the disputed regulation.

⁴⁶ Warner, 887 So. 2d at 1033 (internal citations omitted).

⁴⁷ Warner, 887 So. 2d at 1033, citing Henderson v. Kennedy, 253 F. 3d 12, 17 (D.C. Cir. 2001).

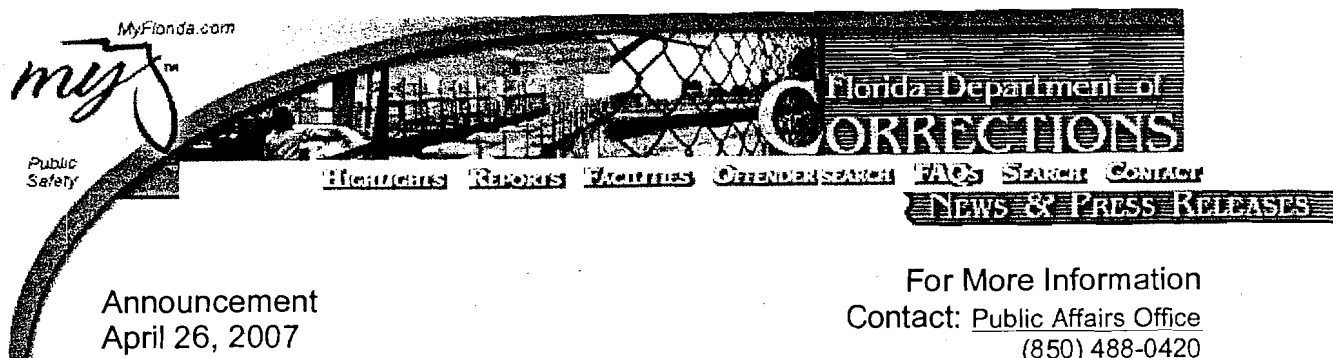
⁴⁸ Id. at 1035.

⁴⁹ §761.03(1), Fla. Stat. (2003). See also Warner 887 So. 2d at 1035-1036 (stating “[w]e also hold that under the [FRFRA], any law, even a neutral law of general applicability, is subject to the strict scrutiny standard where the law substantially burdens the free exercise of religion.”).

⁵⁰ See Wisconsin v. Yoder, 406 U.S. 205; Sherbert v. Verner, 374 U.S. 398.

APPENDIX A

Public Announcement and Purpose Statement



Jewish Dietary Accommodation Program

Effective immediately, the Florida Department of Corrections will hold participation in the Jewish Dietary Accommodation Program at current participation levels. The department will not be processing pending or future applications for the program until the findings and report of the Religious Dietary Study Group are complete.

The Religious Dietary Study Group is charged with conducting a review of religious dietary meal requirements for a period of not less than 90 days, with submission of monthly interim reports and a final report. The scope of the study will include the following tasks:

- To conduct an analysis of the requirements of the religious dietary laws of the major faith groups represented in the Department of Corrections' inmate population which have dietary requirements as part of the tenets of the faith.
- To review and analyze the impact of an additional influx of participants to the religious dietary accommodation program and how the department may be able in the future to accommodate the religious dietary requirements of various faiths.
- To conduct an analysis of religious meal accommodations within the parameters of an institutional prison setting in federal, state, and private prison systems.
- To review the religious meal programs currently provided by the Department of Corrections pursuant to Florida Administrative Rules and pursuant to the Jewish Dietary Accommodations Procedure Number 503.005, reviewing, among other things, data in regard to food purchase and preparation, physical plant requirements, security and classification issues, administrative matters, utilization and participation, and cost.

MORE 2007 ANNOUNCEMENTS AND PRESS RELEASES . . .

