

# FREEDOM FROM RELIGION *foundation*

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**SENT VIA EMAIL & U.S. MAIL**

**jchudnow@cityofoviedo.net**

Mr. Jeffrey A. Chudnow  
Chief of Police  
Oviedo Police Department  
300 Alexandria Blvd.  
Oviedo, FL 32765

Re: Unconstitutional Religious Promotion

Dear Chief Chudnow:

Thank you for your response to our previous letter. We would like to take the opportunity to clarify some of our concerns regarding invocations offered at official OPD functions.

First, the fact that OPD and the City of Oviedo do not “have any intention of establishing of any religion” is irrelevant. The inclusion of an invocation at an official OPD ceremony gives the impression that the OPD—and, hence the government—endorses religion. Supreme Court Justice Blackmun stated, “It is not enough that the government restrain from compelling religious practices, it must not engage in them either...” *Lee v. Weisman*, 505 U.S. 577, 604 (1992) (Blackmun, J., concurring). Regardless of intent, invocations are government endorsement of religion. Endorsement occurs when religious activity is “expression [made] by the government itself or else government action alleged to discriminate in favor of private religious expression or activity.” *Capitol Square Advisory Board v. Pinette*, 515 U.S. 753, 764 (1995) (citing *Lynch v. Donnelly*, 465 U.S. 688 (1984); *Board of Ed. of Kiryas Joel Village School Dist. v. Grumet*, 512 U. S. 687, 708-10 (1994)).

Second, you point out that no individual was compelled to pray at the event. However, courts have summarily rejected arguments that voluntariness excuses a constitutional violation. *See generally, Lee*, 505 U.S. at 596 (“It is a tenet of the First Amendment that the State cannot require one of its citizens to forfeit his or her rights and benefits as the price of resisting conformance to state-sponsored religious practice.”); *Abington Sch. Dist. v. Schempp*, 374 U.S. 203, 288 (1963) (Brennan, J., concurring) (“Thus, the short, and to me sufficient, answer is that the availability of excusal or exemption simply has no relevance to the establishment question...”); *Mellen v. Bunting*, 327 F.3d 355, 372 (4th Cir. 2003) (“...VMI cannot avoid Establishment Clause problems by simply asserting that a cadet’s attendance at supper or his or her participation in the supper prayer are ‘voluntary.’”).

Third, the fact that you did not receive any complaints about the invocation—other than ours—is not particularly surprising. Government endorsement of religion “sends a message to nonadherents that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community.” *Lynch*, 465 U.S. at 688 (O’Connor, J., concurring). Those offended by the invocation, marginalized by the display of state-sanctioned religion at a secular awards ceremony, would not seek redress from OPD and risk making themselves targets for ridicule or persecution. Also, we complained.

Fourth, we ask that you consider holding official ceremonies in facilities that are not connected with a religious organization like the Reformed Theological Seminary. The religious affiliation of the setting itself may be sufficient to dissuade attendance by OPD officers who richly deserve to enjoy praise and accolades in the company of their peers in a secular setting; surely there are plenty of secular options in your community, public schools for example.

Sincerely,



Andrew L. Seidel  
Staff Attorney

ALS:dds