

Rabbi Pamela Barmash  
S.A., Y.D. 357:1.2018

### *Military Cemeteries and Military Funerals*

**This teshuvah was passed on October 16, 2018, with a vote of twenty-one in favor, none in opposition, and none abstained.** Voting in favor: Rabbis Aaron Alexander, Pamela Barmash, David Booth, Elliot Dorff, Baruch Frydman-Kohl, Susan Grossman, Reuven Hammer, Joshua Heller, David Hoffman, Jeremy Kalmanofsky, Jane Kanarek, Steven Kane, Gail Labovitz, Amy Levin, Jonathan Lubliner, Daniel Nevins, Micah Peltz, Robert Scheinberg, Deborah Silver, Iscah Waldman, and Ellen Wolintz-Fields.

שאלה

May Jews be buried in a multi-denominational military cemetery, and may military funeral rituals be conducted in a Jewish cemetery?

תשובה

In war and in peace, on land and on sea, [Jewish soldiers and sailors] do their duty faithfully, efficiently, and courageously.

-- Congressman William Sulzer, 1909<sup>1</sup>

Here, before us lie the bodies of comrades and friends. Men who until yesterday or last week laughed with us, joked with us, trained with us. Men who were on the same ships with us, and went over the sides with us as we prepared to hit the beaches of this island. Men who fought with us and feared with us. Somewhere in this plot of ground there may lie the man who could have discovered the cure for cancer. Under one of these Christian crosses, or beneath a Jewish Star of David, there may rest now a man who was destined to be a great prophet --- to find the way, perhaps, for all to live in plenty, with poverty and hardship for none. Now they lie here silently in this sacred soil, and we gather to consecrate this earth in their memory.

-- Chaplain Roland B. Gittelsohn at the Dedication of the 5th Marine Division Cemetery on Iwo Jima, 21 March 1945<sup>2</sup>

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*The Committee on Jewish Law and Standards of the Rabbinical Assembly provides guidance in matters of halakhah for the Conservative movement. The individual rabbi, however, is the authority for the interpretation and application of all matters of halakhah.*

<sup>1</sup>Quoted in Rabbi Albert Isaac Slomovitz, *The Fighting Rabbis* (New York: New York University Press, 1999), 32.

<sup>2</sup><<http://collections.americanjewisharchives.org/sc/sc03944/sc03944.pdf>>

For many Jewish military service-members and veterans, their military service has been an important part of their identity, and they want it esteemed and valued. Military protocol provides for a number of military rituals at the funerals of service-members and veterans. We are well aware as Jews that our burial practices and rituals communicate what we deem important. It has become the custom among Jews to establish Jewish cemeteries and to be buried there. Permitting military funeral rituals at Jewish cemeteries and making an exception to permit Jewish burial in national military cemeteries reflects our respect for the dedication and sacrifice of Jewish service-members and veterans: it is a special instance of כבוד המת, respect for the dead.<sup>3</sup>

### *Burial in a Military Cemetery*

May Jews be buried in military cemeteries that are multi-denominational? In the modern State of Israel, there are Jewish military cemeteries. Outside of Israel though, almost all military cemeteries are multi-denominational, and of the handful of military cemeteries that are reserved for Jews, almost none are currently open for burials.<sup>4</sup> Therefore, we must address whether Jews may be buried in multi-denominational military cemeteries.

Previous responsa of the CJLS have addressed questions that partly overlap the questions addressed in this teshuvah:

1) Whether it is permitted to establish a Jewish cemetery in a larger complex of a non-Jewish cemetery and whether the interment of non-Jewish spouses and children would vitiate the sanctity of the Jewish cemetery. In “A Matter of Grave Concern: A Question of Mixed Burial,” approved in 1991, Rabbi Ben Zion Bergman ruled that the Jewish community and its designated representatives must be vested with absolute control over the religious administration of the Jewish section, that the interment of non-Jewish spouses and children does not vitiate the Jewish

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<sup>3</sup>For a history of Jewish participation and attitudes toward military service in the modern period, see Derek J. Penslar, *Jews and the Military: A History* (Princeton: Princeton University Press, 2013).

<sup>4</sup>In the United States, there is the Hebrew Confederate cemetery on Shockoe Hill in Richmond, Virginia, which is located within a larger Jewish cemetery, maintained by Congregation Beth Ahavah, the fifth oldest congregation in the United States: thirty Jewish soldiers were buried there during the Civil War. See <<https://bethahabah.org/heritage/hebrew-cemetery/#>>. Lincoln Park Cemetery, a Jewish cemetery in Rhode Island, has a section for veterans. The Jewish cemetery in Weißensee, Germany has a section dedicated for Jewish soldiers of the German Army who fell in World War I. The Sevastopol Jewish Military Cemetery in Crimea, dedicated to 500 Jewish soldiers in the Tsarist military who perished during the Crimean War, was once a stand-alone cemetery but has since been incorporated in a larger Jewish cemetery. (See Yohanan Petrovsky-Shtern, *Jews in the Russian Army, 1827-1917: Drafted Into Modernity* [Cambridge: Cambridge University Press, 2009], 158-159).

The practice of establishing reserved sections for certain categories of individuals is prohibited at all Veteran Affairs National Cemeteries and grant funded State Veteran Cemeteries. The US Department of Veterans Affairs no longer allows apportioning sections of a cemetery to Jewish veterans. There are limited burial sites available in the already established Jewish sections at the Cheltenham and Crownsville Veterans Cemeteries, Maryland. The Garrison Forest Veterans Cemetery, Maryland, has an established section but no longer has availability.

character of the cemetery or its sanctity, and that no barrier separating Jewish and non-Jewish burial need be set up within a Jewish cemetery;<sup>5</sup>

2) Whether body parts from Jews and non-Jews killed in a calamity that are mixed together and cannot be separated may be buried in a Jewish cemetery. In “Peaceful Paths: Burial of Non-Jews in a Jewish Cemetery Following a Common Disaster,” approved in 1994, Rabbi Myron Geller ruled that the body parts may be buried together in a Jewish cemetery;<sup>6</sup>

3) Whether non-Jewish spouses and children may be buried in a Jewish cemetery. In “Burial of a Non-Jewish Spouse and Children,” approved in 2010, Rabbi Kassel Abelson and Rabbi Loel M. Weiss ruled a “mixed burial” section in Jewish cemeteries, where non-Jewish spouses and children may be buried alongside Jews, should be separated from the rest of the cemetery by a path, a road or a sidewalk.<sup>7</sup>

The special case of the burial of a Jewish service-member or veteran in a multi-denominational military cemetery has not been addressed, and differences between Jewish burial practices and military protocols may pose challenges.