[Home](#) | [Highlights](#) | [Reports](#) | [Facilities](#) | [Offender Search](#) | [FAQs](#) | [Search](#) | [Contact](#)
[Privacy Policy](#)

APPENDIX B

JDA Program Participation Reports April, May, June, and July 2007

04/09/07

Jewish Dietary Accommodations

- Participating Inmates:

Union: 69 participating 55 ate this morning
Removed (2)- Cox, J #Y24607; Norton, D #494397

FSP: 50 participating 49 ate this morning
Added (1)- Merriex, L #265627
Removed (1)- Rogers, B #983579

Washington: 40 participating 15 ate this morning
Added (1)- Norton, D #494397

Hendry: 16 participating 05 ate this morning
No Change

Lawtey: 3 participating 3 ate this morning
No Change

Lowell: 11 participating 2 ate this morning
1 less this week due to paperwork error

Columbia: 0 participating 0 ate this morning
No Change

Santa Rosa: 63 participating 55 ate this morning
Removed (1)- Raices, L #101767

TOTAL PARTICIPATING: 259 196 ate this morning.

24% did not eat

04/30/07

Jewish Dietary Accommodations

- Participating Inmates:

Union: 66 participating 59 ate this morning
Added (1)–Edwards, M #497324
Removed (3)– Cox, J #Y24607; Logan, J #Y00683; Gilbert, M #122943

FSP: 52 participating 49 ate this morning
No Change

Washington: 45 participating 17 ate this morning
Added (2)– Fonte, S #M43315; Francis, Dwayne #195619
Removed (1)– Wynn, B #908179

Hendry: 15 participating 8 ate this morning
No Change

Lawtey: 3 participating 3 ate this morning
No Change

Lowell: 10 participating 1 ate this morning
Removed (1)–Kennelly, D #152147

Columbia: 0 participating 0 ate this morning
No Change

Santa Rosa: 63 participating 48 ate this morning
Added (6)– Brooks, T #125055; Cox, J #474253; Partlow, J # H00386; Smith, I #122834; Taylor, L #692400; Ball, C # R40474
Removed (1)– Andrade, R # P22784; Williams, G #084074

TOTAL PARTICIPATING: 254 185 ate this morning.

27% did not eat

05/07/07

Jewish Dietary Accommodations

• **Participating Inmates:**

Union: 65 participating 58 ate this morning
Added (1)– Beaudry, B #622334
Removed (2)– Prevatt, D #065814; Washington, J #900987

FSP: 50 participating 49 ate this morning
Added (2)– Logan, J #Y00683; Gilbert, M #122943
Removed (4)– Edwards, M #497324; Ball, C #R40474; Francis, D #195619; Taylor, L #692400

Washington: 44 participating 27 ate this morning
Removed (1)– Courtright, J #075269

Hendry: 15 participating 6 ate this morning
No Change

Lawtey: 3 participating 3 ate this morning
No Change

Lowell: 11 participating 0 ate this morning
Added (2)– Kennelly, D #152147

Columbia: 0 participating 0 ate this morning
No Change

Santa Rosa: 59 participating 54 ate this morning
Removed (2)– Abrams, J #V15043; Brooks, A #L23224

TOTAL PARTICIPATING: 247 197 ate this morning.

20% did not eat

05/14/07

Jewish Dietary Accommodations

• **Participating Inmates:**

Union: 64 participating 59 ate this morning
Removed (1)- Edwards, M #497324

FSP: 50 participating 49 ate this morning
No Change

Washington: 42 participating 23 ate this morning
Added (1)-Andrade, R #P22784
Removed (3)- Francis, D #195619; Haram, L #080843; Funk, J #168693

Hendry: 15 participating 15 ate this morning
No Change

Lawtey: 3 participating 3 ate this morning
No Change

Lowell: 11 participating 1 ate this morning
Added (2)- Kennelly, D #152147

Columbia: 0 participating 0 ate this morning
No Change

Santa Rosa: 61 participating 55 ate this morning
Added (2)- Francis, D #195619; Fleishman, J #J20347

TOTAL PARTICIPATING: 246 205 ate this morning.

