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# Public Schools, Religious Establishments, and the U.S. Supreme Court

## An Examination of Policy Compliance

Kevin T. McGuire

*University of North Carolina at Chapel Hill*

The issue of devotional activity in the public schools has long been a staple of the U.S. Supreme Court's agenda, but knowledge of the local implementation of school prayer policy remains limited to the Court's earliest decisions. To what extent are schools presently engaged in religious activities prohibited by the Court? This study addresses this question through a survey in which recent high school graduates provided data on the level and types of devotional practices in their schools. The results suggest that there continues to be resistance to the Supreme Court, especially in the South, in rural and less educated communities, and in areas with higher concentrations of conservative Christians.

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Religion in the public schools has been one of the mainstays of the docket of the U.S. Supreme Court. At least since the 1940s, the justices have considered challenges to a wide array of programs that, in one way or another, mingle devotional activity with public education, and almost without exception these programs have been invalidated by the justices as violations of the First Amendment's Establishment Clause. Initially, scholars interested in this area of the justices' policymaking devoted a good deal of attention to examining compliance with the Court's school prayer

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policies. It turned out that the justices' mandates were often met with resistance, as many schools continued to read the Bible and lead students in prayer, notwithstanding the Court's clear pronouncements to the contrary (see, for example, Birkby, 1966; Dolbeare & Hammond, 1971; Muir, 1967; Way, 1968).

Of course, prayer in schools remains an issue of considerable public salience, and surveys regularly show that large numbers of Americans favor it. For example, a majority of Americans have disapproved of the Court's elimination of mandatory prayer for as long as survey researchers have polled on this question.<sup>1</sup> Not surprisingly, the issue has scarcely been on the wane; cases involving prayer in schools have continued to belabor the Court, as public schools have continued to search for creative mechanisms to permit religious exercises without offending the Establishment Clause. Judging by the Court's decisions in this area, these efforts have not been successful. Despite changes in the composition of the Court, its consistent teaching has forbidden virtually any form of devotional practice that communities have put into place.

How have public schools reacted to this stream of decisions? Do they continue to resist more recent rulings, and if so, what explains that resistance? Here I report findings from a survey of college undergraduates, most of whom attended public high schools in the South. By their accounting, not only are schools continuing to resist the Court's most recent policies, but substantial numbers of southern schools are evidently still defying rulings that are decades old. The data reveal some of the links between the level of compliance and regional social norms, external pressures within a community, and the likely attitudes of school officials.

## **The Legal Context for Compliance**

To assess the extent to which public schools comply with the Supreme Court's policies on school prayer, it will be helpful to survey the legal background against which such compliance takes place. Schools engage in a variety of activities that, in one way or another, touch upon religion, and a good many of them have been adjudicated before the justices. For the purposes of this analysis, I focus on those activities that involve the state's promotion of some type of devotional activity in its public schools. This category, therefore, includes cases of required religious exercises but excludes such issues as the expense of public funds for religious institutions or religious purposes.<sup>2</sup> Likewise, it omits instances of state-compelled

speech that is not predominantly religious in orientation.<sup>3</sup> What I generically term *school prayer* cases are those in which the state imposes or facilitates some measure of reverence from its students.

Within that general category, what sorts of policies have been forbidden by the Supreme Court? The starting point is *Engel v. Vitale* (1962). Some 15 years after the Court incorporated the Establishment Clause, the justices entered the realm of school prayer in a case that examined the constitutionality of a state-composed prayer that children were required to recite. In striking down this practice, a nearly unanimous Court concluded that “in this country it is no part of the business of government to compose official prayers for any group of the American people to recite as a part of a religious program carried on by government” (p. 425). Through this ruling, the Court set the stage for a series of related questions that were to arise in its wake.

The following year, the Court addressed the first of such questions: whether public schools, instead of requiring recited prayer, could have regular readings of the Lord’s Prayer and other selections from the Bible in which students could voluntarily participate. In this case, *Abington School District v. Schempp* (1963), the Court again concluded that by asking students to recite a prayer or by leading students in selections from scripture, the state was engaged in a religious ceremony that likewise constituted a religious establishment.

After this decision, it would be nearly 20 years before the Court decided another devotional case. In the interim, of course, the Court was preoccupied with various other Establishment issues, not the least of which was the formulation of the *Lemon* test, which would become the basis for evaluating all subsequent questions in this area of the law.<sup>4</sup> One of the prongs of that test—whether the state is pursuing a valid secular purpose—was the basis for the Court’s rejection of the posting of the Ten Commandments in school classrooms. Rather than employ this sacred text for some legitimate educational purpose, such as the study of religion or history, its use here was designed “to induce the schoolchildren to read, meditate upon, perhaps to venerate and obey, the Commandments” (*Stone v. Graham*, 1980, p. 42). Accordingly, just as the state may not direct students to pray, it may not put into place a policy that it expects will produce the same result.

As a means of avoiding such a complication, various states responded by adopting laws requiring moments of silence. Nevertheless, schools ran afoul of the Establishment Clause when those policies were implemented as a pretext for prayer. Thus, in *Wallace v. Jaffree* (1985) for example, Alabama found its daily moment of silence—which was set aside for “meditation or

voluntary prayer”—struck down because the state’s purpose was still to encourage prayer at the beginning of the school day.

More recently, as states have seemingly abandoned making religious practices a regular part of the curriculum, prayers have manifested themselves in extracurricular settings. This has not inoculated these prayers from legal challenge, however. In one such instance, *Lee v. Weisman* (1992), the justices invalidated having members of the clergy provide benedictions at high school graduations. In another instance, *Santa Fe Independent School District v. Doe* (2000), the Court struck down a scheme in which students, by ballot, authorized both invocations and the students who would deliver them prior to varsity football games. In these cases, the justices concluded that the state put into place policies that were designed to coerce students into prayer.