In the time of the Bible, ancient Israelites were buried in a place owned by the family of the deceased and reserved for the members of a family lineage. Cemeteries for communities and multiple family lineages began to be established in rabbinic times, and the historical circumstances of this development are obscure.<sup>8</sup>

The general principle that shapes our burial customs is כבוד המת, “respect for the deceased”.<sup>9</sup> It is the reason why autopsies are forbidden except in very limited circumstances<sup>10</sup> and why displaying the body prior to the funeral is forbidden.<sup>11</sup> It is also the reason why we have

<sup>5</sup><[https://www.rabbinicalassembly.org/sites/default/files/public/halakhah/teshuvot/19912000/bergman\\_grave.pdf](https://www.rabbinicalassembly.org/sites/default/files/public/halakhah/teshuvot/19912000/bergman_grave.pdf)>

<sup>6</sup><[https://www.rabbinicalassembly.org/sites/default/files/public/halakhah/teshuvot/19912000/geller\\_peaceful.pdf](https://www.rabbinicalassembly.org/sites/default/files/public/halakhah/teshuvot/19912000/geller_peaceful.pdf)>

<sup>7</sup><<https://www.rabbinicalassembly.org/sites/default/files/public/halakhah/teshuvot/20052010/burial-non-jewish-spouse-2010-1.pdf>>

<sup>8</sup>“Cemeteries,” *Encyclopaedia Judaica*. Sylvie Anne Goldberg hypothesizes that it may have been a reaction to Christian burial practices (*Crossing the Jabbok: Illness and Death in Ashkenazi Judaism in Sixteenth- through Nineteenth- Century Prague* [Berkeley: University of California Press, 1993], 23-27).

<sup>9</sup>Rabbi Isaac Klein, *A Guide to Jewish Religious Practice* (second edition; JTS Press, 2013), 273-278.

<sup>10</sup>Rabbi David M. Shohet, “Post Mortem Examination for Medical Purposes in Jewish law,” *Conservative Judaism* 4, 3 (1948), 15–27; Rabbi Isaac Klein, “A Teshuvah on Autopsy,” *Conservative Judaism* 13, 1 (1958), 52–58 (reprinted in *Responsa and Halakhic Studies* [New York: Ktav, 1995]); Rabbi Isaac Klein, *A Guide to Jewish Religious Practice* (second edition), 273-274.

<sup>11</sup>Rabbi Isaac Klein, *A Guide to Jewish Religious Practice* (second edition), 277.

had to issue a ruling that transplanting organs and tissues for the sake of healing does serve to show great respect for the deceased,<sup>12</sup> and it is why we have special concerns about exhumation.<sup>13</sup>

The custom arose among Jews that cemeteries reserved solely for Jews should be set up, and a well-known guidebook on Jewish mourning customs states:

חוב קדוש הטילו רבותינו על בני ישראל, להיות להם בית-קברות מיוחד להם, ושיהיה הקרקע שלהם, ואפילו קהלות קטנות ישגיחו על זה, שלא לשלח מתיהן לעיר אחרת

Our rabbis put a holy obligation on Jews to have special cemeteries for themselves and that the land should be theirs. Even small communities should be strict about this so that they do not have to send their dead to another town.<sup>14</sup>

However, even though Rabbi Yekutiel Yehudah (Leopold) Greenwald made the claim in his *Kol bo al avelut*, that רבותינו, the rabbis of the Mishnaic and Talmudic periods, instituted the practice of Jewish cemeteries, this requirement is not textually based, even though it is a well-entrenched practice.

The classic statement in the Talmud about whether Jews and non-Jews can be buried together is less categorical:

ת"ר: מפרנסים עניי נכרים עם עניי ישראל, ומבקרין חולי נכרים עם חולי ישראל, וקוברין מתי נכרים עם מתי ישראל, מפני דרכי שלום.

Our rabbis taught: we support indigent of non-Jews with the indigent of Jews, and we visit the sick of non-Jews with the sick of Jews, and we bury the dead of non-Jews with the dead of Jews for the sake of peace. (b. Gittin 61a)

This beraita appears to permit the burial of Jews and non-Jews together, and the classical sources are divided as to whether this means that Jews and non-Jews may be buried together in any and all

<sup>12</sup>Rabbi Joseph Prouser, "Chesed or Chiuiv: The Obligation to Preserve Life and the Question of Post-Mortem Organ Donations"

<[https://www.rabbinicalassembly.org/sites/default/files/assets/public/halakhah/teshuvot/19912000/prouser\\_chesed.pdf](https://www.rabbinicalassembly.org/sites/default/files/assets/public/halakhah/teshuvot/19912000/prouser_chesed.pdf)>;

"Organ and Tissue Donation Card,"

<[https://www.rabbinicalassembly.org/sites/default/files/assets/public/halakhah/teshuvot/19912000/prouser\\_organ.pdf](https://www.rabbinicalassembly.org/sites/default/files/assets/public/halakhah/teshuvot/19912000/prouser_organ.pdf)>;

Rabbi Joel Roth, "Organ Donation,"

<[https://www.rabbinicalassembly.org/sites/default/files/assets/public/halakhah/teshuvot/19912000/roth\\_organ.pdf](https://www.rabbinicalassembly.org/sites/default/files/assets/public/halakhah/teshuvot/19912000/roth_organ.pdf)>

<sup>13</sup>Rabbi Myron Geller, "Exhuming the Dead"

<[https://www.rabbinicalassembly.org/sites/default/files/assets/public/halakhah/teshuvot/19912000/geller\\_exhuming.pdf](https://www.rabbinicalassembly.org/sites/default/files/assets/public/halakhah/teshuvot/19912000/geller_exhuming.pdf)>.

