

Plaintiff's Exhibit 3

to

Complaint for Declaratory Judgment and
Injunctive Relief

**Executive Order of Governor Bredesen
February 1, 2007**



STATE OF TENNESSEE
EXECUTIVE ORDER
BY THE GOVERNOR

Number 43

**AN ORDER DIRECTING THE DEPARTMENT OF CORRECTION TO
COMPLETE A COMPREHENSIVE REVIEW OF THE MANNER IN WHICH THE
DEATH PENALTY IS ADMINISTERED IN TENNESSEE**

WHEREAS, this Administration has been and continues to be firmly committed to carrying out death sentences properly imposed under the laws of this state in a timely and judicious manner; and

WHEREAS, this Administration also recognizes its unique responsibility to ensure that death sentences are administered in a constitutional and appropriate manner; and

WHEREAS, since 2000, two inmates sentenced to death have been executed in Tennessee by lethal injection, and both executions were completed professionally in a constitutional and appropriate manner; and

WHEREAS, while these executions have been carried out appropriately, a recent review has highlighted deficiencies in the written procedures intended to ensure that all legal executions will continue to be carried out appropriately; and

WHEREAS, the administration of the death penalty in a constitutional and appropriate manner is a responsibility of the highest importance.

NOW THEREFORE, I, Phil Bredesen, Governor of the State of Tennessee, by virtue of the power and authority vested in me by the Tennessee Constitution and law, do hereby order and direct the following:

1. I hereby direct the Commissioner of Correction ("Commissioner") to initiate immediately a comprehensive review of the manner in which death sentences are administered in Tennessee. This review shall specifically include the state's protocols and any related procedures, whether written or otherwise, related to the administration of death sentences, both by lethal injection and by electrocution. In completing this review, the Commissioner is directed to utilize all relevant and appropriate resources, including but not limited to scientific and medical experts, legal experts, and Correction professionals, both from within and outside of Tennessee. As a component of this review, the Commissioner is further directed to research and perform an analysis of best practices used by other states in administering the death penalty.
2. As soon as practical, but no later than May 2, 2007, the Commissioner of Correction is directed to establish and provide to me new protocols and related written procedures for administering death sentences in Tennessee, both by lethal injection and electrocution. In addition, the Commissioner is directed to provide me with a report outlining the results of the review completed pursuant to paragraph one (1) above.

3. The current protocols and any related procedures, whether written or otherwise, used by the Department of Correction and related to the administration of death sentences in Tennessee, both by lethal injection and by electrocution, are hereby revoked.

By separate orders of reprieve, I have this day granted reprieves to the following individuals, all of whom had sentences of death scheduled to be carried out within the next ninety (90) days: Michael Joe Boyd a/k/a/ Mika'eel Abdullah Abdus-Samad, Edward Jerome Harbison, Daryl Keith Holton and Pervis T. Payne. These four (4) reprieves will remain in place until May 2, 2007.

IN WITNESS WHEREOF, I have subscribed my signature and caused the Great Seal of the State of Tennessee to be affixed this 1st day of February, 2007.

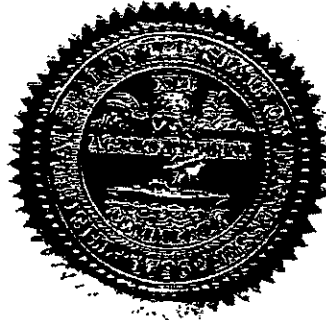


GOVERNOR

ATTEST:



SECRETARY OF STATE



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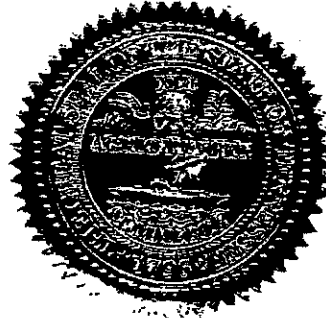


GOVERNOR

ATTEST:



SECRETARY OF STATE



Plaintiff's Exhibit 4

to

Complaint for Declaratory Judgment and
Injunctive Relief

New Protocol

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EXECUTION PROCEDURES FOR LETHAL INJECTION

This manual contains a summary of the most significant events and departmental procedures which will occur during the final days leading to the execution of a condemned inmate. It contains a detailed listing of some of the duties and responsibilities of certain key departmental personnel. In addition, the manual covers institutional perimeter security prior to, during and subsequent to an execution.

It will be used as a guideline for the Warden to assure that operational functions are properly planned with the staff who have designated responsibilities in performing a legally ordered execution by lethal injection.

SECTION 8 (PERIMETER SECURITY) IS CONFIDENTIAL AND IS NOT FOR PUBLIC RELEASE.

TABLE OF CONTENTS – LETHAL INJECTION

I.	Introduction	
	Commissioner's Statement	5
II.	Definitions	
	Definitions	7
	Diagram of Capital Punishment Unit	9
III.	Duties of Management and Administrative Personnel	
	Riverbend Maximum Security Institution Personnel	11
	Warden	12
	Deputy Warden	14
	Lethal injection Recorder	15
	Death Watch Supervisor	16
	Institutional Chaplain	18
	MIS Security Systems Technicians	19
	Physician	20
	IV Team	21
	Facility Maintenance Supervisor	22
	Extraction Team	23
	Escort Officer(s)	24
	Central Office Personnel	25
	Commissioner	26
	Deputy Commissioner	27
	Assistant Commissioner of Operations	28
	TDOC Communications Officer	29
	Director of Victim Services	30
IV.	Staff Selection and Training	
	Execution Team Member Selection Criteria	32
	Training of Execution Team Members	33
V.	Procurement, Preparation, Introduction of the Chemicals, and Procedures of Accountability	
	Brief Explanation of the Chemicals Used in Lethal Injection	35
	Procurement, Storage, Accountability, and Transfer of the Chemicals	36
	Lethal Injection Chemical Set-up and Preparation	38
	IV Preparation	39
	Insertion of a Catheter and Connection of IV Lines	41
	Chemical Administration and IV Monitoring	43

TABLE OF CONTENTS – LETHAL INJECTION CON'T

VI.	Death Watch Procedures	
	Staff Responsibilities and Special Procedures	46
	Execution Team	50
	Death Watch Supervisor	52
	Control Monitor	55
	Floor Officer Monitor	59
	Day 1	61
	Day 2	62
	Day 3	62
	Day 4 – Execution Day	63
	Post Execution	66
	Contingency Issues	67
VII.	Victim Services	
	Victim Services	69
VIII.	Perimeter Security – Confidential – Not for Public Release	
	Perimeter Security Assignments	71
	Perimeter Diagram	75
IX.	Forms	
	Notification Letter to Sheriff's Office to Witness Execution of Inmate	77
	Notification Letter to Inmate's Family to Witness Execution	78
	Physician's Inventory Checklist	79
	IV Team Inventory Checklist	80
	Chemical Preparation Time Sheet	81
	Day of Execution – Lethal Injection Execution Recorder Checklist	82
	Lethal Injection Chemical Administration Record (Red)	85
	Lethal Injection Chemical Administration Record (Blue)	86
	News Release	87
	Affidavit Concerning Method of Execution	88
	Application for News Media Representative	89
	Affidavit to Select Defense Counsel Witness to Execution	94
	Lethal Injection Chemical Bin Card Form	95
X.	TDOC Policies	
	506.16.1 - Executions: Facility Control and Access	
	506.16.2 - Executions: Death Watch	
	506.16.3 - Executions: Changes to Execution Protocols	
	507.01 - Visitation	
	507.01 PCN 06-12	
	507.01 PCN 05-16	
	507.01 PCN 04-56	
	507.01.1 - Non-Contact Visitation	

INTRODUCTION



RIVERBEND MAXIMUM SECURITY INSTIUTION



The Tennessee Department of Correction is responsible for the incarceration of convicted felons serving sentences ranging from one year to death. Individuals sentenced to death are housed and executed at Riverbend Maximum Security Institution. Upon the exhaustion of an individual's appeals; the execution process shall begin.

In the capacity as commissioner, it is my duty by law to oversee the humane and constitutional execution of individuals sentenced to death by judicial authority in Tennessee. This manual explains the procedures for lethal injection. It will be reviewed annually, or as needed, by a designated panel.

Commissioner

Date

DEFINITIONS



RIVERBEND MAXIMUM SECURITY INSTITUTION

DEFINITIONS

The definitions listed below only pertain to the Lethal Injection Process within this manual.

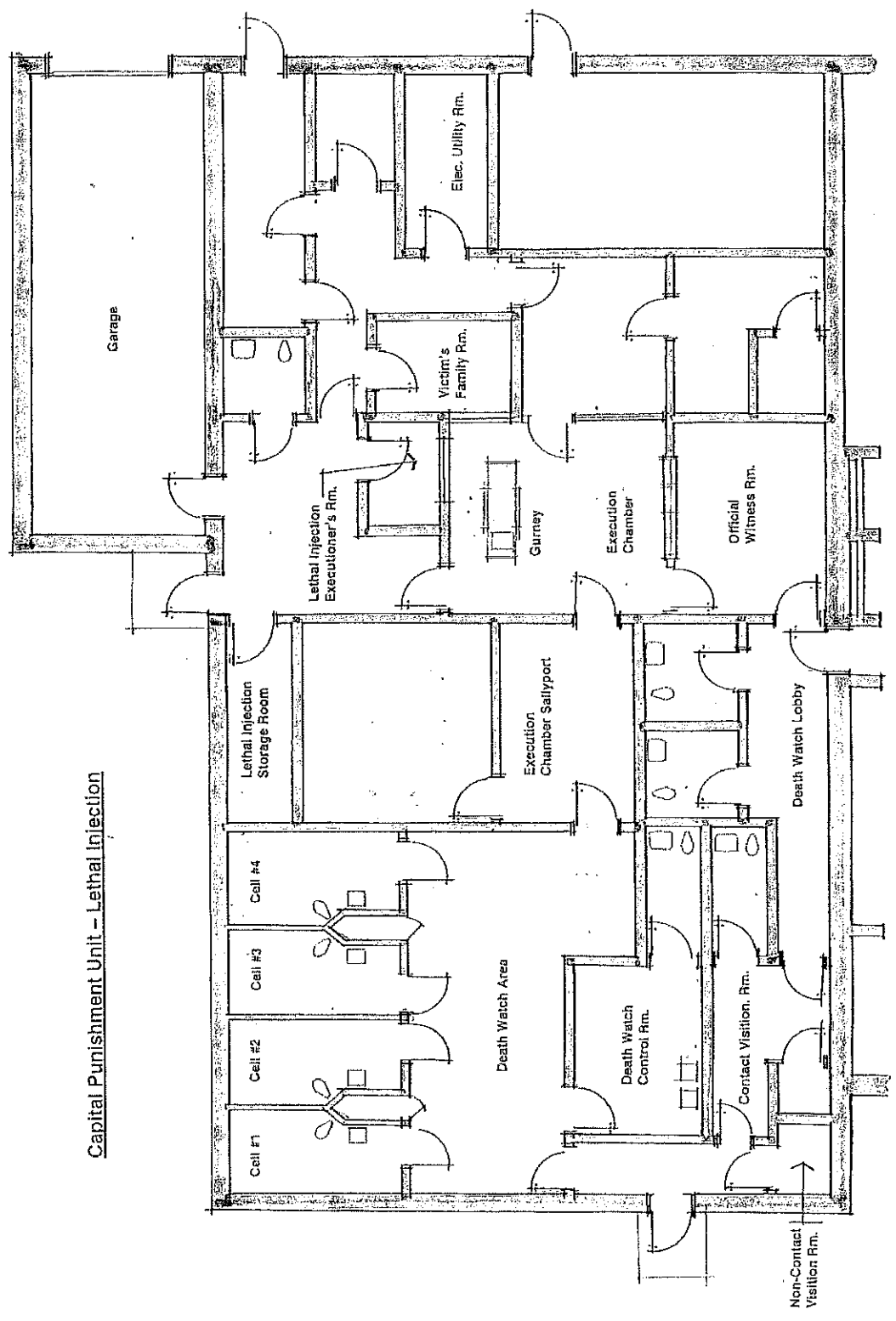
Bin Card	A card used to inventory and account for lethal injection chemicals.
Catheter	A thin flexible tube that is inserted into a part of the body to inject fluid.
CERT	Correctional Emergency Response Team
Death Watch	A period of time immediately prior to an execution during which special procedures are implemented in order to ensure that the execution is carried out in a safe and orderly manner.
Death Watch Area	An area that includes the inmate's cell(s) contact and non-contact visitation areas, the control room, and the secured monitoring area.
Drip Chamber	A hollow device that provides a visual of the drip/flow.
EMT	Emergency Medical Technician
Lethal Injection Room	A room where the Executioner administers the lethal injection chemicals at the direction of the Warden.
Execution Team	The Execution Team shall consist of: the Warden, Deputy Warden, Executioner, Extraction Team, Death Watch Team, IV Team, Lethal injection Recorder, Facility Maintenance Supervisor, MIS Security Systems Technician(s), and Escort Officer(s).
Extraction Team	Execution Team members who are responsible for the removal, restraint, and movement of the inmate during the time of execution.
Gurney	A wheeled stretcher for transporting.
Flash Chamber	A device that precludes blood leakage as a needle is removed from the catheter and an IV unit is coupled to the catheter.
IV	Intravenous
Extension Line	The clear tubing used to administer fluids.

DEFINITIONS – CON'T

LICs	Lethal Injection Chemicals
Pan Tilt Zoom Camera (PTZ)	The camera used by the Execution Team in the Lethal Injection Room. The camera monitors the condemned inmate's IV site(s).
Solution Set	Equipment designed to administer an IV.
Syringe	A medical instrument used to inject fluids into the body or draw them from it.
Tourniquet	A compression device used to cut off the flow of blood to a part of the body, most often an arm or leg. It may be a special surgical instrument, a rubber tube, a strip of cloth, or any flexible material that can be tightened to exert pressure.

Note: The masculine pronoun is used throughout the manual

Capital Punishment Unit - Lethal Injection



DUTIES OF MANAGEMENT AND ADMINISTRATIVE PERSONNEL



RIVERBEND MAXIMUM SECURITY INSTITUTION

RIVERBEND MAXIMUM SECURITY INSTITUTION PERSONNEL

WARDEN

Primary Role

To assure that the procedures prescribed by law and as outlined in this operating procedure are performed, either by personal performance or by delegation.

Duties:

1. To assure that the security of the institution is maintained.
2. To assure condemned inmates sentenced prior to January 1, 1999 are given the opportunity to select electrocution or lethal injection as a legal means of execution at least 30 days before the execution.
3. To explain to the inmate the procedures and activities which will take place during Death Watch.
4. To control any contact between the condemned inmate and other persons.
5. To coordinate the notification of official witnesses of the date and time to be at the institution to witness the scheduled execution.
6. To coordinate the appointment of execution staff member(s).
7. To select a person to serve as Executioner.
8. To set the precise hour and minute of execution.
9. To assure that the chemicals used for lethal injection have been properly acquired, stored, and accounted for.
10. Will arrange for presence of physician to carry out functions set forth on p. 20.
11. To coordinate with the Medical Examiner for disposition of the body.
12. To keep the Commissioner and Assistant Commissioner of Operations informed of the progress towards and implementation of the execution.
13. To coordinate with the Metropolitan Nashville Police Department and Tennessee Highway Patrol and any additional security forces required.
14. To control activation of closed circuit TV to the victim family witness room.

WARDEN'S DUTIES CON'T

15. To order the Executioner either verbally or by gesture to proceed with execution.
16. To cause the announcement to significant parties and the public of the fact that the sentence of execution has been carried out.

DEPUTY WARDEN

Primary Role

Assist the Warden in performing execution procedures and substitute for the Warden if he is unable to perform his duties.

Duties:

1. To assure the security of the condemned inmate.
2. To supervise preparation of the Death Watch cell area, Execution Chamber, and the condemned inmate for execution.
3. To coordinate and/or approve, with assistance by assigned security staff, visits and phone calls permitted to the condemned inmate.
4. To provide the final inspection of restraint devices to ensure condemned inmate is secure on the gurney prior to IV catheters being placed in each arm.
5. To ensure that any blinds between the witness room and the Execution Chamber are closed prior to the witnesses entering and opened after the witnesses are seated.
6. To supervise the removal of the body from the Execution Chamber.
7. To coordinate the release of the condemned inmate's body to the authorized recipient or coordinate burial at State expense in the event of an unclaimed body.

LETHAL INJECTION RECORDER

Primary Role

Assist the Warden in carrying out his duties.

Duties:

1. To coordinate and supervise the movement of the Execution Team to and from the Execution Chamber, and aid in maintaining the team's anonymity.
2. To process applications for the selection of news media representatives to attend executions.
3. To complete the Lethal Injection and Execution Recorder Checklist.

DEATH WATCH SUPERVISOR

Primary Role

To coordinate all security requirements for the inmate during the Death Watch and to supervise all correctional officers assigned any responsibilities for direct supervision of the inmate during Death Watch, including preparation of the condemned inmate.

Duties:

1. To prepare a duty schedule for officers assigned this detail.
2. To review post orders for correctional officers and to become familiar with all functions of subordinates.
3. To ensure that the condemned inmate personally inventories his personal property and packs away all items he is not permitted to retain. The Death Watch Supervisor, inmate and one witness will sign property inventory. The sealed property will be retained in storage in the Property Room until removed by the inmate's designee.
4. To maintain a bound ledger of information related to Death Watch associated activities which concern the death watch. This log will contain a record of all visitors, meals served, shaving, handling of mail, inmate behavior, movement, communications, etc.
5. To only permit authorized persons to enter the Death Watch area. A list of authorized personnel will be provided by the Warden.
6. To maintain a sufficient amount of clothing in the inmate's size retained by Death Watch officers in order to provide a change of clothing each time the inmate leaves the cell.
7. To ensure that cellular phones, cameras, audio, and video equipment are not taken into the Death Watch area or the Execution Chamber at any time during Death Watch or at the time of execution, unless authorized by the Warden.
8. To coordinate movement of witnesses entering and exiting witness rooms during the execution process.

DEATH WATCH SUPERVISOR CON'T

9. To ensure that the closed circuit TV and audio speaker systems are activated and deactivated at the prescribed times during the execution process.
10. To ensure the events pertaining to the execution are documented by the Lethal Injection Recorder on the Lethal Injection Execution Recorder Checklist.

INSTITUTIONAL CHAPLAIN

Primary Role

To offer and deliver chaplaincy services to the condemned inmate and the inmate's family as needed.

Duties:

1. To ask the inmate to specify in writing the preferred funeral arrangements and the preferred recipients of personal property. If a legal will is requested, the Chaplain will coordinate with the TDOC Staff Attorney.
2. To say a brief prayer of intercession immediately prior to execution.
3. To assist in the release of the executed inmate's body to the authorized next-of-kin recipient or mortician through the State Medical Examiner.

MIS SECURITY SYSTEMS TECHNICIANS

Primary Role

To assure that the closed circuit television and the audio systems between the Execution Chamber and witnesses room(s) are functioning properly at the scheduled time of execution.

PHYSICIAN

Physician's Primary Role

To pronounce death

Duties:

1. To be present at the precise time of execution in the capital punishment garage.
2. As an ultimate and last option, the physician may perform the cut-down procedure should the IV Team be unable to find a vein adequate to insert the catheter.
3. To examine the body for vital signs five minutes after the chemicals for lethal injection have been injected.
4. To notify the Warden if the inmate is not legally dead.
5. To pronounce death if no vital signs are detected.

IV TEAM

IV Team's Primary Role

To establish properly functioning IV lines for administration of the lethal injection chemicals.

Duties:

1. To prepare the IV equipment.
2. To ensure the equipment used is in working order.
3. To locate sites for intravenous use.
4. To ensure vascular access is properly established.
5. To ensure the IV lines are flowing properly.
6. To document the injection of the chemicals on the Lethal Injection Chemical Administration Record sheet.