Taken together, the teaching of these cases indicates that virtually any state policy that promotes an expectation of religious devotion on the part of students violates the Establishment Clause. The absence of ambiguity would presumably make following the Court’s mandates a relatively simple matter. Operating against this backdrop, public schools could readily intuit that no matter what the form, school prayer was likely to be viewed with skepticism by the justices.

That these policies have continued to appear before the Court in various guises, though, also suggests that public schools have persevered in searching for ways in which religious practices can be incorporated into their educational programs. Indeed, there seems little doubt that the Court’s rulings notwithstanding, a good many religious practices continue to percolate in the public schools: Until quite recently, Louisiana permitted students to pray aloud in their classrooms, with at least one school conducting prayers over the school intercom (Firestone, 2001); in some places in Alabama, devotional activities have simply continued unabated, with “sectarian prayers . . . commonly recited over public address systems at the beginning of the day, and at athletic events, assemblies and commencement ceremonies” (Sack, 1997, p. A9); and in one Mississippi school, “[t]he school regimen had included daily prayers by students over the intercom, classroom prayers before lunch, Bible classes taught by instructors chosen by local churches and a voluntary prayer session for elementary students in the school gym at the beginning of the day” (Applebome, 1996, p. A12).

Is this indicative of a more general pattern of indifference to the Court, and if so what accounts for it? In the following sections, I sketch some likely explanations for why these policies persist and then test some of those intuitions.

## Theoretical Considerations

The implementation of public policy varies widely across different issues and institutions, and political scientists have posited a variety of factors that might explain this variation (see, for example, Goggin, Bowman, Lester, & O'Toole, 1990; Nakamura & Smallwood, 1980). In terms of the implementation of its policies, the Supreme Court is perhaps less favorably situated than other institutions; after all, it has "neither the purse nor the sword" as Hamilton famously observed. Still, the distinctiveness of the Court ought not to be exaggerated. Indeed, many of the theoretical orientations that have guided research on implementation in other institutions have been readily applied to the study of judicial policy (Canon & Johnson, 1998).

## Norms

One of the principal determinants of the implementation of judicial policy is the existence of norms that structure and guide behavior. Policy implementation requires change, and as a general matter institutional inertia tends to thwart any modification of existing behaviors (Pressman & Wildavsky, 1984). Indeed "with some organizations the pervasive nature of an organizational ethos or set of norms overrides or reshapes individuals' attitudes" (Canon & Johnson, 1998, p. 83). In a variety of contexts, institutional norms channel and constrain the behavior of policy implementers. In Congress, for example, budgetary norms affect the development of fiscal policy (Wood, 2000). Likewise, the extent to which law enforcement personnel shirk their day-to-day responsibilities are similarly affected by the reinforcing effect of a distinctive "police culture" (Brehm & Gates, 1997).

In the case of prayer in schools, nowhere is the role of cultural norms better exemplified than in the South, where religious traditions have long commingled with various facets of public life. It is not surprising, therefore, that research on reactions to the Court's earlier decisions on school prayer revealed that southern schools were the least likely to eliminate their religious exercises in response to the Court. To be sure, school prayer may have been practiced in other regions in somewhat greater numbers, but southern schools were much less likely to abandon those practices after the Court invalidated them (Birkby, 1966; Sorauf, 1976; Way, 1968). To the extent that religion becomes an institutionalized part of public education within the region, compliance with the Court's decisions would naturally be subdued. Accordingly, I anticipate that public schools in the South will be more likely to maintain religious practices.

## External Political Pressures

Leaving aside whether prayers may reflect long-standing practices, part of the reason why schools would maintain such policies is that as public institutions, they demonstrate a kind of democratic responsive to their constituents. Various publics make demands of governmental institutions, and pressures that run counter to policy mandates can thereby inhibit implementation (Mazmanian & Sabatier, 1989). In the development of various kinds of regulatory policy, for instance, affected interests have successfully sought favorable treatment in such areas as consumer protection (Meier, 1987), environmental protection (Wood & Waterman, 1991), and child support (Keiser & Soss, 1998), to name but a few. Indeed, the catalog of pressures brought to bear upon policy implementers is quite considerable (see, for example, Hedge, Scicchitano, & Metz, 1991).

In one way or another, religious interests have long sought direction over the course of public policy. Their increased organization, sophistication, and financial resources have made them increasingly prominent within American politics (see, for example, Green, Rozell, & Wilcox, 2000). Notable among religious groups are Evangelical Christians, who have mobilized in considerable numbers to lobby on all manner of public affairs (Wilcox, 2000).

The Christian Right has staked out conservative positions on numerous social issues, including prayer in schools (Green & Guth, 1988; Wilcox, 2000). Those policy stances, backed by a strong norm of political activism, are likely to convince the school districts in which they live to maintain religious practices within their public schools, even if the justices of the Supreme Court rule to the contrary. Larger concentrations of conservative Christians should thus be linked to greater levels of noncompliance.

Quite apart from the number of conservative Christians, the sheer size of the local population may have implications for compliance with the Court. At least since Madison's Federalist No.10, students of American politics have recognized that smaller populations are more homogeneous than larger ones and thus more apt to tyrannize political minorities. Drawing from Hume's observations about the oppressive tendencies of factions (Spencer, 2002), Madison (1787/2003) explained that

[t]he smaller the society, the fewer probably will be the distinct parties and interests composing it; the fewer the distinct parties and interests, the more frequently will a majority be found of the same party; and . . . the more easily will they concert and execute their plans of oppression. Extend the

sphere, and you take in a greater variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens.

