AMERICANS UNITED
FOR SEPARATION OF CHURCH AND STATE

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March 11, 2025

By U.S. Mail
Mayor Thomas P. Koch
City of Quincy
1305 Hancock St.
Quincy, MA 02169

James Timmins, City Solicitor
City Hall
1305 Hancock St., 3d Floor
Quincy, MA 02169

Re: *City Commissioned Religious Statutes to be Displayed on Public Safety HQ*

Dear Mayor Koch and Solicitor Timmins:

We have received several complaints about the City of Quincy commissioning, paying for, and planning to display two religious statutes on its new Public Safety Headquarters building. There will be two statues—one of Archangel Michael and one of St. Florian—at a combined cost to the City of $850,000. Peter Blanding, *10-foot-tall statues of saints to adorn Quincy's new police headquarters. What they cost*, The Patriot Ledger, Feb. 8, 2025, at https://tinyurl.com/4bvtzh2x. This display sends the unambiguous message that the City of Quincy favors a particular religious viewpoint and that those who believe otherwise will be treated differently. The display violates the Establishment Clause of the First Amendment to the U.S. Constitution. Please do not display this religious iconography on a government building.

The Supreme Court has emphasized that "the Establishment Clause must be interpreted 'by reference to historical practices and understandings,'" and that the "'line' . . . 'between the permissible and the impermissible' has to 'accor[d] with history and faithfully reflec[t] the understanding of the Founding Fathers.'" *Kennedy v. Bremerton Sch. Dist.*, 142 S. Ct. 2407, 2428 (2022) (quoting *Town of Greece v. Galloway*, 572 U.S. 565, 577 (2014) (alterations in original)). The Supreme Court recently clarified that this kind of historical analysis does not "suggest a law trapped in amber" but instead requires "applying faithfully the balance struck by the founding generation to modern circumstances." *U.S. v. Rahimi*, 144 S. Ct. 1889, 1897-98 (2024) (internal quotations omitted). The City of Quincy's plan to display

religious iconography on a government building flies in the face of those historical understandings.

The Supreme Court explained in *Engel v. Vitale*, 370 U.S. 421, 432 (1962), that the Establishment Clause was in part based "upon an awareness of the historical fact that governmentally established religions and religious persecutions go hand in hand." Our founding generation knew "from bitter personal experience, that one of the greatest dangers to the freedom of the individual to worship in his own way lay in the Government's placing its official stamp of approval upon one particular kind of prayer or one particular form of religious services." *Id.* Accordingly, the Establishment Clause's "first and most immediate purpose rested on the belief that a union of government and religion tends to destroy government and to degrade religion." *Id*. at 431. "The Establishment Clause thus stands as an expression of principle on the part of the Founders of our Constitution that religion is too personal, too sacred, too holy to permit its 'unhallowed perversion' by a civil magistrate." *Id*. at 431-32 (quoting *Memorial and Remonstrance against Religious Assessments*, II Writings of Madison, at 187).

The Establishment Clause therefore requires a "wholesome 'neutrality'" with respect to religion, which "stems from a recognition of the teachings of history that powerful sects or groups might bring about a fusion of governmental and religious functions," which "the Establishment Clause prohibits." *Abington Sch. Dist. v. Schempp*, 374 U.S. 203, 222 (1963). Specifically,

> [g]overnment in our democracy, state and national, must be neutral in matters of religious theory, doctrine, and practice. It may not be hostile to any religion or to the advocacy of no[n]religion; and it may not aid, foster, or promote one religion or religious theory against another or even against the militant opposite. The First Amendment mandates governmental neutrality between religion and religion, and between religion and nonreligion.

Epperson v. Arkansas, 393 U.S. 97, 103-04 (1968); *accord McCreary County v. ACLU of Kentucky*, 545 U.S. 844, 875-76 (2005) (reaffirming, based on history of religious conflict in England and the American colonies, that "the government may not favor one religion over another, or religion over irreligion").

