

FREEDOM FROM RELIGION *foundation*

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December 5, 2012

**SENT VIA FAX & U.S. MAIL
(325) 653-2920**

Tim Vasquez
Chief of Police
San Angelo Police Department
401 East Beauregard
San Angelo TX 76903

COPY

Re: Latin Cross Christmas Decoration at San Angelo Police Department

Dear Chief Vasquez:

I write on behalf of the Freedom From Religion Foundation (“FFRF”) and its Texas members to object to the erection of an illuminated Latin cross atop the San Angelo Police Department (“SAPD”) station. A local San Angelo resident and taxpayer contacted us about this constitutional violation. FFRF is a national nonprofit organization representing over 19,000 members across the country including over 700 in Texas. FFRF’s purpose is to protect the constitutional principle of separation between state and church.

It is our information and understanding that a large Latin cross sits atop the roof of the San Angelo Police Department building. Please find enclosed a picture of this cross, which is illuminated at night. Our complainant informs us that this cross only adorns the SAPD building for the holiday season.

It is unconstitutional for the SAPD to display a Latin cross as part of Christmas decorations. Thus, the cross must be taken down immediately.

A majority of federal courts has 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*, WL2368746 Jun. 25, 2012 (No. 11-998, 11-1115); *Buono v. Norton*, 371 F.3d 543, 550 (9th Cir. 2004); *Carpenter v. City and County of San Diego*, 93 F.3d 627,632 (9th Cir. 1996); *Friedman v. Bd. of County Comm’rs*, 781 F.2d 777, 778 (10th Cir. 1985)(en banc); *ACLU v. Rabun County 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

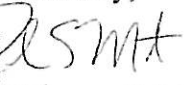
city to permit a permanent erection of a large Latin cross on the roof of city hall..." *Allegheny* at 661. (1989)(Kennedy J., concurring in part, dissenting in part). Such a religious display "would place the government weight behind an obvious effort to proselytize on behalf of a particular religion." *Id.*

SAPD's cross display is akin to the one at issue in *ACLU v. St. Charles*, 794 F.2d 265 (7th Cir. 1986), *cert. denied*, 479 U.S. 961 (1986). In that case, the Seventh Circuit prohibited the city of St. Charles from displaying an illuminated Latin cross on the top of the city's fire department as a part of its annual Christmas display. *Id.* at 267. The court reasoned that this powerful sectarian symbol was not a traditional decoration for the holiday season, but instead was an unmistakable symbol of Christianity. *Id.* at 271. It stated, "when prominently displayed on a public building that is clearly marked as and known to be such, the cross dramatically conveys a message of government support for Christianity..." *Id.* Thus, the court held this display constituted an endorsement of religion, particularly Christianity, which is prohibited by the Establishment Clause of the First Amendment. *Id.* at 270-271.

Like the Latin cross in *ACLU v. St. Charles*, which violated the Establishment Clause, SAPD's cross also violates the Establishment Clause. The building is clearly marked "San Angelo Police Department," which allows all passersby to identify it as a city building. Its hosting of a powerful sectarian symbol cannot be seen as a traditional decoration of the holiday season, but instead can only be a message of government support for Christianity. Given that the cross is prominently displayed on the lawn of the firehouse, and can be seen by many passersby, particularly at night when it is illuminated, a reasonable observer could only conclude that the City of San Angelo supports and approves its religious message.

The cross unequivocally shows SAPD's endorsement of Christianity, which is prohibited under the Constitution. SAPD must take immediate action to remove this cross from its rooftop. We ask that you inform us in writing of the steps you are taking to remedy this constitutional violation. Our San Angelo complainant awaits action.

Sincerely,


Rebecca S. Markert
Staff Attorney

Enclosure

CC: Lysia H Bowling, City Attorney

