Tortured to Death: A Report on the State of Lethal Injection
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(The latest version of this report is available online.)

View a brief video Introduction from Sister Helen Prejean

In recent years, two of the strongest levers in strengthening public opposition to the death penalty have been the disturbing number of death row exonerees and the voices of victims’ families raised against executions. With the increasingly public furor over botched, painful executions, perhaps the search for a “humane” way to carry out an inherently inhumane act will act as another lever, moving us closer to abolition.

This report is intended to provide you with background information about the current state of lethal injections in the United States.

Experiments Gone Wrong

On April 29, 2014, Clayton Lockett was executed by the State of Oklahoma with an untested cocktail of the drugs midazolam (a sedative), vecuronium bromide (a muscle relaxant), and potassium chloride (which stops the heart). It took prison officials 51 minutes to find a suitable vein to administer the drugs, and the IV line was finally inserted into Lockett’s femoral vein in his groin. Lockett’s vein exploded and dislodged the line, which was discovered 21 minutes after the execution process had begun. An eyewitness account describes Lockett “grimacing, grunting, writhing, and lifting his head and shoulders entirely up from the gurney” as if he were trying to get up. The blinds were lowered so that witnesses would not have to see Lockett in pain, and the execution was called off as a doctor reported that Lockett was still alive. Ten minutes later, Lockett was declared dead from a heart attack. When asked if any attempts had been made to resuscitate Lockett, Oklahoma Department of Corrections Director Robert Patton refused to answer. Experts believe that Lockett’s life could have been saved. It took Clayton Lockett 43 minutes to die. Charles Warner, originally scheduled to be executed that same night, has been granted a 6-month stay of execution while Clayton Lockett’s death is under investigation.

Lockett’s death comes after a series of equally disturbing executions. In Ohio, Dennis McGuire was executed with midazolam and hydromorphone (a painkiller). This two-drug combination had never been used before. Anesthesiologists expressed concern that the untested cocktail would trigger air hunger, a condition where the body is unable to absorb oxygen. On January 16, McGuire gasped for air, made choking sounds, and struggled against his restraints for 23 minutes. His children were witnesses to Ohio’s fatal experiment on their father. McGuire’s son, also named Dennis McGuire, shared, "I watched his stomach heave, I watched him trying to sit up against the straps on the gurney, I watched him repeatedly clench his fist. It appeared to me he was fighting for his life while suffocating. The agony and terror of watching my dad suffocate to death lasted more than nineteen minutes. It was the most awful moment in my life; to witness my dad's execution...He shouldn't have been tortured to death."
In Oklahoma, Michael Lee Wilson was executed on January 9 using a combination of pentobarbital (an anti-convulsant), vecuronium bromide, and potassium chloride. Pentobarbital, a drug that is often poorly regulated and susceptible to contamination, was used in the place of sodium thiopental, the anesthetic often used for lethal injection. His family and fiancée were present for his death. Before being executed, he said, “I love the world. Love my daughters for me. I’m going to miss you always.” His dying words were, “I feel my whole body burning.”

In Florida, William Happ was executed with an experimental dose of the drug midazolam on October 15. Despite doubts from anesthesiologists about the effectiveness of the drug and concerns about inflicted pain, the drug was still used. Happ closed and opened his eyes as he died. His mouth opened and his head continued twitching until his death. Before the execution, he confessed to his crime, offering the family of the woman he murdered his deepest apologies.

**Drug Companies Say “No!”**

These excruciating executions are the direct result of a shortage of lethal drugs. Following public outrage at significant visible or audible pain resulting from traditional methods of execution such as gas chambers, firing squads, and electrocution, many states deemed these processes cruel and unusual punishment. States embraced lethal injection as a more civilized, humane option and it quickly became the most commonly used method of execution. The drugs used for lethal injection, when administered correctly, reduce signs of visible struggle and contribute to the public perception that executions are peaceful and painless. The original drug cocktail was designed as a three-part process. First, sodium thiopental was used as an anesthetic. Second, pancuronium bromide paralyzed the body. And finally, potassium chloride stopped the heart. Even when all three drugs were used correctly, however, there were many cases of botched executions.

Shortages of these drugs have led state prisons to experiment on prisoners with different combinations of lethal drugs, resulting in extremely painful deaths for those being executed.

**European Impact**

The last US drug company to manufacture sodium thiopental, Hospira, stopped selling it to US prisons in 2011. European pharmaceutical companies have recently enforced restrictions on the purchase of the drug. The Danish company Lundbeck, another European drug company who previously sold drugs used for lethal injection, was pressured by its investors to stop all sales of drugs to the United States, where they knew that the drugs were being used to execute people. Denmark, like most European countries, has gone decades without the death penalty.
The Lethal Injection Gray Market

As acquiring drugs for lethal injection has become increasingly difficult, state prisons have searched for alternative drugs elsewhere. State prisons have been secretive about where they get the drugs, and laws in place protect them from any accountability. How, then, can an inmate know whether his execution may be “cruel and unusual”, and thus unconstitutional? If a prisoner is unable to determine the drug source, the mixture of drugs, and the training of the personnel involved in the execution, there is no way.

The shortage of traditional drugs has lead prisons to experiment with other drugs such as pentobarbital, which is largely untested on humans. Pentobarbital is primarily used to euthanize animals, and its main source is from compounding pharmacies, which are lightly regulated facilities where specialized versions of drugs are created and mixed. Recent cases show that the unregulated nature of such drugs make them susceptible to contamination, which may compromise their effectiveness. In the case of Michael Lee Wilson, compounded pentobarbital led to visible signs of extreme pain.

Animal Euthanasia vs Human Executions

The difference between the procedural precautions taken for animal euthanasia and those taken when executing humans is alarming. With animal euthanasia:
- the process is fully transparent;
- the drugs are always administered by a health care professional;
- the drugs are responsibly and legally sourced.

Contrast this with the procedures in place for killing humans:
- the drugs used for lethal injection are obtained from unknown sources;
- it is largely unknown whether health care professionals are present at executions, as the identities of those administering the drugs are usually hidden from the public;
- the training provided to non-medical execution personnel is unknown and there are no established standards for such training

Supreme Court Inaction

The shortage of drugs used for lethal injection is causing controversy at every turn. The death penalty states have embarked upon a process of lethal human experimentation, shrouded in secrecy. The torturous executions of Lockett, McGuire, Wilson and Happ are not the first of these failed experiments and they are unlikely to be the last, unless the United States Supreme Court emerges from its hands-off, let-the-states-work-it-out position and takes a stand against this disturbing, inhumane protocol of death.

It has been 20 years since Justice Harry Blackmun turned his back on the death penalty declaring, in his dissent in Callins v. Collins, “[f]rom this day forward, I no longer shall tinker with the machinery of death.”

The tinkering continues unabated, with terrible results. When will our current Supreme Court find the will to say “Enough!”?