The City of Quincy's creation of a religious display for its new Public Safety Headquarters flies in the face of history and the law. Numerous federal courts have held that governmental bodies must not communicate religious messages to members of the public verbally or by displaying religious signs or symbols. *See, e.g.*, *Cooper v. U.S. Postal Serv.*, 577 F.3d 479, 493 (2d Cir. 2009) (Establishment Clause prohibited religious displays in post-office space); *Berry v. Dep't of Soc. Servs.*, 447 F.3d 642, 657 (9th Cir. 2006) (public employer's interest in avoiding Establishment Clause violation justified prohibiting employee who had regular in-person contact

with the public from displaying religious items in plain view in his cubicle); *ACLU of Ohio Found., Inc. v. Ashbrook*, 375 F.3d 484, 490–92 (6th Cir. 2004) (display of Ten Commandments poster in courtroom violated Establishment Clause); *Knight v. Conn. Dep't of Pub. Health*, 275 F.3d 156, 164–66 (2d Cir. 2001) (Establishment Clause concerns justified reprimand of sign-language interpreter and home-healthcare worker who promoted religious messages to clients receiving state services); *Asselin v. Santa Clara Cnty.*, No. 98-15356, 1999 WL 390984, at *1 (9th Cir. May 25, 1999) (firing probation officer who incorporated religious messages into his work with minors was justified because his conduct would have violated Establishment Clause); *N.C. Civil Liberties Union v. Constangy*, 947 F.2d 1145, 1151–53 (4th Cir. 1991) (judge violated Establishment Clause by opening court sessions with prayer); *Roberts v. Madigan*, 921 F.2d 1047, 1057 (10th Cir. 1990) (public-school teacher violated Establishment Clause by displaying religious poster and keeping a Bible on his desk where it would be visible to students); *Hall v. Bradshaw*, 630 F.2d 1018, 1019–22 (4th Cir. 1980) (state violated Establishment Clause by issuing maps with "Motorist's Prayer").

When other cases have upheld governmental displays with religious elements, they have done so only when the context of the display deemphasized the religious elements. *See Cnty. of Allegheny v. ACLU*, 492 U.S. 573, 601-02, 620 (1989) (striking down solitary crèche display while upholding larger, secular display that included menorah), *dicta on different issue disapproved by Town of Greece v. Galloway*, 572 U.S. 565, 579-80 (2014); *Lynch v. Donnelly*, 465 U.S. 668 (1984) (upholding display that incorporated "a Santa Claus house, reindeer pulling Santa's sleigh, candy-striped poles, a Christmas tree, carolers, cutout figures representing such characters as a clown, an elephant and a teddy bear, hundreds of colored lights, a large banner that read[ ] 'Seasons Greetings,' and the crèche").

The City's display has no context that prevents it from sending a predominantly religious message. Rather, the display has far more in common with displays the Supreme Court has struck down as unconstitutional. Like the crèche display in *Allegheny*, here the two religious figures will be displayed by themselves and are designed to stand out and draw the eye. *Id.* at 598-99. They will be specifically placed on the front of the Public Safety Headquarters to communicate that the City of Quincy supports the display's religious message. *See id.* at 598-600 ("Furthermore, the crèche sits on the Grand Staircase, the 'main' and 'most beautiful' part of the building that is the seat of county government. No viewer could reasonably think that it occupies this location without the support and approval of the government. Thus, by permitting the 'display of the crèche in this particular physical setting,' the county sends an unmistakable message that it supports and promotes the Christian praise to God that is the crèche's religious message.").

And in keeping with the Founders' concerns about governmental persecution of religious minorities, courts have found religious messages from the police to be

especially concerning because these communications may lead "a citizen with no strong religious conviction [to] conclude that secular benefit could be obtained by becoming a Christian." *Friedman v. Bd. of Cnty. Comm'rs*, 781 F.2d 777, 782 (10th Cir. 1985) (en banc) (holding that religious symbol and message on county patrol cars violated Establishment Clause); *see also Daniels v. City of Arlington*, 246 F.3d 500, 503-04 (5th Cir. 2001) (police officer had no right to wear cross pin on uniform); *Harris v. City of Zion*, 927 F.2d 1401, 1412 (7th Cir. 1991) (religious symbol on city patrol cars violated Establishment Clause). As the Public Safety Headquarters will house the City of Quincy's police headquarters, these cases have special relevance here.

Please do not place these statues on the new Public Safety Headquarters or on any other government building or property. We would appreciate a response to this letter within thirty days that advises us how you plan to proceed. If you have questions, you may contact Ian Smith at (202) 466-3234 or *ismith@au.org*.

Sincerely,

Ian Smith, Staff Attorney