FACILITY MAINTENANCE SUPERVISOR

Primary Role

To assist with the witnesses

EXTRACTION TEAM

Primary Role

To escort and secure the condemned inmate during the execution process.

ESCORT OFFICER(S)

Primary Role

To accompany and guide witnesses during the execution process.

CENTRAL OFFICE PERSONNEL

COMMISSIONER

Primary Role

To oversee the administration of judicial executions in Tennessee.

Duties:

- 1 Ten minutes prior to the precise hour and minute scheduled for the execution, the Commissioner will establish telephone contact with the Highway Patrol Trooper on duty at the Executive Residence.
- 2 To communicate to the Warden any changes that could alter or delay the execution.
- 3 To arrange for or mandate an Employee Assistance Program (EAP) debriefing as needed.

DEPUTY COMMISSIONER

Primary Role

To work directly with the Commissioner and perform any assigned duties.

ASSISTANT COMMISSIONER OF OPERATIONS

Primary Role

To be stationed at the Command Post or location designated by the Commissioner and assume operational control of the institution during the time the Warden is directing the execution.

Duties:

1. To serve as liaison to all support units and to conduct an operational debriefing of all security and procedural personnel after the execution.
2. To maintain telephone and/or radio contact with the Warden and other personnel.

TDOC COMMUNICATIONS OFFICER

Primary Role

To coordinate all media operations associated with the execution.

Duties:

1. To provide assistance to the Warden in obtaining phone communications needed by media representatives.
2. To coordinate all visits by media representatives both prior to and subsequent to an execution.
3. To notify the media of the witness lottery by faxing an advisory to the Associated Press.
4. To attend the media drawing held at RMSI and send out a notification to the Associated Press regarding who was selected.
5. To compile a press kit including guidelines, specifics of the case for which the inmate is being executed, and other related policies and statutes needed for the execution.
6. To communicate with the Governor's communication staff about who will be available to address media inquiries.
7. To establish a contact sheet with names, assignments and contact numbers of each Public Information Officer involved. The Warden will be issued a copy.
8. To coordinate with the Facility Maintenance Supervisor to create a staging area with a podium for news briefings.
9. To establish a schedule for news briefings.

DIRECTOR OF VICTIM SERVICES

Primary Role

To work with victims, family members, and other interested parties involved in the execution process.

Duties:

1. To confirm the list of individuals registered for notification.
2. To mail execution notification letters and packets.
3. To work closely with the victim liaison from the Attorney General's office.
4. To work with the Escort Officer(s) in accompanying witnesses.

SELECTION AND TRAINING OF STAFF



RIVERBEND MAXIMUM SECURITY INSTITUTION

EXECUTION TEAM MEMBER SELECTION CRITERIA LETHAL INJECTION

Certain persons are members of the Execution Team by virtue of their official position (i.e. Warden, Deputy Warden). The Warden selects the remaining team and considers at a minimum the following general criteria for other members:

1. Length of service.
2. Ability to maintain confidentiality.
3. Maturity.
4. Willingness to participate.
5. Satisfactory work performance.
6. Professionalism.
7. Staff recommendations to the Warden.
8. Review of personnel files by the Warden prior to selection.

The following positions on the Execution Team are specialized and have specific requirements:

1. Two (2) EMTs - Paramedic - Certified Emergency Medical Technician
2. Three (3) Correctional Officers – Received IV training through the Tennessee Correction Academy by qualified medical professionals.
3. Facility Maintenance Supervisor - A person knowledgeable of the institution's physical plant and equipment.
4. MIS Security Systems Technician(s) – Must be an Information Resource Support Specialist 3 or above with audio/visual experience.

TRAINING OF EXECUTION TEAM MEMBERS

Execution Team

The Execution Team shall consist of: the Warden, Deputy Warden, Executioner, IV Team, Extraction Team, Death Watch Team, Lethal Injection Recorder, Facility Maintenance Supervisor, MIS Security Systems Technician(s), and Escort(s) Officers.

Training

1. All Execution Team members read the Lethal Injection Execution Manual when they become members of the Execution Team. Additionally, the Warden or designee holds a class during which the manual is reviewed and clearly understood by all participants. At least annually, the Warden or designee holds an Execution Manual review class for all members of the Execution Team.
2. The Execution Team simulates Day 4 (Execution Day) of the Death Watch Procedures and the steps outlined in Section 4 for at least one (1) hour each month. A training record is maintained to document all staff members who participate in the training. The simulation includes all steps of the execution process with the following exceptions:
 1. Volunteers play the roles of the condemned inmate and physician.
 2. A body is not placed in the body bag.
 3. Saline solution is substituted for the lethal chemicals.
3. All training that occurs is documented. The documentation includes the times and dates of the training, the participants, and what the training consisted of.

Executioner

The Executioner receives initial and periodic instruction from a qualified medical professional.

**PROCUREMENT, PREPARATION, INTRODUCTION OF THE CHEMICALS, AND
PROCEDURES OF ACCOUNTABILITY**



RIVERBEND MAXIMUM SECURITY INSTITUTION

BRIEF EXPLANATION OF THE CHEMICALS USED IN LETHAL INJECTION

Sodium Thiopental

A rapid-onset barbiturate used in general anesthesia. It works by depressing the central nervous system, causing sedation or sleep, depending on the dose. It reduces oxygen flow to the brain and causes respiratory depression. It will be administered in one lethal 5 gram dose during the injection process.

Pancuronium Bromide (Pavulon)

A muscle paralytic. It will assist in the suppression of breathing and ensure death. A lethal dose of 100mg/100mL is administered during the injection process.

Potassium Chloride

A salt that in high doses interrupts the electrical signaling essential to normal heart function. A high dose of potassium chloride administered intravenously causes cardiac arrest and rapid death. A lethal dose of 100 mg/mL of a 2 mEq/mL concentrate is administered during the injection process.

PROCUREMENT, STORAGE, ACCOUNTABILITY, AND TRANSFER OF THE CHEMICALS

Procurement

1. Upon direction from the Warden or his designee, a member of the Execution Team checks the supply of chemicals and expiration dates. If he determines that additional chemicals are needed, he contacts the Procurement Officer at RMSI. The RMSI Procurement Officer contacts the Procurement Officer at DeBerry Special Needs Facility (DSNF) to order the needed chemicals. When the chemicals are delivered, the Procurement Officer at DSNF contacts the Procurement Officer at RMSI. One of the members of the Execution Team picks up the chemicals at either the DSNF or the RMSI warehouse. The Warden ensures that there are enough lethal injection chemicals kept in inventory at RMSI to carry out three executions.

Storage of Chemicals

1. The member of the Execution Team and the Warden take the chemicals to the armory area of Building 7 at RMSI. The lethal injection chemicals (LICs) are not stored in the weapon area of the armory due to the occasional employee traffic but rather in the key control section of the armory where there is the least employee need for access. The chemicals are placed in unmovable heavy gauge steel containers with security grade locks or in a small refrigerator that has been equipped with heavy gauge steel bar(s) to prevent mobility and access to the refrigerator without the removal of the locked/secured bars. The refrigerator is plugged into an emergency power outlet with back-up power to the generator in the event of a power outage. Pancuronium Bromide must be refrigerated at approximately 40 degrees to extend shelf life past six months.
2. All locking devices and storage containers are designed to prevent access to anyone without the proper keys or result in such destruction that entry into the container is unmistakable. There is only one key to access each storage container or refrigerator. That key is issued permanently to the Warden of RMSI. The Warden also has the pattern key to the container or refrigerator in his possession. There are no other duplicates produced. The Warden surrenders the key to no one other than the one member of the Execution Team designated for inventorying the LICs and only for the duration of the count and expiration checking of the LICs. Only the Warden or designee is allowed to access the storage containers or refrigerator.
3. The chemicals on hand are monitored for expiration dates. All of the chemical boxes and bottles have an expiration date, and all chemicals are in tamper-proof bottles or containers. As the chemicals reach their expiration dates, they are disposed of by hazardous waste pick-up.

NOTE: The chemical manufacturer may change the concentration of the chemical solution without notification. The label should be carefully checked before mixing.

Accountability of Chemicals

1. A permanently bound ledger is maintained in the armory/key control area where all employees, including the armory/key control officer(s), signs each time they enter the area. The armory/key control officer performs a visual inspection of each container upon arrival at his workstation to ensure the proper band is in place and that the container or refrigerator has not been compromised in any way.
2. A permanently bound ledger is maintained in the storage area that contains a record of each LIC. An inventory of each chemical is maintained on a Bin Card form. Any LICs removed for use, disposal due to expiration, or for any other reason are deducted from the inventory. Any LICs received into the storage container or refrigerator are added to the inventory.
3. Each storage container has a numbered security band that is broken prior to opening the container. The number of each band is recorded in the ledger. When the container or refrigerator is opened for any reason, the band is broken and the justification for entry is recorded in the ledger adjacent to the band number. When the container is secured and a new band is placed on the container or refrigerator, a new number is recorded in the ledger.
4. Upon receipt of the LICs, the Warden or designee proceeds to the armory storage area, secures the LICs, and adjusts the inventory appropriately. Prior to the LICs being placed in storage, the expiration date and lot number or other identifying marking is recorded to ensure that the LIC is properly disposed of at the time of expiration.
5. The Warden and the designee jointly verify all inventories of LICs on a semi-annual basis (January/July), at a minimum, and subsequent to each execution. The Warden and the designee make appropriate entries in the ledger with their full signatures that verify the correctness of the LIC count.

Transfer of Location

1. After the LICs are signed out on the appropriate ledger in the armory for execution purposes, the LICs are placed in an inconspicuous container for transport to the Execution Chamber. The Warden's designee is responsible for the delivery of the LICs to the appropriate individuals in the Execution Chamber.
2. In the event the LICs are not used and not compromised in any way, the LICs are returned to the armory, re-entered on the perpetual inventory ledger, and secured in the appropriate container or refrigerator.

LETHAL INJECTION CHEMICAL SET-UP AND PREPARATION

1. A minimum of two members of the Execution Team bring the LICs from the armory area directly to the Lethal Injection Room approximately three hours before an execution. The amount of chemicals and saline is sufficient to make two complete sets of eleven (11) syringes each. One set is color coded red and the back-up set is color coded blue. Each syringe is numbered in the order it is to be administered and labeled with the name of its contents. Only the Warden and one member of the Execution Team has a key to the Lethal Injection Room.
2. Each chemical is prepared for being drawn into syringes by one member of the Execution Team. Another member of the Execution Team observes and verifies that the procedure has been carried out correctly.
3. Only one chemical and one syringe is prepared at a time. The two sets of syringes are positioned in specific holding places in two separate trays color coded red and blue. The syringes are numbered, labeled, and placed in the order they will be administered. One member of the Execution Team will perform this procedure while another member of the Execution Team observes and verifies that the procedure has been carried out correctly. The Chemical Preparation Time Sheet will document the preparation of each chemical.
4. Instructions for preparation of one set of syringes:

Sodium Thiopental: The Sodium Thiopental is in powder form and is mixed with sterile water. A box of Thiopental contains 500 mg of powder and a bottle of sterile water. 10 boxes of 500 mg of Thiopental are required to produce 5 grams of the chemical. The member of the Execution Team draws 20 cc of sterile water and injects it into the powder. The powder is dissolved into the water. Next, he repeats the process nine (9) more times, using the remaining 9 boxes for a total of 5 grams of the chemical. He then draws the solution into four syringes. The syringes are labeled **Sodium Thiopental** with consecutive **numbers one (1) through four (4)**.

Saline: The member of the Execution Team draws 50 cc of saline solution from the IV bag into a syringe which is labeled **Saline** with the **number five (5)**. Saline is administered between the drugs to prevent any mixing of the LICs and flushes the IV line.

Pancuronium Bromide (Pavulon) The member of the Execution Team draws 50 cc of Pancuronium Bromide (100mg/mL) in each of two syringes. These syringes are labeled **Pancuronium Bromide** with **numbers six (6) and seven (7)**, respectively.

Saline: The member of the Execution Team draws 50 cc of saline solution from the IV bag into a syringe which is labeled **Saline** with the **number eight (8)**.

Potassium Chloride: The member of the Execution Team draws 50 cc of Potassium Chloride (100 mL of 2 mEq/mL) into each of two syringes. The syringes are labeled **Potassium Chloride** with the **numbers nine (9)** and **ten (10)**, respectively.

Saline: The member of the Execution Team draws 50 cc of saline solution from the IV bag into a syringe which is labeled **Saline** with the **number eleven (11)**.

5. The tray is placed on the workstation in the Lethal Injection Room.

6. THIS PROCESS WILL BE REPEATED FOR THE SECOND SET OF SYRINGES

7. When the execution is complete, all syringes and any of the unused LICs are sent to the Medical Examiner's office with the body.

IV PREPARATION

IV LINE SETUP

REQUIRED ITEMS: 2 BAGS OF 0.9% SODIUM CHLORIDE
2 SOLUTION SETS
2 HEMOSTATS
EXTENSION SETS
TAPE

1. Two (2) bags of 0.9% Sodium Chloride Injection USP are hung in the injection room. The expiration dates should be checked.
2. A Solution Set spike is inserted into each bag with the clamp turned to the off position. The drip chamber is compressed until it is approximately 1/3 filled. The Solution Sets are 85 inches long. The length of the Solution Set may be purchased longer or shorter just as long as there is a port near the spiked end.
3. The port nearest the spiked end is opened. This is done by tearing the plastic and rubber off leaving an open hole.
4. Once the port is opened, an extension is inserted. Extensions can be purchased in different lengths. The extension into the first port should be 18 to 24 inches in length. Extensions are added to each end of the Solution Set until it reaches the desired length. The ends should reach from head to toe of the condemned inmate.
5. Once the desired length is obtained, the lines should be filled with Sodium Chloride. The clamp is opened, allowing the port to fill. When it is filled it is clamped and capped off. The line that goes to the body continues to fill. The clamp is turned off and the line is capped.
6. The line is taped to the port (where the syringe is inserted) in place. The remainder of the line is placed out of the ports in the window. It should be taped in place to keep it from being pinched closed.
7. The Sodium Chloride bag and line on the left goes to the left side of the condemned inmate. The left side of the condemned inmate is nearest the wall / window and requires fewer extensions. **Repeat #5 and #6. IV lines are ready.**

INSERTION OF A CATHETER AND CONNECTION OF IV LINES

Strap Down and Location of the Vein

1. The Extraction Team straps the condemned to the gurney in the Death Watch Area.
2. The Extraction Team moves the gurney into place in the Execution Chamber and straps it to the floor. Members of the team place arm supports on the gurney and restrain the condemned inmate's arms securely to the gurney. The restraints are secure but not tight enough to slow or stop blood circulation.
3. The Extraction Team exits the Execution Chamber after the condemned inmate is in place and secure.
4. The IV Team enters the Execution Chamber with an instrument cart. One member of the IV team remains in the Lethal Injection Room.
5. The member of the IV Team in the Lethal Injection Room activates the phone light in the Execution Chamber.
6. Size, location, and resilience of veins affect their desirability for infusion purposes. The EMT inserts the first catheter into a vein on the right side of the condemned in the antecubital fossa area. If a catheter cannot be successfully inserted into the antecubital area, the EMT examines other locations for insertion in the following order:
 - a. Forearm
 - b. Wrist
 - c. Back of the hand
 - d. Top of the foot
 - e. Ankle, lower leg, or other appropriate locations as determined by the EMTs
7. In the unlikely event that none of these veins are usable, the physician is called into the Execution Chamber to perform a cut-down procedure.

Venipuncture and IV Lines

1. The EMT(s):
 - a. Place a tissue towel under the limb or body part to be used to start an IV.
 - b. Place a tourniquet around the limb or body part 6-8 inches above the vein to be used.
 - c. Find the best vein to use according to the succession outlined.
 - d. Swab the area with an alcohol pad.
 - e. Determine the size of the catheter to be used which is determined by the size of the vein, 18 gauge being the largest.
 - f. Insert a catheter into the vein bevel side up at a shallow angle, feeding the plastic catheter sleeve into the vein.

The flash chamber of the catheter fills with blood, which is the first indicator the catheter is inside a vein.

2. An IV Team member attaches the Solution Set line from the right Sodium Chloride bag to the catheter. This is a friction coupling and requires the line to be pushed into the catheter and twisted to secure the connection.
3. An IV Team member in the Execution Chamber signals the IV Team member in the Lethal Injection Room to open the clamp on the right bag of Sodium Chloride, near the spike, to allow a flow of Sodium Chloride into the vein.
4. Members of the IV Team observe the IV for indication of a well functioning line. The first indicator is that when the clamp is opened, there is a steady flow/drip inside the drip chamber. The second indicator is that the flash chamber becomes clear of blood as the Sodium Chloride begins to flow. When the IV Team is confident that there is a well-functioning line, the IV Team member in the Lethal Injection Room deactivates the telephone indicator light, signaling that there is a successful IV line.
5. A member of the IV Team places the Tegaderm transparent dressing over the catheter and secures the line in place with tape.
6. The second IV is then started on the left side of the condemned inmate and **Steps 1-5 are repeated**, using the left bag of Sodium Chloride.

CHEMICAL ADMINISTRATION AND IV MONITORING

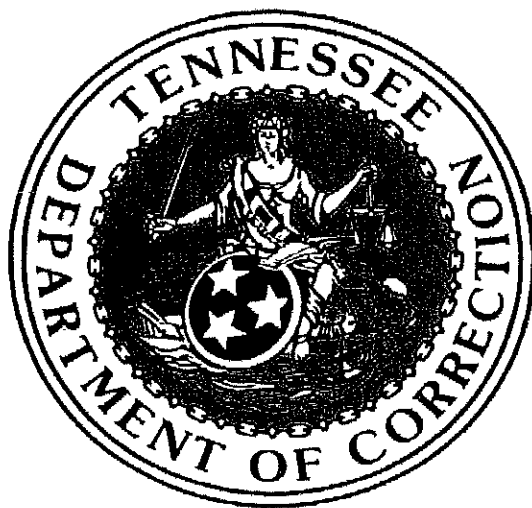
1. All members of the IV Team monitor both catheters to ensure that there is no swelling around the catheter that could indicate that the catheter is not sufficiently inside the vein. The IV Team member in the Lethal Injection Room monitors the catheters by watching the monitor in his room which displays the exact location of the catheter(s) by means of a pan-tilt zoom camera. The IV Team Members observe the drip chambers in both lines to ensure a steady flow/drip into each Solution Set line.
2. Next, an IV Team member tapes both hands, palms up, to the arm support to prevent movement. The palms will be down should the back of the hand be used for the catheter.
3. When the hands are taped in place, the members of the IV Team leave the Execution Chamber.
4. Designated members of the IV Team enter the Lethal Injection Room and assume their pre-assigned stations.
 - a. One IV Team member observes the process, monitoring the catheter sites for swelling or discoloration, and enters the times of the LIC and Saline administration on the Chemical Administration Record sheet.
 - b. One IV Team member observes the process and hands the labeled/numbered/colored syringes to the Executioner in the prescribed order.
5. The Executioner selects either the left or right Solution Set line based on the flow/drip inside the drip chamber. If both lines are equal, the left line nearest the Executioner is used.
6. When the Warden gives the signal to proceed with the execution, the Executioner clamps the line near the spike. The Executioner receives the first syringe from the member of the IV Team and inserts and twists it into the extension line.