The size of the local community has particular relevance for noncompliance with church–state doctrine. Not only do larger communities promote greater ideological and religious pluralism (Way, 1968), living in close proximity to other citizens accentuates their differences, thereby increasing political awareness and ideological conflict (Aistrup, 2004). Moreover, cities are more likely to facilitate oversight; they typically have institutionalized means for channeling and responding to the complaints of parents who oppose religion in the schools (Dolbeare & Hammond, 1971).

Thus, a larger, more densely populated environment should create competition among religious and secular interests and likewise make it easier for various religious (or irreligious) minorities to voice their concerns. Such conditions should increase pressures for compliance. A smaller, more widely dispersed polity, by contrast, should beget religious hegemony, inasmuch as rural areas are more homogeneous and typically lack administrative mechanisms for various minorities that oppose school prayer to gain a political foothold. Accordingly, I expect the size of the local population to affect noncompliance; smaller communities should encourage religious activities in the schools, whereas larger ones should decrease such pressure.

Local pressures are apt to vary with other demographic factors, and one of the most likely candidates is education. Higher levels of education within a community often generate challenges to long-held traditions, including prayer in schools (Way, 1968), and of course education generally correlates with social liberalism (Golebiowska, 1995), which likely includes a disposition against state-sponsored religious activities. One would expect, therefore, that better educated communities would press their educational institutions to limit the role of religious activities.

Of course, political conservatism might also figure in a community's calculus regarding school prayer. Conservatives generally endorse inculcating traditional religious values in public education (Elifson & Hadaway, 1985), so it is likely that schools will also make decisions in light of local ideology. The higher the local concentration of conservatives, the greater the pressure there will be to disregard the Court and to institute religious exercises of one kind or another.

In addition to the characteristics of the local community, the demographic composition of the school itself may have implications for compliance with the Court's decisions. Exposure to diversity, for example, has

traditionally been linked to tolerance of minority views and support for civil liberties (Stouffer, 1955). Thus, a diverse study body should create an environment that is supportive of the rights of outsiders and likewise less receptive to religious indoctrination through the public school curriculum.

### **Attitudes of Implementers**

The levels of enthusiasm for any public policy are likely to affect the extent to which it is implemented. Key actors who are responsible for giving force to laws, regulations, and rulings often respond to policies on the basis of their attitudes (Edwards, 1980; Moe, 1982). Implementers who are favorably disposed to a policy will seek to give it its fullest force, whereas those who oppose it will engage in delay, obfuscation, or other foot-dragging strategies. At the same time, policy implementers can speed the development of rules when they personally identify with their agency's goals (Meier, 1987).

Positing this connection, researchers have shown, for example, that law enforcement is lax when personnel dislike specific responsibilities (Brehm & Gates, 1993). At the federal level, resistance from environmental officials has slowed—or even reversed—the effects of major shifts in policy (Wood, 1988). Scholars of judicial policy have had little difficulty documenting similar linkages. Glaring examples of Supreme Court mandates, such as rulings on school desegregation, criminal procedure, and administrative law, have been ignored or at least weakened because those responsible for putting judicial policies into effect were opposed to those decisions (Rosenberg, 1991; Spriggs, 1997; White, 2003). For their part, judges who are, in theory, bound by the doctrine of the U.S. Supreme Court systematically seek to evade giving force to the Court's policies with which they disagree (Songer, Segal, & Cameron, 1994). In short, there seems little doubt that if implementing populations disagree with their principal's policies, they will hinder the effectiveness of those policies.

On an issue as salient as religion in the public schools, there are doubtless strong views within various schools and their personnel. Indeed, the attitudes of implementers conditioned how schools responded to the Court's earliest rulings on this issue (Dolbeare & Hammond, 1971; Sorauf, 1976). The notion of a Court that is physically distant and whose policies may be imposed with little sensitivity to local concerns can be greeted with opposition by those who wish to maintain their devotional activities. Accordingly, I expect that the level of support for school prayer among public school officials will be tied to the level of compliance with the Court's decisions.

## Analysis

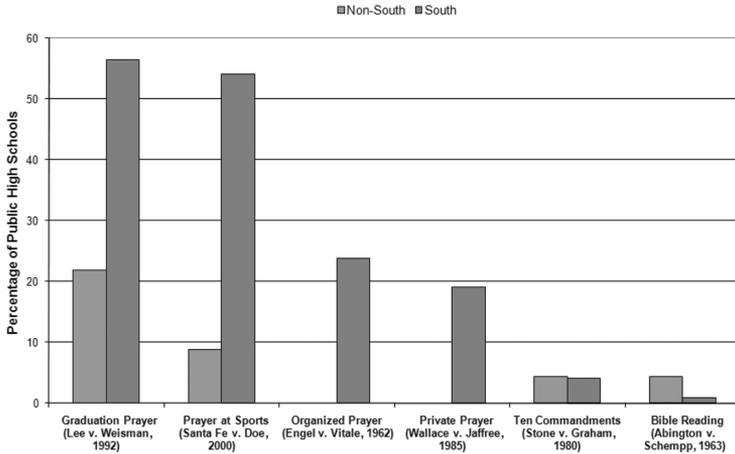
The best means by which to evaluate the level of religious activity in public schools is not immediately obvious. One established method has been to survey the implementers of policy, asking teachers, principals, and other personnel in the public schools about the extent of their devotional practices. Given that such surveys are inquiring about practices that may be illegal, a potential drawback to this approach is resistance or a possible lack of candor from the respondents.<sup>5</sup>

