

FREEDOM FROM RELIGION *foundation*

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May 9, 2017

**SENT VIA EMAIL AND U.S. MAIL:
eddie.johnson@chicagopolice.org**

Mr. Eddie T. Johnson
Superintendent of Police
Public Safety Headquarters Building
3510 South Michigan Avenue
Chicago, IL 60653-1020

Re: Mandatory religious activities and religious promotion

Dear Superintendent Johnson:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to alert you to constitutional violations involving religious promotion at Chicago PD (Department) events and by the Department's police chaplain. FFRF is a national nonprofit organization with more than 28,000 members across the country, including more than 900 members in Illinois and a local chapter, FFRF Metropolitan Chicago Chapter. FFRF's purpose is to protect the constitutional principle of separation between state and church.

A concerned Department employee contacted us to report that many Department events include invocations and benedictions, typically delivered by Father Daniel Brandt. We understand that sworn officers are issued a command to participate in these prayers by removing their hats ("Officers, un-cover!"), then after the prayers another command is given to put their hats back on.

We are additionally aware of two other problematic instances of religious promotion during Department events. First, at Department graduation ceremonies, it appears that graduates must recite a version of the "Law Enforcement Code of Ethics" that includes the following line:

I will constantly strive to achieve these objectives and ideals, dedicating myself **before God** to my chosen profession, law enforcement.

(emphasis added). Second, the program for the Department's annual Police Recognition Ceremony and Luncheon includes a "National Police Prayer" (along with a scheduled invocation and benediction). The police prayer is directed toward "Almighty God, Father of all mercies," which is a specifically Christian

reference.¹ Copies of programs for two of these recent Department events are enclosed for your review.

Finally, it appears that Father Brandt, who is listed as representing the “Chaplain’s Section,” openly promotes religion while acting on behalf of the Department. In a video on the “Police Chaplains Ministry” website, Brandt states, “I look at my work as police chaplain as being pastor of the largest parish in the city of Chicago. I have the biggest flock, 12,000 or so along with their families, and another 5,000 retirees.”² In the same video he states that his position is “a great way to bring Christ into the lives of others.” Brandt writes monthly “F.O.P. (Fraternal Order of Police) Newsletters” that promote religion and unquestionably are written by Brandt *in his official capacity as a police chaplain*. He also advertises weekly “police masses,” leading a Catholic mass as a police chaplain. Taken together, there is an overwhelming appearance that the chaplain program, and thus the Chicago Police Department, endorses religion, and that Brandt uses this position to promote his personal religion to police officers, their families, and other members of the community.

Including scheduled and printed prayers in Department events is unconstitutional, as is requiring officers to recite or participate in prayers or oaths “before God.” We request that all religious content be removed from future Department events. Additionally, Department representatives, including Brandt and other police chaplains, must not use their positions to promote religion.

Police may not be required to recite religious oaths

As you may be aware, Article VI of the U.S. Constitution prohibits the government from requiring any kind of religious test for an “office or public trust,” which includes the position of police officer. “Neither a State nor the Federal Government can constitutionally force a person ‘to profess a belief or disbelief in any religion.’” *Torcaso v. Watkins*, 367 U.S. 488, 495 (1961). In *Torcaso*, the plaintiff refused to take an oath declaring the existence of a god as required by law and his appointment as notary public was revoked. *Id.* at 489. The U.S. Supreme Court held that to require a religious oath was a violation of both the First and Fourteenth Amendments of the Constitution. *Id.* at 495. In this case, the constitutional rights of Chicago law enforcement officers are violated if they are required to take an oath that includes an affirmation of a god’s existence.

The Police Department may not require its employees to recite a monotheistic oath. “If there is any fixed star in our constitutional constellation, it is that no

¹ See, e.g., churchofengland.org/prayer-worship/worship/book-of-common-prayer/prayers-and-thanksgivings.aspx (listing prayers from The Book of Common Prayer, including “A General Thanksgiving,” which begins “ALMIGHTY God, Father of all mercies . . .”). The phrase also appears in many other Christian prayers.