DRUG SEQUENCE	IDENTIFIER LABEL	VOLUME
1. SODIUM THIOPENTAL	[DRUG NAME, RED #1]	50 cc
2. SODIUM THIOPENTAL	[DRUG NAME, RED #2]	50 cc
3. SODIUM THIOPENTAL	[DRUG NAME, RED #3]	50 cc
4. SODIUM THIOPENTAL	[DRUG NAME, RED #4]	50 cc
5. SALINE FLUSH	[DRUG NAME, RED #5]	50 cc
6. PANCURONIUM BROMIDE	[DRUG NAME, RED #6]	50 cc
7. PANCURONIUM BROMIDE	[DRUG NAME, RED #7]	50 cc
8. SALINE FLUSH	[DRUG NAME, RED #8]	50 cc
9. POTASSIUM CHLORIDE	[DRUG NAME, RED #9]	50 cc
10. POTASSIUM CHLORIDE	[DRUG NAME, RED #10]	50 cc
11. SALINE FLUSH	[DRUG NAME, RED #11]	50 cc

7. The Executioner pushes on the plunger of the **#1 syringe (red)** with a slow, steady pressure. Should there be or appear to be swelling around the catheter or if there is resistance to the pressure being applied to the plunger, the Executioner pulls the plunger back. If the extension line starts to fill with blood, the execution may proceed. If there is no blood, the Executioner discontinues with this line. He starts the process on the other line with the back-up set of syringes starting with syringe #1 (blue) and following all of Step 6.
8. An IV Team Member hands the syringes to the Executioner and both IV Team Members observe the correct order of the syringes as the Executioner injects the LICs and saline solution.
9. After the **#11 syringe** has been injected, the Executioner closes the extension line with a clamp and opens the line below the spike to allow a drop of 1-2 drops per second in the drip chamber.
10. The Executioner signals the Warden that all of the LICs and saline solution have been administered.

DEATH WATCH PROCEDURES

LETHAL INJECTION



RIVERBEND MAXIMUM SECURITY INSTITUTION

STAFF RESPONSIBILITIES AND SPECIAL PROCEDURES FOR INMATES ON DEATH WATCH

Purpose: The purpose of this operating procedure is to designate staff responsibilities and establish uniform property, privileges and institutional guidelines for condemned inmates with signed court orders for execution.

Application: All inmates who have exhausted all appeals available to them and have an execution date within next four days.

1. Housing and Security Assignments

- A. The inmate is transferred to Building 8 (Capital Punishment) three (3) days prior to the scheduled execution.
- B. Correctional officers are assigned to the housing area in a manner consistent with TDOC Policy 506.16.2, which sets forth the guidelines for the Death Watch Supervisor.

2. Middle Tennessee Institutional Notification and Advisement of Law Enforcement Agencies

- A. Upon determination of the execution date and time, the Commissioner, TDOC Communications Officer, Assistant Commissioner of Operations, Wardens of Tennessee Prison for Women, Deberry Special Needs Facility, Charles Bass Correctional Complex and Turney Center may be advised by Riverbend's Warden or his designee. Should circumstances develop which necessitate it, CERT TEAM activities are coordinated by the Assistant Commissioner of Operations. Formulation of security personnel is at the discretion of the Assistant Commissioner of Operations.

3. State-Issued Property and Possession Limit

The inmate is allowed only the items listed below. Any other item is considered contraband and confiscated in accordance with institutional policy.

- A. Standard issue of outer clothing
- B. One bed
- C. One mattress, pillow and standard issue of linens
- D. One toothbrush
- E. One tube of toothpaste
- F. One bar of soap
- G. One disposable razor (to be issued and used under direct supervision only)
- H. Two towels, one washcloth
- I. Two pairs of shorts and t-shirts (Underwear is exchanged daily)
- J. Toilet tissue as needed

- K. Stationery – 12 sheets, 3 stamped envelopes, 3 pencils. Pencils will be in possession of officer when not in use.
- L. Religious materials as issued by institutional chaplain
- M. Legal documents, books and papers as requested.
- N. Medication prescribed by institutional doctor (to be issued and used under direct supervision only)
- O. One walkman type radio (state owned)
- P. One television outside door in front of cell (state owned)
- Q. Newspapers as requested and available (No more than two in cell at a time)
- R. Feminine hygiene items as necessary and appropriate

4. Commissary Privileges

The inmate has commissary privileges with purchasing and possession limits specified in post orders. Glass, aerosol, and metal containers are not allowed during the final days of pre-execution monitoring.

5. Disposition of Unauthorized or Contraband Items

Contraband items found in the possession of condemned inmates are confiscated and disposed of in accordance with institutional policy #506.15.1.

6. Package Permits

Package permit privileges are suspended for inmates on Death Watch. Any package already mailed is received and stored with the inmate's other property.

7. Library, Legal Library Services, Periodical Subscriptions

- A. The condemned inmate may request legal materials from the law library in writing. Such materials are carefully inspected by the Death Watch Supervisor. There are no exchanges of communication with inmate legal clerks and the condemned inmate.
- B. The inmate may continue to receive periodical subscriptions, but may not order new subscriptions. Periodicals, newspapers, etc., are allowed to accumulate during the final week. Only two periodicals and two newspapers may be retained by the inmate.

8. Diet

Three (3) meals per day are fed to all condemned inmates, except holidays and weekends which will be two meals just as general population. Special dietary instructions for medical reasons are followed.

9. Recreation

Recreational activities for inmates on Death Watch are suspended.

10. Television and Radio Privileges

Television and radio privileges are the same as routinely provided, except that during the Death Watch period, the television is located outside the inmate's cell.

11. Personal and Legal Phone Calls

The inmate may make unlimited calls to anyone on his pre-approved telephone list. He may make and receive phone calls to legal counsel without restriction.

12. Visitation Privileges

A. Social

1. Only those individuals on the inmate's approved visiting list are allowed visits during the Death Watch.
2. All visits are held in the Death Watch area, and physical contact between the visitor(s) and inmate is not permitted. Visits are between the hours of 9:00 am and 4:00 pm, and limited to two hours duration.
3. The number of visitors allowed to visit at any one time is as flexible as circumstances permit, and is at the discretion of the Deputy Warden.
4. A final visit, during which physical contact between the inmate and immediate family is permitted, may be authorized by the Warden. The Warden's decision is based on the individual circumstances of each case.
 - a. Security procedures, including searches, are of the minimum deemed necessary by the Deputy Warden.
 - b. Contact visits are supervised by no fewer than two correctional officers chosen by the Death Watch Supervisor with the concurrence of the Deputy Warden.

B. Religious

1. Priest(s), or ministers, of recognized religious faiths who are of the inmate's recorded preference, may visit the inmate in the same manner as provided for social visits in 12 (A).
2. A final visit by the inmate's priest, minister, or spiritual advisor may be permitted by the Warden 9:00 pm - 11:00 pm, prior to the execution. This visit takes place at the front of the inmate's cell.
 - a. The priest, minister, or spiritual advisor may not accompany the inmate into the Execution Chamber.
 - b. At the inmate's request, a staff chaplain may visit on request and/or accompany the inmate into the execution chamber.

C. Legal Services

1. The attorney of record or other Tennessee licensed attorney representing by the inmate may visit up to one (1) hour before the time of execution.
2. The attorney is permitted telephone contact with the condemned inmate during the last hour prior to execution.
3. Visits with attorneys are non-contact and are conducted with provision for the privacy of verbal exchange but under full and continuous observation by at least two correctional officers.

D. Media

1. No media interviews are held with the condemned after placement on Death Watch.
2. Telephone interviews with media representatives are not permitted.
3. **Representatives of the news media are not allowed inside the secure perimeter of the institution during the time of active Death Watch or during an execution for any purpose whatsoever, unless selected as a witness to the execution.**

EXECUTION TEAM

1. The purpose of this operating procedure is to outline the duties and responsibilities of the Execution Team members in carrying out the death sentence by lethal injection.
2. The Execution Team shall consist of: the Warden, Deputy Warden, Executioner, IV Team, Extraction Team, Death Watch Team, Lethal injection Recorder, Facility Maintenance Supervisor, MIS Security Systems Technician(s), and Escort Officer(s). The identity of the Execution Team is confidential.
3. Readily available to the Execution Team are radios with holster, keys, and restraints.
4. The following procedures shall apply:
 - A. The Execution Team's Officer in Charge and/or the Assistant Officer in Charge conducts a training session at least once each month at which time all equipment will be tested. The training includes a simulated execution (i.e. IV lines, IV Drip).
 - B. A week before a scheduled execution, the Officer in Charge and assistant assembles the Execution Team in the Execution Chamber area to prepare and test all appliances and equipment for the scheduled execution.
 - C. The Warden ensures that the Execution Team carries out the following instructions:
 1. Assemble all other members of the Execution Team in the Execution Chamber before the scheduled execution and review their specific assignments and duties.
 2. Ensure that all equipment is properly placed.
 3. The inmate is removed from the holding cell and placed in the Execution Chamber by the Extraction Team members previously assigned those duties, under the direction of the Assistant Officer in Charge.
 4. When the condemned inmate is secured in place in the Execution Chamber, all members of the Extraction Team will retire to the holding cell area.
 5. When the lethal injection process has been completed, the Warden/designee is advised.

6. After the physician pronounces the inmate deceased, the designee informs the Commissioner that the sentence has been carried out.
7. The body is removed and placed in a body bag by the Execution Team and Medical Examiner's staff. The drugs and syringes used are placed in the body bag and closed.
8. The body is placed in the Medical Examiner's vehicle.
9. The Execution Team, under the direction of the Officer in Charge, cleans the equipment and Death Watch area. The holding cell is cleaned thoroughly with the mattress and pillow sanitized. Equipment shall be stored in its proper location. An entry is made in the post log documenting the completion of these procedures.
10. The Execution Chamber and Death Watch area are secured. The Execution Team reports to the Warden's Office for additional instructions.

DEATH WATCH SUPERVISOR

1. The duties and responsibilities of this post are that of observation and supervision of all activities concerning a condemned inmate(s) during pre-execution (Death Watch) monitoring. The post is the entrance area leading into the Death Watch area. The Death Watch Supervisor assumes authority of all personnel assigned to pre-execution monitoring (Death Watch). The duties are the general supervision and control of other security personnel assigned to monitor the condemned inmate during the time under Death Watch to include preparation of the condemned inmate(s) prior to execution. There may be one Floor Officer per shift assigned.
2. This officer must be a Correctional Lieutenant or higher. The officer reports directly to the Warden or Deputy Warden. During off-duty hours, he will remain on standby status unless relieved by the Administrative Lieutenant.
3. Equipment needed: radio with holster, keys, and restraints.
4. Specific duties and responsibilities
 - A. Immediate Action
 1. Upon notification of the assignment (normally when a death watch reaches active stage), the Death Watch Supervisor prepares to assume the duty schedule reflected above.
 2. He reviews the post orders for the Control Officer and Floor Officer and become familiar with all functions of subordinates.
 3. He ensures that the condemned inmate, upon reaching active Death Watch status, personally inventories and packs away all items he is not permitted to retain. The inmate is permitted to retain a copy of the inventory. The sealed property is retained in storage in Building 8 until ordered removed or surrendered to the inmate's designee.
 4. He is responsible for escorting condemned inmate to Building 8 and placing him in a cell after strip searching and exchanging his clothing.
 5. He ensures that all significant information is entered on the Supervisor's Log. ALL PERSONS ENTERING THIS AREA FOR ANY PURPOSE WILL SIGN IN AND OUT, and a record of activity must be logged accurately.

6. He ensures that sufficient clothing in the inmate's size is retained in the preparation area to accommodate an exchange each time the condemned inmate leaves his cell.

B. Subordinate Personnel

1. He supervises all subordinate personnel.
2. He ascertains the phone numbers and addresses of all subordinate personnel in order that they may be contacted after hours.
3. He ensures that all orders and instructions are read and understood by all subordinate personnel.

C. Routine Security Measures, Checks, Logs

1. He maintains or causes to be maintained (by the Control Officer) a "Supervisor's Log" of activities.
2. He personally supervises the feeding of all meals during his shift. He ensures that no inmates are utilized in the feeding of any meal during an active Death Watch, including preparing the trays.
3. He keeps all unauthorized personnel out of the area.
4. He ensures that the security of the area is reported to the Control Room each half-hour during an active Death Watch.
5. He does not permit anyone to enter the condemned inmate's cell except by order of the Warden, Deputy Warden or Shift Captain. The only exception is a life-threatening emergency.
6. He ensures that the condemned inmate is handcuffed behind his back at any time he leaves his cell. The inmate remains handcuffed until he is returned to his cell. (The inmate may be handcuffed in the front if a restraint belt is used. Restraints may be removed if the inmate is secured in a non-contact visiting room.)
7. Any time the inmate is moved, he will receive a double escort.
8. At least one (1) officer remains in the area, even if it is temporarily vacant.
9. He ensures that the area is kept clean and orderly. The inmate's holding cell is cleaned daily by assigned staff. The inmate is moved to an adjoining cell while the cleaning process is being accomplished.

D. Normally the inmate receives telephone calls from a special extension plugged in at his cell location. When not in use, ensure its security.

E. Emergencies and Other Contingencies

1. In the event of self-inflicted or other injury, the Death Watch Supervisor takes immediate and decisive action. He contacts the medical clinic immediately to send assistance.
2. He personally supervises the dispensing of any medication on a single unit dosage basis.
3. He immediately notifies the Shift Supervisor, Deputy Warden or Warden in the event of an emergency.

CONTROL MONITOR

1. The duties and responsibilities of this post are in effect immediately upon notice of a court order for execution and remain in effect **until the order is stayed or the execution is carried out.**

At the beginning of the Death Watch, the officer assigned this post will assume his duties.

2. This officer must be a Correctional Corporal or higher. The officer reports directly to the Death Watch Supervisor, Deputy Warden or Warden at the beginning of pre-execution monitoring until relieved or until the execution is stayed or carried out.

A. Immediate Action

1. Upon notification, the officer assumes the duties and responsibilities as described herein and the shift supervisor is alerted concerning the delegated assignment.
2. The Control Monitor begins maintenance of the Death Watch Supervisor's log ensuring the recording of significant detailed information.
3. During pre-execution monitoring, the Control Monitor ensures that only the following persons are authorized to enter the area:
 - a. Warden
 - b. Deputy Warden
 - c. Captain/Lieutenant
 - d. Officers to assist in routine functions (i.e., showers, escort, shakedown) as authorized by Death Watch Supervisor
 - e. Any medical or security personnel you deem appropriate in an emergency situation
 - f. Prison Chaplain
4. He ensures the cleanliness of the area as well as the cell area during pre-execution monitoring.

B. Routine Security Measures, Security Checks and Logs

1. He keeps an accurate chronological log of post activities.
2. Keep a sign-in and sign-out log for **every** person who enters or leaves the Death Watch area.

3. He maintains close surveillance of subordinate personnel.
4. He keeps all unauthorized personnel out of the area to include inmates, other employees and visitors.
5. He reports the security of the post to the Control Room every thirty minutes.
6. He personally ensures that the condemned inmate is handcuffed (behind his back) anytime he leaves his cell. A restraint belt may be used. The handcuffs may be removed when the inmate is receiving non-contact visits.
7. He ensures that when a condemned inmate is moved, he is escorted by two officers designated by the Death Watch Supervisor.
8. He ensures that when the condemned inmate is moved from his cell, he is searched and placed in different clothing. The same clothing may be reused until soiled, so long as it is thoroughly inspected before reissuing.

C. Visiting

1. He ensures that all visiting is non-contact and is held in the visiting area next to the Control Room, unless otherwise directed.
2. He ensures escorts for visiting during pre-execution monitoring are provided by two experienced correctional officers assigned by the Death Watch Supervisor.
3. He ensures that supervision of visiting for condemned inmates in pre-execution monitoring is designated by the Death Watch Supervisor.
4. He ensures that an accurate log of pertinent information to include names of each visitor, time of arrival and departure of each visitor, and inmate is maintained by the officer assigned to a supervised visitation.
 - a. The number of persons authorized and the visiting hours are in accordance with specific instructions issued by the Warden or Deputy Warden.
 - b. Allowable commissary items are listed in Section E.

D. He ensures that the inmate is allowed only the items listed below. Any other item is considered contraband and confiscated in accordance with institutional policy.

1. Standard issue of outer clothing
2. One bed
3. One mattress, pillow and standard issue of linens
4. One toothbrush
5. One tube of toothpaste
6. One bar of soap
7. One disposable razor (to be issued and used under direct supervision only)
8. Two towels, one washcloth
9. Two pair of shorts and t-shirts (Underwear will be exchanged daily)
10. Toilet tissue as needed
11. Stationery – 12 sheets, 3 stamped envelopes, 3 pencils (Pencils will be in possession of officer when not in use.)
12. Religious tracts as issued by Institutional Chaplain
13. Legal documents, books and papers as requested
14. Medication prescribed by institutional doctor (to be issued and used under direct supervision only)
15. One walkman type radio (state owned)
16. One television outside door in front of cell (state owned)
17. Newspapers as requested and available (no more than two in cell at a time)
18. Feminine hygiene items as necessary and appropriate

E. The inmate may order and purchase the following items on the first day of Death Watch status:

1. Colas (opened by officer and served in a paper cup)
2. Candy bars
3. Cookies, crackers, potato chips

Note: All orders and deliveries are inspected and delivered by the officer. This includes removal of non-transparent candy wrappers. He avoids handling of contents except with a napkin, tissue, or sanitary disposable gloves.

F. Telephone Calls

1. The condemned inmate may receive authorized telephone calls while in pre-execution monitoring status.
2. Specific instructions for each phone call are given by the Warden, Deputy Warden or Death Watch Supervisor, and are logged (no exceptions). Each phone call is supervised.
3. The inmate receives telephone calls from a special extension plugged in at his cell location. When the telephone is not in use, the Control Monitor personally ensures its security.

G. Emergencies and Other Contingencies

1. If any employee is taken hostage, he is without authority regardless of rank.
2. In the event of self-inflicted or other injury, he takes immediate and decisive action. He contacts the medical clinic immediately to send a physician or ranking medical person if he is not available.
3. He immediately notifies the Warden, Deputy Warden, Death Watch Supervisor and Shift Supervisor.

FLOOR OFFICER MONITOR

1. The duties and responsibilities of this post are in the direct supervision and monitoring of a condemned inmate's activities during the final days of pre-execution monitoring.
2. This officer may be a correctional officer or higher. The officer reports directly to the Control Monitor. The officer is posted in the area directly in front of the cells. He must remain alert on his post at all times, maintaining direct observation of the condemned inmate.
3. Equipment required: radio with holster and restraints
4. Specific Duties and Responsibilities

A. Immediate Action

Upon notification, the officer assumes the duties and responsibilities as described herein, and the shift supervisor is alerted of the delegated assignment.

B. Routine Security Measures, Security Checks and Logs

1. The Floor Officer monitor closely observes the condemned inmate's activities and immediately reports any unusual circumstances or activities to the Death Watch Supervisor or Control Monitor.
2. He ensures that all eating utensils and trays are removed from the cell when not in use.
3. He remains posted at the cell front, but may enter the condemned inmate's cell if circumstances warrant it.
4. The cell door key(s) remains in the possession of the Control Monitor except as needed.
5. He converses freely with the inmate, but avoid opinionated or inflammatory statements. He does not discuss personal feelings regarding the death penalty. He does not make promises to the inmate. All requests by the inmate not covered herein are referred to the Death Watch Supervisor.
6. He does not leave his post unless properly relieved.

7. He visually inspects and thoroughly examines all items permitted into or out of the inmate's cell. He carefully examines all clothing sent from the clothing room.
8. He performs a very thorough strip search of the condemned inmate any time he enters or exits his cell.
9. He exchanges the inmate's clothing any time he enters or exits the cell. The same clothing may be reused until it becomes soiled.
10. He ensures that the condemned inmate is handcuffed behind his back any time he leaves his cell. The inmate remains handcuffed until he is returned to his cell. The inmate may be handcuffed in front if a restraint belt is used. Restraints may be removed if placed in a secure, non-contact visiting room.
11. He ensures that all post orders are being followed. It is expected that all floor officer monitors conduct themselves in a professional manner. A calm, mature atmosphere should be maintained.
12. The officer is responsible for the daily cleanliness of his area and the cell areas. Normally, the day shift is responsible for sweeping and mopping the entire area. However, the officer ensures that the area remains in a state of cleanliness and trash containers are emptied during his tour. All trash is to be personally removed by staff and deposited in the appropriate containers located outside the secure confines of the institution.
13. He maintains or causes to be maintained (by the Control Officer) a Supervisor's Log of Activities.
14. He personally supervises the feeding of all meals during the shift. He ensures that no inmates are utilized in the feeding of any meal during an active Death Watch, including preparing the trays.
15. He keeps all unauthorized personnel out of the area.

