

# FREEDOM FROM RELIGION *foundation*

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August 30, 2018

**SENT VIA EMAIL AND U.S. MAIL:  
charise.valente@chicagopolice.org**

Ms. Charise Valente  
General Counsel  
CPD, Office of Legal Affairs  
3510 S. Michigan, 5<sup>th</sup> Floor  
Chicago, IL 60653

Re: Religious promotion by CPD chaplains

Dear Ms. Valente:

I am writing on behalf of the Freedom From Religion Foundation. In a letter received on May 18, 2018, you provided a detailed response to multiple complaints we received from a Department employee regarding religious promotion during Department events and by CPD chaplains.

We appreciate your investigation into FFRF's concerns and your response, and your assurances that CPD practices would be updated in several ways to address the issues we raised. Although we disagree on several points of law, we are writing again to request that the CPD take concrete action on two specific issues that you addressed in your letter.

First, you provided an assurance that “no orders will be given to remove hats during invocations or benedictions at mandatory CPD sponsored events.” While ostensibly lessening the coercive impact of CPD-sponsored prayers on officers, this change does not remedy the regularly recurring constitutional violation of uniformed CPD chaplains delivering prayers at CPD-sponsored events.

As we asserted in our previous letters, including prayers at CPD events is itself unconstitutional. Our complainant reports that the invocations and benedictions at CPD graduation events are prayers that include religious content. The complaint we received was not based on the word “invocation” in a program, but rather on the regularly scheduled prayers that the CPD has ordered officers to participate in.

It is unconstitutional for a police department to endorse religious messages, including prayers, at Department-sponsored events. *See Milwaukee Deputy Sheriff's Ass'n v. Clarke*, 588 F.3d 523 (7th Cir. 2009). In *Clarke*, the Seventh Circuit 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 are 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.

We again request assurances that future CPD-sponsored events will not include prayers. This is especially necessary because the instruction your office gave to discontinue forced participation in these prayers appears to have been ignored. We are informed that at the Department's June 19 graduation ceremony, Chaplain Robert Montelongo delivered an invocation and a benediction, both of which were prayers, and both of which were accompanied by the same “Officers Uncover!” command that we informed you of in May of 2017. This insistence on forcing participation in a religious ritual, in apparent defiance of your office's instruction, underscores the need for real action that will stop the regular pattern of the CPD endorsing religious messages at its events.

Second, you asserted that CPD chaplains promoting religion on the chaplaincy's website ([www.chicagopcm.org](http://www.chicagopcm.org)) is permissible because “CPD has no control over, or ability to change, the content of that website,” and the website's content is thus “not sanctioned” by the CPD. You also emphasized that the Chaplains Unit “is funded via a 501(c)(3) corporation,” apparently arguing that the chaplains' religious promotion is private speech rather than government speech.

This characterization of the chaplains' relationship to the CPD is untenable. Regardless of how the Chaplains Unit is funded, the CPD holds the chaplains out as representatives of CPD in many ways, including the chaplains' uniforms, badges, and email addresses, in addition to their involvement in CPD events and “being present on the street with officers in their daily realm.”<sup>1</sup> Any observer would understand that the chaplains—when speaking as CPD chaplains rather than as private church representatives—are speaking on behalf of the CPD.

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<sup>1</sup> Chicago Police Department (Facebook video), *We are Chaplains. A look at CPD Chaplains*, available at [www.facebook.com/ChicagoPoliceDepartment/videos/we-are-chaplains-a-look-at-cpd-chaplains/10154293770606534/](https://www.facebook.com/ChicagoPoliceDepartment/videos/we-are-chaplains-a-look-at-cpd-chaplains/10154293770606534/).

When Father Brandt writes his monthly newsletters on the Chaplains Ministry website, [www.chicagopcm.org](http://www.chicagopcm.org), he is writing as a CPD chaplain. For instance, Brandt's August 2018 newsletter begins, "*From Your Chaplain*," is aimed directly at CPD officers to encourage them to attend religious events while in uniform, and Brandt's signature includes his official "dan.brandt@chicagopolice.org" email address and his title, "*CPD Chaplain*."<sup>2</sup>

The CPD has not only the ability, but also an obligation, to stop its representatives from using their position with the CPD to promote religion. The Chaplains Ministry's 501(c)(3) status does not transform government speech on the ministry's website into private speech. If the Chief of Police were to encourage all CPD officers to convert to Christianity, in an article titled "*From Your Police Chief*," pictured in his uniform and using his CPD email and title, placing the post on the website of a private nonprofit would not shield the CPD from the obvious Establishment Clause violation.