² chicagopcm.org/video_library.php (embedded video above the text, “Police Chaplains Ministry was the subject of a vignette . . .”).

official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.” *W. Va. Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943). Officers who do not believe in “God” should not be forced to choose between swearing to a religious oath against their conscience or outing themselves as nonbelievers, and risking other consequences, by refusing to recite the oath as written.

Department events may not include prayers

Law enforcement agencies may not proselytize or promote religion. See *Milwaukee Deputy Sheriff’s Ass’n v. Clarke*, 588 F.3d 523 (7th Cir. 2009) (ruling sheriff meetings with presentations by religious group unconstitutional). To avoid violating this principle, Department events must not include scheduled prayers, especially when those prayers are delivered by a Department representative. Department employees may not be required participate in prayers or other religious rituals by standing and removing their hats.

In *Clarke*, the Seventh Circuit Court of Appeals, which has jurisdiction over Illinois, ruled in favor of officers who objected to religious content at a mandatory meeting because it “gave, at the least, the appearance of endorsement by the Sheriff’s Department,” even though it was a private group delivering the religious presentation. *Id.* at 525–26. In this case, prayers have been delivered by a uniformed police chaplain—certainly a representative of the Department—and are printed on event programs. The Department itself is scheduling, printing, and delivering the prayers, which gives an even stronger appearance that the Department endorses the religious messages of these prayers.

Department representatives may not promote religion

Besides delivering prayers at Department events, Department representatives may not use their government position in order to promote their personal religion, or to promote religion over nonreligion. This again includes police chaplains, who are plainly representing the Department while they are uniformed and performing their chaplain duties. Paid or not, chaplains are sponsored by the Department. They are bound by the First Amendment like any other government representative, and your office is liable for their constitutional violations. To avoid violating the law, police chaplains must either limit their interactions to those in the Department who specifically seek out their services or, if asked to speak at a Department event, walk a very fine line by providing an entirely secular address. Father Brandt appears to be unaware that such a line exists.

If the Department maintains a chaplaincy program, it puts itself in the position of policing the actions, words, and programs of its chaplains. In our experience, government entities rarely exert the appropriate oversight of the chaplaincy, allowing chaplains to use the workplace as their church. Father Brandt has essentially admitted to this, stating, “I look at my work as police chaplain as

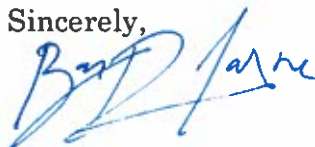
being pastor of the largest parish in the city of Chicago. I have the biggest flock, 12,000 or so along with their families, and another 5,000 retirees.” Appointing a Catholic priest to treat the Department as his church is a massive departure from the Department’s obligation to remain neutral on matters of religion and violates the rights of conscience of every officer in the Department.

Additionally, Father Brandt’s monthly newsletters openly promote religion, are directed at Department employees, and are sent by Father Brandt in his capacity as a police chaplain, i.e. on behalf of the Department. A ranking government officer may not use their position to send monthly newsletters promoting their personal religion to those under their command and there is no exception to this rule for chaplains.

If police chaplains are unable, or unwilling, to fulfill their duties in an entirely secular way, then they are not fit to serve in the chaplaincy program and must be replaced. A secular counselor would be equipped to counsel 100% of the employees and would be actually licensed to do so. There is no doubt that law enforcement officers have stressful jobs. But the idea that law enforcement agencies thus need religious guidance does not follow. At a minimum, immediate steps must be taken to ensure that Department representatives do not promote religion while acting in their official capacities.

In summary, (1) the Department may not require officers to recite religious oaths, (2) Department events may not include scheduled prayers, and (3) the Department must ensure that its representatives do not use their position to promote religion. Please respond in writing at your earliest convenience with the steps taken to remedy these serious constitutional concerns.

