



AMERICAN CIVIL LIBERTIES UNION

Arkansas

@ACLUArkansas  

Michael Cobb
President

Rita Sklar
Executive Director

Holly Dickson
Legal Director

Via facsimile to (501) 682-3510

April 24, 2019

The Honorable John Thurston
Arkansas Secretary of State
Executive Office State Capitol, Suite 256
500 Woodlane Avenue
Little Rock, AR 72201

Dear Secretary Thurston:

The American Civil Liberties Union of Arkansas is a non-partisan, non-profit organization dedicated to preserving and protecting the constitutional rights guaranteed to all Arkansans under the United States and Arkansas Constitutions and federal and state civil rights laws. This correspondence is to express grave concerns with the response to a peaceful protest held Monday, April 22 at the Arkansas State Capitol and actions taken to suppress Arkansans' First Amendment rights.

Since the state capitol is a traditional public forum, no person needs permission of the government to visit or to hold an event at the state capitol. People seeking justice for the shooting death of Bradley Blackshire at the hands of police and calling for police reform were denied an application to use state equipment as they demonstrated at the State Capitol. As you know, granting their application would have given them primary rights to use of space as well as use of the state's sound equipment and podium.

Not only was the use of facilities application denied, but their calls for justice and reform were instead met by a heavily militarized police presence and Arkansas State Capitol Police took the highly unusual step of locking the state capitol, denying them the ability to speak with their elected officials or use the building's facilities, which are meant for public use. In addition, a member of the press was unnecessarily detained and questioned by the police during the demonstration.

These extreme measures raise serious constitutional concerns and indicate a fundamental disregard for the First Amendment rights of the people you have sworn to serve.

First, your office's stated reason for denying their request to use state capitol equipment and facilities – that organizers failed to submit an application more than 30 days in advance – does not stand up to scrutiny. The Secretary of State's office makes clear that it only "prefers" to have 30 days' notice, and your and prior administrations have approved numerous event applications that were submitted less than 30 days in advance. Though your office has stated that the lack of 30 days' notice was the reason for denial, such a policy, were it to exist, would not allow for spontaneous and contemporaneous speech in a traditional public forum using government property, and as such, would violate the Constitution.

Second, police in military fatigues posted atop the capitol and other state property, an unusually heavy police presence, and having riot gear at the ready are not consistent with a commitment to respecting the constitutional rights of peaceful demonstrators. This kind of extreme and disproportionate response can serve to escalate tensions and chill free speech at a time when state and local police should be working to build greater trust with the communities they serve.

Finally, locking the State Capitol was an unnecessary and extreme step that blocked demonstrators from being able to access public facilities. This is a security measure that rightfully should be reserved for only the most extreme and dangerous circumstances. The people of Arkansas should always retain the right to petition their public officials and access public buildings, yet that was denied to the public Monday in response to this peaceful event.

While attendees were allowed to utilize the capitol steps, no fewer than 20 officers kept steady surveillance and policing of the group while denying access to state capitol property and equipment that other event holders regularly access and use. There were fewer than 100 people present, and no disturbance, breach of police, violence, or any violation of laws occurred or has been alleged.

We submitted a public records request to your office Monday and have not been provided any records related to prior closures of the capitol during business hours or any records related to Monday's event. We renew our request to inspect and copy those records in whatever form they may exist.

Further, we urge your office to show greater respect for the constitutional rights of your constituents and allow demonstrators to exercise their First Amendment rights unimpeded by unconstitutional bureaucratic blockades or police intimidation. As always, the ACLU of Arkansas will remain vigilant against threats to the constitutional rights of Arkansans and will take legal action as necessary to defend them.

Respectfully,

A handwritten signature in black ink that reads "Holly Dickson". The signature is written in a cursive, flowing style.

Holly Dickson