

**Arab Festival Incident, 2010**  
**Briefing Document by Ron Stockton**  
**Dated July 26, 2010**

An incident in Dearborn in July gained broad attention. This city of 95,000 is over 35% Arab, mostly Lebanese Shia. Once a year, there is a 2 ½ day Arab Festival. (Note: this is not an Islamic Festival but a cultural festival). They close off Warren Avenue, a major street 3 blocks from my house, and have scores of booths, vendors, games, rides. Surrounding streets have restricted parking, making them part of the Festival perimeter. Local officials say over 200,000 people come. It is a fun event. Several booths focus on religion, Islamic or Christian. They distribute free readings and DVDs. These never generated controversy. American Arab Chamber of Commerce (AACC), a private organization, runs the festival. Fay Beydoun is the Director. The police enforce the rules and maintain order. Last year, George Saieg, an Evangelical Christian Sudanese, was walking among the crowd passing out literature and talking to people. He was head of Arab Christian Perspective (ACP), an organization committed to converting Muslims to Christianity. The police made him leave because he was not in a licensed booth. The Thomas More Law Center (TMLC), a group committed to protecting the rights of Christians in America, brought a lawsuit in Michigan's Eastern District Federal District Court. TMLC is aggressive in legal confrontations. They have other lawsuits challenging Hate Crimes legislation and a ban on "Leaving Islam" advertisements in busses. The court upheld the city.

TMLC appealed to the federal Sixth Circuit Court against the district court ruling on the 2009 Saieg case. They asked an injunction against the city, prohibiting them from denying Saieg the right to distribute materials. The Festival this year was June 18, 19, 20. On June 17, 2010 the three-judge Circuit Court said the city had made a sufficient case for prohibiting distribution in the "core area" of the Festival, but had not made a sufficient case for the "outer perimeter" or "buffer zone" and Saieg could distribute in those areas. Any restriction on religious expression must be "narrowly tailored to serve a significant governmental interest" and this does not appear to be the case. The court cited precedent, that the loss of First Amendment Rights "for even minimal periods of time, unquestionably constitutes irreparable injury."

This year, Saieg did not return but a new group appeared. [They are Acts 17 Apologetics, named for when Paul sent out apostles. Some apostles were welcomed, some driven out. Their website AnsweringIslam.com has a 9-minute discussion of what happened]. There were four of them, one or two being converts to Christianity. They wore t-shirts that said "Jesus Loves You." Three were standing in the core area of the Festival but at the side of the crowds. They engaged only those who asked what the slogan meant and would stop when anyone did not want to talk further. They discussed Christianity, not Islam, and made no hostile statements about Islam. The fourth person, an 18-year-old female, taped the whole thing. A crowd gathered, the police told them to leave, they refused and were arrested. All were booked and spent the night in jail.

**In the 2009 federal case, the judge outlined points of law, precedent and fact:**

**Legal rights involved:** First amendment right to freedom of speech, right to association, right to free exercise of religion; Fourteenth Amendment right to equal protection.

**Legal Principal:** First Amendment Religious Freedom is not absolute. It can be restricted if the restrictions are content neutral and justified under the restrictions of time, method and place. Rules must be narrowly focused and must provide an alternative means of access. The government has a legitimate interest in crowd control and safety.

**Precedent:** Time, Place, and manner restrictions are valid so long as they are 1) content-neutral 2) narrowly tailored 3) serve a significant governmental interest and 4) leave open ample alternative channels for communication.

**Precedent:** “A private entity can be held to constitutional standards when its actions so approximate state action that they may be fairly attributed to the state.” But suit did not name AACC, only Chief of Police Ronald Haddad (newly hired: old chief died)

**Precedent:** “The First Amendment does not guarantee the right to communicate one’s views at all times and places or in any manner that may be desired.”

**Precedent:** Minnesota State Fair. Government had a substantial interest in protecting the “safety and convenience” of fairgoers and ensuring the orderly flow of pedestrian traffic.