1790 did not eat

06/04/07

Jewish Dietary Accommodations

- Participating Inmates:

Union: 65 participating 61 ate this morning
No Change

FSP: 46 participating 45 ate this morning
Removed (3)- Mayhar, J #X25262; McKinney, M #100414; Perron, J #Q15959;
Tarpley, D #192281

Washington: 43 participating 16 ate this morning
No Change

Hendry: 13 participating 8 ate this morning
No Change

Lawtey: 2 participating 2 ate this morning
No Change

Lowell: 10 participating 0 ate this morning
Removed (1)- New, J #L31418

Columbia: 0 participating 0 ate this morning
No Change

Santa Rosa: 61 participating 61 ate this morning

TOTAL PARTICIPATING: 240 193 ate this morning.

20% did not eat

06/18/07

Jewish Dietary Accommodations

• Participating Inmates:

Union: 66 participating 63 ate this morning
Added (2)- Byrens, J #O53824; Chestnut, J #197339

FSP: 46 participating 45 ate this morning
Added (4)- Boatman, R #089151; Brown, J #K61261; Byrnes, D #053824; Chestnut, J #197339; Turner, T #L13947
Removed (2)- Hayes, J #718162; Perron, J #Q15959

Washington: 38 participating 14 ate this morning
Removed (2)- Odam, K #892850; Ovetrea, C #337922

Hendry: 14 participating 6 ate this morning
No Change

Lawtey: 2 participating 2 ate this morning
No Change

Lowell: 9 participating 2 ate this morning
Removed (1)- Manning, S #331940

Columbia: 0 participating 0 ate this morning
No Change

Santa Rosa: 61 participating 61 ate this morning

TOTAL PARTICIPATING: 236 193 ate this morning.

18% did not eat

07/09/07

Jewish Dietary Accommodations

- Participating Inmates:

Union: 61 participating 60 ate this morning
Removed (4)- Mayhar, J #X25262; Yearby, T #693658; Haimowitz, R #H07976;
McKinney, M #100414

FSP: 46 participating 45 ate this morning
Added (3)- Belvin, P #D87069; Mayhar, J #X25262; Yearby, T #693658

Washington: 42 participating 17 ate this morning
Added (2)- Ball, C #R40474; Ovletrea, C #337922

Hendry: 14 participating 6 ate this morning
Added (1)-

Lawtey: 2 participating 2 ate this morning
No Change

Lowell: 9 participating 0 ate this morning
No Change

Columbia: 0 participating 0 ate this morning
No Change

Santa Rosa: 60 participating 58 ate this morning
Added (2)- Barrington, A #566013; Thomas, B #Q07174

TOTAL PARTICIPATING: 234 188 ate this morning.

20% did not eat

07/23/07

Jewish Dietary Accommodations

- Participating Inmates:

Union: 58 participating 50 ate this morning
Added (1)- Merriex, L #265627
Removed (2)- Alexander, S #L22808; Sookov, J #U10046

FSP: 49 participating 49 ate this morning
No Change

Washington: 38 participating 11 ate this morning
No Change

Hendry: 14 participating 5 ate this morning
No Change

Lawtey: 2 participating 2 ate this morning
No Change

Lowell: 10 participating 2 ate this morning
Added (1)- New, J #L31418

Columbia: 0 participating 0 ate this morning
No Change

Santa Rosa: 61 participating 58 ate this morning
Added (1)- Alexander, S #L22808

TOTAL PARTICIPATING: 232 177 ate this morning.

24% did not eat

APPENDIX C

Cost Estimates from Vendors for Prepackaged Kosher Food Products.

Kosher Entrees

General Information

Costs of kosher entrees are dependant on quantities ordered, shipping costs, and any handling fees which may be assessed by food vendors. The following information provides the basic estimated costs of kosher shelf stable and frozen entrees (excluding shipping and handling fees):