DEATH WATCH PROCEDURES - LETHAL INJECTION

DAY 1

1. Security staff are assigned to posts in the Death Watch area. The supervisor is a Correctional Lieutenant or higher.
2. Death Watch logs are activated during the entire Death Watch period. All activity unique to the Death Watch and execution must be documented. Areas addressed include, but are not limited to: **inmate's behavior, actions, movements, communications initiated and received concerning Death Watch activities.**
3. The condemned inmate is moved to Death Watch status in Building 8.
4. The inmate's property is inventoried and stored as specified in TDOC Policy #504.02.
5. The institutional chaplain begins daily visits with the inmate.
6. The visiting status of the inmate changes to non-contact.
7. Designated personnel test execution-related equipment to include the closed circuit TV, telephones, intercoms, etc.
8. Inmate clothing is obtained and issued as needed.
9. The Chaplain requests instructions for release of the inmate's body in writing. If no recipient is designated, the Warden arranges for a pauper's burial.

DAY 2

1. The Food Service Manager is advised of meal needs for TDOC and other agency support staff.
2. The inmate orders his last meal.
3. The Chaplain confirms funeral arrangements with the family, if available.

DAY 3

1. MIS personnel test the closed circuit TV system and the audio system.
2. The Food Service Manager prepares and serves the last meal. The inmate may request a special meal. The meal is provided within reason as determined by the Warden. Cost must not exceed \$20.00.
3. The TDOC Communications Officer arrives to handle media inquiries.
4. The lethal injection chemicals are removed from secured storage and delivered to the Lethal Injection Room.

DAY 4 – EXECUTION DAY

12:00 am

1. By prior planning, the Execution Team arrives and reports directly to the Executioner waiting area in Building 8. Their identities are known by the fewest number of staff necessary.
2. Beginning at 12:00 am, the only staff authorized in the capital punishment complex are:
 - a. Commissioner or designee
 - b. Warden
 - c. Deputy Warden
 - d. Lethal injection recorder
 - e. Death Watch Supervisor and assigned officers
 - f. Chaplain
 - g. Physician and associate
 - h. Executioner (Executioner waiting area)
 - i. IV Team
 - j. Extraction Team

Any exceptions to the above must be approved by the Warden or Commissioner.

3. The inmate is dressed in cotton trousers, shirt, cotton socks, or cloth house shoes.
4. Official witnesses report to the Administration Building conference room no later than 12:00 am. They are greeted by Escort Officers, processed through checkpoint, and moved to the Parole Board Room in Building 8, where they remain until final movement to the witness room.
5. Immediate family members of the victim report to the Administration Building no later than 12:30 am and are greeted by Escort Officers. These witnesses are security cleared and escorted to the conference room in Building 8, where they remain until final movement to the victim family members witness room.
6. The Lethal injection Recorder or designee, designated EMTs, and the physician report to the Execution Chamber for preparation. The Lethal Injection Recorder or designee checks the phones in the Execution Chamber.
7. The Medical Examiner's staff is stationed in the capital punishment garage.

12:30 am

1. Victim family member witnesses are secured in the Building 8 conference room by the Escort Officers no later than 12:45 am.
2. Official witnesses are secured in the Building 8 Parole Board Room by the Escort Officers no later than 12:45 am. They are moved to the capital punishment waiting area at 1:00 am or as directed by the Death Watch Supervisor.

1:00 am

1. Beginning at 1:00 am, the only staff authorized in the Execution Chamber are the Warden, those TDOC employees designated by him to carry out the execution, the Attorney General / designee, and the Defense Counsel witness.
2. At the command of the Warden or Deputy Warden, the Extraction Team approaches the holding cell and asks the condemned inmate to approach the cell door and be handcuffed. After being handcuffed, he is asked by the Extraction Team Leader to step back and place his hands above his head on the wall at the rear of the holding cell. (If the condemned inmate refuses to cooperate, the Extraction Team enters the holding cell and removes the inmate).
3. The Extraction Team places the condemned inmate on the gurney and secures him in restraints.
4. The condemned inmate is moved to the Execution Chamber.
5. The Lethal injection Recorder or designee records the time the condemned inmate enters the Execution Chamber.
6. The IV Team establishes IV lines into both arms as instructed in Section 5 of this manual.
7. Official witnesses, victim family members, the Attorney General/designee and the Defense Counsel witness, are secured in the appropriate witness rooms.
8. The closed circuit television camera and audio system are activated.

1:10 am

1. Blinds to the witness room(s) are opened by the Warden and Deputy Warden.
2. The Warden contacts the Commissioner to ensure that no last minute stay or reprieve has been granted.
3. The Warden permits the condemned inmate to make a last statement.

4. The Warden gives the signal to proceed and the Executioner begins to administer the first chemical. The Lethal Injection Recorder documents the time the process begins.
5. Following the completion of the lethal injection process, and a five-minute waiting period, the blinds to the official witness room are closed, the closed-circuit TV camera is disengaged, and the privacy curtain is closed. The Warden then asks the physician to enter the room to conduct an examination. The physician reports his findings to the Warden or designee.
6. The inmate is pronounced deceased by the physician. The Administrative Assistant or designee records the time that death is pronounced.
7. The Warden or designee announces that the sentence has been carried out and invites the witnesses to exit. The Warden announces the following: "The sentence of _____ has been carried out. Please exit."
8. The witnesses are then escorted from the witness rooms by Escort Officers.
9. The Commissioner or designee notifies all appropriate State officials that the sentence has been carried out. Media representatives are notified by the TDOC Communications Officer or designee.
10. The Extraction Team removes restraints.
11. The Medical Examiner staff assists in removal of the body and placement in the Medical Examiner's vehicle, which is in the capital punishment garage.
12. The Medical Examiner's vehicle is cleared to exit the facility.
13. The Lethal injection Recorder completes the Lethal Injection Execution Recorder Checklist.

POST EXECUTION

1. The body is transported to the State Medical Examiner for examination and release.
2. The Assistant Commissioner of Operations conducts an operational debriefing at the appropriate time.
3. The Commissioner arranges for or mandates an EAP debriefing as needed.

CONTINGENCY ISSUES

IV Line Alternatives

The cut-down procedure is used unless the physician chooses a different method to find an IV site.

Any interruption of the delivery of the lethal injection drugs in the primary IV line

The Executioner switches to the secondary IV line and, starting with **syringe #1 (blue)**, begins the administration of the second set of syringes using the reserve tray.

Repeating the Lethal Injection Process

If the inmate is not deceased after the initial set of syringes has been injected, the physician returns to the designated waiting area. The curtain is opened, blinds raised, camera activated, and the Warden gives the command to repeat the lethal injection procedure with the second set of syringes (blue). After this procedure is completed, the blinds will once again be closed, closed-circuit TV camera disengaged, and the privacy curtain closed. The Warden will once again ask the physician to enter the room and check for signs of life.

VICTIM SERVICES



RIVERBEND MAXIMUM SECURITY INSTITUTION

VICTIM SERVICES

Notification

The TDOC Victim Service Director works closely with the victim liaison from the Attorney General's office, to confirm the list of victims/family members/interested parties registered for notification. Letters and packets are sent to each. The letter is specific to the registrant's permission to view the execution, as mandated by law:

- Victim family members: Those who are permitted to witness the execution. These persons receive a letter, requesting their choice to witness or attend the execution.
- Other victim family members: Extended family members who may wish to attend the execution to provide support to those who are permitted to view the execution, but by law, are not personally allowed to view the execution.
- Other interested party/support persons: Persons identified by victim family members who would attend the execution to provide support to those who are permitted to view the execution, with permission granted on a case-by-case basis by the Warden.

Packets include:

- Cover letter
- Official letter
- Official response forms
- Copy of the TN law 40-23-116 Manner of executing sentence of death -- Witnesses
- DVD "The Other Side of Death Row"
- Booklet "What to Expect at an Execution"
- Map
- Media guidelines
- Critical Incident Stress Management flier

These notifications are sent out to correspond in time to the announcement of the media lottery.

The Victim Services Director prepares a list of persons who plan to witness the execution, and of those who plan to attend the execution. The Victim Services Director will communicate any desire to speak to the media to the TDOC Communications Officer.

Accompaniment

The facility provides a private room in the Administration Building for persons viewing and attending the execution to use. Those witnessing or attending the execution are brought to the facility by the Attorney General's Office at a time agreed upon by TDOC Central Office and the Warden. The Victim Services Director meets them at the facility and escorts them to the private room. This room provides a place for witnesses to leave belongings and for attendees to wait for the return of the witnesses. The Victim

Services Director will accompany witnesses through the execution process. A designee will be assigned to remain and wait with any persons who accompany and wait in the Administration Building for witnesses to return.

At the time determined by the warden/designee, the witnesses are processed through the check-point and taken into the prison facility room(s) next to the visitor galley, where they will remain until escorted into the victim's viewing room for the execution.

After the execution is completed, the witnesses are escorted back to the Administration Building where they are reunited with any persons who were there waiting for them. The TDOC Communications Officer will arrange for witnesses to speak to the media should they desire to do so. Afterward, the entire group will be escorted out of the prison to their awaiting vehicle.

CONFIDENTIAL

NOT FOR PUBLIC RELEASE

PERIMETER SECURITY

PRIOR TO, DURING AND SUBSEQUENT TO AN EXECUTION



RIVERBEND MAXIMUM SECURITY INSTITUTION

CONFIDENTIAL

FORMS



RIVERBEND MAXIMUM SECURITY INSTITUTION

NOTIFICATION LETTER TO SHERIFF'S OFFICE TO WITNESS EXECUTION OF INMATE



**STATE OF TENNESSEE
DEPARTMENT OF CORRECTION
RIVERBEND MAXIMUM SECURITY INSTITUTION
7475 COCKRILL BEND BOULEVARD
NASHVILLE, TENNESSEE 37243-0471
TELEPHONE (615) 350-3100 FAX (615) 350-3400**

Date

John Doe, Sheriff
Tennessee County Sheriff's Department
PO Box 000
City, TN 37209

Dear Sheriff Doe:

Records of the Tennessee Department of Correction reflect that on _____, inmate _____ was convicted of First Degree Murder and sentenced to Death regarding _____ County case # _____. An order has been received scheduling inmate _____'s execution for _____. The execution is scheduled for 1:00 am on that date.

Pursuant to TCA 40-23-116, the sheriff of the county in which the crime was committed is entitled to be present at the carrying out of such death sentences.

The Tennessee Department of Correction needs to know if you are interested in viewing the legal execution of inmate _____. In order to expedite this process, please sign and date on the respective line below indicating your intentions. Afterwards, fax the letter with your signature to my office at the Riverbend Maximum Security Institution at 615-350-3400. If you plan to attend, provide a telephone number where you may be contacted day or night. Further, you should be at the Riverbend Institution by 12:00 midnight on _____ and bring your notification letter with you, along with a picture ID. Upon arrival at the facility, please present the letter to the Checkpoint Officer. If you have any questions regarding this matter, please feel free to contact me by calling 615-350-3100, extension 3103, for further information.

Warden

ABC:aa

I will attend. _____ Signature _____ Date _____
Telephone No. _____

I will not attend. _____ Signature _____ Date _____
Telephone No. _____

NOTIFICATION LETTER TO INMATE'S FAMILY TO WITNESS EXECUTION



STATE OF TENNESSEE
DEPARTMENT OF CORRECTION
RIVERBEND MAXIMUM SECURITY INSTITUTION
7475 COCKRILL BEND BOULEVARD
NASHVILLE, TENNESSEE 37243-0471
TELEPHONE (615) 350-3100 FAX (615) 350-3400

Date _____

Ms. Mary Jane Smith
PO Box 000
City, TN 37209

Dear Ms. Smith:

Records of the Tennessee Department of Correction reflect that on _____, inmate _____ was convicted of First Degree Murder and sentenced to Death regarding _____ County case # _____. An order has been received scheduling inmate _____'s execution for _____. The execution is scheduled for 1:00 am on that date.

Pursuant to TCA 40-23-116, members of the condemned inmate's immediate family may be present at the carrying out of such death sentence. Records indicate that you are the _____ of inmate _____; therefore, you are eligible to be present.

The Tennessee Department of Correction needs to know if you are interested in viewing the legal execution of inmate _____. In order to expedite this process, please sign and date on the respective line below indicating your intentions. Afterwards, fax the letter with your signature to my office at the Riverbend Maximum Security Institution at 615-350-3400. If you plan to attend, provide a telephone number where you may be contacted day or night. Further, you should be at the Riverbend Institution by 12:00 midnight on _____ and bring your notification letter with you, along with a picture ID. Upon arrival at the facility, please present the letter to the Checkpoint Officer. If you have any questions regarding this matter, please feel free to contact me by calling 615-350-3100, extension 3103, for further information.

Warden

ABC: aa

I will attend. _____ Signature _____ Date _____
Telephone No. _____

I will not attend. _____ Signature _____ Date _____
Telephone No. _____

PHYSICIAN'S INVENTORY CHECKLIST

- _____ (4) 5cc syringes
- _____ (4) Small tubes Betadine ointment
- _____ (12) Pair gloves (sterile), size 7½
- _____ (12) Pair gloves (sterile), size 8
- _____ (2) Prep kits
- _____ (2) BP cuffs
- _____ (2) Stethoscope(s)
- _____ (1) Flashlight with batteries
- _____ (8) Chux
- _____ (4) Cut-down trays
- _____ (2) Lidocaine 2%
- _____ (2) Lidocaine 2% with Epinephrine
- _____ (2) 4-0 vicryl
- _____ (2) 4-0 ethilon sutures
- _____ (1) 5-0 vicryl
- _____ (2) 5-0 ethilon sutures
- _____ (2) PPE size XL
- _____ (1) PPE size XXL
- _____ (2) Faceshields
- _____ (1) Scissors
- _____ (2) Scalpel #11 & #15

IV TEAM INVENTORY CHECKLIST

- _____ Normal saline 1000 cc or more
- _____ Solution set
- _____ Extension tubing sufficient to reach condemned inmate
- _____ Tourniquets – various styles
- _____ Assortment of IV catheters (range 18 gauge to 21 gauge)
- _____ Assortment of surgical tape
- _____ Arm boards
- _____ Tegaderm transparent dressing
- _____ Alcohol pads
- _____ Sharps container
- _____ 4x4 Gauze pads
- _____ Red biohazard bag
- _____ Chux
- _____ Latex-free gloves

CHEMICAL PREPARATION TIME SHEET

Date _____

5 grams Sodium Thiopental Mixed

Time

4-Syringes prepared by _____ at _____

Witnessed by _____

100 mg/mL Pancuronium Bromide

2-Syringes prepared by _____ at _____

Witnessed by _____

100 mg/mL Potassium Chloride

2-Syringes prepared by _____ at _____

Witnessed by _____

Saline

3-Syringes prepared by _____ at _____

Witnessed by _____

DAY OF EXECUTION – LETHAL INJECTION EXECUTION RECORDER CHECKLIST

Inmate Name _____ **Inmate #** _____

Date _____

TIME

- _____ Report to designated area for final briefing
- _____ Extraction Team and IV Team report to Administrative Lieutenants office. IV Team sets up IV system.
- _____ Physician in place
- _____ IV Team in place (EMTs and Officers)
- _____ Medical Examiner in place
- _____ Team Leader in place
- _____ Check blinds and curtains
- _____ Advise Escort Officer to transport Official Witnesses to Parole Room
- _____ Advised by Escort Officer that Official Witnesses are in Parole Room
- _____ Advise Escort Officers (2) to escort Victim's Witnesses to Viewing Room
- _____ Advised by Escort Officers (2) that Victim's Witnesses are in place
- _____ Warden or designee checks to ensure execution is to proceed
- _____ Gurney positioned in Death Watch Area
- _____ Extraction Team enters and secures offender to gurney
- _____ Advise Escort Officer to transport Official Witnesses to Death Watch vestibule
- _____ Advised by Escort Officer that Official Witnesses are in the vestibule
- _____ IV' Team enters the Execution Chamber
- _____ IV Team exits the Execution Chamber
- _____ Advise Escort Officer to "Transport Official Witnesses in place"

Recorder's Initial _____

DAY OF EXECUTION – LETHAL INJECTION EXECUTION RECORDER CHECKLIST (continued)

Inmate Name _____ **Inmate #** _____

Date _____

TIME

- _____ Advised by Escort Officer that "Witnesses are in place"
- _____ Warden checks with Command Center to proceed
- _____ Warden orders blinds opened, closed circuit TV activated and audio activated for viewing rooms.
- _____ Warden asks offender for any last comments
- _____ Warden orders Execution Team to proceed
- _____ Lethal Injection process completed
- _____ Blinds and curtains closed and closed circuit TV deactivated
- _____ Physician enters the Execution Chamber
- _____ Physician pronounces death – exact time
- _____ Audio deactivated to witness rooms
- _____ Advise Escort Officers (2) to remove Victims Witnesses
- _____ Advise Commissioner or designee in Command Center that execution is completed
- _____ Physician and EMTs depart
- _____ Medical Examiner escorted to chamber to take possession of body. Pictures will be taken of body and Execution Chamber prior to removal of body
- _____ Advised by Escort Officer (2) Victims Witnesses are at Checkpoint
- _____ Advise Escort Officer to remove Official Witnesses
- _____ Advised by Escort Officer that Official Witnesses are at Checkpoint
- _____ The body removed from the institution

Recorder's Initial _____

DAY OF EXECUTION – LETHAL INJECTION EXECUTION RECORDER CHECKLIST (continued)

Inmate Name _____ Inmate # _____

Date _____

Offender's Comments if any:

Lethal Injection Recorder

Date

Warden

Date

LETHAL INJECTION CHEMICAL ADMINISTRATION RECORD

Inmate Name _____ Inmate # _____

Date _____

SET 1 (Red)	Drug	Time Begin
Syringe 1	Sodium Thiopental	_____
Syringe 2	Sodium Thiopental	_____
Syringe 3	Sodium Thiopental	_____
Syringe 4	Sodium Thiopental	_____
Syringe 5	Saline	_____
Syringe 6	Pancuronium Bromide	_____
Syringe 7	Pancuronium Bromide	_____
Syringe 8	Saline	_____
Syringe 9	Potassium Chloride	_____
Syringe 10	Potassium Chloride	_____
Syringe 11	Saline	_____

End Time _____

Recorder Signature _____

Warden _____

LETHAL INJECTION CHEMICAL ADMINISTRATION RECORD

Inmate Name _____ Inmate # _____

Date _____

SET 2 (Blue)	Drug	Time Begin
Syringe 1	Sodium Thiopental	_____
Syringe 2	Sodium Thiopental	_____
Syringe 3	Sodium Thiopental	_____
Syringe 4	Sodium Thiopental	_____
Syringe 5	Saline	_____
Syringe 6	Pancuronium Bromide	_____
Syringe 7	Pancuronium Bromide	_____
Syringe 8	Saline	_____
Syringe 9	Potassium Chloride	_____
Syringe 10	Potassium Chloride	_____
Syringe 11	Saline	_____
	End Time	_____

Recorder Signature _____

Warden _____

State of Tennessee
DEPARTMENT OF CORRECTION

News Release

The Department of Correction reports that pursuant to the order of the Tennessee Supreme Court and in accordance with state law, the capital punishment sentence of _____ has been carried out.

Time of execution was _____ am/pm on _____
(date)

_____ was pronounced dead by attending
(Inmate's name)

physician at _____ am/pm.

