

# FREEDOM FROM RELIGION *foundation*

P.O. BOX 750 · MADISON, WI 53701 · (608) 256-8900 · WWW.FFRF.ORG

November 15, 2019

**SENT VIA FAX & U.S. MAIL  
440-326-1338**

Chief Duane Whitely  
Elyria Police Department  
18 West Ave.  
Elyria, Ohio 44035

Re: Chaplain Program

Dear Chief Whitely:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional violation occurring in the Elyria Police Department. FFRF is a national nonprofit organization with more than 30,000 members across the country, including over 800 members in Ohio and a local chapter, Northern Ohio Freethought Society (Cleveland). Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

An Elyria resident contacted FFRF to report that the Elyria Police Department has hired Pastor Jonathan Casbohm to serve as a police chaplain. See enclosure.

Police chaplaincies are unconstitutional. 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. 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. Chaplains are meant to lighten a government-imposed "burden" on religious exercise. Your workplace does not place any burden on employees or the public's religious exercise, so there is no need for you to provide chaplains for them. Chaplains' employment, even if volunteer, demonstrates endorsement of religion, in this case, Christianity, which violates the Constitution.

In the case of police departments, there is no significant government burden on free exercise. Courts look to the Establishment Clause to determine if chaplaincies are legitimate. *See, e.g., Voswinkel v. City of Charlotte*, 495 F. Supp. 588 (W.D.N.C. 1980) (finding a police chaplain position unconstitutional). Law enforcement agencies acting in their official capacities 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). This puts the Department in the position of policing the actions, words, and programs of the chaplain. In our experience, government entities rarely exert the appropriate oversight of the chaplaincy, allowing chaplains to use the workplace as their church. Paid or not, chaplains are sponsored by the Department. They are bound by the First Amendment like any other government employee, and your office is liable for their constitutional violations. The best solution is to discontinue this government-sponsored religious chaplaincy.

The Department is also vulnerable to a discrimination lawsuit. No doubt the chaplains intend, at least nominally, to assist people of all faiths. But the Department serves all county citizens regardless of their

religious affiliation (or lack thereof). A significant portion of the population is nonreligious: 23% of adult Americans and about 35% Americans under 30 are not religious.<sup>1</sup>

It is concerning that chaplains are meant to counsel law enforcement officers and their families. There are almost certainly officers who are not Christians. They should not be encouraged to compromise their beliefs and use religious support services. Nonreligious and non-Christian officers are your employees too, but if they want in-office help, they may be forced to take on costs to receive live person-to-person counseling and do so on their own time. All in all, this program discriminates against Department employees by providing chaplains who are only equipped to handle the needs of some employees, alienating nonbelievers and non-Christians.

It does no good to claim that chaplains can meet the needs of nonbelievers and believers of other faiths. This is simply not true. If chaplains were adept at providing secular therapy, they would be therapists, not chaplains. There is no reason to think a nonbelieving employee would be comfortable dealing with a person who provides comfort from a religious viewpoint. Chaplains cannot simply set aside their religion in order to assist a nonbeliever, and are often unwilling to even try to do so. Chaplains view the world and its problems through the lens of religion and a god, a view inapposite to nonbelievers. Claims that someone is “in a better place” or that a god “works in mysterious ways” may be the bedrock of religious consolation, but are meaningless and even hurtful trivialities to nonbelievers.

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, and favoring religious officers and their families with free, on-the-job counseling while ignoring the needs of those of non-Christian faiths or no faith is discriminatory.

We ask that you discontinue the Elyria Police Department’s chaplain program. The best approach by the department is to provide secular support services and to leave determinations on religious support to individuals. Please inform us in writing of the steps you will take to remedy this matter.

Sincerely,



Dante CH Harootunian

*Patrick O'Reiley Legal Fellow*

*Freedom From Religion Foundation*

Enclosure

---

<sup>1</sup> *America's Changing Religious Landscape*, PEW RESEARCH CENTER (May 12, 2015), available at [www.pewforum.org/2015/05/12/americas-changing-religious-landscape/](http://www.pewforum.org/2015/05/12/americas-changing-religious-landscape/).



## Elyria Police Department

7 hrs · 🌐



Please help us welcome the newest members of the Elyria Police Department. From left to right in the group photo: Police Chaplain Jonathon Casbohm, Mayor Holly Brinda, Officer Hume, Officer McDuffee, Officer Rieger and Captain Hammonds. Chaplain Casbohm is the Associate Pastor at the First Baptist Church and Christian School. All three Officers are lateral transfers; Officer Hume is formally from the Lorain County Sheriff's Office, Officer McDuffee is formally from the City of Warren Police Department and Officer Rieger is formally from the the Erie County Sheriff's Office. All three Officers will begin their formal field training shortly.



👍❤️ 124

9 Comments 7 Shares