

ACLU Arkansas Sues Department of Correction

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ACLU of Arkansas Tells Prison: "Keep Curtains Open During Executions"(
ACLU Sues on Behalf of Journalists and Newspaper to Open Entire Execution Procedure to Public Viewing (July 25, 2007)

Little Rock, AR - The American Civil Liberties Union of Arkansas filed a lawsuit today in federal court in Pine Bluff demanding that the Arkansas Department of Correction allow those viewing executions to see the entire process from the moment the condemned person is brought into the room until the moment the body is taken out.

"America is an open society, and we do not carry on trials or carry out executions in secret," said Rita Sklar, Executive Director of the ACLU of Arkansas. "The freedom we treasure is based on the idea that the government acts with the permission of the people, and not the other way around. If we are going to give the state the power to execute people in our name, we have a right and responsibility to see exactly what goes on."

The ACLU of Arkansas filed the lawsuit on behalf of the Northwest Arkansas Chapter of the Society of Professional Journalists, the Arkansas Times, Inc., and journalist Max Brantley. The ACLU contends that the First Amendment compels a right of public viewing for all phases of a lethal injection because the event is a matter of public concern and debate, and "Because the First Amendment guarantees the public and the press a qualified right of access to governmental proceedings ... [preventing the press and the public] ... from viewing the execution from beginning to end violates their First Amendment right of access." The lawsuit asks the Court to require that "all phases of the execution be conducted in full and open view of the assembled witnesses to that execution."

In Arkansas a limited number of people, including members of the media, are allowed to witness state executions. Under current execution procedure curtains in the execution chamber are opened only after the prisoner has been strapped to a gurney and the intravenous tubes inserted into the prisoner's veins. The curtains remain open while the poison is injected and the prisoner dies, and then close again as technicians take out the tubes and do whatever else is necessary to remove the body from the room.

The ACLU complaint describes the execution procedure in more detail:

"The [prison] does not allow the public and media witnesses to view an execution in its entirety. Specifically,

- witnesses are not allowed to see or hear the condemned take his final steps into the execution chamber;
- the ADC personnel strapping the condemned prisoner to the gurney;
- immobilizing his or her head;
- spreading his or her arms away from his or her body;
- strapping the hands to the board;
- putting in place the leather breastplate;
- placing the straps over the shoulders, waist, and thighs;
-

placing the leather shackles around the condemned's ankles;

- fastening to the gurney,
- immobilizing the lower legs;
- inserting the two IV lines into the condemned;
- attaching an electrocardiogram monitor;
- selecting alternate IV insertion points; or
- the performance of more invasive or surgical procedures such as [surgically opening a vein in the neck to insert the tubing].

Further, microphones are not on during any of the execution procedures, other than to give the condemned a chance for last words or statements and to pronounce the condemned dead. Therefore, conversations with the condemned, or exclamations or statements by the condemned during the execution process cannot be heard.”

“Hiding from public view the manner in which the government puts people to death serves no one,” said ACLU cooperating attorney Jim Lingle, “and limits informed public debate. If our method of execution is humane, it must be open so that it will remain humane. If it is not humane, it must be open so that it can be changed.”

Click the link below to view the complaint: <http://www.acluarkansas.org/content/files/complaint.pdf>