Affidavit Concerning Method of Execution

Under Tennessee law, you have the right to have your execution carried out by lethal injection. You also have the option of waiving this right and choosing electrocution as the method of your execution. The purpose of this affidavit is to allow you an opportunity to either waive your right to have your execution carried out by lethal injection or to decline to waive that right. Failure to complete this form will result in the execution being carried out by lethal injection. You will not be given another opportunity to waive your right to have your execution carried out by lethal injection. If you waive your right to have your execution carried out by lethal injection, you may rescind that waiver by contacting the Warden **no later than 14 days prior to the date of the execution** and signing a new affidavit to that effect.

I, _____, TDOC.# _____, make the following choice concerning the method of my execution:

_____ I waive the right to have my execution carried out by lethal injection and choose to be executed by electrocution.

Signature of Inmate

_____ I have been given the opportunity to waive my right to have my execution carried out by lethal injection and I decline to waive that right.

Signature of Inmate

I certify that I presented this Affidavit Concerning Execution to inmate _____, TDOC No. _____, and

_____ The inmate refused to sign.

_____ I witnessed the inmate sign this affidavit.

Signature of Warden/Designee

Sworn to and subscribed before me this _____ day of _____, 20____.

Notary Public

My Commission expires _____.



STATE OF TENNESSEE
DEPARTMENT OF CORRECTION
4th FLOOR RACHEL JACKSON BLDG.
320 SIXTH AVENUE NORTH
NASHVILLE, TENNESSEE 37243-0465

APPLICATION FOR NEWS MEDIA REPRESENTATIVE TO ATTEND AN EXECUTION OF A SENTENCE OF DEATH

Name of Inmate under Sentence of Death _____

Name of News Media Outlet _____

Name of News Media Representative _____

Mailing Address _____

Phone _____ Fax _____

E-Mail Address _____

Indicate the news media pool to which the applicant news media agency is to be assigned.

_____ **News Media Agency (print, radio or television) in the county where the offense occurred (if print, also designate Metro or Community below)**

_____ **Associated Press**

_____ **Metro Print Media Agency**

_____ **Community Print News Media Agency**

_____ **Other Television News Media Agency**

_____ **Other Radio News Media Agency**

PLEASE NOTE: The department will accept only one (1) application from each news media agency. A person may be named as a News Media Agency Representative on only one (1) application. No news media agency representative selected to witness the execution of a sentence of death shall have exclusive rights to the story. Immediately after the execution of the death sentence is complete, all media representative witness shall make themselves available for a news conference for other news media representatives not selected to attend the execution. Submission of an application constitutes acceptance of this condition.

RULES
OF
DEPARTMENT OF CORRECTION
ADULT SERVICES DIVISION

CHAPTER 0420-3-4
SELECTION OF NEWS MEDIA AGENCY REPRESENTATIVES TO ATTEND
AN EXECUTION OF A DEATH SENTENCE

TABLE OF CONTENTS

0420-3-4-.01	Preface	0420-3-4-.04	Application and Selection Process
0420-3-4-.02	Applicability	0420-3-4-.05	Witness Guidelines
0420-3-4-.03	Definitions		

0420-3-4-.01 PREFACE

Under the authority of T.C.A. §40-23-116, the Department of Correction is authorized to promulgate rules that establish criteria for the selection of news media representatives to attend an execution of a sentence of death.

Authority: T.C.A. §40-23-116. Administrative History: Original rule filed July 28, 1999; November 29, 1999. Repeal and new rule filed November 22, 2000; effective February 6, 2001.

0420-3-4-.02 APPLICABILITY

Pursuant to the authority of T.C.A. §40-23-116, these rules shall apply to all news media agencies and their representatives.

Authority: T.C.A. §40-23-116. Administrative History: Original rule filed July 28, 1999; November 29, 1999. Repeal and new rule filed November 22, 2000; effective February 6, 2001.

0420-3-4-.03 DEFINITIONS

- (1) **Community Print News Media Agency:** A Print News Media Agency other than a Metro Print News Media Agency.
- (2) **General Interest and Coverage:** The handling of a broad range of spot news such as traffic accidents, fires, disasters, governmental events, as well as economic, business, social, sports, and human interest news.
- (3) **Metro Print News Media Agency:** A Print News Media Agency which maintains a full-time presence at the state Capitol, covering day-to-day operations of state government.
- (4) **News Media Agency:** A Print, Radio or Television News Media Agency or The Associated Press.
- (5) **News Media Agency Representative:** A person Regularly Employed by a News Media Agency and designated by such News Media Agency to attend and witness an execution of a death sentence on behalf of the News Media Agency.
- (6) **Print News Media Agency:** A newspaper of general circulation, bearing a title or name, regularly issued at least as frequently as once a week for a definite price, having second class mailing privilege, being not less than four (4) pages, published continuously during the immediately preceding one-year period, which is published for the dissemination of news of general interest, coverage and circulation in an area within Tennessee.

SELECTION OF NEWS MEDIA AGENCY REPRESENTATIVES
TO ATTEND AN EXECUTION OF A DEATH SENTENCE

CHAPTER 0420-3-4

(Rule 0420-3-4-.03, continued)

- (7) Radio News Media Agency: The Tennessee Radio Network or a radio broadcast station which regularly disseminates news of general interest and coverage and has either its city of license (as determined by the federal government) or broadcast transmitter located in Tennessee.
- (8) Regularly Employed: Employed on a consistent, continuing basis and not solely for the purpose of witnessing an execution of a sentence of death or otherwise on a temporary or short-term basis.
- (9) Television News Media Agency: A television broadcast station which regularly disseminates news of general interest and coverage and has either its city of license (as determined by the federal government) or broadcast transmitter located in Tennessee.
- (10) Warden: Warden of the Riverbend Maximum Security Institution.

Authority: T.C.A. § 40-23-115; § 40-23-116. Administrative History: Original rule filed November 22, 2000; effective February 6, 2001.

0420-3-4-.04 APPLICATION AND SELECTION PROCESS

- (1) The selection of News Media Agency Representatives shall be by drawing to be held at Riverbend Maximum Security Institution, 7475 Cockrill Bend Industrial Road, Nashville, Tennessee.
- (2) The Public Information Office of the Department of Correction shall notify all News Media Agencies of a scheduled drawing through issuance of an advisory to the Associated Press. An announcement will also be published in the Tennessee Administrative Register; provided, however, in the event the Department has insufficient advance notice of an execution date to meet publication deadlines for the Tennessee Administrative Register, the announcement shall be issued as soon as practicable after the Department receives notice of the execution date.
- (3) The advisory and announcement shall include the following:
 - (a) Deadline date, time and location for receiving applications from a News Media Agency desiring to be included in the open drawing to witness the execution of the death sentence.
 - (b) Date, time, and location where the open drawing will take place.
- (4) To be eligible for the drawing, a News Media Agency shall submit an application on a form provided by the Department of Correction on or before the deadline specified in the advisory and/or notice. The applicant agency shall designate its News Media Agency Representative and the news media pool for which it qualifies under these rules. The Department will accept only one (1) application from each News Media Agency. A person may be named as a News Media Agency Representative on only one (1) application.
- (5) The Warden or designee shall assign an identifying number to each application received. Prior to the commencement of the drawing the Warden or designee shall post a list containing the News Media Agency name, News Media Agency Representative name, number and assigned category of each application which meets the requirements set forth in this rule.
- (6) Procedure for Drawing:
 - (a) From those applications received which meet the requirements set forth in this rule, a total of seven (7) News Media Agencies shall be selected. The agencies shall be selected from the following categories in the following order:
 1. The Associated Press (one application);

February, 2001 (Revised)

2

SELECTION OF NEWS MEDIA AGENCY REPRESENTATIVES
TO ATTEND AN EXECUTION OF A DEATH SENTENCE

CHAPTER 0420-3-4

(Rule 0420-3-4-.04, continued)

2. One News Media Agency in the county where the offense occurred;
 3. One Metro Print News Media Agency;
 4. One Community Print News Media Agency;
 5. Two Television News Media Agencies; and
 6. One Radio News Media Agency.
- (b) In the event more than one qualifying application is received for category (a)(ii), the applications not selected in that category shall be reassigned to appropriate categories.
- (c) If one or more categories cannot be filled due to an insufficient number of qualifying applications in the category, qualifying applications remaining after all other selections have been made shall be combined into one selection pool from which an application shall be drawn to fill each unfilled position.
- (d) After seven (7) News Media Agency Representatives have been selected through the process set out in (a) through (c), all remaining applications shall be combined into one selection pool from which a first alternate and a second alternate shall be drawn. Alternates shall be allowed, in order of selection, to substitute for a News Media Agency Representative selected as a witness who is unable to attend and witness the execution of a death sentence.
- (7) After the drawing the Department of Correction shall promptly issue an advisory to the Associated Press identifying the News Media Agency Representatives selected.
- (8) News Media Agency Representatives shall be subject to the approval of the Warden. The Warden may, in the Warden's discretion, disapprove or exclude a witness for reasons of safety or security. No News Media Agency Representative shall be related to the condemned prisoner or the condemned prisoner's victim or victims or have any personal interest in the case. News Media Agency Representatives must be eighteen (18) years of age or older.
- (9) The Department of Correction will allow no substitution of News Media Agencies or News Media Agency Representatives.
- (10) In the event the execution does not take place within one (1) year of the date of the drawing, the Commissioner, in the Commissioner's sole discretion, may cancel the result of a drawing and, if necessary, direct that a new drawing be held.

Authority: T.C.A. § 40-23-116. *Administrative History:* Original rule filed November 22, 2000; effective February 6, 2001.

0420-3-4-.05 WITNESS GUIDELINES

- (1) No News Media Agency Representative allowed to witness the execution of a death sentence shall have exclusive rights to the story. Immediately after the execution of the death sentence is complete, all News Media Agency Representatives shall make themselves available for a news conference of other news media representatives and shall remain at the news conference until it is completed.
- (2) The news conference shall be held at a location designated by the warden immediately following the execution.

February, 2001 (Revised)

SELECTION OF NEWS MEDIA AGENCY REPRESENTATIVES
TO ATTEND AN EXECUTION OF A DEATH SENTENCE

CHAPTER 0420-3-4

(Rule 0420-3-4-.05, continued)

- (3) Photographic or recording equipment are prohibited at the execution site during the execution.
- (4) News Media Agency Representatives shall abide by all departmental and institutional rules and policies, and the directives of authorized staff. Failure of a witness to do so may result in the witness being excluded and /or removed from the premises. The News Media Agency Representative and the News Media Agency being represented shall be ineligible to attend future executions without the specific approval of the Commissioner.

Authority: T.C.A. § 40-23-116. *Administrative History:* Original rule filed November 22, 2000; effective February 6, 2001.

Affidavit to Select Defense Counsel Witness To Execution

Under Tennessee law, TCA 40-23-116, you may select one (1) defense counsel to witness your scheduled upcoming execution. The Department of Correction needs to know who you are selecting to be your witness.

I, _____, TDOC# _____, select the
following defense counsel witness: _____

Signature of Inmate

Date

I certify that I presented this Affidavit to Select Defense Counsel Witness to Execution to inmate

_____, TDOC# _____, and

_____ The inmate refused to sign.

_____ I witnessed the inmate sign this affidavit.

Signature of Warden/Designee

Date

Sworn to and subscribed before me this _____ day of _____, 20_____

My Commission expires _____
Notary Public



TENNESSEE DEPARTMENT OF CORRECTION
RIVERBEND MAXIMUM SECURITY INSTITUTION
LETHAL INJECTION CHEMICAL BIN CARD

CHEMICAL NAME: _____ REFERENCE NUMBER _____

UNIT OF ISSUE: _____ LOCATION: _____

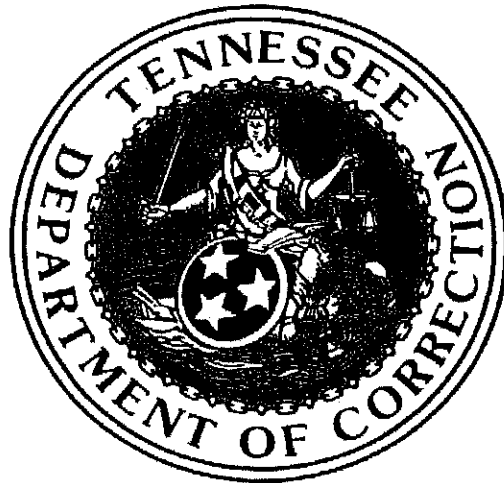
DATE	RECEIVED (+)	ISSUED (-)	EXPIRATION DATE	BALANCE ON HAND	SIGNATURE

CR-


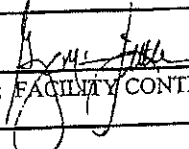
Side 1 of 2

RDA

TENNESSEE DEPARTMENT OF CORRECTION
POLICIES PERTAINING TO EXECUTIONS



RIVERBEND MAXIMUM SECURITY INSTITUTION

 <p style="text-align: center;">ADMINISTRATIVE POLICIES AND PROCEDURES State of Tennessee Department of Correction</p>	Index #: 506.16.1	Page 1 of 3
	Effective Date: November 15, 2005	
	Distribution: LD	
	Supersedes: 506.16.1 (3/1/03)	
Approved by: 		
Subject: EXECUTIONS: FACILITY CONTROL AND ACCESS		

- I. AUTHORITY: TCA 4-3-603, TCA 4-3-606, and TCA 40-23-114 through TCA 40-23-117.
- II. PURPOSE: To establish guidelines for the safe and orderly control of and access to the facility in which the death watch housing area and the death chamber are located prior to, during, and subsequent to an execution.
- III. APPLICATION: All security personnel and staff of the facility in which the death watch housing area and the death chamber are located, and any other assigned staff of the Tennessee Department of Correction (TDOC).
- IV. DEFINITIONS:
- A. Command Post: The location from which all direct orders for performance or behavior are issued during a specified time.
- B. Victim's Immediate Family: Family members of the victim who are eighteen (18) years of age or older. This shall include the spouse, children (by birth or adoption), step-children, parents, step-parents, grandparents, or siblings of the victim.
- V. POLICY: Prior to, during, and after an execution, control of and access to the institution in which the death watch housing area and the death chamber are located shall be maintained in accordance with the following security procedures.
- VI. PROCEDURES:
- A. Command Post
1. A command post shall be established in the administration building. It shall be established prior to or during the days of a death watch, but no later than 24 hours before an execution. It shall remain operational until the execution is over and the debriefing is concluded. During the time of a death watch and execution, the command post will be under the direct authority of the Assistant Commissioner of Operations, Warden, or designee.
 2. The Assistant Commissioner of Operations shall assume charge of the institution during the immediate time of an execution while the Warden is directing the execution.

Effective Date: November 15, 2005	Index # 506.16.1	Page 2 of 3
Subject: EXECUTIONS: FACILITY CONTROL AND ACCESS		

B. Screening Access

1. All checkpoints shall be staffed as ordered by the Warden and staff shall screen all vehicular and pedestrian traffic attempting to enter prison property.
 - a. Vehicles occupied by demonstrators or other members of the public will not be permitted on institution property.
 - b. Those desiring to enter prison property for purposes of demonstration or observation will be escorted by institutional staff or law enforcement personnel to a marked observation area to be specified by the Warden.
2. Visitors permitted to enter the prison property will be issued individual color-coded identification cards. The cards shall have clips and be displayed by affixing to outer clothing. Different colored cards shall be issued to the following categories of individuals:
 - a. Official visitors, TDOC personnel, Tennessee Highway Patrol, and Metropolitan Davidson County police officials
 - b. Members of the news media.
3. Only official visitors and TDOC personnel displaying proper identification cards shall be permitted to proceed beyond the normal checkpoint area into the institution.
4. The Tennessee Highway Patrol and the Metropolitan Davidson County police shall have the responsibility for controlling demonstrators, members of the news media, and other members of the public as outlined in Policy #506.16.2.
5. Meals and other accommodations for any law enforcement personnel assisting shall be provided by the institution.

C. Observation Areas

1. Areas to be specified by the Warden shall be marked and used for the location and containment of demonstrators, representatives of the news media, and observers.
2. If adequate space is not available to provide the victim's immediate family members with a direct view of the execution from an area separate from that to which other witnesses are admitted, the Warden shall install equipment that will broadcast the execution to a room in which the immediate family may observe the execution by use of a closed circuit television system.


Effective Date: November 15, 2005	Index # 506.16.1	Page 3 of 3
Subject: EXECUTIONS: FACILITY CONTROL AND ACCESS		

3. The Warden will verify and document that individuals who request permission to observe the execution are bona fide members of the victim's immediate family.

4. Audio or video broadcasts of the execution shall not be recorded.

VII. ACA STANDARDS: None.

VIII. EXPIRATION DATE: November 15, 2008.

 ADMINISTRATIVE POLICIES AND PROCEDURES State of Tennessee Department of Correction	Index #: 506.16.2	Page 1 of 5
	Effective Date: August 15, 2006	
	Distribution: LD	
	Supersedes: 506.16.2 (10/15/03) PCN 03-19 (12/15/03)	
Approved by: <i>[Signature]</i>		
Subject: EXECUTIONS: DEATH WATCH		

- I. AUTHORITY: TCA 4-3-603, TCA 4-3-606, TCA 39-13-206, and TCA 40-23-114 through TCA 40-23-117.
- II. PURPOSE: To establish guidelines for maintaining the security and control of a condemned inmate and for maintaining safe and orderly facility operations during the period of time immediately prior to an inmate's scheduled execution.
- III. APPLICATION: The employees of the institution in which the death chamber and death watch housing area are located.
- IV. DEFINITIONS:
 - A. Death Watch: Period of time immediately prior to an execution during which special procedures are implemented in order to ensure that the execution is carried out in a safe and orderly manner.
 - B. Death Watch Supervisor: A correctional officer of sergeant rank or higher appointed by the Warden who is responsible for the welfare of the inmate on death watch status.
 - C. Privileged Mail: Correspondence clearly addressed to or from attorneys, law students on behalf of attorneys, courts, court clerks, legal aid clinics or law schools operating such clinics, recognized legal defense funds, and governmental officials or agencies, including the Tennessee Claims Commission, provided such correspondence bears the appropriate name and title of the sender/receiver.
- V. POLICY: It shall be the policy of the Tennessee Department of Correction (TDOC) to implement death watch procedures three (3) days prior to the execution date for any inmate who has completed the automatic appeal to the Tennessee Supreme Court of his/her conviction and sentence of death and has no stay of execution while an appeal is being considered by a court of jurisdiction.
- VI. PROCEDURES:
 - A. Notification:
 - 1. When an inmate is placed on death watch, the Warden or designee shall immediately notify the following of the current death watch and scheduled execution date:
 - a. Tennessee Highway Patrol
 - b. Metropolitan Davidson County Police
 - c. Tennessee Department of Correction (TDOC) Communications Officer

Effective Date: August 15, 2006	Index # 506.16.2	Page 2 of 5
Subject: EXECUTIONS: DEATH WATCH		

2. When the inmate is placed on death watch, the Warden and the TDOC Victim Notification Director shall immediately notify all individuals whose presence is required or permissible in the witness room during the execution.