<sup>14</sup>Rabbi Yekutiel Yehudah (Leopold) Greenwald (Hungary, U.S. 1889-1955), *Kol bo al avelut*, chapter 3, siman alef.

circumstances. Rashi explains this as meaning that Jews are to be involved in the burial of non-Jews when they are killed side-by-side with Jews. Maimonides writes in Mishneh Torah, Hilkhoh Melakhim 10.12:

אפילו העכו"מ צוו חכמים לבקר חוליהם, ולקבור מתייהם עם מתי ישראל, ולפרנס ענייהם בכלל עניי ישראל, מפני דרכי שלום

Even with regard to the non-Jew, our sages commanded us to visit their sick, to bury their dead with our dead, and to support their poor with our poor for the sake of peace..

On the face of it, this text appears to permit the burial of Jews and non-Jews together. However, in Mishneh Torah Hilkhoh Avel 14.12, Maimonides omits the words "with our dead", and based on this contradiction, one can argue that Maimonides is just repeating in the text quoted from Hilkhoh Melakhim what is in the Babylonian Talmud Gittin 61a without necessarily permitting Jews and non-Jews to be buried together.

Rabbi Joel Sirkes, known as the Bah (Poland, 1561-1640), explicitly permits the burial of Jews and non-Jews together:

דאם מצאם הרוגים עם ישראל יכול לקבור מתייהם בקברי ישראל ואע"ג דאין ספק שאין קוברין גוי אצל ישראל... מכל מקום יכול הוא לקבור מתי גוים עם מתי ישראל בהצר אחד מפני דרכי שלום כיון שמצאם הרוגים יחד.

If we find their dead killed with the (dead of) Israel, we can bury their dead in a Jewish cemetery, even if there is no doubt that (otherwise) one does not bury a non-Jew next to a Jew....we can bury non-Jewish dead with Jewish dead in the same enclosure because of the paths of peace when they have been killed together.

This opinion is about the burial of non-Jews among Jews: Sirkes rules that where non-Jews are found slain together with Jews, they may be buried with Jews in a Jewish cemetery.

During World War II, a teshuvah was issued by the Conservative, Orthodox, and Reform rabbis of the Division of Religious Activities of the Jewish Welfare Board of the United States to permit the burial of fallen Jewish service-members among non-Jews in American military cemeteries:

Question: The government is establishing a number of national cemeteries (in addition to the cemetery at Arlington). We have been asked whether Jewish law permits the burial of the body of Jews in such a cemetery and whether a rabbi may officiate at such a burial.

Answer: The soldiers and sailors whose bodies are now being brought back from overseas were buried where they fell. The graves of Christians and Jews were side by side. Crosses and Stars of David were near each other, an evidence of comradeship in duty and fellowship in death. If in these now permanent national cemeteries there would be no Stars of David at all, it might lead to some unjust conclusions. It is a question whether the

principle of Mipne Darche Sholom [because of the paths of peace] is not to some extent involved.

However, such a general principle cannot be decisively invoked if Jewish law would clearly prohibit such burial.

But is it clearly prohibited? While universal and longstanding custom requires burial of a Jew in a Jewish cemetery (Kever Yisrael) there is no definite law in the Talmud or the great codes either requiring a community to establish a Jewish cemetery or requiring that a Jew be buried only in such a cemetery.

The only clear requirements in the law as to place of burial are that a man be buried in his own property (B'toch Shelo) (b. Baba Bathra 112a), and that we may not bury a wicked man next to a righteous man (b. Sanhedrin 47a).

One rabbi a century ago made an attempt on the basis of these two laws to establish a legal foundation to have Jewish cemeteries (Eleazar Spiro of Muncacz in Minhath Eleazar II, 41) (also Dudaey Hasodeh #33, #66, #89)

Therefore, it can at most be said that only it is against general custom (minhag) for a Jew to be buried elsewhere than in a Jewish cemetery but it cannot be said that such burial is forbidden. Therefore, it is suggested that each family ask its own rabbi for his decision. The rabbi will then decide also whether he will officiate.<sup>15</sup>

While this may not have been a ringing endorsement of Jewish burial in multi-denominational military cemeteries, it was a major consensus statement that served to permit it.<sup>16</sup>

Besides the custom of the burial of Jews in Jewish cemeteries, there are a number of halakhic concerns that must be taken into account. Previous CJLS teshuvot identified a requirement that a Jew be buried בְּתוֹךְ שְׁלוֹ, in one's own grave.<sup>17</sup> This would appear to imply that an individual must own his/her own grave, but there are a number of caveats in identifying this as a clear requirement. First, this necessity is mentioned only tangentially in the Talmud, and it is

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<sup>15</sup>*Responsa in War Time* (New York: Division of Religious Activities, National Jewish Welfare Board, 1947), 83-84. The Responsa Committee consisted of Rabbis Solomon B. Freehof, Leo Jung, and Milton Steinberg.

<sup>16</sup>In the United States during World War II, there was calumny that Jews shirked their duty and did not serve in the military, whereas the historical reality was that Jews served in the military beyond their representation in the population of the United States. There is an aspect of *kiddush hashem* for Jewish burial at national cemeteries in the United States where stars stand out among crosses (and other religious symbols) and teach all Americans about Jewish participation in national defense and sacrifice. <<http://www.yadvashem.org/holocaust/about/combat-resistance/jewish-soldiers.html>>

<sup>17</sup>Bergman, "A Matter of Grave Concern," 418-419; Weiss, "Burial of a Non-Jewish Spouse and Children," 10.

applied only to a ק"י, a distinguished individual.<sup>18</sup> Only by extension would it apply to all. Second, for many cemeteries, if not the majority, an individual purchases the right of interment but does not acquire title to the plot.<sup>19</sup> The individual who acquires the right of interment in so doing exercises a form of title over the plot, even if the formal title remains with a corporation or organization, and this has been accepted in our teshuvot addressing this issue.<sup>20</sup> Another recommendation that previous CJLS teshuvot have addressed is whether there needs to be visible dividers between Jewish and non-Jewish sections in a Jewish cemetery, with one teshuvah ruling that there need not be and the other ruling that there should be.<sup>21</sup> It must be noted that there are no plantings or other dividers between plots in national cemeteries in the United States.