**Precedent:** “spreading one’s religious beliefs or preaching the gospel through distribution of religious literature and through personal visitations is an age-old type of evangelism with as high a claim to constitutional protection as the more orthodox types [of religious practices]”.

**Precedent:** The constitution does not guarantee the “best means of communication.”

**Precedent:** “The first Amendment does not guarantee the right to communicate one’s views at all times and place or in any manner that may be desired.”

**Precedent:** “content-based regulations are subject to ‘the most exacting scrutiny’ and are ‘presumptively invalid.’ This is the Strict Scrutiny rule.

**Precedent:** A city ban on commercial handbills from sidewalk news racks but not newspapers was overturned: “An officer who seeks to enforce the [ban] would need to examine the content of the handbill to determine whether its distribution was prohibited.”

Plaintiffs sought **declarative relief** (statement that they are right) and **injunctive relief** (telling city not to do it again). Defendants asked for a **summary judgment** (dismissal). Court issued a summary judgment and denied Injunctive Relief.

**Facts: The court found no disputes over material facts in the case.**

There is an inner area (Warren Avenue), the sidewalk area of Warren Avenue, and surrounding streets which are considered an outer perimeter.

An organization wishing to distribute religious materials would have to purchase an information table for \$150.00. A sign costs an extra \$55.00.

Saieg never sought an information table but wanted to wander freely. AACC provided him a booth free of charge. He said it was without electricity and dark after dusk, and was in an isolated children’s section near rides. AACC said it would provide a free booth in 2010 in the artisan tent, near the middle of the festival.

AACC rules prohibit “solicitation outside of designated vendor areas” and prohibit “political solicitation.” ACP does not fall under AACC definition of “solicitation” because it is not commercial. “There does not appear to be any written rule, promulgated by the AACC, preventing the distribution of religious materials at the Festival.”

From 2004-2008 ACP “freely roamed the public areas adjacent to and surrounding the Festival, including public sidewalks, handing out religious literature and discussing our Christian faith.” In fact, they limited themselves to the public sidewalks.

#### **Statement by Saieg to the court**

“It is very difficult to evangelize Muslims from a fixed location because there are severe penalties under Islamic law for converting to Christianity...the Muslims who do approach us will inevitably be watched by family, neighbors, and friends, subjecting them to possible ridicule, scorn, and punishment. As a result, Muslims who are interested in Christianity are typically not willing to go to and be seen at a location that is known to be occupied by Christian evangelists, such as ACP. I have personally experienced this in the past, and I experienced this at the 2009 Festival...In order to reach out intended audience—Muslims who we want to convert to Christianity—without religious message, it is essential for us to be able to distribute our religious materials while walking on the public sidewalks where the exchange between the Christian brother or sister and the person he or she is evangelizing is more personal and confidential. This allows the person receiving the religious materials to do so discretely and to read or view the materials in private at a later time without being exposed to ridicule, scorn, or punishment, which is likely if the individual was seen receiving materials at a Christian “booth.” In fact, it is not uncommon for a Muslim woman to take the Christian materials and hide them under her burqa for fear that her husband will see her with them. I have experienced this many times myself.”

When permitted to roam the sidewalks prior to 2009, ACP members were able to distribute 37,000 packets in 2007 and 20,00 in 2008. In 2009 they distributed 500.

Fay Beydoun of AACC said their ban against solicitation does not cover religious literature. Haddad said he and his officers would be enforcing an “across the board” ban on all handbills (except from assigned booths).

**Point of Fact:** Plaintiff can mingle throughout the Festival and talk to people. They will be able to wear a pin containing a message. “The sole issue of contention is leafleting.”

**Conclusion:** The public sidewalks ceased to be public thoroughfares during the Festival. “The Court concludes that the ban on handbilling in the inner and outer perimeters qualifies as a valid time, place, and manner restriction.”

The alternative avenues for expression are deemed constitutionally adequate, that being a “First-Amendment free zone” that “has little to no connection with the Festival.”