To overcome such problems for this analysis, I made use of an alternative method: surveying a sample of college students, asking them to serve as informants regarding the various forms of religious activities that took place within their public schools. (Because I was particularly interested in measuring some devotional activities that are apt to occur only at the secondary level—blessings offered at graduation exercises or prayers at sporting events, for example—I focused my attention on compliance within high schools.) Conducted in February of 2004, the survey presented each respondent with a list of devotional activities that have been prohibited by the Supreme Court and asked which of them, if any, regularly took place within the school when he or she was a student. By this method, I was able to extract information about individual schools and their particular practices without making inquiries from those who may be responsible for establishing and maintaining such activities.<sup>6</sup>

To facilitate the data collection, I made use of a participant pool of undergraduate students that is regularly made available through the Department of Political Science at the University of North Carolina at Chapel Hill.<sup>7</sup> The usual cautions regarding the use of college students for research obviously apply here, but in this context my substantive research question produces some additional—and potentially frustrating—consequences. To begin with, the sample is nonrandom. Because this method does not permit me to survey individuals who are not attending college, the sample no doubt overrepresents larger and more affluent communities whose students disproportionately attend college. Similarly, the sample is restricted in terms of geography; most of the public high schools on which the survey provided data (79%) were located in North Carolina. This concentration notwithstanding, there is actually a good deal of regional variation in the location of the remaining schools in the sample.<sup>8</sup>

At the same time, these data do offer some distinct analytic advantages. Among other things, they provide information on a relatively large number

**Figure 1**  
**Noncompliance With Selected School Prayer Decisions**



of southern schools, a group that might otherwise be underrepresented in a sample of this size. Moreover, in light of the historical prevalence of devotional activities in public schools in the South, it is beneficial to have a larger number of observations for the population that one would naturally target when looking for signs of noncompliance.<sup>9</sup>

Some 252 students participated in this study. Of that number, 209 respondents were educated at 145 unique public schools. These data for those individual schools serve as the basis for the analysis that follows.<sup>10</sup>

## Measuring Noncompliance

As a preliminary matter, it is useful simply to examine the overall frequency of faithful implementation of the Court's various rulings on school prayer. To survey the extent to which public high schools adhere to the Court's mandates, I present in Figure 1 the percentage of schools in which the several prohibited activities still persist. Because the South has so frequently figured in descriptive assessments of school prayer, I highlight its relevance here as well, distinguishing between southern and nonsouthern schools.<sup>11</sup> These data reveal that there is a good deal of variation in noncompliance, not only between regions but also between types of religious activity.

Regular readings from the Bible were banned by the Court over 40 years ago. So it is scarcely surprising that virtually no schools still adhere to the practice.<sup>12</sup> Similarly small numbers of schools post the Ten Commandments. The ban on organized prayer—the Court’s longest standing policy on devotional activities in public schools—is fully enforced, at least outside the South. Almost one quarter of southern students, though, report that these prayers remain a regular part of their education, despite the Court’s long-established policy to the contrary.

Besides prayer that is actively organized, time for private worship is also afforded to students by a good many public schools in the South. Of course, following the decision in *Wallace v. Jaffree* (1985), a number of states set about permitting moments of silence that were devoid of any religious connotation, policies that have subsequently been upheld in lower courts (Masters, 2001). For that reason, respondents were asked to distinguish both moments of silence and time for private prayer in their schools. (Even if respondents conflated the two items—and it is not clear that they did—the stark differences between the South, where almost 20% have generic moments of silence, and elsewhere, where no such practices were reported, would suggest that the current moment of silence laws are not motivated by secular concerns.)

The two most recent rulings are the most widely disobeyed.<sup>13</sup> More than half of the southern schools in the sample still observe the practice of offering invocations for their graduates at commencement. A majority of the southern schools also offer prayers of some type at their sporting events. Even schools outside the South are more prone to these forms of resistance to the Court. Roughly 10% offer prayers during athletics and over 20% follow the tradition of offering a blessing for their graduating classes.

Overall, southern schools clearly outpace their peers in their resistance to the Supreme Court. To the extent that these data might reflect more general trends, they indicate that in at least some noteworthy respects many if not most public high schools in the South may be ignoring some of the justices’ rulings in the area of prayer in schools. At the same time, a good degree of noncompliance with the justices’ decisions is also present elsewhere. What accounts for this behavior?

## Explanatory Models

To develop a systematic examination of compliance with the Court, I construct a series of predictive models in which to play out the various theoretical notions concerning the norms, pressures, and attitudes that

**Table 1**  
**Explanatory Models of Noncompliance With School Prayer Decisions**

Variable	Norms Model	Pressures Model	Attitudes Model	Full Model
	(1)	(2)	(3)	(4)
Geographic latitude of school	-0.12 *** (0.03)	—	—	-0.094** (0.033)
Evangelicals	—	2.00** (0.78)	—	1.46* (0.80)
Population density	—	-0.15** (0.05)	—	-0.17 ** (0.06)
Evangelicals × population density	—	0.21 ** (0.09)	—	0.21 ** (0.11)
Level of education	—	-0.018** (0.007)	—	-0.018** (0.006)
Political conservatism of community	—	0.012 (0.008)	—	0.008 (0.008)
Diversity of school	—	-0.09 (0.46)	—	-0.38 (0.50)
Number of teachers	—	—	-0.63* (0.26)	0.13 (0.26)
Ratio of students to teachers	—	—	0.005 (0.016)	0.020 (0.018)
Constant	4.58 (1.19)	-1.13 (0.62)	0.77 (0.37)	2.35 (1.39)
Wald chi <sup>2</sup>	12.70***	45.46***	6.53*	43.77***
Pseudo R <sup>2</sup>	.03	.13	.02	.14

Note:  $N = 145$ ; results are for event-count models with robust standard errors where the dependent variable is the number of school policies that violate the Supreme Court's rulings on school prayer; numbers in parentheses are standard errors.

