

# FREEDOM FROM RELIGION *foundation*

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June 8, 2018

SENT VIA U.S. MAIL AND EMAIL  
mayorcanfield@yahoo.com

The Honorable Sarah Canfield  
Mayor  
958 Main Street  
Honesdale, PA 18431

Re: Display of Cross on Government Property

Dear Mayor Canfield:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to object to the display of a cross on public property. We were contacted by a concerned local resident. FFRF is a national nonprofit organization with over 33,000 members across the country, including over 900 members in Pennsylvania. FFRF's purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

It is our understanding that a large cross is erected in Gibbons Memorial Park at 199 Gibbons Park Road, which we understand is a public park. Apparently, the fixture is both a cross and a star, and the two can be lit separately. Our complainant reports that the cross is lit up annually during the Easter holiday and the star at Christmas. It is our understanding that the display's purpose is to commemorate the Easter and Christmas holidays. Please find enclosed several photos of the cross, as well as a screenshot from the Wayne County Historical Society's website.<sup>1</sup>

If these allegations are true, this is a serious constitutional violation. Honesdale cannot display a cross in a city park to celebrate Easter.

The religious significance of the Latin cross is unambiguous and indisputable. "The Latin cross . . . is the principal symbol of Christianity around the world, and display of the cross alone could not reasonably be taken to have any secular point." *Capitol Square Review and Advisory Bd. v. Pinette*, 515 U.S. 753, 792 (1995) (Souter, J., concurring). An overwhelming majority of federal courts agree that the Latin cross universally represents the Christian religion, and only the Christian religion. *See, e.g., Separation of Church and State Comm. v. City of Eugene*, 93 F.3d 617, 620 (9th Cir. 1996) ("There is no question that the Latin cross is a symbol of Christianity, and that its placement on public land . . . violates the Establishment Clause"); *Harris v. City of Zion*, 927 F.2d 1401, 1412 (7th Cir. 1991) ("a Latin cross . . . endorses or promotes a particular religious faith. It expresses an unambiguous choice in favor of Christianity."), *cert. denied*, 505 U.S. 1218 (1992); *ACLU of Ill. v. City of St. Charles*, 794 F.2d 265, 271 (7th Cir. 1986) ("When prominently displayed . . . the cross dramatically conveys a message of governmental support for Christianity, whatever the intentions of those responsible for the display may be. Such a display is not only religious but sectarian."), *cert. denied*, 479 U.S. 961 (1986).

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<sup>1</sup> Wayne County Historical Society, *Irving Cliff and Gibbons Memorial Park*, <http://www.waynehistorypa.org/places/id/150> (last visited June 8, 2018)

A majority of federal courts have held displays of Latin crosses on public property to be an unconstitutional endorsement of religion. *See, e.g., Trunk v. San Diego*, 629 F.3d 1099 (9th Cir. 2011), *cert. denied*, 132 S.Ct. 2535 (2012); *Buono v. Norton*, 371 F.3d 543, 550 (9th Cir. 2004); *Carpenter v. City and Cnty. of San Diego*, 93 F.3d 627, 632 (9th Cir. 1996); *Friedman v. Bd. of Cnty. Comm'rs*, 781 F.2d 777, 778 (10th Cir. 1985) (en banc); *ACLU v. Rabun Cnty. Chamber of Commerce*, 698 F.2d 1098, 1111 (11th Cir. 1983); *ACLU v. Eckels*, 589 F. Supp. 222, 241 (S.D. Tex. 1984). While most of the aforementioned cases involved the display of a Latin cross in public parks, the display on any government property would also violate the Establishment Clause. Justice Kennedy has stated, "I doubt not, for example, that the Clause forbids a city to permit a permanent erection of a large Latin cross on the roof of city hall . . ." *Cnty. of Allegheny v. ACLU of Pittsburgh*, 492 U.S. 573, 661 (1989) (Kennedy, J., concurring in part, dissenting in part). Such a religious display "would place the government weight behind an obvious effort to proselytize on behalf of a particular religion." *Id.*

The cross unabashedly creates the perception of government endorsement of Christianity. It conveys the message to non-Christians, including the 24% of Americans who are not religious, that they are not "favored members of the political community."<sup>2</sup> *Allegheny*, 492 U.S. at 594. The cross has an exclusionary effect, making non-Christian and non-believing residents of Honesdale political outsiders.

Likewise, we have concerns over the star that is allegedly illuminated during the Christmas holiday season. That it is in the same location as the cross - indeed it is mounted as part of the same structure - seems to suggest that the City is celebrating the religious aspect of the Christmas holiday, which is another violation of the First Amendment. The Supreme Court has stated: "The government may acknowledge Christmas as a cultural phenomenon, but under the First Amendment it may not observe it as a Christian holy day by suggesting people praise God for the birth of Jesus." *Allegheny v. American Civil Liberties Union, Greater Pittsburgh Chapter*, 492 U.S. 573, 601 (1989).

We ask you to remove the cross and star from city property immediately or direct the display be moved to a more appropriate private location. Please inform us in writing of the steps you are taking to resolve this matter.

Sincerely,



Rebecca S. Markert  
Legal Director

RSM:lbc

Enclosures

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<sup>2</sup> 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](http://www.prii.org/wp-content/uploads/2017/09/PRRI-Religion-Report.pdf).

The Christmas and Easter holidays are commemorated each year with the illumination of a star or cross on the pinnacle of Irving Cliff.  
Source: <http://www.waynehistorypa.org/places/id/150>