Sincerely,



Ryan D. Jayne, Esq.
Elaine & Eric Stone Legal Fellow
Freedom From Religion Foundation

Enclosure

CHICAGO POLICE DEPARTMENT



Graduation Ceremony
Recruit Class 16-3

Promotion Ceremony

Thursday, February 2, 2017
2:00 pm
At Navy Pier, Grand Ballroom

Chicago Police Department Mission Statement

"As a member of the Chicago Police Department, a part of and empowered by the community, I am committed to protect the lives, property and rights of all people, to maintain order and to enforce the law impartially. I will provide quality police service in partnership with other members of the community. To fulfill this mission, I will strive to attain the highest degree of ethical behavior and professional conduct at all times."

Rahm Emanuel
Mayor



Eddie T. Johnson
Superintendent

PROGRAM

INVOCATION
Father Daniel Brandt
Chaplain's Section

NATIONAL ANTHEM
P.O. Kenyatta Gaines
P.O. Durward Little

WELCOME
Deputy Chief Keith Calloway
Education and Training Division

OATHS OF OFFICE
Kevin B. Navarro
First Deputy Superintendent

GRADUATION ADDRESS
Malgorzata Rivera

ADDRESS
Eddie T. Johnson
Superintendent

REMARKS
Rahm Emanuel
Mayor

PRESENTATION OF CERTIFICATES
Eddie T. Johnson
Superintendent

Presentation of Individual Awards Eddie T. Johnson Superintendent

16-3C	Malgorzata Rivera	ACADEMICS
16-3A	Anthony Abram	FIREARMS PROFICIENCY
16-3B	Jason Ranning	PHYSICAL TRAINING

Presentation of Adams - Doyle - Duffyn Outstanding Recruit Awards

GROUP 16-3A	Oscar Ponce
GROUP 16-3B	Timothy Kroehl
GROUP 16-3C	Aaron Alley
GROUP 16-3D	Cesar Valdes

Presentation of the Thor Soderberg Outstanding Recruit Award

Oath of Office for Newly Promoted Members
Kevin B. Navarro
First Deputy Superintendent

Benediction
Father Daniel Brandt
Chaplain's Section

Dismissal of Graduates

Closing Ceremony
The Opening and Closing Ceremonies are performed by
The Chicago Police Department Honor Guard &
Bagpipers and Drums of the Emerald Society, CPD

The Chicago Police Department's Basic Law Enforcement Training Program is
Certified by the Illinois Law Enforcement Training and Standards Board.

THE LAW ENFORCEMENT CODE OF ETHICS

As a law enforcement officer, my fundamental duty is to serve the community, to safeguard lives and property, to protect the innocent against deception, the weak against oppression or intimidation, the peaceful against violence or disorder, and to respect the constitutional rights of all to liberty, equality and justice.

I will keep my private life unspotted as an example to all, and will behave in a manner that does not bring discredit to me or my agency. I will maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed both in my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police service.

I will never engage in acts of corruption or bribery, nor will I condone such acts by other police officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice.

I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence.

I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession, law enforcement.



WELCOME ADDRESS
John J. Lucalante
First Deputy Superintendent

PRESENTATION OF COLORS
Chicago Police Honor Guard

NATIONAL ANTHEM
Police Officer Derwend J. Little
District 001
Police Officer Kengatta Gaines
Field Services

MASTER OF CEREMONIES
Bill Kurtis
President, Karlin Productions

INVOCATION
Father Daniel Brands

LUNCHEON

REMARKS
Edwin T. Johnson
Superintendent of Police
Rahn Emanuel
Mayor

AWARDS PRESENTATION

MEMORIAL ROLL
FHM Training Officer Carlos Cannon
District 005

TAPS
Police Officer Richard Robles
District 014

BENEDICTION
Father Daniel Brands

