

FREEDOM FROM RELIGION *foundation*

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

July 27, 2021

SENT VIA EMAIL & U.S. MAIL: epayne@grand-rapids.mi.us

Eric Payne
Police Chief
Grand Rapids Police Department Headquarters
1 Monroe Center NW
Grand Rapids, MI 49503

Re: Clergy on Patrol

Dear Chief Payne:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to object to the Grand Rapids Police Department's Clergy on Patrol program. FFRF is a national nonprofit organization with more than 35,000 members across the country, including nearly 900 members in Michigan. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

Multiple concerned Grand Rapids area residents have reported that the Grand Rapids Police Department is launching a new faith based partnership called "Clergy on Patrol." It is our understanding that the purpose of this program is to "foster relationships between the police and faith based leaders." We understand this program utilizes GRPD resources, time, and funds to train clergy members who will then be riding along with police officers on a regular basis. We understand that this religious program has been promoted and endorsed on GRPD's official Facebook page.

The Grand Rapids Police Department must immediately end this unconstitutional religious program that utilizes public funds and resources in order to promote religion and allow clergy members to proselytize and promote their religious beliefs as an official part of the GRPD.

The Establishment Clause of the First Amendment prohibits the government from endorsing, advancing, or promoting religion. The Supreme Court has said time and again, "The touchstone for our analysis is the principle that the 'First Amendment mandates governmental neutrality between religion and religion, and between religion and nonreligion.'" *McCreary Cty. v. ACLU of Ky.*, 545 U.S. 844, 860 (2005) (quoting *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968); *Everson v. Bd. of Educ. of Ewing*, 330 U.S. 1, 15-16 (1947); *Wallace v. Jaffree*, 472 U.S. 38, 53 (1985)). Therefore, it is inappropriate for the GRPD to establish a faith-based partnership favoring clergy members and giving them official duties within the Department. This behavior violates the Establishment Clause of the First Amendment.

Official faith-based partnerships and 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 the government-imposed "burden" on religious exercise. Your workplace does not place any burden on employees or the public, so there is no need for you to provide chaplains for them or for clergy members to be riding along with police officers as they do their important work. Employing clergy members, even if they are volunteers, demonstrates endorsement of religion 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 or faith-based partnerships 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 chaplains or religious volunteers. In our experience, government entities rarely exert the appropriate oversight of these religious leaders, allowing them to use the workplace as their church. Paid or not, these clergy members' work is 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 immediately discontinue this government-sponsored religious program.

The Department is also vulnerable to a discrimination lawsuit. No doubt these clergy members intend, at least nominally, to assist people of all faiths. But the Department serves all Grand Rapids citizens regardless of their religious affiliation (or lack thereof). A significant portion of the population is nonreligious: 25% of Kent County residents¹ and about 38% of Americans under 30 are not religious.²

It does no good to claim that these clergy members can meet the needs of nonbelievers and believers of all faiths. This is simply not true. If clergy members were adept at providing secular services, they would be therapists. There is no reason to think a nonbelieving citizen would be comfortable dealing with a person who provides comfort from a religious viewpoint. Clergy members cannot simply set aside their religion in order to assist a nonbeliever, and are often unwilling to even try to do so. They 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.

As you are aware, citizens interact with and rely on law enforcement officers during some of the most urgent and vulnerable times of their lives. Minority religious and nonreligious citizens should not be made to feel excluded, like outsiders in their own community, because the police

¹ *The 2020 Census of American Religion*, Public Religion Research Institute (July 8, 2021), available at <https://www.prii.org/research/2020-census-of-american-religion>.

² Robert P. Jones & Daniel Cox, *America's Changing Religious Identity*, PUBLIC RELIGION RESEARCH INSTITUTE (Sept. 6, 2017), available at www.prii.org/wp-content/uploads/2017/09/PRRI-Religion-Report.pdf.

department that they support with their taxes oversteps its power by partnering with clergy members, training them on use of force, and allowing them to ride along with police officers and assist in official police duties. Nor should the department suggest that it favors religious citizens. We hope you'll agree that law enforcement must be even-handed and avoid any appearance of bias toward some citizens, or hostility toward others.

To avoid further constitutional concerns, the Grand Rapids Police should cease its "Clergy on Patrol" program immediately. Please inform us in writing of the steps you are taking to ensure this constitutional violation is resolved in order to respect the rights of conscience of all Grand Rapids residents.

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