B. Conditions of Death Watch Confinement:

1. The condemned inmate shall be informed of his/her placement on death watch status.
2. The inmate shall be allowed to have in his/her cell only the items listed below. Any other item will be considered contraband and confiscated in accordance with institutional policy.
 - a. Standard issue of outer clothing
 - b. One bed
 - c. One fire retardant mattress, pillow, and standard issue of linens
 - d. One toothbrush
 - e. One tube of toothpaste
 - f. One bar of soap
 - g. One rechargeable electric razor (to be issued and used under direct supervision only)
 - h. One washcloth
 - i. One pair of shorts and one t-shirt
 - j. Toilet tissue as needed
 - k. Stationery - 12 sheets, 3 stamped envelopes, 1 pencil which will be in the possession of officer when not in use.
 - l. Religious tracts, Bible, Koran, etc., as issued by institutional chaplain
 - m. Legal documents, books, and papers as requested
 - n. Medication prescribed by institutional doctor (to be issued and used under direct supervision only)
 - o. One television outside door in front of cell
 - p. Newspapers as requested and available (no more than one (1) in cell at a time)
 - q. Feminine hygiene items as necessary and appropriate

Effective Date: August 15, 2006	Index # 506.16.2	Page 3 of 5
Subject: EXECUTIONS: DEATH WATCH		

- r. Cigarettes - When an inmate is moved to death watch, all cigarettes and matches he/she has will be confiscated. If the inmate requests a cigarette, he/she can be issued one cigarette at a time to be issued and lighted under direct supervision. At no time will smokeless tobacco products be issued. The Warden may deny the issuance of cigarettes if he/she feels that the security or safety of the inmate or institution could be threatened.
3. Clean laundry shall be provided as needed.
 4. The inmate shall retain all mail privileges except receipt of packages. Any packages received shall be stored with the inmate's personal property after the inmate has been advised of the package contents. All outgoing, non-privileged mail will be read by staff.
 5. Regular meal provision shall occur, with adherence to any special dietary instructions. On the final day, the inmate may request a special meal. This meal shall be provided within reason as determined by the Warden. The cost of the meal may not exceed twenty dollars (\$20.00).
 6. Recreational activities other than television viewing shall be suspended.
 7. The Warden or Deputy Warden shall make a portable telephone accessible should the inmate request access to a telephone to make a legal assistance calls. The Warden or Deputy Warden may approve requests for personal calls.
 8. The inmate may request in writing, and receive, legal and other materials from the institutional library. These materials shall be carefully inspected by the staff librarian and death watch supervisor prior to being delivered to the inmate.
 9. The clothing room supervisor shall issue clothing and shoes of appropriate size and appearance for use by the mortician. The inmate's family may, if they choose, provide substitutions for any or all of these items.
- C. Visitation Privileges
1. Social:
 - a. Only those individuals on the inmate's approved visiting list shall be allowed visits during the death watch.
 - b. All visits shall be held in a maximum-security area, and physical contact between the visitor(s) and inmate shall not be permitted. Visits will be between the hours of 9:00 a.m. and 4:00 p.m., and limited to two (2) hours duration.
 - c. The number of visitors allowed to visit at any one time and number of times a visitor can visit shall be at the discretion of the Warden or Deputy Warden.

Effective Date: August 15, 2006	Index # 506.16.2	Page 4 of 5
Subject: EXECUTIONS: DEATH WATCH		

- d. A final visit during which physical contact between the inmate and spouse/ immediate family member is permitted may be authorized by the Warden. The Warden's decision shall be based on the individual circumstances in each case. Contact visits shall be supervised by no fewer than two (2) correctional officers chosen by the death watch supervisor with the concurrence of the Deputy Warden.
2. Religious:
- a. Priest(s) or ministers of recognized religious faiths who are of the inmate's recorded religious preference may visit the inmate in the same manner as provided for social visits in Section VI. (C)(1).
- b. A final visit by the inmate's personal priest or minister may be permitted by the Warden immediately prior to the execution. This visit shall take place at the front of the inmate's cell. This visit shall be limited to two (2) hours duration. The Warden shall decide the hours the visit will occur.
- (1) The personal priest or minister will not be permitted to accompany the inmate into the execution chamber.
- (2) At the inmate's request, a staff chaplain may visit and/or accompany the inmate into the execution chamber.
3. Legal Services:
- a. The attorney of record or other Tennessee licensed attorney retained by the inmate may visit the inmate up to one (1) hour before the time of execution. One (1) defense counsel chosen by the condemned person, and the State Attorney General and Reporter or his/her designee, may view the execution from the execution chamber witness room.
- b. Visits with attorneys shall be non-contact and will be conducted with provisions for the privacy of verbal exchange but under full and continuous observation by at least two (2) correctional officers.
4. Media Interviews:
- a. Inmate interviews with the news media may not be conducted during the period.
- b. During death watch, television station "live shots" shall not be permitted inside the secure perimeter of the institution at any time or within other buildings of the institution.

Effective Date: August 15, 2006	Index # 506.16.2	Page 5 of 5
Subject: EXECUTIONS: DEATH WATCH		

- c. During death watch, representatives of the news media shall not be allowed inside the secure perimeter of the institution for interviews with any TDOC inmate, or for any other purpose other than those selected to witness the execution, as specified in TCA 40-23-116.

VII. ACA STANDARDS: None.

VIII. EXPIRATION DATE: August 15, 2009.



ADMINISTRATIVE POLICIES
AND PROCEDURES
State of Tennessee
Department of Correction

Index #: 506.16.3

Page 1 of 1

Effective Date: April 20, 2007

Distribution: LD

Supersedes: N/A

Approved by:

Subject: EXECUTIONS: CHANGES TO EXECUTION PROTOCOLS

- I. AUTHORITY: TCA 4-3-603, TCA 4-3-606, TCA 39-13-206, and TCA 40-23-114 through TCA 40-23-117.
- II. PURPOSE: To establish guidelines for changing execution protocols.
- III. APPLICATION: The Warden of Riverbend Maximum Security Institution (RMSI) and the Commissioner of the Tennessee Department of Correction.
- IV. DEFINITIONS: Execution Manuals: Manuals containing the detailed description of policies and procedures that describe the carrying out of executions in Tennessee by lethal injection and electrocution.
- V. POLICY: Any changes to the execution protocols as outlined within the *Execution Manuals* shall be documented and approved by the Commissioner of Correction.
- VI. PROCEDURES:
 1. Any changes to the execution protocols shall be recommended by the Warden of RMSI and approved by the Commissioner of Correction.
 2. The pages of the Execution Manuals shall be numbered and dated. Any change shall be numbered with the new date and inserted into the manual. The old page shall be removed and maintained by the Warden as an historical record.
- VII. ACA STANDARDS: None.
- VIII. EXPIRATION DATE: April 20, 2010.



ADMINISTRATIVE POLICIES
AND PROCEDURES
State of Tennessee
Department of Correction

Index #: 507.01

Page 1 of 16

Effective Date: March 1, 2004

Distribution: B

Supersedes: 507.01 (10/1/01)

Approved by:

Subject: VISITATION

- I. AUTHORITY: T.C.A. 4-3-603, T.C.A. 4-3-606, T.C.A. 39-16-201.
- II. PURPOSE: To establish departmental guidelines governing the visiting of inmates.
- III. APPLICATION: To the Assistant Commissioner of Operations, institutional employees, employees of privately managed facilities, TRICOR employees, and inmates, excluding any offender assigned to and actively participating in a Special Alternative Incarceration Unit (S.A.I.U.) program or the parole/probation violators program.
- IV. DEFINITIONS:
 - A. Child: Anyone under the age of eighteen (18) years.
 - B. Contraband: Any item that is not permitted by law or is expressly prohibited by Tennessee Department of Correction (TDOC) or institutional policy.
 - C. Guardian: A person authorized by a child's custodial parent or legal guardian to be responsible for a child while visiting a correctional institution. This authorization shall be evidenced by a notarized statement from the custodial parent or legal guardian submitted to the institution for file.
 - D. Immediate Family: Mother, father, husband, wife, children, grandchildren, brother, sister, grandmother, grandfather, half-siblings, son-in-law, daughter-in-law, sister-in-law, brother-in-law, mother-in-law, father-in-law. Stepparents in loco parentis may be considered within this definition when it has been verified that the inmate was reared by this individual as a result of death, divorce, desertion, or other absences of a parent. Stepchildren may also be considered immediate family if the offender and his/her spouse were married prior to the current incarceration and the spouse's children were minors who resided in the home, shared by the inmate and spouse, on a regular basis at the time of incarceration.
 - E. Legal Guardian: A person appointed by the court to provide partial or full supervision, protection, and assistance of the person of a minor, as evidenced by a certified copy of a court order.
 - F. Official Visitor: Employees of the TDOC, other governmental agencies, or private sector who are conducting business at the institution.
 - G. Visitor: Person who has completed application/approval process for permission to visit an offender.

Effective Date: March 1, 2004	Index # 507.01	Page 2 of 16
Subject: VISITATION		

V. POLICY: The TDOC shall allow inmates visitation privileges within the following guidelines with the exception of the Technical Violators and the S.A.I.U. programs. Inmates in these programs are permitted visitation privileges under more restrictive arrangements as specified in the institutional policy as sanctioned by TDOC.

VI. PROCEDURES:

A. Guidelines

1. Local rules pertaining to visiting shall be available to all staff, inmates, and visitors.

a. In addition to continual posting in an area accessed by visitors, a visitor's handbook shall be produced and made available for new applicants who provide a self-addressed stamped envelope with their application. Additional copies will be available at checkpoint.

(1) The visitor's handbook shall include the following statement:

"Title VI of the Civil Rights Act of 1964 requires federally assisted programs be free of discrimination and the TDOC also requires that all its services be offered equally to eligible persons regardless of race, color or national origin."

(2) The visitors' handbook shall contain information detailing available avenues of complaint regarding alleged Title VI violations, including methods for contacting the local Title VI coordinator, the Tennessee Title VI Compliance Commission, and the U.S. Department of Justice.

(3) A poster regarding Title VI compliance and complaint information shall be posted on bulletin boards in visitor areas at each institution.

b. Whenever possible, visitation policies or procedural changes should be posted on bulletin boards, announced to inmate council, and published in inmate newspapers thirty (30) days in advance.

2. Visitation areas should have facilities accessible to handicapped visitors, including restrooms and entrance ramps to the visitation area.

3. Each institution shall be responsible for providing information to visitors about possible transportation to the institution and directions on how to reach the facility.

B. Approval and List

1. A list of approved visitors shall be recorded during each inmate's initial classification.

Effective Date: March 1, 2004	Index # 507.01	Page 3 of 16
Subject: VISITATION		

2. Blank copies of Visitation Application Form CR-2152 shall be furnished to all inmates, with written instructions that prospective visitors shall complete and return the forms with a current photograph to the deputy/associate warden in charge of visitation within 30 days. Applications should be approved or denied within thirty (30) days of receipt.
3. No visitor shall be admitted for visitation until the application is approved, except for immediate family visitors of newly committed inmates. In such instances, the warden shall have the names of the inmate's immediate family members added to the approved visitor's list, until receipt and approval of the visitation application. (No more than 60 days from inmate intake date shall be allowed for this purpose.)
4. Inmates housed at the reception centers awaiting classification and/or transfer to their assigned institution shall only receive visits from their immediate family members.
5. If the warden's designee approves the applicant visitor, the name shall be entered into Family Contacts (LCDN) and approved on Visitor Status (LCD2). The warden shall make the final decision when an applicant is initially disapproved by a designated reviewer. The inmate shall receive notification within thirty (30) days of receipt of the application as to whether or not his/her visitor is approved. If disapproved, a reason(s) shall be noted. It shall then be the inmate's responsibility to advise the visitation applicant of the approval or denial. The inmate may appeal disapproval through the grievance procedure. (See Policy #501.01 or #9501.01 for privately managed facilities until this policy is incorporated into #501.01.)
6. Approval of visitors shall be at the warden's discretion, in accordance with the following guidelines:
 - a. All immediate family members who apply and eight (8) additional adults may be approved to visit an inmate upon receipt of CR-2152.
 - b. Children under 12 years of age may visit without being on the inmate's approved visitor list, provided they are accompanied by their parent, legal guardian, or guardian who is on the inmate's approved visiting list. Identification is not required for children under the age of 16 years; however, a CR-2152 with a recent picture must be on file.
 - c. All visitors under 18 years of age must be accompanied by an approved visitor who is either the child's parent, legal guardian, or guardian. The custodial parent or legal guardian must provide a completed and notarized Parental Consent /Release for Minor's Visitation Form (CR-2152, page 2), which designates permission for the assigned visitors (as guardians) to accompany the child to visit and consent for the child to be searched.
 - d. The requirements of (c) above do not apply if a visitor is under the age of 18 and legally married to the inmate they are visiting. Proof of marriage must be provided.

Effective Date: March 1, 2004	Index # 507.01	Page 4 of 16
Subject: VISITATION		

- e. Members of the clergy, as recognized by the chaplain or warden, need not be placed on the Approved Visitors List.
- f. Attorneys of record need not be placed on the Approved Visitors List.
- g. Persons the warden determines could have a harmful influence on the inmate and/or may constitute a threat to the security of the institution shall not be approved for visitation.
- h. The following will apply for persons with past criminal felony convictions:
 - (1) Inmate family members with active felony conviction records may not be considered for visitation approval for six (6) months following release from incarceration or placement on probation/community corrections or parole supervision (written consent of supervising officer/counselor is required).
 - (2) Other visitor applicants with felony convictions who are not immediate family members may apply for visitation one (1) year after placement on probation/parole or one (1) year after release from confinement. If the person is still on parole/probation, the probation/parole officer must give written approval.
 - (3) The warden may disapprove visitation applications of anyone with felony convictions if it is believed that the security of the institution or safety of individuals could be jeopardized.
- i. The following will apply to former employees:
 - (1) Current or former employees of TDOC, TRICOR, or contract agencies (in Tennessee), interns, and practicum students shall not be approved unless they are immediate family members of inmate.
 - (2) Former TDOC employees, on visitation list as of October 1, 1998, shall be allowed to remain on the list.
 - (3) Persons in the categories listed under (1) above who are granted permission to and marry an inmate in accordance with TDOC Policy #503.07 may be considered for visitation privileges as follows:
 - (a) If the person's separation from TDOC service was due to a violation of state law, e.g., trafficking in contraband whether or not prosecution occurred, visitation requests will not be considered from at least a minimal period of 24 months up to 48 months, pending on the severity of the violation.

Effective Date: March 1, 2004	Index # 507.01	Page 5 of 16
Subject: VISITATION		

- (b) If a person's separation from TDOC service was completely voluntary with no policy violation, visitation requests may not be considered for a period of six (6) months from the date of the marriage.
 - (c) If the person's separation from TDOC service was the result of a violation of TDOC Policy #305.03, Employee/Offender Relationships, visitation requests will not be considered for 24 months from the date of the marriage.
 - (d) In all such cases, the inmate shall not remain at the facility where the relationship occurred.
- j. Any falsification of the CR-2152 by a visitor may be cause to deny approval or to withdraw approval of the visitors.
 - k. Persons participating, or those who have participated, as volunteers may be considered for visitation approval following a period of 18 months from the conclusion of the volunteer effort.
 - l. Visitors may not be placed on more than one (1) inmate's visiting list unless the inmates are immediate family members of the visitor and the relationship can be substantiated.
 - m. Additions or substitutions to the approved list shall be made no more than every three (3) months throughout the inmate's incarceration by the same application and approval system cited above (i.e., if an inmate makes a change in his/her visitation list on March 1, he/she may not apply for another change until June 1.) Applications received seeking approval to visit an inmate, who is not yet eligible for a change to his/her list, shall be returned to the applicant with an explanation/note regarding the eligibility date for resubmission.
 - n. When a visitor is removed from a non-immediate family inmate's visiting list, there shall be a one (1) year waiting period before that visitor may be placed on another non-immediate family inmate's visiting list.
- C. Guidelines for inmates under conviction for sex-related offenses against children:
- 1. An offender with a current or previous conviction for a crime involving a sexual offense against a minor is restricted from having contact visits with children under the age of eighteen (18.) except under the guidelines set forth in a duly signed and witnessed CR-3619, Contact Visitation with Minors Agreement.
- The warden/designee will ensure that this form is executed for all inmates with these types of convictions, regardless of the date they entered TDOC custody. The form will be completed as a part of the classification process.
- 2. Inmates who refuse to sign CR-3619 shall be restricted to non-contact visits with children.

Effective Date: March 1, 2004	Index # 507.01	Page 6 of 16
Subject: VISITATION		

3. Any observed or reported contact of a sexual nature with a child by an inmate shall be immediately reported by the warden/designee to the local Department of Children's Services, and Child Protective Services Division.
4. A victim of an inmate convicted of a sex offense will not be permitted to visit the inmate unless specifically approved by the warden, and then only non-contact visits shall be allowed.

D. File

1. All copies of CR-2152 received from visitor applicants shall be maintained in the visitation file, clearly marked approved or disapproved with the signatures of the warden/designee.
2. All CR-2152s shall subsequently be transferred as a part of the inmate's institutional record whenever the inmate is assigned to a different institution. (See Policy #403.01.1.)
3. Each institution shall maintain a record of the names of all visitors admitted to the institution to visit inmates. This record will be maintained in a bound logbook separate from the inmate's visitation file and shall remain at the institution where visit occurred. The logbook will be maintained for a period of three (3) years. Visitor arrivals and departures shall be entered into Visitor History (LIMM).

E. Schedule

1. The warden shall establish a routine schedule of visiting which shall include Saturdays, Sundays, and the following holidays that are recognized as being state holidays:
 - a. New Year's Day
 - b. Martin Luther King Jr. Day
 - c. President's Day
 - d. Good Friday
 - e. Memorial Day
 - f. Independence Day
 - g. Labor Day
 - h. Thanksgiving Day *
 - i. Christmas Day *

*Visitation on additional days accompanying Thanksgiving/Christmas Day will be determined by the commissioner.

Effective Date: March 1, 2004	Index # 507.01	Page 7 of 16
Subject: VISITATION		

2. A schedule of state holidays shall be posted on a bulletin board that is accessible to visitors.
3. The visitation schedule shall also include one (1) evening per week to allow visiting privileges for those inmates unable to visit on weekends. This should not be construed as allowing a visitor to visit both on the regularly scheduled weekend/holiday schedule and the evening visitation. Institutional space and personnel resources and schedule should be the only reasons to limit the number of visitors or length of visits. The warden, or designee, may approve other times for visitation due to unusual circumstances. Hours of visits should not interfere with the inmate's work, education, or vocational training schedules.
4. The warden or designee may approve the following types of special visits for persons on or not on the inmate's approved list. If absolutely necessary, they may be approved for hours other than those regularly scheduled for visitation. Approved/disapproved special visiting requests will be placed in the inmate's visitation file.
 - a. Visitors who have traveled 200 miles or more and/or do not visit on a regular basis (at the warden's discretion)
 - b. Children, as part of a special program to promote family bonding
 - c. Attorneys (See Policy #105.09.) (Privately managed facilities refer to their corporate policy.)
 - d. Prospective employers, sponsors, or parole advisors
 - e. Physicians, psychiatrists, or other health professionals (See Policy #113.30.)
 - f. Persons significant to the inmate for purposes of crisis intervention
 - g. Official visitors
 - h. Immediate family members who are under visitation suspension when the inmate is terminally/critically ill
5. The visitation schedule for segregated inmates should accommodate the number of visitors, length, and frequency of visits mandated by Policy #506.16 (#9506.16 for privately managed facilities until this policy is incorporated into #506.16).
6. Inmates assigned to punitive segregation may be allowed visits at the discretion of the warden. The inmates may visit in an area within the segregation unit or may visit as scheduled with the general population.
7. During an institutional emergency, visitation may be canceled as deemed appropriate by the warden.

Effective Date: March 1, 2004	Index # 507.01	Page 8 of 16
Subject: VISITATION		

F. Security

1. Visitors shall not enter any areas of the institution except for approved visitation areas and approved routes to and from those areas.
2. All visitors shall be searched as specified in Policy #506.06.
3. If contraband is found in the possession of a visitor, the contraband shall be confiscated and the visitor may be detained for law enforcement officials. These visitors shall be subject to possible felony prosecution as per T.C.A. 39-16-201. If the visitor refuses to be detained, force should not be used to accomplish this. Vital information such as name, address, phone number, automobile make and model, description, license plate number and state of issue should be documented and provided to law enforcement officials. An incident report shall be submitted. (See Policy #103.02.)