The analysis is the same with CPD's chaplains. If they wish to promote religion as private citizens, they may not do so while holding themselves out as CPD representatives. If they are unable to separate their private role as clergy from their role as government actors, they are not fit to be government actors.

Further, the CPD certainly has the authority to prohibit private citizens and 501(c)(3)s from using the CPD logo or badge, or from speaking on behalf of the CPD. Presumably the CPD would object to FFRF placing an image of a CPD badge on its website with a statement such as "The Chicago Police Department encourages all citizens to leave the Catholic Church." Failing to object to the Chaplains Ministry website's use of the CPD logo, badges, and representatives to promote religion signals an endorsement of those messages by the CPD.

FFRF requests that the CPD ensure that the Chaplains Ministry website does not entangle the CPD with a religious message. All references to the CPD must be removed. This includes CPD government email addresses, any other government contact info, descriptions of the clergy as "CPD chaplains," the "Request a Ride Along" section,<sup>3</sup> all products that include a CPD badge,<sup>4</sup> and all other instances that give the appearance that the CPD endorses the site and its religious messages.

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<sup>2</sup> [www.chicagopcm.org/PDF/2018%20Newsletters/Fr\\_Dan\\_FOP\\_Newsletter\\_August\\_2018.pdf](http://www.chicagopcm.org/PDF/2018%20Newsletters/Fr_Dan_FOP_Newsletter_August_2018.pdf).

<sup>3</sup> [www.chicagopcm.org/ride\\_A\\_long.php](http://www.chicagopcm.org/ride_A_long.php) ("Request a ride along with a CPD Chaplain").

<sup>4</sup> For instance, the site sells a coffee mug with what appears to be a CPD badge on one side and "Remember Whom you really work for . . ." on the other. See [www.chicagopcm.org/proddetail.php?prod=PCM-Coffee-Mug](http://www.chicagopcm.org/proddetail.php?prod=PCM-Coffee-Mug).

A far simpler solution is to discontinue the CPD chaplaincy program. Government chaplains may only exist as an accommodation of a public employee's religious beliefs when the government makes it difficult or impossible to seek out private ministries. *See Carter v. Broadlawns Medical Center*, 857 F.2d 448 (8th Cir. 1988), *cert. denied*, 489 U.S. 1096 (1989). For instance, it may be difficult for military service members to find a place of worship while on mission in a foreign country or for an inmate in a prison to find a way to worship. *Katcoff v. Marsh*, 755 F.2d 223 (2d. Cir. 1985). Chaplains are meant to lighten these government-imposed burdens on religious exercise.

In the case of police officers, there is no significant government burden on free exercise. The CPD does not prevent its officers from attending their place of worship or speaking with their own religious ministers. The CPD can provide secular counselors to carry out the permissible secular activities of the CPD chaplains, and officers are readily able to obtain religious counseling on their own. Providing clergy with positions inside the Department, uniforms, badges, and government email addresses invites constitutional violations when those ministers mix their clerical and government roles.

Even if the CPD continues its chaplaincy program, delivering prayers at Department-sponsored events exceeds any constitutionally justifiable purpose of a police chaplaincy, as does any other instance of public religious promotion, including in the monthly newsletters and product sales on the Chaplains Ministry website.

We once again request that the CPD remove prayers, as well as any other religious rituals, from graduations and all other CPD-sponsored events, and request that CPD chaplains remove all symbols, titles, emails, and other indications of CPD endorsement from the privately maintained Chaplains Ministry website. Please respond in writing with the steps taken to ensure compliance from the relevant officers, given that the last attempt at curbing this unconstitutional behavior was ignored.

Sincerely,



Ryan D. Jayne  
Staff Attorney