In the United States, there are three types of military cemeteries: 1) Arlington National Cemetery; 2) Veterans Administration cemeteries, operated by the Veterans Administration; and 3) state military cemeteries, operated by state governments. Different rules exist for who is permitted to be buried in each type of military cemetery. State military cemeteries may allow burial only for veterans (and their spouses and minor children) who are residents of that state. Arlington National Cemetery has the most stringent rules for burial and the longest wait times for the burial of veterans: it is the most esteemed military cemetery in the United States, and ten Jews who served in the Union Army are among the earliest burials there.<sup>22</sup>

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<sup>18</sup>In b. Bava Batra 111b-112a, the rabbis infer from Josh. 24:33 that Pinhas owned the plot in which his father was buried and speculated that Pinhas married a woman of property from whom he inherited the plot. Rav Pappa suggested that Pinhas bought the property, but Abaye objected that real estate would have returned to the original owner in the Jubilee year and, therefore, Eleazar would have been buried in a grave not owned by him. Later authorities understood this requirement to mean that each person should be buried in an individual grave, e.g. “each person should be placed in his own grave” (Ramban, *Torat HaAdam* 2:119), and that commingled burial is a disgrace (S.A. Y.D 362:4) . Furthermore, Rabbi Jeremy Kalmanofsky noted to me privately that multiple depth burials, an issue addressed later in this teshuvah, would seem to obviate a requirement that each person own his/her own grave.

<sup>19</sup>There are also many cases in which another person, not the individual to be buried, purchases the plot, such as in a sudden death or sudden incapacitating fatal illness, when the deceased did not know of the purchase of a plot.

<sup>20</sup>Bergman, “A Matter of Grave Concern,” 418-419; Weiss, “Burial of a Non-Jewish Spouse and Children,” 10.

<sup>21</sup>Bergman, “A Matter of Grave Concern,” 424-425; Weiss, “Burial of a Non-Jewish Spouse and Children,” 10-11.

<sup>22</sup>*Pocket Guide to Jewish Sites in Arlington National Cemetery* (Washington, D.C.: Jewish Historical Society of Greater Washington and Jewish Genealogical Society of Greater Washington, 2013), 5. The official website for Arlington National Cemetery lists 2000 Jews buried in Arlington, and the website of the Jewish Historical Society of Greater Washington lists 5500 Jews buried in Arlington. Among the reasons for the discrepancy is the fact that before 1918, Arlington National Cemetery did not permit religious symbols on headstones, so that identifying Jewish burials requires significant research. See <<http://anc.jgsgw.org/>>. A deceased member of the Rabbinical Assembly, Rabbi Simeon Kobrinetz, is buried at Arlington National Cemetery.

In Canada, CAF (Canadian Armed Forces) members and veterans of the Canadian military are buried in local cemeteries. The National Military Cemetery was established recently (in 2007) in part of Beechwood Cemetery in Ottawa, but a Jewish section has not yet been established. In the United Kingdom, there are multi-denominational military cemeteries without separate sections for Jews.

A second halakhic concern is about the timing of a burial. Our practice is that burial should not be delayed:<sup>23</sup>

אסור להלין המת, אלא אם כן הלינו לכבודו, להביא לו ארון ותכריכין או מקוננות, או כדי שיבאו קרובים או להשמיע עיירות.

It is forbidden to delay<sup>24</sup> burying the deceased unless one delays for the sake of honoring the deceased, (such as) bringing a casket and *takhrikhin*, or professional woman mourners, or so that relatives can arrive or notification may be sent out to the towns.(S.A., Y.D. 357:1)

We require burial as soon as possible after death, whereas scheduling a funeral in a multi-denomination military cemetery in the United States may cause a significant delay because the military cemetery's schedule may be filled up far in advance. This is a concern that must be taken seriously, even if we do not quantify how long a wait can be justified: if the interment is arranged at a military cemetery out of *כבוד המת*, respect for the dead, that concern must be weighed against the length of the delay.<sup>25</sup> It must be noted that national cemeteries in the United States may not schedule funerals on Sundays or may schedule funerals only on one day of a three-day holiday weekend. (In arranging for a funeral at a multi-denominational military cemetery, there are other concerns that must be addressed: making sure that the family is allowed at the graveside and that the casket may be lowered and the grave filled in sufficiently. A special request regarding having sufficient earth at the graveside for filling in the grave does also have to be made in advance. A multi-denominational military cemetery may also offer time slots for funeral services on-site that are limited in duration, and rabbis may wish to advise veterans and their families that a service in a Jewish funeral chapel may be more conducive to their expectations about the duration of funeral services.)

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<sup>23</sup>Rabbi Isaac Klein, *A Guide to Jewish Religious Practice* (second edition), 278; Rabbi Carl N. Astor, "The Jewish Life Cycle," in *The Observant Life: The Wisdom of Conservative Judaism for Contemporary Jews* (ed. Rabbi Martin S. Cohen and Rabbi Michael Katz; New York: The Rabbinical Assembly, 2012), 288-289.

<sup>24</sup>Technically, the Hebrew verb means "to delay (the burial) overnight," and in Israel circumstances allow for burial on the same day as death.

<sup>25</sup>Rabbi Joshua Heller addresses issues of delayed burial in "Shiva When Burial is Delayed," <<https://www.rabbinicalassembly.org/sites/default/files/public/halakhah/teshuvot/2011-2020/heller-shiva-delayed-burial.pdf>>.



