

# FREEDOM FROM RELIGION *foundation*

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**SENT VIA EMAIL & U.S. MAIL: [bburton@co.orange.tx.us](mailto:bburton@co.orange.tx.us)**

Mr. Barry Burton  
Commissioner of Precinct 2  
Orange County Courthouse  
801 West Division St.  
Orange, TX 77630

Re: Display of Crosses on Government Property

Dear Mr. Burton:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to object to the display of multiple crosses on public property. We were contacted by a concerned local resident. FFRF is a national nonprofit organization with more than 27,000 members across the country, including more than 1,200 members in Texas. FFRF's purpose is to protect the constitutional principle of separation between state and church.

It is our understanding that there is a white Latin cross on display outside of the Orange County Courthouse. We understand this cross is prominently located next to the main entrance to the courthouse. We also understand that there is a veteran's memorial on the grounds of the Orange County Courthouse that features a large Latin cross and the phrase, "For God and Country." Please see the enclosed photos.

FFRF has no objection to memorializing veterans. Our objection is to the message of endorsement of religion over nonreligion. The veteran's memorial sends a message that the government only cares about the deaths of Christian veterans, not other non-Christian and nonreligious veterans. This "sponsorship of a religious message is impermissible because it sends the ancillary 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.'" *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 309-10 (2001) (quoting *Lynch v. Donnelly*, 465 U.S. at 668) (O'Connor, J., concurring).

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).

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). [If not in park: 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 government's permanent display of Latin crosses on public land is unconstitutional. The inherent religious significance of the Latin cross is undeniable and is not disguisable. No secular purpose detracts from the overall message that the Latin cross stands for Christianity and that the display promotes Christianity. The display of this patently religious symbol on public property confers government endorsement of Christianity, a blatant violation of the Establishment Clause.

These crosses unabashedly create the perception of government endorsement of Christianity. They convey the message to the nearly 30% of Americans who are not Christians, including the 23% of Americans who are not religious, that they are not "favored members of the political community."<sup>1</sup> *Allegheny*, 492 U.S. at 594. The crosses have an exclusionary effect, making non-Christian and non-believing residents of Orange County political outsiders.

We ask you to remove these crosses from the Orange County Courthouse immediately or direct the displays 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  
Staff Attorney

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Enclosures

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<sup>1</sup> *America's Changing Religious Landscape*, PEW RESEARCH CENTER (May 12, 2015), available at [www.pewforum.org/2015/05/12/americas-changing-religious-landscape/](http://www.pewforum.org/2015/05/12/americas-changing-religious-landscape/).



