

“Botched executions” findings expose grisly practice

US: Legal challenges to lethal injection as “cruel and unusual”

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Lethal injection is the method of execution used in 37 of the 38 states that practice capital punishment in the United States. It is also applied in federal capital cases. Of the 1,022 death row inmates executed since the US Supreme Court reinstated the death penalty in 1976, 854 have died by lethal injection.

Recent court cases challenging lethal injection, as well as a new report by Human Rights Watch (HRW), have added to growing evidence and awareness that this procedure—touted by death penalty advocates as “humane”—is nothing of the sort. It is a technique that epitomizes all that is inherently barbaric and uncivilized about capital punishment. In fact, the method used to kill hundreds of death row inmates is banned in 30 states for animal euthanasia because of its cruelty.

Claims that the injection of a toxic mix of chemicals into the veins of a condemned prisoner results in a “relatively” painless and peaceful death are dispelled by witness accounts and prison records that show the practice has inflicted both mental and physical anguish on numerous individuals.

Just last Tuesday, May 2, Joseph Clark was executed at the Southern Ohio Correctional Institution in Lucasville. Clark, 57, was convicted of two murders during an eight-day killing spree in 1984 and was the 21st person to be put to death since the state resumed executions in 1999.

According to a prison spokeswoman, Clark’s execution was delayed about 90 minutes because technicians had trouble finding a vein to administer the chemicals. Just as the poisons were supposed to then begin pumping into his body, he sat up saying, “It’s not working. It’s not working.” Officials determined that a vein had collapsed and the curtains were drawn to block witnesses’ view until a vein could be found in his other arm. The curtains were then reopened for witnesses to view him dying, and he was pronounced dead at 11:26 a.m.

The Human Rights Watch report released April 24—“So Long as They Die: Lethal Injections in the United States”—cited 15 “botched executions” between 1982 and the present, including the following two accounts from 2003:

“*Eddie Ernest Hartman, executed in North Carolina on October 3, 2003.* As the drugs were being administered, Hartman’s throat began alternately thrusting outward and

collapsing inward. His neck pulsed, bulged, and shook repeatedly. Hartman’s eyes were open, and his body convulsed and contorted throughout the execution until he died.”

“*John Daniels, executed in North Carolina on November 14, 2003.* Daniels lay still as the warden announced that the execution would proceed. Then suddenly, he started to convulse. He sat up, and witnesses could hear him gagging through the glass that separated him from them. After laying down again for a brief time, he sat up, gagged, and choked, while his arms appeared to be struggling underneath the sheet covering him.”

The standard method of lethal injection used in the US involves inserting a catheter with an intravenous line attached into the vein of a prisoner strapped to a gurney. Three drugs are then injected into the line by executioners hidden from view: an anesthetic (sodium thiopental), followed by a paralytic agent (pancuronium bromide), and finally a drug that causes the heart to cease beating (potassium chloride).

This three-drug sequence was developed in 1977 by an Oklahoma medical examiner with no expertise in anesthesia or pharmacology. It was then adopted first by Texas, and then in state after state by authorities with no medical or scientific background. According to HRW, the way these three drugs are administered by prison authorities leaves open the possibility that prisoners may experience excruciating pain during their executions.

The main concern is that if the first anesthetic portion of the lethal mix is given in insufficient amounts, or if the prisoner is not anesthetized to a deep level of unconsciousness, he or she will suffer the agonizing effects of the other two chemicals.

With the administration of pancuronium bromide, a neuromuscular blocking agent, prisoners would feel themselves suffocating, but would be unable to draw breath. Without proper anesthetization, when the potassium chloride is then administered the prisoner would feel as though fire was coursing through his or her veins before cardiac arrest sets in.

During execution, such torturous effects can go undetected because the prisoner is paralyzed. In what can only be interpreted as a cruel twist motivated by political

considerations, the appearance of a painless execution is preserved. As HRW writes, “The only advantage of current protocols is that they yield executions that are relatively quick and appear painless—whatever the reality. As such, the current method is easier for witnesses to the execution as well as for the executioners.”

Growing controversy over the use of lethal injection has led to numerous legal cases challenging the practice. Lawsuits in California, Florida, Maryland and Missouri have temporarily halted executions in those states. Six of the 17 state death row prisoners scheduled to be put to death between January 1 and April 21, as well as 3 federal inmates, received at least temporary stays.

California death row inmate Michael Morales was granted a last-minute reprieve February 21 when San Quentin prison officials could not comply with a US District Court judge’s order that two anesthesiologists be present at his lethal injection to ensure that he didn’t suffer. The anesthesiologists withdrew when they learned that they would have to intervene in the procedure with the administration of additional barbiturates if Morales woke up or appeared to suffer pain. An evidentiary hearing in the case is set for September 19. (See “Last-minute reprieve for California death row inmate”)

In North Carolina, Willie Brown Jr., 61, was executed on April 21 at the state’s Central Prison. Attorneys for Brown had argued that the methods used by North Carolina and 36 other states did not fully ensure prisoners were unconscious before the second two drugs in the lethal mix were injected, subjecting them to an agonizing death.

US District Judge Malcolm Howard approved a novel procedure whereby a doctor and registered nurse would be on hand at the execution with a brain wave monitor to determine whether Brown was unconscious before he was injected with the deadly chemicals.

Dr. Priscilla Ray, head of the American Medical Association’s Council on Ethical and Judicial Affairs, condemned the co-opting of doctors into the macabre proceedings: “Requiring physician to be involved in executions violates their oath to protect lives and erodes public confidence in the medical profession.”

On April 26, the US Supreme Court heard the case of Florida death row inmate Clarence Hill. The high court blocked Hill’s execution in January as he lay strapped to a gurney with IVs inserted in his arm. Hill is arguing that Florida’s administration of the death penalty by lethal injection violates the Constitutional ban on cruel and unusual punishment. Having exhausted his appeals in Florida, Hill is seeking the right to challenge the injection process in federal court.

Discussion among the justices on the Florida case illustrated the attitudes on capital punishment prevailing on the high court. Comments ranged from concern over proper administration of the death penalty to outright disdain for any consideration of whether or not pain was inflicted—all couched within the

framework of preserving the gruesome practice.

The state of Florida contends that it is too late for Clarence Hill to contest the plans for his death. Florida Assistant Deputy Attorney General Carolyn Snurkowski argued that the only way Hill could file a challenge to his execution would be for him to come up with an alternative proposal to lethal injection.

Justice David Souter commented, “Why does he have an obligation...to tell the state how to execute people?” Anthony Kennedy asked, “Doesn’t the state have a minimal obligation on its own” to investigate whether its executions cause gratuitous pain?

John Paul Stevens pointed out to Snurkowski, “Your procedure would be prohibited if applied to dogs and cats.” Steven Breyer said it didn’t seem to be “too difficult” to alter the drugs, and that the state should not “have any interest in causing pain.”

Justice Kennedy later scolded several justices for laughing as they joked about the trouble that defense attorneys could cause if they were forced to propose methods of executing their clients. “This is a death case,” he said.

Antonin Scalia countered that the Constitution does not require painless deaths. Referring to the most prevalent execution method of a previous era, he noted to one of Clarence Hill’s attorneys, “Hanging was not a quick and easy way to go.”

The court’s ruling in the case is expected before July.

See Also:

Amnesty International reports 152 taser-related deaths in the US

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[31 March 2006]

Last-minute reprieve for California death row inmate
[23 February 2006]

California governor denies clemency—76-year-old dies by lethal injection
[17 January 2006]

The execution of Stanley Tookie Williams
[13 December 2005]



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