There are three arguments to permit the burial of Jewish service-members and veterans in a multi-denominational military cemetery:

1. Burial in a Jewish cemetery is a matter of custom, and if Jewish service-members and veterans and family want the burial to be in a military cemetery, it can be waived in this special circumstance out of *כבוד המת*, respect for the deceased.
2. The opinion of Rabbi Joel Sirkes allows for the burial of non-Jews in a Jewish cemetery if they are found slain with Jews, and we could extend this to the converse. Not only could we allow Jews to be buried among non-Jews in a multi-denominational military cemetery if Jewish service-members were killed in action, we could extend this further by allowing burial of Jewish veterans in a multi-denominational military cemetery.
3. The ruling of the Division of Religious Activities of the Jewish Welfare Board of the United States may serve as a precedent for the burial of Jewish service-members and veterans in a multi-denominational military cemetery.

It should be noted that in the United States, funeral directors have the responsibility of contacting the Veterans Administration and arranging honors for burials in national cemeteries. For burial in Arlington National Cemetery, they can arrange a funeral through Arlington National Cemetery within 7-10 days if either no honors or simple honors are requested. (See the explanation of honors in the next section of this teshuvah.) In all cases, families and funeral directors can contact the Jewish Chaplains Council of the Jewish Welfare Board if they run into any issues.

An important comment: It must be noted that some veterans are concerned about the high cost of funerals and burial arrangements that may be a burden for their families. In the United States, Arlington National Cemetery, Veterans Administration national cemeteries and state military cemeteries offer plots and grave openings for free, and veterans and their families may wish for a military cemetery burial for this reason. It must be emphasized that making funeral and burial costs reasonable has been an important practice among Jews since the example of Rabban Gamaliel in the first century C.E., who decreed that his burial be in modest garments, setting the practice for Jews for two thousand years. (b. Moed Katan 27b)<sup>26</sup> We must be mindful of this consideration, and providing communal support for funerals and burial arrangements for those in need is important. A number of communities do provide financial support at the time of death: guarantees of support in advance may not be possible according to a specific community's guidelines, and we must reassure veterans and their families in that situation. The permission given in this teshuvah for burial in military cemeteries in the United States is *not* based on the costs associated with interment but is based on *כבוד המת*, respect for deceased service-members and veterans who deserve to be buried side by side with their comrades in arms.

In addition, military cemeteries in the United States allow for the burial of spouses and minor children of service-members and veterans. The arguments presented so far in this teshuvah have addressed only the burial of service-members and veterans. There is a halakhic principle to be applied in the case of family:

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<sup>26</sup>Many rabbis may advise that it is preferable to be buried in a military cemetery rather than have a cremation, an option often thought to be less expensive.

ערב הוא לאדם שהוא נינוח אצל אבותיו.

It is pleasant for a person to be laid to rest near one's ancestors (in a family plot)."  
y. Moed Qatan 2.4; 9b

This principle has been employed to permit the reburial of remains by a number of modern authorities utilizing a broader definition of ancestors to include relatives besides parents.<sup>27</sup> This principle, that it is pleasant for family to be buried together, allows for the burial of other relatives, such as spouses and minor children in a military cemetery, even if the service-member or veteran is not yet deceased (but plans to be buried there).

An important consideration is whether, if we grant this limited permission to veterans and service-members and their spouses and minor children to be buried in a multi-denominational military cemetery, this will lead to more wide-spread disregard of the custom of Jews being buried in Jewish cemeteries than if this limited authorization is denied. It is doubtful that this permission will motivate more indifference to the custom than has already occurred. Furthermore, the overwhelming majority of Jewish service-members killed in action have been buried in Jewish cemeteries with military rituals because of a desire to have the burial occur without delay, and it is to the issue of military funeral rituals in Jewish cemeteries we now turn.

### *Military Rituals*

There is no prohibition against military rituals in Jewish cemeteries. The country's flag may be displayed, an honor guard may be present, taps or other appropriate music may be played, and a rifle salute may be issued. In Israel, a funeral for a service-member killed in action includes the display of the national flag and a rifle salute, and a funeral for a veteran who served as an officer may have formalities performed by Tzevet (the IDF retired veterans association).

It is our practice among Jews to have the burial in a timely manner, and scheduling military rituals may cause a delay. Service-members and veterans of the United States military may be entitled to a number of levels of honors, and currently, arranging for them may incur a delay, depending on the availability of personnel. There are three levels of official honors: simple honors, which includes an honor guard and bugler; regular honors, which includes a rifle team to offer a ceremonial shooting of three volleys in addition to the honor guard and bugler; and full honors, which includes a band and horse-drawn caisson for the casket in addition to the rifle salute, honor guard, and bugler. Each level requires a progressive delay in scheduling the funeral, and for the sake of expediency, a request for simple honors may interfere the least. In simple honors, an honor guard lays a flag over the casket, folds the flag, and gives it to the family. The honor guard stands at attention while taps is played. If a rifle salute is made, the spent casings may

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<sup>27</sup>See Rabbi Moshe Feinstein, *Iggrot Moshe* Y.D. 1.238; Rabbi Ovadya Yosef, *Yabia Omer* Y.D. 7.38; Rabbi Jeremy Kalmanofsky, "Alternative Burial Practices," 7-8  
<[https://www.rabbinicalassembly.org/sites/default/files/public/halakhah/teshuvot/2011-2020/alternative-burial\\_kalmanofksy\\_newversion.pdf](https://www.rabbinicalassembly.org/sites/default/files/public/halakhah/teshuvot/2011-2020/alternative-burial_kalmanofksy_newversion.pdf)>.

be presented to the family. Rabbis may choose whether to have the military rituals precede the normal order of Jewish rituals or to integrate military rituals into the set of Jewish rituals, depending on the schedule of the honor guard. If arranging for official honors causes a significant delay, local chapters of organizations such as Jewish War Veterans may be able to offer an honor guard of their own members in a more timely manner. The officiating rabbi is advised to make sure that the funeral director emphasizes to the director of the military cemetery that a Jewish funeral is being conducted and therefore its scheduling needs to be expedited. Alternatively, the Veterans Administration will provide a folded flag of the United States, to be retained by the family, to place upon the casket. The Veterans Administration also provides, upon request, a military grave marker and/or a military medallion to be affixed to a grave marker, and these are permitted in a Jewish cemetery.<sup>28</sup>

In Canada, military honors are offered for CAF (Canadian Armed Forces) members killed in action and veterans according to the wishes of the family. Honors for the funerals of veterans extended to the family depends on the length of service given to the country and/or the specific situation of the veteran and are evaluated on a case by case basis. The final decision whether to accept honors depends on the surviving family members. Scheduling honors does not generally entail a delay.