\* $p < .05$ . \*\* $p < .01$ . \*\*\* $p < .001$ , one-tailed test.

comprise the context in which local schools respond to the justices' policies. In these models, I examine the intensity of noncompliance by a simple sum of the total number of rulings that are not followed within a school. This variable can range from 0 (compliance with all of the Court's school prayer rulings) to 6 (compliance with none of the six rulings). Although by this count the modal category is 0, fully 66% of the schools provided evidence of one or more failures to follow the Court's lead, and 40% reported at least two prohibited devotional activities. Given the

nature of this dependent variable, an event count model is appropriate, and I employ that analytic technique throughout the analysis.<sup>14</sup> The results are reported in Table 1.<sup>15</sup>

To assess the impact of local norms on noncompliance, I begin by confirming what the data in Figure 1 clearly seem to indicate, that the degree of resistance to the Court is regionally dependent. The results, labeled as the Norms Model in the first column of Table 1, illustrate this linkage. To enhance the analysis, I model noncompliance as a function of geographic latitude, rather than through a South versus non-South dummy variable. Measuring just how far south a school is located has intuitive appeal; after all, a school in South Carolina probably differs substantially from a school in Northern Virginia in terms of its dispositions toward school prayer. Because latitude decreases in a southerly direction, the negative coefficient confirms that the further south a school is located, the more recalcitrant it will be when it comes to adhering to the Court's mandates on school prayer.<sup>16</sup> By these results, there is strong evidence for the existence of a regional norm.

As an alternative, I test for the impact of community pressures. Although the respondents were not in a position to provide reliable demographic data that might reflect the characteristics of their communities, they did report both the names and locations of their schools, and this information facilitates gathering useful indicators contained in the records of the U.S. Census and related data sources.

One such indicator is the concentration of the Christian Right. Indeed, at the national level, the issue of school prayer has been one on which Evangelicals have lobbied quite extensively in Congress (Hertzke, 1988). Although the U.S. Census does not collect data on religious affiliation, at least one data source provides a relatively recent and comprehensive survey of religious affiliation, if only by county, and census data can be readily employed to match individual communities with their respective counties within a state.<sup>17</sup> Calculating Evangelicals as a percentage of a county's total number of adherents to any Judeo-Christian faith, I have a rough gauge of the level of community pressure that a school is likely to face from its conservative Christians to maintain devotional exercises in the public schools.

Taken by itself, religious conservatism may affect noncompliance, but its impact may well be conditioned by the context in which it exists. The effect of a high concentration of Evangelicals should be magnified in more remote, sparsely populated areas, where like-minded communities can readily apply religious pressures without fear of running afoul of competing secular interests. Conversely, where large numbers of Evangelicals are

concentrated alongside the manifold interests of their nearby neighbors—in places such as Charlotte, North Carolina, and Richmond, Virginia, for example—their effects may be muted, inasmuch as it is an environment in which opposing factions, even if they are in the minority, can more readily organize, apply greater scrutiny, and counter religious goals.

On its own, of course, higher population density should tend to tamp down noncompliance, as proximity more readily draws competing interests into conflict. But to test whether density (or, rather, the lack of it) exacerbates the impact of religious conservatism, I include an interaction between population density and the concentration of Evangelicals. I measure population density as the number of residents per square mile,<sup>18</sup> but to more easily interpret the interaction, I center this variable, so that it is measured in positive and negative deviations from its mean.

Educational attainment is captured by the Census's percentage of local residents with a bachelor's degree. The expectation here is straightforward; better educated communities will be more supportive of civil liberties and therefore counteract the dispositions that schools might have to introduce or maintain religious exercises.

To measure political conservatism, I employ the percentage of the two-party vote in each county that was cast in favor of George Bush in the presidential election of 2000.<sup>19</sup> Inasmuch as the candidates in a presidential election are constant across the states, this variable serves as a plausible indicator of where a community places itself along the ideological divide.

Finally, to assess the pressures against prayer that are likely to emanate from a diverse community, I calculate each school's degree of racial and ethnic diversity. This index—which, as a technical matter, is simply the probability that two randomly chosen people will differ along one or more measured characteristics—is widely used to assess the diversity of educational institutions (Meyer & McIntosh, 1992).<sup>20</sup>

The estimated effects of these various measures of community context are presented in the second column of Table 1, labeled as the Pressures Model. Most of the estimates are significant and together do a better job of accounting for noncompliance than the previous equation, which modeled noncompliance as a function of the regional norms of the South. Taken together, these estimates confirm that community pressures exercise an important influence on the intensity of religious activities in the local schools.