Since the plaintiff did not discuss the free exercise claim “the claim is deemed abandoned.” However, it would be invoked in three key situations: government prohibits behavior that a religion requires; government requires conduct that a person’s religion prohibits; law imposes a burden or makes religious observance more difficult.

**RS Thoughts:** When this incident occurred, I had been discussing with my class issues of religious and ethnic conflict worldwide. I told students the very day before this incident that if a society could keep the “public square” (as we say) open for “free expression” (even if the expression was something others dislike), that would solve a lot of problems. After the incident, I told them of the festival incident (there were several Muslims in the class) I noted that as the missionaries were led away, some less temperate lads allegedly shouted “*allahu akhbar*” as if this were a Taliban liberated zone. [Note: Dearborn has good inter-religious relations. We have active interfaith groups & relatively good street relations].

Perhaps TMLC is looking for a confrontational test case but the city's reaction is harmful to the civic good. This incident has nothing to do with Muslims and Christians. It has to do with the public square and the constitution. When a Muslim girl in Texas is told she cannot wear a headscarf, the public square is violated (not to mention the constitution). When the Hari Krishna are told they cannot chant and solicit in Detroit Metro airport, that violates the constitution (and the courts backed them). Of course people can wear scarves and chant and solicit. It is called "free expression" and it is a guaranteed right. And when Christians are told they cannot "express" at the Arab Festival, that is a violation. (Note: In the Detroit area 56% of those with Arab world heritage are Christian, although in Dearborn most all are Muslims).

I am not a fan of TMLC and do not believe Christianity is under siege, but after reading the legal documents and statements, I think the city acted unwisely. This will lead to a lawsuit, negative publicity, and considerable taxpayer expense for a defense. It may well produce an apology from the city, expunging arrest records, and a financial settlement. Five factors influenced my conclusions. 1) Restrictions on religious expression generate "strict scrutiny" by the courts, i.e., there is a presumption that expression is allowed, and governmental restrictions are out of order unless they can prove otherwise. This could easily be overturned at higher levels. 2). The ban on religious distribution and roaming was not by the rule-making organizers of the Festival (AACC) but by the police. 3) Distribution and roaming were allowed for five years with no reported evidence of problems. This rule is new. 4) The number of items distributed after the ban dropped dramatically, showing a "content" based differential impact. 5) The Circuit Court had issued an injunction against the city. The fact that it was on behalf of only one person will not be a strong defense.

#### **Afterthoughts on Evangelicals**

1) In early Virginia only Episcopal ministers were licensed. Baptist or other "evangelical" ministers could not preach to their congregations. However, they could *sit* among their congregations to preach since this was not a "sermon" but a "conversation." If they stood, they could be arrested. In the Dearborn case, the offense was that the missionaries were walking about, not in a booth. There are historic parallels here.

2) For some Christians, evangelizing/"spreading the word" is a central obligation, as much as praying. The district court acknowledged this in its ruling. Dearborn's police imposed a severe restriction on Christians who hold such beliefs.

#### **What is to be done?**

1) Treating this as an adversarial legal case is lose/lose. If the city wins, we all lose. If the city loses, we all lose. What will happen when some Muslim group from Brooklyn appears with a "Jesus is one of my favorite prophets" t-shirt, passing out literature on Islam? Will the police arrest them? What would be the consequences of an arrest? Of a non-arrest? Lose-lose-lose.

2). When the Hari Krishna case came up in Metro Airport, the authorities put signs in all entrances saying that religious groups have the right to chant and solicit, and would everyone please respect that. Why not put such signs up at all entrances to the Festival?

3) Where are the religious authorities? Why do top Imams, priests and ministers not write a statement affirming religious freedom and toleration and calling upon everyone to be nice? Why stand aside and let this be a legal issue when there are clearly religious and moral issues at stake?

**Update:** February 2012 City of Dearborn settled lawsuit with missionaries for \$100,000