In the United Kingdom, right to burial in military cemeteries extend normally only to serving personnel, the exception being World War II veterans with distinguished military records. The repatriation of remains is expedited (within 3 days instead of the usual longer period) in order to respect Jewish custom. The casket may be borne by soldiers from the service-member's unit with the service-member's hat and regalia placed on top. Military honors may be conducted, including a rifle volley, trumpeted Last Post and Reveille (as is the custom of the United Kingdom), concluding with the Kohima Epitaph (see Appendix Two) and the folding and presentation of the flag to the parents and spouse.

This teshuvah contains an appendix of memorial prayers appropriate for Jewish service-members and veterans.(Appendix Two)

### *Multiple Depth Burials or Collocation*

Family members of a Jewish veteran may be entitled to burial in the multi-denominational military cemetery in which the service-member or veteran is entitled for burial. In V.A. cemeteries and state military cemeteries, these burials may be in the same surface spot at different levels, depending on the size of the plot: this is known as multiple depth burial or collocation. (It must be noted that this was not always the case in the U.S.: multi-denominational military cemeteries may have plots that allow for side-by-side burial.)

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<sup>28</sup> <<https://www.va.gov/vaforms/va/pdf/VA40-1330.pdf>> and <<https://www.va.gov/vaforms/va/pdf/VA40-1330m.pdf>>

Halakhic sources stipulate that one individual should be buried in one grave location, but there has been the recognition that multiple depth burial was implemented at Jewish cemeteries, including the famous old cemeteries in Prague and Vilna.

The earliest source on this matter is:

אין קוברין שני מתים זה בצד זה ולא את המת בצד העצמות, ולא את העצמות בצד המת. רבי יהודה אומר כל הישן עמו בחייו, נקבר עמו במותו.

One does not bury two deceased right next to one another nor the deceased right next to the bones nor the bones right next to the deceased. Rabbi Judah says: Whoever sleeps together while alive may be buried together in death. (Semahot 13:8)

This rule reflects the set-up of a burial in a rock-cut tomb of the early first millennium, with niches for laying out the deceased and an ossuary for the bones.

Maimonides clarifies the language to fit in-ground burials:

אין קוברין מת על גבי מת ולא שני מתים כאחד שבזיון הוא, וקטן הישן עם אמו נקבר עמה.

One does not bury one deceased on top of another nor two deceased together since this is disrespectful. A child who slept with his/her mother may be buried with her. (Mishneh Torah, Hilkhot Avel 14:16)

Rabbi Joseph Karo in the Shulhan Arukh rules:

אין נותנין ב' ארונות זה על זה; ואם נתן, כופין העליון שיפנה. ואם יש ביניהם עפר ששה טפחים, מותר.

One does not place one casket on top of another, and if one has been placed, we coerce the upper one to be moved, but if there is six tefahim of earth between them, then it is permitted. (Y.D. 362:4)

Rabbi Jacob Reischer (Prague, Metz, 1661-1733) observes:

פוק חזי מה עמא דבר בכל תפוצת ישראל שקוברין זה אצל זה וזה ע"ג אע"פ שהוא שלא ע"פ הדין

Go and examine the people's practice throughout all Israel's diaspora, for they bury one next to another and one on top of another, even though this does not conform to the law. (Shvut Yaakov 2:95)

Multiple depth burials is permitted as long as sufficient earth separates the remains of each person.

An additional concern arises in regard to the burial of family members. There are cases in which a spouse or minor child is buried in a Jewish cemetery, and only later does the veteran or

his/her family realize that the veteran is entitled to burial in a military cemetery. If the veteran decides to be buried in a military cemetery, he/she may wish that his/her spouse or minor child be exhumed and buried in the same plot or adjacent plot, depending on the circumstances of the cemetery. The CJLS is already on record allowing for exhumation to allow for burial in a family plot.<sup>29</sup>

### *Shemirah*

For U.S. service-members dying outside the U.S., *shemirah* (accompanying the body until interment) cannot be performed until the service-member's body has been returned to his/her home country and has been delivered to the funeral chapel. This is generally the case as well for military personnel of other countries. In Israel, there is no obstacle to the performance of *shemirah*.

### *Delay in Burial*

Since burial may be delayed, mourners may need guidance on how to observe shivah, shloshim, and the recitation of kaddish, and the CJLS has already addressed those issues.<sup>30</sup>

### *Advance Concerns*

Jewish service-members are encouraged to keep Jewish burial practices in mind when filling out personnel records. Since embalming may be done as a matter of course in the U.S. military, a request that embalming not be done should be indicated. For U.S. service-members, this should be indicated on form H-13, the form for emergency information. The Canadian military does not prepare the body in the theatre of operations but transports the deceased to the military coroner's office (in Toronto).

Pre-arrangements may be made for burial of a U.S. veteran in a military cemetery, and attached to this teshuvah is a set of recommendations for pre-arrangements in a Veterans Administration national cemetery in the United States (Appendix One).

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<sup>29</sup>Rabbi Myron Geller, "Exhuming the Dead"  
<[https://www.rabbinicalassembly.org/sites/default/files/assets/public/halakhah/teshuvot/19912000/geller\\_exhuming.pdf](https://www.rabbinicalassembly.org/sites/default/files/assets/public/halakhah/teshuvot/19912000/geller_exhuming.pdf)>.

<sup>30</sup>See Rabbi Joshua Heller, "Shiva When Burial is Delayed ,"  
<<https://www.rabbinicalassembly.org/sites/default/files/public/halakhah/teshuvot/2011-2020/heller-shiva-delayed-burial.pdf>>

## *Unveiling*

Military cemeteries may be under a tight schedule. In the United States, military cemeteries generally do not conduct funerals on Sundays, and mourners are advised that scheduling an unveiling for a Sunday may be the best option.