Vendor	Average Cost/ Entree	Average Calories (Ounces)/ Meal	Variety	Phone Contact Number
My Own Meal, Inc. Deerfield, IL	\$2.75	400 (10 oz)	10 entrees/ shelf stable	Mary Ann Jackson (847) 948-1118
Mada'n Kosher Foods Dania Beach, FL (Used by GEO)	\$4.00	500 (12-16 oz)	25+ entrees/ frozen	Mel Weiss (305) 944-6644
Gold Kosher Catering Miami, FL (Used by Trinity)	\$4.79	400-500 (16 oz)	20 entrees/ frozen	(305) 249-2220
Milmar Foods (Used by Aramark)	\$4.50 - \$6.00	300-400 (12-13 oz)	8 entrees/ frozen	Information provided by Aramark
Overall Averages:	\$4.00 – \$4.40	**400 – 450 calories each		

** 2 kosher entrees provide less than 1/3 of the calories provided to the general population. The remaining calories must be supplemented with other food items that are kosher.

Kosher Menus

We can provide three (3) frozen meals per day which would simplify the cooking process, but would be more costly. The other option is to provide two kosher entrees at lunch and dinner each day. Based on kosher diet information from the Department of Corrections in other states, and what ARAMARK is currently doing for other clients, we will probably only need to provide 2 kosher frozen pre-plates or entrees per day. (Sample meal plans attached for meal plans using two (2) frozen entrees per day, and using three (3) frozen entrees per day.) Kosher entrees generally contain one serving each of a meat (3-4 oz), starch (1/2 c) and vegetable (1/2 c). Additional food items must be provided in addition to these meals in order to meet a calorie level equivalent to that provided to the general inmate population and to meet the Dietary Reference Intakes. Many of the food items currently available in food services are certified or acceptable for use with kosher meals, and may be used to supplement the entrees at lunch and dinner, and to provide breakfast meals. Examples of food items already available in food services which may be included on kosher trays are eggs, milk, fresh fruits and vegetables, frozen vegetables,

Kosher Entrees

margarine, cereal, juice, and peanut butter. Bread that is certified kosher will need to be ordered. These food items must be handled separately from food items for the general population according to kosher standards.

Additional factors which will increase the costs of serving kosher meals will be any special equipment needed to prepare the meals as well as disposable items (such as Styrofoam on which to serve the meals).

