

# FREEDOM FROM RELIGION *foundation*

P.O. BOX 750 · MADISON, WI 53701 · (608) 256-8900 · WWW.FFRF.ORG

November 18 , 2019

**SENT VIA EMAIL AND U.S. MAIL:**  
**Sheriff.Gonzalez@sheriff.hctx.net**

The Honorable Ed Gonzalez  
Sheriff of Harris County  
1200 Baker Street  
Houston, TX 77002

Re: Religious concert, “church service” at Harris County Jail and **request for public records**

Dear Sheriff Gonzalez:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to object to your office scheduling a religious concert at the Harris County Jail. FFRF is a national nonprofit organization with more than 30,000 members across the country, including more than 1,300 members in Texas. FFRF protects the constitutional separation between state and church and educates about nontheism.

It is our understanding that Harris County Sheriff officials organized two concerts for inmates and staff on Friday, November 15. Kanye West and his choir performed songs from West’s recent religious album, “Jesus Is King,” and the performances were “really more like a church service,”<sup>1</sup> a sentiment you explicitly and publicly admitted. Photos suggest this is true, too.

Media reported that West coordinated the performances with jail officials, and that West explained that since his recent public conversion to Christianity, “my job is to spread the gospel, to let people know what Jesus has done for me.”<sup>2</sup> Reportedly, after the performances, you wrote on an official social media account that Kanye “brought some light and #churchservice to people who needed it today at the Harris County Jail.”<sup>3</sup> In a separate tweet, you quoted West as saying that the performance was “a mission, not a show.”<sup>4</sup> HCSO’s official account re-tweeted both of these messages, which celebrate the religious—and specifically Christian—aspect of West’s performance. This is a clear admission that the concerts had a religious purpose and were not for entertaining the inmates, but converting them.

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<sup>1</sup> See <https://binged.it/2pqfaFs> at 0:20.

<sup>2</sup> Associated Press, *Kanye West gives emotional performance of ‘Jesus is King’ for inmates at a Houston jail* (Nov. 15, 2019), available at <https://bit.ly/2pqeW14>.

<sup>3</sup> See enclosure. @SheriffED\_HCSO, available at [twitter.com/SheriffEd\\_HCSO](https://twitter.com/SheriffEd_HCSO).

<sup>4</sup> See enclosure.

Arranging a Christian church-like religious concert for inmates sends a clear message that the Harris County Sheriff's Office prefers religion over nonreligion and specifically Christianity over minority religions. Your subsequent social media comments, re-tweeted by HCSO, clarified that the purpose of organizing the event was to promote Christianity.

As you may be aware, the Supreme Court has said time and again that the First Amendment “mandates governmental neutrality between religion and religion, and between religion and nonreligion.” *McCreary Cty., Ky. v. Am. Civil Liberties Union of Ky.*, 545 U.S. 844, 860 (2005) (quoting *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968); *Everson v. Bd. of Educ. of Ewing*, 330 U.S. 1, 15–16 (1947); *Wallace v. Jaffree*, 472 U.S. 38, 53 (1985)) (emphasis added). Additionally, the Supreme Court has said that “the preservation and transmission of religious beliefs and worship is a responsibility and a choice committed to the private sphere.” *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 310 (2000) (quoting *Lee v. Weisman*, 505 U.S. 577, 589 (1992) (O'Connor, J., concurring)). By organizing what you admit to be a worship service, you crossed this line.

In short, this was unconstitutional. You were elected to a secular office and to uphold a secular Constitution. You cannot use that public office to promote your personal religion, even if it happens to be a religion Kanye West shares. This constitutional violation is particularly egregious because it imposed religion on inmates—literally a captive audience—who have a deep and immediate interest in being seen favorably by you and your staff. When you signal that you prefer Christianity to inmates, you tell non-Christian inmates that they would be viewed more favorably if they convert to your preferred religion.

It is no excuse that Kanye West is famous. If anything, this makes the violation worse because the captive audience may be more receptive to his message. Too often we see religion assisting the vulnerable as a means of converting the susceptible.

While Christians are vastly overrepresented in the prison population, it is still inappropriate to expose any prisoner to proselytizing, be it through music or a worship service. Now, more than one-quarter of Americans, 26%, are religiously unaffiliated and nearly 30% are non-Christians, either practicing a minority religion or no religion at all.<sup>5</sup> Younger Americans are not just religiously unaffiliated, they are largely atheist or agnostic. A recent survey found that 21 percent of Americans born after 1999 are atheist or agnostic.<sup>6</sup>

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<sup>5</sup> Robert P. Jones & Daniel Cox, *America's Changing Religious Identity*, Public Religion Research Institute (Sept. 6, 2017), available at [www.ppri.org/wp-content/uploads/2017/09/PRRI-Religion-Report.pdf](http://www.ppri.org/wp-content/uploads/2017/09/PRRI-Religion-Report.pdf).

<sup>6</sup> *Atheism Doubles Among Generation Z*, The Barna Group (Jan. 24, 2018), <https://www.barna.com/research/atheism-doubles-among-generation-z/>.

And, of course, any claim that this was a voluntary event is specious. First, voluntariness cannot excuse a constitutional violation, especially when a state-sponsored religious practice is foisted on a captive audience. *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.”). Second, nobody believes there is a genuine choice between sitting in a cramped, locked cell, and listening to a two-hour long concert, even if it was “really more like a church service.”

Finally, there is no colorable argument that this was about the religious liberty of the inmates. This was about a superstar using his notoriety to pressure a captive audience into accepting his particular brand of religion. No government in this country can aid him in that religious mission.

We request assurances that HCSO will not organize or promote worship services in the future. We also request that the Request for Public Records below be processed by the appropriate records custodian as soon as possible.

Sincerely,



Andrew L. Seidel  
Constitutional Attorney  
Director of Strategic Response

enclosure:



## Request for Public Records

Pursuant to the Texas Public Information Act (Texas Gov't Code Ann. §§ 552.001–552.353), I request copies of the following records since September 1, 2019:

1. All correspondence, including email, between any official of either the Harris County Sheriff's Office or the Harris County Jail, and either Kanye West or any representative of Kanye West;
2. All digital correspondence, including email, to or from any officials of either the Harris County Sheriff's Office or the Harris County Jail, that includes the following search terms:
  - a. "Kanye"
  - b. "Jesus Is King"
  - c. "concert"
3. All written materials that were submitted regarding Kanye West's Nov. 15 performances at the Harris County Jail, including but not limited to all notice that was provided to the Harris County Jail of the content of the performances.

Please respond to this request within 10 days as required under Texas law. If you do not maintain these public records, please forward this request to the proper custodian and let me know their name and address. If you choose to deny this request, please respond with a written explanation of the denial, including any references to applicable statutory exemptions relied upon.

If any of these records are available through electronic media (preferred), they may be e-mailed to **records@ffrf.org**. If I can provide any clarification that will help expedite your attention to my request, please contact me at (608)256-8900. I appreciate your time and attention to this request.