## פסק

Military funeral rituals may be performed in a Jewish cemetery. Burial in a multi-denominational military cemetery is permitted for Jewish service-members, veterans, and their spouses and minor children, but those making the arrangements should request the minimization of delay and respect for the elements of a Jewish funeral, such as the presence of the family at the graveside, the lowering of the casket, and the filling in of the grave.<sup>31</sup>

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<sup>31</sup>Thank you to the following for their assistance and good counsel in writing this teshuvah: Mindy Evnin, mother of the late U.S. Marine Mark Evnin; Rabbi Marvin Bash; Rabbi Bryan Bowley, Royal Canadian Air Force; Joshua Brunnlehrman; Rabbi Micah Buck-Yael; Rabbi Irving Elson, Jewish Chaplains Council of the Jewish Welfare Board; Rabbi Myron Geller, U.S. Army Reserve (retired); Rabbi Reuben Livingstone, HM Armed Forces; Mike Munnerlun, Jefferson Barracks National Cemetery; Professor Yohanan Petrovsky-Stern; Rabbi Steven Rein, U.S. Air Force Reserve; Rabbi Edward Romm; Rabbi Andrew Sacks; Professor Jonathan Sarna; Rabbi Abbi Sharofsky, Jewish Chaplains Council of the Jewish Welfare Board; Rabbi Albert Isaac Slomovitz, U.S. Navy (retired).

## Appendix One

### *Recommendations for Advance Arrangements for the Burial of Jewish Veterans in National Cemeteries in the United States*

Prepared by Rabbi Abbi Sharofsky, Deputy Director, JWB Jewish Chaplains Council

The burial of a Jewish person upon his or her death is seen as an act of holiness and is carried out with the respect for the deceased always in mind. There are parts of the burial process that are meaningful for the mourners, as well, and these are often the ones that are the most well known.

The burial process in a National Cemetery in the United States is also carried out with respect for the veterans and their families at a difficult time. In a communication to one veteran, the National Cemetery Administration (NCA) has stated that it “makes every effort to accommodate the religious and culture practices of Veterans and their loved ones” while maintaining the safety of cemetery visitors and employees.

The NCA states that VA cemeteries can accommodate the following Jewish burial practices:

- A graveside service
- Placing shovels full of earth into the grave
- Witnessing the lowering of the casket and closing of the grave

The cemetery will need advance notice to make the necessary preparations.

#### Time of Burial

Traditionally, Jews are buried within a very short amount of time after death, at times within 24-36 hours. This may be difficult for a VA cemetery to accommodate, and the veteran and his or her family and rabbi should be in consultation with the intended cemetery about the timing of burial. Efforts to minimize the amount of time between the time of death and time of burial should be made.

#### Funeral Service

Jewish funerals may be held graveside or at another location, such as a funeral home or chapel. When working with a funeral home and pre-arranging the funeral and burial, the veteran should be clear with the funeral director about all communication with the intended VA cemetery. The coordination of burial after the funeral service, if not graveside, will need to be done by the funeral home, the VA cemetery, and the veteran’s family.

With notice, a VA cemetery may be able to accommodate a graveside service. The veteran and his or her family should inquire about the amount of notice needed, as each cemetery may have differences in procedure. The officiant at a graveside services should be Jewish clergy, who should be made aware of the veteran’s and family’s wishes, as well as the accommodations the VA cemetery is able to make.

## Interment

**Casket and Grave:** A Jewish person is typically buried in a wood casket. The grave should not have a liner. However, where this is mandated by local government due to the nature of the earth shifting, it is allowed.

**Pallbearers:** Typically, the pallbearers and those carrying the casket are of the Jewish faith. However, if this is not possible, others may help. While it is preferable that this act not be carried out by people who don't know the deceased (such as cemetery employees) for fear that the proper respect may not be shown, it could be argued that because the cemetery employees are knowingly participating in the burial of a veteran, they are aware of the respect due to the person.

**Lowering the Casket:** If the service is graveside, the casket may remain at ground level for the eulogy, but should be lowered before the mourners leave the site. The lowering can be done by a mechanical device.

**Filling the Grave:** The mourners have the task of filling in the grave to the point at which the casket is covered with earth to take on the form of a grave. The earth that was dug out from the grave should be available next to the open grave with shovels for the mourners to use.

Some mourners may express a desire to fill in the entire grave, but this is not necessary to Jewish law concerning burial. If mourners or others close to the deceased ask to witness the filling in of the grave, they should be allowed as long as safety permits.

The practices described above are all within the current accommodation guidelines in place with the NCA. The most important part is making sure the veteran and his/her family discuss the veteran's wishes prior to death and involve his or her rabbi, funeral director, and VA cemetery.

## **Special Circumstances for Funerals at Arlington National Cemetery**

Special circumstances arise when a service-member, veteran, and his or her family considers burial at Arlington National Cemetery. There are tight restrictions on who may be buried at Arlington National Cemetery, and rabbis should be aware that cremation may be the only way a veteran can be buried at Arlington National Cemetery due to those restrictions. Only regular honors (termed "standard honors" at Arlington National Cemetery) or full honors are available, and scheduling a funeral at Arlington usually entails a wait of at least three months. Requesting a service at a chapel at Arlington may extend the wait a few months more. If a service-member, veteran, and his or her family decides to forgo honors completely, a funeral may be possible within a week. Filling in the grave to the point at which the casket is covered with earth to take on the form of a grave is not possible: the casket lowering device used at Arlington National Cemetery can lower the casket to the ground level (that is, only to the length of the chains on the device), and newer funeral personnel at Arlington National Cemetery may not be aware that this is possible. The maximum amount of earth provided is a bucket, enough perhaps for three shovelfuls (or twenty trowelfuls). A eulogy can be given by family-members as long as the tight schedule of Arlington National Cemetery is kept in mind. No funerals are scheduled for



Sundays. A special request to minimize the delay *might* result in lessening the wait time, but the interment will still be held up considerably longer than at another cemetery. The only exception to these circumstances would be for an individual of the rank, for example, of a sitting U.S. senator.