The estimates for both Evangelicals and population density are statistically significant and in the expected direction. Interpreting interactive

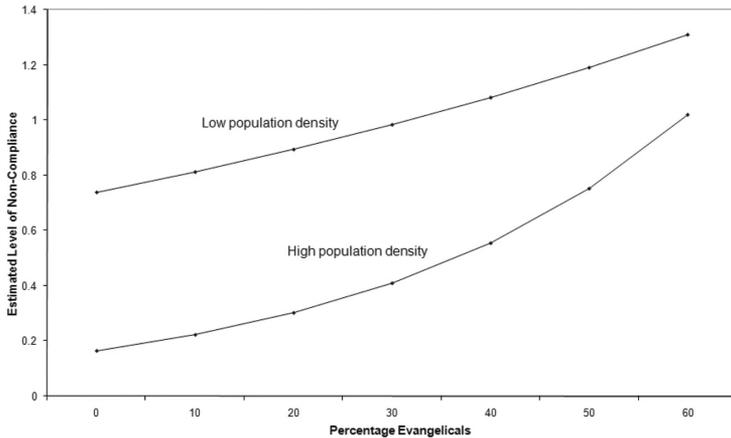
effects, however, is perennially problematic; once an interaction is introduced into an equation, it is no longer possible to discuss the independent impact of the variables, because their interaction makes each of their effects conditional on the values of the other. Centering one of the variables about its mean helps to reduce potential confusion. By holding the variable—in this case, population density—constant at its centered mean (i.e., zero), both the centered variable and interaction drop out of the equation and thereby allow the analyst to assess the impact of the other variable.

Thus, the significant coefficient for Evangelicals can be interpreted straightforwardly as the impact of religious conservatism, holding population density at its mean. By this accounting, as the concentration of Evangelicals increases, so too does noncompliance with the Court's school prayer rulings. How much substantive impact do Evangelicals exert? In event-count models, the coefficients do not have an intuitive meaning.<sup>21</sup> One way to illustrate their impact, however, is to generate predictions of the amount of noncompliance for schools facing different levels of conservative Christians, while holding all other variables at their means. The results of this exercise show that in a county where Evangelicals constitute only 20% of the faithful, one would expect to see strong compliance, with schools ignoring less than one (0.52) Supreme Court ruling. Where Evangelicals comprise half of all church-goers, however, the local schools are likely to be circumventing about one (0.95) school prayer decision; nearly two (1.72), where the level of Evangelicals reaches 80%.

Adding population density to the mix reveals a more complex relationship. Here again the estimated effects are instructive. Presented in Figure 2, they confirm that increases in the number of conservative Christians lead to a larger number of religious practices in the public schools, regardless of whether those schools are located among scattered or concentrated populations. More significantly, these estimates verify that as expected, Evangelicals bring about substantially more pressure in smaller, more sparsely populated communities.

Where residents are diffused throughout the community, Evangelicals need constitute as little as 20% of the religious population to generate slightly less than one (.89) prohibited religious exercise in the local schools. By contrast, when residents live side-by-side in more populous areas, that same level of religious conservatism can produce only .30 of a religious activity. Even at 40%, Evangelicals still produce twice as much school prayer in rural areas as they do in urban centers (1.08 and 0.55, respectively). To be sure, the religious Right can have a sizable impact in densely populated areas, but they require substantially greater numbers to

**Figure 2**  
**Impact of Evangelicals and Population Density on Noncompliance**



Note: Low and high density are defined, respectively, as 500 persons/square mile below or above the mean population density of 969 persons/square mile.

offset the effects of varied and competing interests living in close proximity to one another. Stated differently, population tamps down the impact of conservative Christians, especially where there are relatively few of them.

In addition to the combined effect of Evangelicals and population density, education emerges as a significant predictor in the local political preferences model. Inasmuch as they tend to be less supportive of minority rights, communities that are less educated create an environment that is receptive to religious activities within these schools. Likewise, the level of political conservatism among local residents is substantively relevant, though just below the standard level of statistical significance: The farther to the right a community is, the greater its support for school prayer, which in turn translates into greater noncompliance.

In this model of school prayer, only the diversity of the school fails to make a meaningful explanatory contribution. By these lights, constitutionally questionable religious practices are not deterred by students and parents of disparate backgrounds.<sup>22</sup> Of course, the impact of this variable is likely offset by other measures in the model, such as education level and population density, which are often correlates of a diverse population (see, for example, Gray & Lowery, 1993; Sullivan, 1973).

What role do the preferences of the implementing population play? Unfortunately, because the survey data are derived from students rather than teachers or administrators, there are no direct measures of the attitudes of school personnel. Still, the available data do afford a basis for generating at least some proxies of their probable dispositions. For example, the U.S. Department of Education's Public Elementary/Secondary School Universe Data provide information on the number of teachers in a school. Extending the Madisonian rationale, one might reckon that smaller numbers of teachers are likely to be homogeneous in their attitudes and interests. Of course, that does not necessarily mean that a smaller faculty is keener to have religious activities than the teachers who are part of a larger group of instructors, but a smaller faculty does create the circumstances that are favorable for such practices to take root and blossom.

Also contained in the federal government's school survey data are student-to-faculty ratios. Class size has been extensively studied, and quite a lot is known about what it is likely to reflect (Glass, Cahen, Smith, & Filby, 1982). Among other things, teachers undergo a system of self-sorting, whereby more capable and qualified teachers seek better career opportunities, which results in their placement into better schools with reduced class sizes (Lankford, Loeb, & Wyckoff, 2002). At a minimum, therefore, schools with higher student-to-faculty ratios are likely to have teachers who are less aware of the Court and less able to appreciate the subtleties of legal doctrine, all else being equal. Again, one cannot assume *a priori* that such teachers are more sympathetic to the goals of religious accommodation in the classroom, but they are certainly less likely to comprehend the Court's various prohibitions. Thus, to whatever degree teachers are inclined to promote religious practices, they are more likely to act on those inclinations in an environment where the legal implications of those practices are unclear.

The estimates for these variables are reported in the Attitudes Model of Table 1. As expected, decreases in the size of a school's faculty increase the level of noncompliance with the Court. A smaller faculty—and thus one likely to have shared attitudes—makes noncompliance more likely. At the same time, however, schools with larger classes—and with, by implication, less capable instructors—are no more prone to prayer than are the schools with faculty who better appreciate the Court's mandates. To the extent that these measures tap into the orientations and preferences of teachers, they provide at least some confirmation that the dispositions of those who actually implement the Court's school prayer rulings have a hand in determining how vigorously implementation will be pursued.

