

FREEDOM FROM RELIGION *foundation*

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February 26, 2021

SENT VIA EMAIL & U.S. MAIL: renae.mcdermott@ic.fbi.gov

Renae McDermott
Assistant Director, Training Division
FBI Academy
57 Bureau Pkwy
Strafford, VA 22556

Re: Graduation Prayers, Chaplain/Chapel and **FOIA Request**

Dear Assistant Director McDermott:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding constitutional concerns reported in the FBI Academy. FFRF is a national nonprofit organization with more than 33,500 members across the country, including more than 800 members in Virginia. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

A concerned FBI employee has reported serious concerns regarding increased religious promotion within the Bureau. Specifically, they have reported that the FBI has a chaplain offer a Christian invocation at FBI graduation ceremonies and allows religious figures into the VIP section during FBI Academy events. Our complainant also reported that on June 5, 2020, you forwarded an email from the Academy Chaplain to all employees reminding them “that there is a divine power in charge of all things. You are all very much appreciated and I have been praying for you and your loved ones each week... I have re-stocked the Chapel with Bibles, MP3 Sticks and Tracts for all.” Our complainant is especially concerned because the FBI is an organization filled with public employees who have sworn to protect and defend the Constitution of the United States.

Unconstitutional Academy Graduation Prayers

Including scheduled prayers at FBI events such as academy graduation ceremonies is unconstitutional. It is a fundamental constitutional principle that publicly funded institutions cannot support, promote, or otherwise endorse religion or engage in religious exercises. As the Supreme Court has put it, the Establishment Clause “mandates government neutrality between religion and religion, and between religion and nonreligion.” *McCreary Cty., Ky. v. Am. Civil Liberties Union of Ky.*, 545 U.S. 844, 860 (2005); *Wallace v. Jaffree*, 472 U.S. 38, 53 (1985); *Epperson v. Ark.*, 393 U.S. 97, 104 (1968); *Everson v. Bd. of Educ. of Ewing*, 330 U.S. 1, 15-16 (1947). Therefore, it is inappropriate for a public institution such as the FBI Academy to schedule an invocation as part of a secular graduation ceremony.

Furthermore, a call to FBI agents, their families and friends, and officers—who may be of varying faiths or no faith—for collective prayer is coercive, embarrassing, and beyond the scope of a government training academy. Individuals are free to pray or to worship on their own time in their own way. The FBI, however, ought not to lend its power and prestige to religion, amounting to a governmental endorsement of religion that excludes the 24% of Americans who are not religious.¹

Prayers at FBI Academy events are especially coercive. Agents are taught to maintain discipline and are trained to obey their superior officers' commands. Although the prayer may technically have been voluntary, agents would likely interpret a commanding officer's suggestion to participate in the prayer as a command. Also, graduates would likely be unwilling to publicly dissent during the prayer because any sign of defiance could have potential negative consequences on their new career.

Your pluralistic class of agents should be respected. Please provide written assurances that future graduation ceremonies will not include formal prayers.

Chaplain and Chapel

The Academy's chaplain program and chapel, which we understand is regularly stocked with bibles and other Christian materials, conveys a message that the FBI endorses religion in general, and Christianity in particular. This endorsement violates the Establishment Clause of the First amendment to the U.S. Constitution. 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). The Academy should end its chaplaincy program, perhaps replacing it with a secular alternative, with volunteers who are not given any religious duties, but generally provide support services tied to the criminal justice profession.

Government chaplaincies are only constitutionally justified as an accommodation of religious belief when the government makes it difficult or impossible to seek out private ministries. For instance, it may be difficult for military service members on mission in a foreign country, or an inmate in a prison, to find a place of worship. Chaplains are meant to lighten the government-imposed "burden" on religious exercise. They are not meant to proselytize to government employees or send out emails reminding government employees that "there is a divine power in charge of all things," or that they "have been praying for you." Nor should you be sending these kinds of religious messages to your employees through your official FBI email account as Assistant Director.

Thank you in advance for considering the point of view of this country's increasingly large segment of nonreligious Americans, and for honoring America's foundational principle of separation between religion and government. Please respond to the following Freedom of Information Act request or ensure that it is forwarded on to the proper records custodian.

¹ Robert P. Jones & Daniel Cox, *America's Changing Religious Identity*, PUBLIC RELIGION RESEARCH INSTITUTE (Sept. 6, 2017), available at www.ppri.org/wp-content/uploads/2017/09/PRRI-Religion-Report.pdf.

FOIA Request

Under the Freedom of Information Act (5 U.S.C. §552), I respectfully request a copies of the following records since January 1, 2017:

- 1) Any communications between employees of the FBI Academy and Chaplain Erik Myhrberg;
- 2) All financial records regarding the FBI Academy's chaplain Erik Myhrberg and its chapel, including but not limited to receipts or similar documentation of equipment, office supplies, upkeep, religious literature, and compensation for chaplains,
- 3) All training materials and other job related materials presented to chaplains;
- 4) Any official or unofficial guides, procedures, and/or regulations for chaplains;
- 5) The FBI Academy's list of current chaplains, including, if available, their denomination.

Any records available in electronic format (preferred) may be emailed to **chris@ffrf.org**. Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Line", with a long horizontal flourish extending to the right.

Christopher Line
Staff Attorney
Freedom From Religion Foundation