## Appendix Two

### *Special Meditations for the Burial Service of Jewish Service-members and Veterans*

#### 1. Memorial for Those Fallen During Military Service (adapted from the Jewish Welfare Board siddur)

אֵל מְלֵא רַחֲמִים שׁוֹכֵן בְּמְרוֹמִים, הַמַּצֵּא מְנוּחָה נְכוֹנָה עַל כַּנְפֵי הַשְּׂכִינָה, בְּמַעְלוֹת קְדוּשִׁים וּטְהוּרִים, כְּזֶהר הַרְקִיעַ מְזֻהָרִים, לְנִשְׁמוֹת הַסְּלִים אֲשֶׁר נָפְלוּ בְּשַׁעַת מְלוּי תַּפְקִידָם בְּהַגְנָם עַל סֵי אֶרְצֵנוּ. בְּעֵבוּר שְׁאֲנוּ מִתְּפִלָּים לְעֵלוּי נִשְׁמוֹתֵיהֶם, לָכֵן בַּעַל הַרְחָמִים יְסַתִּירָם בְּסֶתֶר כַּנְּפֵיו לְעוֹלָמִים וַיִּצְרָר בְּצָרוֹר הַסִּיּוּם אֶת נִשְׁמוֹתֵיהֶם. יִיְהוֹרֶה הוּא נַחֲלָתָם, בְּגוֹן עֵדוֹן תְּהֵא מְנוּחָתָם, וַיְנוּחוּ בְּשָׁלוֹם עַל מִשְׁכָּבָם, וְנֹאמַר אָמֵן.

God on High and in our Hearts: Grant perfect peace in your Presence to those who gave their lives in defense and protection of our country (and our collective welfare) among the holy and the pure. Source of compassion, we ask that they find peace in your eternal embrace. May their souls be bound up in the bond of life, and may they rest in peace. And let us say: Amen.

#### 2. Memorial for Those Fallen in Defense of the State of Israel

אֵל מְלֵא רַחֲמִים שׁוֹכֵן בְּמְרוֹמִים, הַמַּצֵּא מְנוּחָה נְכוֹנָה עַל כַּנְפֵי הַשְּׂכִינָה, בְּמַעְלוֹת קְדוּשִׁים וּטְהוּרִים, כְּזֶהר הַרְקִיעַ מְזֻהָרִים, לְנִשְׁמוֹת הַקְּדוּשִׁים שְׁנִלְחָמוּ בְּמַעַרְכוֹת יִשְׂרָאֵל, בְּמַחְתָּרָת, בְּשִׁרוּתֵי הַבְּטָחוֹן וּבִצְבָא הַהַגְנָה לְיִשְׂרָאֵל, אֲשֶׁר נָפְלוּ בְּשַׁעַת מְלוּי תַּפְקִידָם בְּהַגְנָם עַל סֵי עַם יִשְׂרָאֵל בְּאֶרְצוֹ וּמַחוּצָה-לָהּ, וּלְנִשְׁמוֹת הַקְּדוּשִׁים שְׁנִלְחוּ קִרְבָּן בְּפַעֲלוֹת טָרוֹר. בְּעֵבוּר שְׁאֲנוּ מִתְּפִלָּים לְעֵלוּי נִשְׁמוֹתֵיהֶם, לָכֵן בַּעַל הַרְחָמִים יְסַתִּירָם בְּסֶתֶר כַּנְּפֵיו לְעוֹלָמִים וַיִּצְרָר בְּצָרוֹר הַסִּיּוּם אֶת נִשְׁמוֹתֵיהֶם. יִיְהוֹרֶה הוּא נַחֲלָתָם, בְּגוֹן עֵדוֹן תְּהֵא מְנוּחָתָם, וַיְנוּחוּ בְּשָׁלוֹם עַל מִשְׁכָּבָם, וְנֹאמַר אָמֵן.

#### 3. The Kohima Epitaph Prayer:

They shall grow not old, as we that are left grow old:  
Age shall not weary them, nor the years condemn.  
At the going down of the sun and in the morning  
We will remember them

All: We will remember them.

[One minute's silence]

When you go home tell them of us and say -  
For your tomorrow we gave our today...

4. Prayer for Our War Dead (1947)  
by Rabbi Arthur J. S. Rosenbaum (Philadelphia, 1915-1999)

Almighty G-d, our heavenly father,

On this day when American soil receives the bodies of its dearly beloved and heroic war dead, we pray thee to receive once again in mercy and loving kindness their immortal souls. Remember unto them the love and devotion with which they answered the call to duty and the faithfulness and loyalty with which they served, giving completely of themselves so that others might live to enjoy the fruits of peace which their eyes were not destined to behold.

Make meaningful in our own lives the lofty ideals and noble sentiments which motivated and guided them so that in recalling and honoring their memories and deeds we may derive similar inspiration and vision for our daily tasks.

Stemming from all races, all creeds, all nationalities, as they were united in their lives in the great brotherhood of America, so they are now united in the great brotherhood of death. May the lesson thus learned – of American unity in life as in death – teach us to walk together in the up building of our country as an example of that spirit of true brotherhood and understanding of which the whole world is so desperately in need.

We pray thee, turn this day of memorial for our fallen heroes into a day of rededication to ideals of justice, righteousness and peace. May hatred cease and wars be forever ended. May all thy children everywhere find the bond of perfect union and peace in thee, our father, creator of all men. Amen.

5. Yizkor for a Soldier  
by Alden Solovy, *Jewish Prayers of Hope and Healing* (Kavanot Press, 2013), 64

God of the selfless,  
God of the strong and the brave,  
Grant perfect rest among the souls of the righteous  
to \_\_\_\_\_ [insert name],  
My [father/mother/sister/brother/child/wife/dear one/friend],  
Who died in service to our country during the \_\_\_\_\_ [insert name of war or conflict].  
May his/her dedication serve as a shining lamp of courage and love.  
Bless the souls of all who have died in the name of liberty and democracy,  
Soldiers and veterans,  
Civilians and professionals,  
Men and women who answered the call of honor and duty.  
May his/her memory be sanctified with joy and love.  
May his/her souls be bound up in the bond of life,  
A living blessing in our midst.