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**COURT RULES IDAHO CORRECTIONS OFFICIALS  
WITHHELD LETHAL INJECTION RECORDS IN BAD FAITH**

*Judge fines IDOC's public information officer, admonishes IDOC for frivolous conduct, and orders disclosure of many lethal injection records to professor in ACLU of Idaho lawsuit*

BOISE—An Idaho judge ruled today in Professor Aliza Cover's case against the Idaho Department of Correction (IDOC) seeking information about Idaho's lethal injection drugs, finding that IDOC and its current Deputy Director Jeff Zmuda behaved frivolously and that its Public Information Officer Jeff Ray denied Cover's request in bad faith. The court ordered IDOC to disclose many but not all of the records Professor Cover sought and imposed a \$1,000 fine on Ray.

Among the many previously undisclosed documents that the court ruled IDOC must immediately turn over is a document that identifies the source of the lethal injection drugs used in Richard Leavitt's execution, along with information about those chemicals. At trial, IDOC officials revealed that this drug source was a compounding pharmacy that can no longer comply with new regulations, preventing the pharmacy from supplying lethal injection chemicals for future executions. The court ruled that IDOC may withhold another document identifying the source of the drugs used in the earlier, 2011 execution of Paul Ezra Rhoades.

In response to the ruling, Professor Cover said, "When the state keeps secret basic information about the death penalty, the public cannot ensure that it is carried out humanely or constitutionally. Judge Norton's decision takes us one step closer to the transparency we need."

The court went on to rebuke IDOC, Ray, and Zmuda, for their conduct in handling Professor Cover's public records request. The court ruled that Ray avoided his mandatory duties and failed to even make a minimum diligent effort to respond to

Cover's request. The court also found that Zmuda had testified disingenuously in an affidavit filed in the case. In concluding that IDOC acted frivolously, the court also detailed IDOC's pattern of failing to provide lethal injection records in response to previous public records requests.

"The Public Records Act requires an affirmative duty for a records custodian to actually look [for] and release any records in the custody of the agency. It makes no exceptions for records poorly indexed, improperly filed, maintained in more than one location, or abandoned in desks or basements," Judge Lynn Norton wrote. "If [IDOC] maintains a record, it is implicit that its negligence in maintaining the records is not a shield to production."

ACLU of Idaho attorneys Molly Kafka and Ritchie Eppink represented Cover in the lawsuit. "The court has made very clear today that IDOC is not above the law and that government officials across Idaho need to stop playing games with the Public Records Act," said Kafka.

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The ACLU of Idaho is a non-partisan organization dedicated to the preservation and enhancement of civil liberties and civil rights. We believe that the freedom of press, speech, assembly, and religion, and the rights to due process, equal protection and privacy, are fundamental to a free people. The ACLU of Idaho strives to advance civil liberties and civil rights by activities that include litigation, education, and lobbying.