APPENDIX D

Matrix Showing Responses of States' Survey of Religious Dietary Accommodations

MATRIX SHOWING RESPONSES OF STATES' SURVEY OF RELIGIOUS DIETARY ACCOMMODATIONS

	1A. Is a meatless alternate entrée available?	1B. Is a vegan meal plan available?	1C. Is your food service totally pork free?	1C-1. If your state is pork free, how many years?	1D. Is a Kosher menu available?	1E. Is a Halal menu available?	1F. Are other meal plans available?	2. Is food services privatized or self operated?	3. Are religious meals prepared in the regular or separate kitchen?	3A. If prepared in regular kitchen is there a designated area just for religious diets?	4. Are prepackaged meals utilized?	5. Does the religious community provide any special food items for the religious diets?	6. Were any of your meals for religious accommodations court mandated?	
Alabama (AL)	Y	Y		Y	UK	Y								Y
Alaska (AK)														
Arizona (AZ)														
Arkansas (AR)	Y	N	Y	N	NA	Y	N	O	S	R	N	N	N	Y
California (CA)	Y	Y	Y	Y	7	Y	N	N	S	R	Y	Y	N	Y
Colorado (CO)	Y	Y	Y	Y	UK	Y	Y	V	S	R	N	N	N	Y
Connecticut (CT)	Y													N
Delaware (DE)	Y			Y	UK									N
Florida (FL)														
Georgia (GA)	N													N
Hawaii (HI)	Y	Y	N	Y	12	Y	Y	O	S	R	N	Y	N	N
Idaho (ID)	Y	Y	Y	N	NA	N	N	O	S	NA	N	N	N	N
Illinois (IL)	Y	Y	Y	N	NA	Y	N	O	S	NA	NA	Y	N	Y
Indiana (IN)	Y								P					N
Iowa (IA)														
Kansas (KS)	Y	N	Y						P				N	Y
Kentucky (KY)	Y	Y	N	Y	UK	N	N	N	P	R	N	Y	N	Y
Louisiana (LA)	Y	N	N	Y	UK	Y	N	N	S	R	N	N	N	Y
Maine (ME)														
Maryland (MD)														
Massachusetts (MA)	Y	Y	N	Y	15	Y	N	N	S	NA	NA	Y	N	Y
Michigan (MI)	Y	N	N	N	NA	Y	N	V	S	S	NA	Y	N	Y
Minnesota (MN)														
Mississippi (MS)														
Missouri (MO)	Y	Y	N	N	NA	N	N	N	S	NA	NA	N	N	N
Montana (MT)	Y	Y	N	Y	NA	N	N	O	S	R	N	N	N	N
Nebraska (NE)	N	N	N	N	NA	N	N	N	S	NA	NA	N	N	NA
Nevada (NV)	Y	N	N	N	10	Y	N	N	S	NA	NA	Y	N	Y
New Hampshire (NH)	Y	Y	N	N	4	Y	N	N	S	R	Y	Y	N	N
New Jersey (NJ)	Y	N	N	Y	20	Y	N	O	S	R	N	Y	Y	Y
New Mexico (NM)	Y													N
New York (NY)	Y	Y	N	Y	UK	Y	N	V	S	S	NA	N	Y	N
North Carolina (NC)	Y	N	Y	N	NA	Y	N	O	S	R	N	N	Y	N
North Dakota (ND)	Y	Y	N	N	NA	Y	N	O	S	R	Y	Y	Y	N
Ohio (OH)	Y	Y	Y	N	NA	N	N	N	S	R	N	Y	N	N
Oklahoma (OK)	Y	N	N	N	NA	Y	N	O	S	R	N	Y	Y	Y
Oregon (OR)	Y	Y	Y	Y	UK	Y	N	N	S	R	Y	Y	Y	Y
Pennsylvania (PA)	Y	Y	N	N	NA	Y	N	N	S	R	N	N	N	Y
Rhode Island (RI)	Y	Y	N	Y	13	Y	Y	N	S	R	N	N	N	Y

MATRIX SHOWING RESPONSES OF STATES' SURVEY OF RELIGIOUS DIETARY ACCOMMODATIONS

	1A. Is a meatless alternate entrée available?	1B. Is a vegan meal plan available?	1C-1. If your state is pork free, how many years?	1D. Is a Kosher menu available?	1E. Is a Halal menu available?	1F. Are other meal plans available? Specify	2. Is food services privatized or self operated?	3. Are religious meals prepared in the regular or separate kitchen?	3A. If prepared in regular kitchen is there a designated area just for religious diets?	4. Are prepackaged meals utilized?	5. Does the religious community provide any special food items for the religious diets?	6. Were any of your meals for religious accommodations court mandated?
1. Are religious diets accommodated?	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
South Carolina (SC)	Y	Y	Y	Y	3	N	N	N	S	NA	NA	Y
South Dakota (SD)	Y	N	Y	Y	UK	Y	Y	N	P	R	Y	N
Tennessee (TN)	N	Y	Y	N	NA	N	N	O	S	R	N	N
Texas (TX)	Y	Y	N	N	NA	Y	N	N	S	R	Y	N
Utah (UT)	Y	Y	N	Y	16	Y	N	N	S	R	Y	Y
Vermont (VT)												
Virginia (VA)	Y	Y	N	N	NA	Y	N	N	S	R	Y	N
Washington (WA)	Y	N	Y	Y	2	Y	N	O	S	R	N	Y
West Virginia (WV)												
Wisconsin (WI)	Y	N	Y	N	NA	Y	N	N	S	R	N	Y
Wyoming (WY)	Y	N	Y	Y	NA	Y	Y	N	S	R	N	Y

y shaded cells indicate No response

Q's 1-1C Y= Yes, N = No

Q1D-1E Y= Yes, N = No

Q1F. O= Lacto Ovo, V= Vegetarian N- No other offered

Q2. P= Privatized, S= Self Operated

Q3. R= Regular, S= Separate

Q4-Q6 Y= Yes, N = No

NA= Not applicable

UK = Unknown