Telling as these individual models are, they do not reveal the relative effects of norms, community pressures, and the attitudes of implementers. How do these various explanations fare when tested against one another? To answer this question, I estimated the Full Model, which includes each of these various predictors, and I present their effects in Table 1's Equation 4.

When these alternative sets of explanations are permitted to compete, two of the three maintain their statistical influence. The traditions of the South continue to explain noncompliance with the Court, and the various social forces that exist within local communities also help to account for the presence of prayer in the public schools. By contrast, the preferences of school personnel—or, at least, the proxies drawn from available data—have no empirical bearing on a school's questionable religious practices.

It is scarcely a wonder that the regional norms of the South continue to exercise a significant impact; after all, southern states have long resisted the justices' mandates on church–state relations (Way, 1968), and legal challenges to school prayer have often emanated from places such as Alabama (*Wallace v. Jaffree*, 1985), Kentucky (*Stone v. Graham*, 1980), and Texas (*Santa Fe Independent School District v. Doe*, 2000). Although the estimate remains significant in the multivariate model, the magnitude of the South's effect is attenuated by other variables in the equation. Still, the farther into the South one travels, the more likely one is to find religious practices in the public schools.

The measures of community pressure also maintain their predictive force. The combined effects of Evangelicals and population density remain significant, and the education level of the local population continues to explain why some public schools do not comply with the Court's mandates. As in the preceding model, however, racial and ethnic diversity within a school still has no bearing on the persistence of banned religious practices, and the level of political conservatism, which was previously at the margin of statistical significance, is now rendered irrelevant.

Taken by themselves, the attitudes of school personnel may determine whether the Court's rulings will be carried out, but viewed in conjunction with regional norms and community pressures, they, in fact, reveal no connection to school prayer. That does not mean, of course, that teachers individually do not conduct religious exercises in their classrooms; teachers who support prayer in schools may be initiating their own devotional activities, even if a school has not institutionalized such practices. Leaving aside such individual variation, the indicators of faculty preferences, though useful, are not as direct as one might prefer. A survey of school personnel, as opposed to students, could well reveal a much different picture.

In sum, I hypothesized that the strong religious traditions of the South would contribute to noncompliance and that various community pressures—those wrought by Evangelicals to inject prayer in school and those created by large, diverse, and educated communities to resist it—would likewise affect the relationship between religion and public education. In addition, the attitudes of school personnel, which might variously increase or decrease compliance, were also tested, albeit less directly.

The analysis revealed that southern schools continue to show a markedly higher degree of defiance of the Court. In this region of the country, where translating judicial will into public action has always proven to be problematic, there remains a significantly greater degree of resistance to these generally unpopular pronouncements of the Court. So, regardless of other contextual factors, these schools evince their historical obstinacy when it comes to following the Supreme Court. At the same time, various community forces work to either encourage or discourage religious practices. Higher concentrations of the Christian Right—especially in sparsely populated areas where residents are more likely to share a common cultural outlook, less likely to consider the rights of political minorities, and less likely to foment opposition to prayer—minimize any reluctance to keep devotional activities in their local schools. The concerns over minority rights, however, are heightened in well-educated areas, thereby reducing the incidence of noncompliance.

## Conclusions

Some 40 years after the Supreme Court first considered the question of religious activities in the schools, devotional exercises, in one form or another, seem to continue. Although the justices have invalidated numerous programs of public prayer, their decisions seem scarcely to have been fully implemented. School prayers, whether organized and led by educators or encouraged by setting aside time for private worship, appear in a substantial number of schools.

Of course, no decision of the Court can expect full and faithful implementation. There are numerous examples of decisions that are rejected, either by political elites or the public at large. Although it is difficult to know how compliance in the case of school prayer compares to other areas of the Court's policymaking, it would surely be unrealistic to expect all religious activities to have ceased within the schools.

At the same time, when viewed against earlier findings on the impact of the Court's first decisions on religion in the schools, the levels of non-compliance documented here are quite stark. Even 10 years after the Court struck down prayer at high school commencements, for example, a good many public schools in this sample still adhere to the practice, and 40 years after the fact, organized prayer is still reported to a sizable degree. Moreover, these data are from public schools whose graduates go on to college. There seems little doubt that the public schools that do not regularly produce collegiate timber are systematically different from those that do. If these schools are smaller, more rural, and concentrated in the South, then the rate of devotional activities documented here is surely an underestimate. So, not only is there a considerable number of schools that are ignoring the Court, there are probably a good many more. Seen in this way, the resistance to the Court's policies seems substantial indeed.

Certainly, these data suggest that a more extended exploration of this subject will generate substantial insights. This initial look at the implementation of school prayer decisions is the first of several planned components of a larger study, the next stage of which is a national survey of high school principals, which will gather more particular information about individual public schools and the attitudes of its administrators. By this means, I hope to develop a more detailed portrait of how schools react to the Court.

What the findings presented here surely indicate is that there remains a gap between the pronouncements of the Supreme Court and the practices of individual schools. Understanding how wide that gap is and why requires further investigation. But, the steady level of popular support for religion in the schools—and the search by various local schools for innovative ways to encourage or permit religious practices—will continue to generate conflicts in the Court and thereby assure that this subject will remain fertile ground for scholarly exploration.

## Notes

1. See, for example, the General Social Survey, reported in Table 8–23, Epstein, Segal, Spaeth, and Walker (1996).

2. See, for example, *Everson v. Board of Education* (1947), *Rosenberger v. University of Virginia* (1995), *Zelman v. Simmons-Harris* (2002).