G. Denial, Termination, and Suspension of Visits

1. Any visitor may be denied entrance to the visiting area for any reason including, but not limited to:
 - a. Refusing to show proper identification
 - b. Refusing to submit to a search
 - c. Appearing to be under the influence of drugs or alcohol
 - d. Insufficient space for visiting
 - e. Possession of contraband
 - f. Inappropriate dress
 - g. Displaying of security threat group (STG) symbols or affiliation.
2. Visits may only be terminated by the shift supervisor upon recommendation by the officer in charge of the visiting area; however, less restrictive measures are encouraged, such as warning the inmate and/or the visitor(s). Examples of reasons for warnings or termination include, but are not limited to:
 - a. Inmates or visitors who violate visitation conduct rules
 - b. Failure by visitors to control their children.
3. Whenever a visit is denied or terminated, a detailed written report, including the name of the employee who witnessed the violation, shall be prepared by the official taking the action. A copy of the report shall be forwarded to the warden, who will determine whether the action is warranted.

Effective Date: March 1, 2004	Index # 507.01	Page 9 of 16
Subject: VISITATION		

4. Other than as specified in Policy #502.01 (#9502.01 for privately managed facilities until this policy is incorporated into #502.01), only the warden can suspend visitation privileges. In addition to suspending a visitor involved in misconduct, the warden may have cause to suspend all visitors from an inmate's list if it is believed there may be risk to the institution's security or to the safety of individuals. When such action is taken, the warden shall provide written justification for the record and provide notice to the individuals suspended. Such notice may be limited to protect the security of the institution or safety of individuals. An action of total suspension shall be reviewed within six (6) months to determine when and who among the visitors may be reinstated. Visiting privileges may be suspended for up to six (6) months for any reason, including, but not limited to, the following:
 - a. Visitor(s) and/or inmate have become intoxicated during the visit
 - b. Visitor repeatedly violated visiting rules
 - c. Visitor continually failed to control children
 - d. Visitor(s) exhibits behaviors and actions, which, in the warden's opinion, could jeopardize the security of the institution.
 - e. Inappropriate sexual contact

5. In the following cases, a visitor may be suspended for a period from six (6) months up to and including permanent restriction:
 - a. Attempting to introduce controlled substances or firearms into the institution, including concealment of weapons or controlled substances, in such a manner in the visitor's vehicle that gives an indication of a possible attempt to introduce the contraband into the facility. Mitigating circumstances, such as traces of a controlled substance found in a vehicle in such manner not appearing to be concealed, may warrant a lesser visitation suspension penalty.
 - b. A visitor, who is arrested, shall be suspended pending disposition of the case which may include any conviction, disposition, e.g., incarceration, probation, or parole. Reinstatement of privileges will require submission of a new application.

6. In all instances where inmates test positive for and/or are in possession of illegal drugs, or refuse to comply with a request for a drug screen, in addition to appropriate disciplinary actions, the warden shall modify the inmate's visits, with the exception of ministers and attorneys, according to the following:
 - a. First Offense - Visits shall be suspended for six (6) months.
 - b. Subsequent Offenses - Visits shall be suspended for additional six-month periods.

Effective Date: March 1, 2004	Index # 507.01	Page 10 of 16
Subject: VISITATION		

- c. Following a period of visitation restriction of twelve (12) months, inmates who continue to violate rules regarding substance abuse and risk lengthy visitation restrictions shall be given consideration by the warden for limited and restricted visits by one (1) or two (2) members of the immediate family (or significant friend in the absence of immediate family) who may be instrumental in convincing the inmate to seek help and to comply with substance abuse regulations. These procedures shall be incorporated into the facility's visitation policy.
 - d. The penalty may also be considered for reduction if the inmate successfully completes substance abuse programming.
7. In all instances where an inmate's visits are suspended for any reason, such as drug conviction, sexual misconduct, etc., Visitor Status (LCD2) will be modified to reflect this action. The reason for the suspension will be properly coded on the "visitor status denial" screen, and the beginning and ending dates will also be entered. This will be completed for each approved visitor on the list. Should the suspension reason be associated with a specific incident, the incident number will also be entered.

H. Institutional Clinic

Inmates who are patients in the institutional infirmary shall be allowed visits in a time, place, and manner as scheduled by the warden or his/her designee on a regular basis, provided that the attending physician/health provider allows it.

I. Outside Hospital

- 1. Inmates who are patients in community hospitals shall not be allowed visits, unless:
 - a. The hospitalization exceeds two (2) weeks continuous duration, or
 - b. The inmate is in critical condition or terminally ill.
 - c. The warden/designee approves the visit.
- 2. In accordance with hospital policy, children may be allowed to visit if accompanied by an adult who has been approved by the facility and it is in accordance with hospital policy.
- 3. Visitation shall be restricted to two (2) visitations per week unless the inmate is critical and a maximum of one-half hour per day per approved visitor during established hospital visitation hours, unless further restricted by the attending physician.
- 4. Hospital visiting rules as well as TDOC rules are to be obeyed.
- 5. No gifts, food, or packages shall be allowed for inmate patients.

Subject: VISITATION

6. Visits shall be subject to termination and/or suspension under the same criteria as with institutional visits.
7. The officer(s) in charge shall maintain a log of names of each visitor, time of arrival, and time of departure. That log shall become part of the record referenced in Section VI.(D)(3) above.

J. Visitation Areas

1. All institution visits (to include persons with disabilities) shall take place in areas designated by the warden. The area should allow reasonable ease of communication between inmates and their visitors.
 - a. Minimum custody inmates should be given the most flexibility and choices about areas for visitation.
 - b. Maximum and close custody inmates at Level 4 custody facilities shall be restricted to more secure areas for visiting due to supervision requirements.
 - c. Attorneys and inmate clients shall, upon request, be afforded privacy for their visits.
 - d. Outside visitation areas may be operated from April 1 through October 31 for inmates classified as minimum or medium custody. Cooking may be permitted in these areas, but only on the first weekend of the month. Cooking at minimum-security annexes may be permitted each weekend. The warden shall develop procedures that will specify food items and allowable amounts when cooking is permitted. The amount of food permitted must be in proportion to the number of persons visiting the inmate. Inmates convicted of Class A disciplinary infractions shall not be allowed to visit in these areas for a minimum of two (2) months subsequent to the conviction. On weekends when cooking is not permitted, food items shall be limited to the following:
 - (1) Deli/lunch meats - pre-packaged, unopened, and sealed
 - (2) Sliced cheese - pre-packaged, unopened, and sealed
 - (3) Condiments - single serving individual sealed packages
 - (4) Bread - commercially packaged sliced bread
 - (5) Paper plates, napkins, and plastic eating utensils
 - (6) Soft drinks – sealed cans or plastic bottles only not to exceed two (2) liters in size

Effective Date: March 1, 2004	Index # 507.01	Page 12 of 16
Subject: VISITATION		

e. At the warden's discretion, the outside visitation area may be operated from November 1 through March 31. No food items, except institutional vending machine food, are approved for consumption on the outside visiting area during this time period.

2. Vending machines may be furnished in visitation areas.

K. Property of Visitors

1. Except for privileged official visitors or as specified in Policy #507.02, visitors shall not be allowed to deliver any items to inmates.

2. Facilities utilizing the debit card system for vending machines will not permit any monies into the visitation area.

3. Electronic communication devices are prohibited. Should there be an urgent need for a device to be kept on the person of a visitor, for example, a physician, emergency personnel, etc., a detailed written request shall be prepared and submitted to the warden. If such a request is approved by the warden, the device is subject to search by opening compartments upon entry and departure of the visitor.

4. Visitors shall not be allowed to bring any items into visitation areas except:

a. One (1) unopened package of cigarettes or cigars per adult visitor, if smoking is permitted in the visitation area.

b. One (1) book of matches per adult

c. \$10.00 in coins for the first person, and \$3.00 in coins for each additional person at facilities not utilizing the debit card system

d. Baby items (i.e. diapers, formula, unopened sealed baby food, etc.)

e. Car keys

5. All other items shall be placed by the visitor either in institution lockers, where provided, or in their private cars.

L. Dress Code for Visitors, Official Visitors, and Volunteers

1. Persons entering TDOC facilities should be encouraged to dress comfortably and in casual attire; however, they shall be expected to comply with the following basic dress requirements. Wardens may further define these requirements in local policy.

a. Clothing shall fit in an appropriate manner. Clothing appearing to be too large or too small for the wearer, which creates obvious gaps or exposure, or would present a hazard to the wearer will be rejected by the shift supervisor.

Effective Date March 1, 2004	Index # 507.01	Page 13 of 16
Subject: VISITATION		

- b. Visitors must wear undergarments.
 - c. Appropriate footwear to provide basic foot protection shall be required while on institutional grounds. Open toe shoes or sandals are permitted; however, shower shoes, flip-flops, etc., are prohibited.
 - d. Shorts or skirts are permitted provided the leg is covered to within three (3) inches above the knee in a standing position with the garment worn in the position in which it is intended to be worn.
2. The below listed types of clothing are specifically prohibited:
- a. Garments manufactured from spandex or spandex-type fabrics.
 - b. Any clothing that is transparent or translucent in nature.
 - c. Sleeveless shirts or dresses or clothing exposing a bare chest or midriff.
 - d. Any camouflage attire.
 - e. Clothing with logos that contain pictures, slogans, or vulgarity, or contain signs or symbols of security threat groups (STG), or any clothing determined by the processing officer to be associated with any STG. The association may be made by color combination, designs, or logos affixed to the clothing, or the manner in which the clothing is worn.
 - f. Splits in dresses or skirts that extend three (3) inches above the knee will not be permitted.
3. Visitors may not wear excessive clothing such as two (2) pairs of pants or an extra shirt under their top layer of clothing. This is necessary to prohibit the exchange of clothing between inmates and visitors.
- M. Institutions with closed circuit television, with recording capabilities, shall operate the recorders continuously during visitation hours. All recordings will be retained at least one (1) week. If the recordings reveal criminal activities, disciplinary offenses, or activities resulting in inmate grievances, those recordings will be maintained until the resolution of the disciplinary, criminal proceeding, lawsuit, or grievance. Recordings, along with Chain of Custody form CR-3255, shall be maintained in the office of the deputy warden.

VII. ACA STANDARDS: 4-4156, 4-4169, 4-4267, 4-4498, 4-4499, 4-4500, 4-4503, 4-4504.

VIII. EXPIRATION DATE: March 1, 2007.



TENNESSEE DEPARTMENT OF CORRECTION
VISITATION APPLICATION

INSTITUTION: _____

INMATE NAME: _____

TDOC #: _____

READ CAREFULLY: All questions must be answered. Any omissions or falsifications will be considered sufficient reason for disapproval for visitation. Please attach recent photograph in lower left-hand corner or application will not be processed. Return this form to the warden of the above noted institution. This application will become part of the inmate's institutional record under the provisions of T.C.A. 4-3-603, 4-3-606, and 4-6-140. It will be considered a public record available for review by the general public, subject to the procedures established in the above cited statutes.

NAME	RACE (circle one)	RELATIONSHIP TO INMATE
LAST	A = Asian or Pacific Islander	AU = Aunt
FIRST	B = Black	BR = Brother
MIDDLE	H = Hispanic	CO = Cousin
	I = American Indian/Alaskan Native	DA = Daughter
ADDRESS	W = White	FA = Father
STREET		FC = Foster Child
CITY	HAIR COLOR (circle one)	NI = Niece
STATE	BAL = Bald	FP = Foster Parent
ZIP	BLK = Black	FR = Friend
	BLN = Blonde/Strawberry	GF = Grandfather
TELEPHONE NUMBER	BRO = Brown	GM = Grandmother
()	GRY = Gray	HU = Husband
	RED = Red/Auburn	MO = Mother
SEX (circle one)	SDY = Sandy	SB = Step Brother
M = Male	WHI = White	SD = Step Daughter
F = Female		SF = Step Father
	EYE COLOR (circle one)	SI = Sister
MARITAL STATUS	BLK = Black	SN = Son
	BLU = Blue	SM = Step Mother
	GRN = Green	SR = Step Sister
DATE OF BIRTH	GRY = Gray	SS = Step Son
MONTH	HAZ = Hazel	UN = Uncle
DAY	BRN = Brown	WI = Wife
YEAR		NE = Nephew
	COMPLEXION (circle one)	
HEIGHT/WEIGHT	BLK = Black	Are you required to carry a pager?
FEET	DBR = Dark Brown	YES NO
INCHES	DRK = Dark	If Yes, please state why:
WEIGHT	FAR = Fair	
	LBR = Light Brown	
DRIVER LICENSE INFO	LGT = Light	
STATE	MED = Medium	
NUMBER	MBR = Medium Brown	
	YEL = Yellow	

Are you currently on the visiting list of an inmate confined in the Tennessee Department of Correction? ___ Yes ___ No
 If Yes, what is his/her name: _____, Number _____, Relationship _____
 Have you ever been convicted of a felony? ___ Yes ___ No. If Yes, please list offense(s), date, location, disposition/sentence, and TDOC number if applicable: _____
 Are you now, or have you ever been, an employee or contract employee of the TDOC? ___ Yes ___ No. If Yes, when? _____

ATTACH RECENT PHOTO HERE

YOUR SIGNATURE: _____ DATE: _____
 NOTE: (1) If you are under 18 years of age, your parent or legal guardian's approval must be indicated by notarized signature. If signed by legal guardian, a copy of certified court order granting guardianship must be attached. (2) Visitors' handbooks are available upon receipt of a self-addressed stamped envelope with this application.

SIGNATURE: _____ DATE: _____
 ___ Approved
 ___ Disapproved _____ DATE: _____
 Warden's Designee
 ___ Approved
 ___ Disapproved _____ DATE: _____
 Warden's Signature
 (Required only if Disapproved by Designee)

TENNESSEE DEPARTMENT OF CORRECTION
VISITATION APPLICATION
PARENTAL CONSENT/RELEASE FOR MINOR'S VISITATION

INSTITUTION: _____

INMATE NAME: _____ TDOC NUMBER: _____

*(For children under eighteen (18) years of age, please fill out completely,
have notarized by a notary public, lawyer, or local postal official.)*

This form must be completed by the custodial parent/legal guardian and properly notarized for minor children (under 18) to visit an inmate when the custodial parent/legal guardian is unable, or unwilling to visit and accompany the minor child. The child may visit only with the authorized person named below, who is over 18 years of age and who must also be on the approved visitation list of the inmate they wish to see. Permission is granted for the child to be searched.

MINOR(S) NAME(S)	DATE OF BIRTH	RELATIONSHIP OF CHILD TO INMATE
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

APPROVED ESCORT/GUARDIAN	GUARDIAN'S DATE OF BIRTH
_____	_____
_____	_____
_____	_____
_____	_____

SIGNATURE OF CUSTODIAL PARENT/LEGAL GUARDIAN	DATE
--	------

STATEMENT OF NOTARY PUBLIC

Subscribed to, and sworn before me on this _____ day of _____ 20 _____

My commission expires on: _____

Notary Public

pc: Visitation files
Inmate



TENNESSEE DEPARTMENT OF CORRECTIONS
CONTACT VISITATION WITH MINORS AGREEMENT

 INSTITUTION

I, _____ TDOC # _____ agree to the
Offender Name

following rules of conduct during visits with children under the age of 18:

- (1) Absolutely no visitation with the victim(s) or alleged victim(s) of my crimes of conviction without documented approval by the institution's mental health authority, and Warden.
- (2) Physical contact with a child is limited to an appropriate initial greeting and parting goodbye gesture. For example, an appropriate hug or kiss on the cheek.
- (3) No prolonged handling or touching of the child is allowed.
- (4) No kissing of the child on the mouth.
- (5) No sitting of the child on the lap.
- (6) No contact with a child of other visitors.
- (7) No whispering, passing notes, swearing, spanking, hitting, threatening, or use of foreign language or other words unfamiliar to visitation security staff.
- (8) All child visitors must be in direct sight of visitation security staff at all times.
- (9) No changing diapers or other assistance in personal hygiene or intimate dressing activity.
- (10) The parent/guardian is responsible for managing the behavior of the child.
- (11) All directions given by visitation security staff, and the rules of this agreement, must be followed by inmate visitor without disagreement at the time of visitation or in the presence of the child.
- (12) Any specific visit, as well as my privilege to have contact visits with a child under the age of 18, may be terminated if any of the above guidelines are violated; or if the visiting child, or caretaker is unduly distressed from the visit.

 Offender Signature

 Custodial Parent or Legal Guardian
 of Visitor Under 18 Years of Age

 Witness & Job Title

 Date



ADMINISTRATIVE POLICIES
AND PROCEDURES
State of Tennessee
Department of Correction

Index #: 507.01

Page 1 of 1

Effective Date: December 1, 2005

Distribution: B

Supersedes: N/A

Approved by:

Subject: VISITATION

POLICY CHANGE NOTICE 05-16

INSTRUCTIONS:

Please change the first sentence in Section VI.(B)(5) to read as follows:



- "5. If the Warden's designee approves the applicant visitor, the name shall be entered into Visitor (LIML)."

Please change Section VI.(D)(3) to read as follows:

- "3. Each institution shall maintain a record of the names of all visitors admitted to the institution to visit inmates. This record will be maintained in a bound logbook separate from the inmate's visitation file and shall remain at the institution where visit occurred. The logbook will be maintained for a period of three (3) years. Visitor arrivals and departures shall be entered into Visitor History (LIMM)."

Please change the first sentence in Section VI.(G)(7) to read as follows:

- "7. In all instances where an inmate's visits are suspended for any reason, such as drug conviction, sexual misconduct, etc., Visitation (LIMM) shall be modified to reflect this action."

 <p>ADMINISTRATIVE POLICIES AND PROCEDURES State of Tennessee Department of Correction</p>	Index #: 507.01	Page 1 of 1
	Effective Date: September 15, 2004	
	Distribution: B	
	Supersedes: N/A	
<p>Approved by: </p>		
Subject: VISITATION		

POLICY CHANGE NOTICE 04-56

INSTRUCTIONS:

Please add the following subsection to Section VI.(G) to read as follows:

- "8. Copies of written notices to inmates and visitors, in all cases of visitation suspension, shall be placed in the inmates' visitation files."



ADMINISTRATIVE POLICIES
AND PROCEDURES
State of Tennessee
Department of Correction

Index #: 507.01.1

Page 1 of 3

Effective Date: August 1, 2005

Distribution: B

Supersedes: 507.01.1 (7/1/02)

Approved by:

Subject: NON-CONTACT VISITATION

- I. AUTHORITY: T.C.A. 4-3-603, T.C.A. 4-3-606, T.C.A. 39-16-201.
- II. PURPOSE: To establish departmental guidelines governing non-contact visitation of inmates.
- III. APPLICATION: To the Assistant Commissioner of Operations, institutional employees, contract employees, inmates of facilities with a minimum restricted custody or higher security housing component, and privately managed institutions.
- IV. DEFINITIONS:
 - A. Non-Contact Visitation: The placement of an inmate and his/her visitor(s) in separate locations where no physical contact can be made but visual and auditory communication can occur.
 - B. Non-Contact Visitation Booth: A booth that, while permitting verbal interaction between the inmate and a visitor, prohibits any physical contact.
- V. POLICY: The Warden of an institution, which has a minimum restricted custody or higher security housing component, shall develop a local policy that governs non-contact visiting.
- VI. PROCEDURES:
 - A. Institutional policy shall define reasons for use of a non-contact visitation area and may include, but not be limited to, the following:
 1. As an alternative to suspension of visitation privileges.
 2. Full reinstatement of visitation privileges following a suspension.
 3. When an offender is in maximum custody.
 4. When there is a reasonable suspicion that contraband will be exchanged.
 5. When mandated by the institutional disciplinary committee.
 6. For unacceptable social behavior.
 7. When the offender is in segregation, pending disciplinary hearing, or protective custody.

