

# FREEDOM FROM RELIGION *foundation*

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September 14, 2023

**SENT VIA EMAIL AND U.S. MAIL: [jgainza@cwgdn.com](mailto:jgainza@cwgdn.com)**

José P. Gainza, Jr.  
Fire Chief  
Winter Garden Fire Rescue Department  
1 E Cypress Street  
Winter Garden, FL 34787

Re: Official Fire Rescue Chaplain

Dear Chief Gainza:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional concern in the Winter Garden Fire Rescue Department. FFRF is a national nonprofit organization with more than 40,000 members across the country, including more than 2,000 members in Florida and a local chapter, Central Florida Freethought Community. 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 local resident contacted us to report that the Winter Garden Fire Rescue Department has an official chaplain, Andy Jones. It is our understanding that Jones recently started acting as the Department's chaplain and that he uses the position to spread his personal religious beliefs. While Jones claims he doesn't use his position to preach, he readily admits "the most important part" of his role is "introducing the Savior to people."<sup>1</sup>

Chaplain programs 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. Firefighters and rescue personnel do not need the government to fund their "spiritual support."

Our Constitution's Establishment Clause—which protects Americans' religious freedom by ensuring the continued separation of religion and government—dictates that the government cannot in any way show favoritism toward religion. As the Supreme Court has stated, "the First Amendment mandates governmental neutrality between religion and religion, and between religion and nonreligion." *McCreary Cty. v. ACLU*, 545 U.S. 844, 860 (2005); *Wallace v. Jaffree*, 472 U.S. 38, 53 (1985); *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968); *Everson v. Bd. of Educ.*

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<sup>1</sup> <https://www.orangeobserver.com/news/2023/aug/23/chaplain-andy-jones-serves-five-local-departments/>

*of Ewing*, 330 U.S. 1, 15–16 (1947). 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. Government and religion do not mix.

The Department is also vulnerable to a discrimination lawsuit. No doubt the chaplain intends, at least nominally, to assist people of all faiths. But the Department serves all Winter Garden citizens regardless of their religious affiliation or lack thereof. Thirty-seven percent of Americans are non-Christians, including the nearly thirty percent who now identify as religiously unaffiliated.<sup>2</sup>

Community resources or licensed therapists who have certifications in counseling should be the first resort for vulnerable people, firefighters, rescue personnel, and their families, not members of the clergy who hope to be helpful. Your Department employs and serves people who are not Christians, and it employs and serves people who are not religious. They should not be encouraged to compromise their beliefs and to support religion. Allowing Jones, or any religious leader who is only equipped to handle the needs of some employees and community members, to act as an official Department chaplain alienates those who do not believe in “the Savior.” There is no need for a secular fire rescue department to be providing “spiritual support.”

There is no reason to think a non believing employee or injured person 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 attempt 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 offensive trivialities to nonbelievers.

We ask that you end this official Department chaplaincy. The Department should provide secular support services and leave decisions to seek religious support to individuals. The City of Winter Garden is a diverse community with ample opportunities for people of various faiths to seek support. The Department must separate its mission from religion and respect the beliefs, including nonbelief, of all. Please inform us in writing of the steps you will take to address this concern so that we may notify our complainant.

Sincerely,



Christopher Line  
Staff Attorney  
Freedom From Religion Foundation

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<sup>2</sup> Gregory A. Smith, *About Three-in-Ten U.S. Adults Are Now Religiously Unaffiliated*, Pew Research Center (Dec. 14, 2021), available at [www.pewforum.org/2021/12/14/about-three-in-ten-u-s-adults-are-now-religiously-unaffiliated/](http://www.pewforum.org/2021/12/14/about-three-in-ten-u-s-adults-are-now-religiously-unaffiliated/).