3. See, for example, *West Virginia State Board of Education v. Barnette* (1943).

4. See *Lemon v. Kurtzman* (1971). Although it has since been much criticized by various justices, it remains the foundation for the Court's Establishment Clause jurisprudence.

5. Of course, one ought not to overstate this potential problem, given that school personnel may be unaware of the Court's rulings or may not perceive any problems with their religious practices, even if they are knowledgeable about such decisions. As Dolbear and Hammond (1971) explained regarding the success of their interviews of school personnel, "The candor of almost all interviewees not only convinced us of the authenticity of their remarks but also provided us with a major theme of this report: no one had anything to hide because hardly anyone judged that his community was doing anything illegal" (p.157).

6. The text of the survey, along with a replication data set, is available at <http://www.unc.edu/~kmcguire/data.html>.

7. Each semester, the students in a large section of an introductory course in American politics are required to participate as research subjects in one of several different research projects that are undertaken by faculty and graduate students within the political science department. Students may elect to write a paper in lieu of participating in the subject pool, but this is a temptation that virtually all students seem to be able to resist.

8. Specifically, the data contain public high schools from the following states: Pennsylvania (5%), Maryland (3%), New York (3%), South Carolina (2%), Florida (1%), Illinois (1%), Massachusetts (1%), New Jersey (1%), Texas (1%), Vermont (1%), Virginia (1%), and Washington (1%).

9. Although North Carolina schools dominate the data set, the results that are reported below can generally be obtained by either excluding that state's schools from the analysis or including a variable that measures any of its potential idiosyncrasies.

10. In several cases, there were multiple students who reported attending the same school. (There were, for example, a handful of students who attended the same high school in Charlotte, which is not surprising given that Charlotte is North Carolina's largest city.) Because my unit of analysis is the individual school, not the individual student, it was necessary to aggregate those students into a single observation. In a small number of those cases, there were minor discrepancies in the forms of devotional activity that they reported. In those cases, if any student reported any form of noncompliant behavior, I coded it as having taken place within that school. There is no reason to think that these discrepancies are causing a systematic bias one way or the other, and even if they did create a bias, these cases could be excluded from the data without affecting the results.

11. Although scholars sometimes define the South in slightly different ways, I employ the standard classification, which identifies the South as the secessionist states of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia. This designation has long been employed in survey research, most notably in the American National Election Study (ANES).

12. In fact, only two respondents—one whose high school was in the South and another whose high school was in the North—reported this activity. Ironically, another of the respondents in the sample attended Abington Senior High School, the same Pennsylvania school whose Bible readings gave rise to the *Schempp* case. This student reported that Bible readings did not take place at the school—nor did any other religious activity, for that matter.

13. Note that the 5-year time lag between the Court's most recent ruling in 2000 and the survey in 2004 is sufficient to ensure that respondents would have been attending potentially noncompliant schools. That is, they would have been in high school after the Court's decision.

14. There are, of course, other ways to model noncompliance. One might, for example, measure noncompliance through a series of models that predict deviation from each of the

individual rulings, but the insufficient variance in several of these variables renders this approach impractical. One might also simply predict the presence or absence of noncompliance with any of the Court's rulings. For the purpose of this analysis, however, I am interested in estimating the intensity of noncompliance, not its mere presence. However these alternative models are specified, their results are highly consistent with the inferences produced by this analysis.

15. Owing to the possibility of overdispersion in the data, each of the models in Table 1 were reestimated using negative binomial regression, and the results were virtually identical. A copy of these results is available from the author.

16. Of course, latitude alone does not denote Southernness, inasmuch as some states (Arizona and New Mexico, for example) are southern only in a geographic sense, not in a political sense. This, it turns out, is not a concern in these data, because only one school in the data—a high school in Washington state—is located west of Texas.

17. These data are located in the American Religion Data Archive (ARDA) at Pennsylvania State University. The specific data file I employ is “Churches and Church Membership in the United States, 1990,” a study funded by the Lily Endowment and conducted by the Church Growth Research Center, Church of the Nazarene, Kansas City, Missouri. The data archive maintains extensive background information on various religious families, and I rely upon their designation when coding which denominations qualify as Evangelicals.

18. County population estimates are taken from U.S. Census data. As the measure of Evangelicals was derived from a sample of 1990 data, I employ figures from the 1990 Census. In all of the analyses, however, one could easily substitute data from the 2000 Census and derive nearly identical coefficients.

19. These data were obtained from the *CQ Voting and Elections Collection*, an electronic resource that is a part of the *CQ Electronic Library*.

20. This variable is calculated as 1 minus the sum of the squared percentages of students from each of the following categories: Native American, Asian, Hispanic, White, and African American. These data are reported in the Public Elementary/Secondary School Universe Survey Data at the U.S. Department of Education's Web site.

21. Technically, the estimated effect is the exponential function of the product of the coefficient and the value of that independent variable.

22. The diversity index can also be calculated for the religious orientations within the county. On its own, this index is a statistically significant predictor of noncompliance. Greater religious pluralism, as one would expect, reduces noncompliance with the Court. Allowing this variable to compete with the concentration of Evangelicals in a multivariate model, however, eliminates its effects.

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**Kevin T. McGuire** is professor of political science at the University of North Carolina at Chapel Hill. He is the author of *Understanding the U.S. Supreme Court* and *The Supreme Court Bar*. His research on the U.S. Supreme Court has appeared in a variety of journals, including the *American Political Science Review*, the *American Journal of Political Science*, and the *Journal of Politics*.