Effective Date: August 1, 2005	Index # 507.01.1	Page 2 of 3
Subject: NON-CONTACT VISITATION		

8. At the request of the visitor.
 9. Media Interviews.
- B. Institutional policy shall address the following issues related to non-contact visitation:
1. Identify the location of non-contact visitation areas and what segment of the population is to use each.
 2. Identify the duration of non-contact visitation restrictions and the review process to reinstate routine visitation privileges.
 3. Identification of inmates required to visit in non-contact visitation area.
 - a. Maximum custody
 - b. Segregation (including those pending a hearing)
 - c. Protective custody:

Protective custody inmates who are involved in special programs and who are recommended by the Warden may be granted contact visits upon written approval of the Assistant Commissioner of Operations upon receipt of a written program request from the Warden. The recommendation must contain a detailed explanation of the program and a visitation schedule.
 - d. Others who fit the criteria established in Section VI.(A) of this policy.
- C. Inmate and visitor searches shall be conducted in accordance with Policy #506.06.
- D. The requirements of Policy #507.01 shall apply to all visitors accessing non-contact visitation facilities.
- E. The local policy shall detail the security procedures regarding non-contact visitation, including:
1. How doors are to be secured.
 2. The availability of restroom facilities for the inmate and the visitor.
 3. Placement of inmate in non-contact visitation area prior to the visitor being admitted into the visitation area.
 4. Release of inmate from non-contact visitation area after the visitor has vacated the area.

Effective Date: August 1, 2005	Index # 507.01.1	Page 3 of 3
Subject: NON-CONTACT VISITATION		

- F. The inmate will be permitted no physical contact with the visitor(s) at any time for any reason. Any attempts to affect physical contact between the visitor and the inmate shall be cause to terminate the visitation and the initiation of appropriate disciplinary action.
- G. Non-contact visits shall not exceed two (2) hours.
- H. Non-contact visitation shall be consistently monitored by institutional staff.
- I. The inmate shall be notified in writing of the circumstances requiring non-contact visitation. A copy shall be provided to the visitation supervisor to be noted in the visitation file.
- J. Visitors will be notified of the non-contact visitation requirement prior to being processed.
- K. Warden (or designee in the Warden's absence) shall approve all non-contact visits.

VII. ACA STANDARDS: 4-4267.

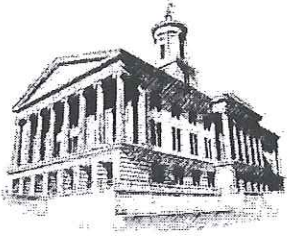
VIII. EXPIRATION DATE: August 1, 2008.

Plaintiff's Exhibit 5

to

**Complaint for Declaratory Judgment and
Injunctive Relief**

**Report on Administration of Death
Sentences in Tennessee**



NEWS RELEASE

GOVERNOR'S COMMUNICATIONS OFFICE

FOR IMMEDIATE RELEASE
APRIL 30, 2007

CONTACT: LYDIA LENKER
615.741.3763 (OFFICE)
615.289.9375 (CELL)

STATEMENT FROM GOVERNOR PHIL BREDESEN

GOVERNOR RECEIVES REVISED DEATH PENALTY PROTOCOLS

"I have received the revised death penalty protocols from the Department of Correction, and I would like to thank the Commissioner, the Attorney General and their staffs for their hard work on this very serious matter. As this completes the work that I asked the Commissioner to undertake, the moratorium on executions will expire on schedule on May 2, 2007."

###

2010 OCT 25 AM 11:08
FILED
CLERK & MASTER
TODSON CO. CHANCERY CT.
D.C. & H.

PHIL BREDESEN
GOVERNOR



GEORGE M. LITTLE
COMMISSIONER

STATE OF TENNESSEE
DEPARTMENT OF CORRECTION
SIXTH FLOOR, RACHEL JACKSON BUILDING
320 SIXTH AVENUE NORTH
NASHVILLE, TENNESSEE 37243-0465
Office (615) 741-1000 • FAX (615) 532-8281

April 30, 2007

The Honorable Phil Bredesen
Governor of Tennessee
First Floor, State Capitol
Nashville, TN 37243

Dear Governor Bredesen:

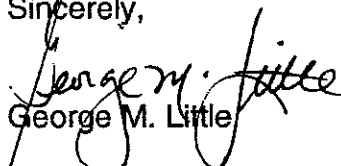
The Department of Correction has completed a comprehensive review of the manner in which death sentences are administered in Tennessee. A copy of our report is attached.

After a rigorous consideration of our options and consultation with the review committee, I have directed the continued use of a three-chemical lethal injection protocol. The decision was based on this type of protocol being a proven method of execution. Tennessee and twenty-nine other jurisdictions have used this general method. It has been found to be humane when properly administered. We have significantly improved the documentation and procedures to support the three-chemical protocol.

We have also reviewed our electrocution protocol. We found the existing procedures to be adequate. However, we have revised the procedures to make them more clear, concise, and complete.

We will continue with on-going reviews of our protocols and procedures. We will continue to assess best practices, and we will make appropriate revisions and/or recommend improvements, as appropriate. As of this date, we have begun training using the updated procedures. The Department is ready to carry out the laws of the State of Tennessee.

Sincerely,


George M. Little

GML:PC
Attachment

**TENNESSEE
DEPARTMENT OF CORRECTION**



**Report on Administration of Death
Sentences in Tennessee**

April 2007

**Prepared by
Tennessee Department of Correction**

TABLE OF CONTENTS

Executive Summary 1

Introduction 3

Methodology 4

Selected Areas of Inquiry – Lethal Injection 6

 A. Lethal Injection Chemical Selection..... 6

 B. Lethal Injection Chemical Procurement and Storage 8

 C. IV Team Qualifications and Training 8

 D. Use of Cut-Down Procedure 8

 E. Executioner Qualifications and Training 8

 F. Chemical Administration Documentation 9

Selected Areas of Inquiry – Electrocution 9

 A. History of Tennessee’s Electric Chair..... 9

 B. Electrocution Equipment Control Settings 9

 C. Electrocution Equipment Maintenance and Testing 9

Appendix 10

 A. Executive Order No. 43

 B. Florida Governor’s Commission on Administration of Lethal Injection

 C. Transcript of April 5, 2007 Public Hearing

Executive Summary

In response to Executive Order No. 43, Commissioner George M. Little appointed a committee to review the administration of death sentences in Tennessee and revise the Department's Execution Protocols and Manual. The Committee utilized a number of resources including, but not limited to, the following:

- The Office of the Attorney General and Reporter
- Participants in past Tennessee executions, including Riverbend Maximum Security Institution Warden Ricky Bell, members of the IV team, and a physician
- Corrections professionals and legal experts from other jurisdictions
- Anesthesiologists
- An Electrical Engineer
- The Final Report of Florida's Governor's Commission on Administration of Lethal Injection
- Court opinions in execution protocol cases from Tennessee and other jurisdictions.

The Department also held a public hearing on April 5, 2007 for the purpose of receiving input from persons with relevant expertise on the issue of how to best ensure that the Department's execution protocol provides constitutional and appropriate executions. Two attorneys made presentations at the hearing, and comments were also taken from other attendees.

Based upon its research and the input it received from various sources, the Department developed updated execution manuals for lethal injection and electrocution that incorporate best practices from the Department's own experience and that of other jurisdictions. Highlights include:

- Detailed descriptions of each step of the electrocution and lethal injection processes
- Detailed descriptions of the qualifications, selection processes, and training requirements for execution team members
- A detailed description of the services provided to family members of the condemned inmate's victims
- Enhanced requirements for contemporaneous documentation of each significant stage of an execution as it is carried out
- Enhanced accountability in connection with the procurement, storage, and disposition of the lethal injection chemicals.

Report on Administration of Death Sentences in Tennessee

The protocol for lethal injections employs the following chemicals in the sequence shown:

- 5 Grams of Sodium Thiopental in 200 cc of sterile water
- 100 Mg of Pancuronium Bromide (1 Mg/ml)
- 100 mL of 2 mEq/mL Potassium Chloride, for a total of 200 mEq.

After the infusion of each chemical, the IV line is flushed with 50 cc saline solution.

At least 29 other jurisdictions, including the Federal Bureau of Prisons, have lethal injection protocols consisting of sodium thiopental, pancuronium bromide, and potassium chloride in varying amounts. Sodium thiopental is a barbiturate that rapidly induces general anesthesia. Pancuronium bromide is a neuromuscular blocking agent that induces paralysis and causes breathing to cease. Potassium chloride is a salt that interferes with the electrical signaling essential to normal heart function. In the amounts listed above, each of the chemicals, independently, is lethal.

Tennessee has chosen to use 5 grams of sodium thiopental, the largest amount used by other jurisdictions, to provide enhanced assurance that the condemned inmate will be unconscious when the remaining chemicals are infused.

The revised lethal injection and electrocution manuals and protocols will provide further assurance that death sentences are administered in a constitutional and appropriate manner in Tennessee.

Introduction

On February 1, 2007, Governor Phil Bredesen issued Executive Order No. 43 directing the Department of Correction to complete a comprehensive review of the manner in which the death penalty is administered in Tennessee. The Executive Order provided as follows:

1. I hereby direct the Commissioner of Correction ("Commissioner") to initiate immediately a comprehensive review of the manner in which death sentences are administered in Tennessee. This review shall specifically include the state's protocols and any related procedures, whether written or otherwise, related to the administration of death sentences, both by lethal injection and by electrocution. In completing this review, the Commissioner is directed to utilize all relevant and appropriate resources, including but not limited to scientific and medical experts, legal experts, and Correction professionals both from within and outside of Tennessee. As a component of this review, the Commissioner is further directed to research and perform an analysis of best practices used by other states in administering the death penalty.
2. As soon as practical, but no later than May 2, 2007, the Commissioner of Correction is directed to establish and provide to me the new protocols and related written procedures for administering death sentences in Tennessee, both by lethal injection and electrocution. In addition, the Commissioner is directed to provide me with a report outlining the results of the review completed pursuant to paragraph one (1) above.

In response to Executive Order No. 43, Commissioner Little appointed a Committee to undertake the required review and prepare recommended protocols for the administration of the death penalty in Tennessee. After extensive research and after receiving input from experts in relevant fields, the Committee developed new execution manuals incorporating written procedures based on Tennessee's own experience and that of other jurisdictions, as well as input from medical experts.

This report describes the Department's methodology in developing the new manuals and the input it received from various sources, and summarizes the most significant issues addressed in the manuals.

Methodology

In response to Executive Order No. 43, Commissioner George M. Little appointed a Committee to undertake the required review of the manual of procedures for electrocution and lethal injection in Tennessee. The Committee consisted of Deputy Commissioner Gayle Ray, Assistant Commissioner of Operations Roland Colson, Riverbend Maximum Security Institution Warden Ricky Bell, Executive Assistant to the Commissioner Julian Davis, and General Counsel Debra K. Inglis.

Initially, the Department received guidance from the State Attorney General's Office concerning the legal challenges to execution protocols in Tennessee and other jurisdictions and possible areas of inquiry for the Committee. The Committee reviewed the opinion issued by the Tennessee Supreme Court in *Abdur'Rahman v. Bredesen*, 181 S.W.3d 292 (Tenn. 2005), *cert. denied*, 126 S.Ct. 2288 (2006), as well as the opinions filed by the Chancery Court for Davidson County and the Tennessee Court of Appeals in the same proceeding. It reviewed the complaint filed in *Harbison v. Little*, No. 3:06-1206 (M.D. Tenn.) concerning Tennessee's previous protocol. It also reviewed court opinions and other documents filed in cases challenging execution protocols from other jurisdictions.

The Department identified several areas warranting particular focus in the review process. As to lethal injection, these areas included the selection and amounts of the chemicals to be used, requirements pertaining to the procurement and storage of the lethal injection chemicals, the qualifications and training required of the members of the IV team and the executioner, the method to be used for obtaining venous access when the IV team cannot establish peripheral venous access, and documentation requirements pertaining to the administration of the lethal chemicals. As to electrocution, the committee considered whether any modifications should be made to the settings on the electric chair control panel, as well as the requirements for regular testing and maintenance of the equipment.

The Committee reviewed the Department's previous protocol and execution manual. Ricky Bell, Warden of the Riverbend Maximum Security Institution, answered questions from other Committee members about the process used in the state's two recent lethal injection executions as well as questions about the electrocution process. The Committee also met with other participants in Tennessee's two lethal injection executions about specific areas.

The Committee consulted a number of other jurisdictions for information on their protocols, the development of their protocols, and their experiences in implementing those protocols. While some jurisdictions were unwilling to share information due to legal requirements for maintaining confidentiality, the Committee was able to obtain information from several jurisdictions. Particularly

Report on Administration of Death Sentences in Tennessee

helpful was information obtained by the Committee during two on-site meetings with Virginia Department of Corrections staff in Greensville, Virginia and with Federal Bureau of Prisons staff at U.S.P. Terre Haute.

At the Greensville Correctional Facility, the Deputy Warden, other institutional staff, and representatives of the Virginia Attorney General's Office answered questions about all aspects of Virginia's lethal injection process and provided a tour of the capital punishment area.

At U.S.P. Terre Haute, the Federal Bureau of Prisons' execution team gave a comprehensive presentation to the Committee and representatives of several other jurisdictions. The presentation included a discussion of lessons learned when carrying out lethal injection executions in several high profile cases. The federal execution team demonstrated its procedure while conducting training exercises.

The Committee consulted with two anesthesiologists concerning lethal injection and an electrical engineer concerning electrocution. The Committee also consulted with the physician who is present at Tennessee's executions to pronounce death and to perform a cut-down procedure, if necessary.

The Committee reviewed the Final Report with Findings and Recommendations issued by Florida's Governor's Commission on Administration of Lethal Injection on March 1, 2007.

The Department also held a public hearing on April 5, 2007. Representatives of the Tennessee Medical Association, Tennessee Bar Association, University of Tennessee College of Medicine, Southeastern Pharmacology Society, the Federal Public Defender for the Middle District of Tennessee, the Federal Defender Services of Eastern Tennessee, Inc., and specific members of the defense bar were invited to provide input on how to best ensure that the Department's execution protocol provides constitutional and appropriate executions. Two attorneys made presentations at the hearing, and comments were also taken from other attendees. A transcript of the hearing is attached.

The Committee met on the following dates:

February 6, 2007
February 15, 2007
February 20, 2007
February 22, 2007

March 5, 2007
March 8, 2007
March 14, 2007
March 16, 2007
March 19, 2007
March 23, 2007
March 28, 2007
March 30, 2007

April 2, 2007
April 5, 2007
April 10, 2007
April 12, 2007
April 16-17, 2007
April 19, 2007
April 25, 2007

Selected Areas of Inquiry – Lethal Injection

The following issues relating to lethal injection were among those given particular attention in researching best practices:

A. Lethal Injection Chemical Selection

The most significant issue the Department addressed was the selection of the chemicals and dosage to be used in lethal injection executions in Tennessee. After considerable research and consultation with medical experts, the Department has retained a three-chemical protocol.

The following is a summary of the three best alternatives considered by the Department, and its findings regarding the advantages and disadvantages of each.

1. Three Chemical Protocol (5 Grams of Sodium Thiopental, 100 Mg of Pancuronium Bromide, and 200 mEq. of Potassium Chloride)

At least 30 jurisdictions, including the Federal Bureau of Prisons and Tennessee under its previous protocol, have a three-chemical lethal injection protocol consisting of sodium thiopental, pancuronium bromide, and potassium chloride in varying amounts. Sodium thiopental is a barbiturate that rapidly induces general anesthesia. Five grams of sodium thiopental given intravenously is, by itself, lethal. Pancuronium bromide is a neuromuscular blocking agent that induces paralysis and causes breathing to cease. An intravenous injection of 100 Mg of Pancuronium Bromide is also lethal. Potassium chloride is a salt that interferes with the electrical signaling essential to normal heart function. A 200 mEq dose administered intravenously causes cardiac arrest and rapid death.

The issues raised on behalf of death row inmates have generally focused on the potential for error in the administration of the three-chemical protocol. It is generally agreed that if administered correctly and without error the protocol would result in a relatively painless death. In an 8th Amendment challenge to the three-chemical protocol brought by a Tennessee inmate under sentence of death, the Tennessee Court of Appeals summarized the inmate's position as follows:

The evidence is essentially uncontradicted that the injection of either Pavulon [pancuronium bromide] or potassium chloride, by themselves, in the dosages required by Tennessee's three-drug protocol would cause excruciating pain. Without sedation, the injection of potassium chloride would, in the words of the anesthesiologist testifying on Mr. Abdur'Rahman's behalf, "deliver the maximum amount of pain the veins

can deliver." Similarly, persons receiving a massive dose of Pavulon without sedation would be conscious while they asphyxiated. Thus, the ultimate determination regarding whether Tennessee's three-drug protocol causes unnecessary physical pain or psychological suffering depends on the efficacy of the injection of Sodium Pentothal [sodium thiopental] that precedes the injections of Pavulon and potassium chloride.

Abdur'Rahman v. Bredesen, 2004 WL 2246227, *16 (Tenn. App. 2004), *aff'd*, *Abdur'Rahman v. Bredesen*, 181 S.W.3d 292 (Tenn. 2005). After reviewing the expert testimony presented in that case as well as the conclusions reached by courts in other jurisdictions, the Court concluded:

In light of the evidence that the Sodium Pentothal is administered before the Pavulon and the potassium chloride, and that it remains effective until death occurs, we agree with the trial court's conclusion that Mr. Abdur'Rahman failed to prove that the injection of chemicals in accordance with Tennessee's three-drug protocol would cause unnecessary physical pain or psychological suffering.

Id. at 16.

Consistent with the findings of the Court in *Abdur'Rahman*, the experts consulted by the Committee all agreed that the intravenous administration of 5 grams of sodium thiopental in a person would be lethal, that it would render the person unconscious within a few seconds, and that its anesthetic effect would continue until death. Accordingly, the Department found that the three chemical protocol, when administered appropriately, will result in a humane death.

Several factors weigh in favor of retaining the three-chemical protocol. Tennessee's experience in implementing the protocol has been positive. Tennessee's protocol has been upheld by all courts that have ruled upon its constitutionality. In addition, the three-chemical protocol has been used in almost all of the lethal injection executions that have taken place in this country, allowing Tennessee to draw upon the considerable experience of other jurisdictions in implementing the protocol.

Pancuronium bromide is included in the protocol because it speeds the death process, prevents involuntary muscular movement that may interfere with the proper functioning of the IV equipment, and contributes to the dignity of the death process.

The Department also took into consideration several factors that weighed against retaining the three-chemical protocol. The procedure is the most complicated of the three protocols, and there is a remote chance of an error in implementation that may cause the inmate to incur brief pain. Finally, the three-chemical

protocol presents the greatest difficulty in accounting for the lethal injection chemicals, particularly because pancuronium bromide requires refrigeration.

2. Two-Chemical Protocol (Sodium Thiopental and Potassium Chloride)

The Department considered a two-chemical protocol consisting of sodium thiopental and potassium chloride. This protocol has an advantage over the three-chemical protocol in that it eliminates the use of pancuronium bromide. As a result, it would address the allegation that, although appearing unconscious, a condemned inmate might in fact be conscious and experience pain from the administration of potassium chloride. It would also likely result in a somewhat faster death than a one-chemical protocol. On the other hand, the administration of potassium chloride without a preceding dose of pancuronium bromide would typically result in involuntary movement which might be misinterpreted as a seizure or an indication of consciousness. This two-chemical protocol has also not been used by any other jurisdiction to carry out an execution.

3. One-Chemical Protocol (Sodium Thiopental)

Finally, the Department considered the merits of a one-chemical protocol consisting of 5 grams of sodium thiopental.

The primary advantage of the one-chemical protocol is that it is much simpler to administer and provides an even lower risk of error in its administration. As compared to the two- and three- chemical protocols, it has the advantage of eliminating both of the chemicals which, if injected into a conscious person, would cause pain. It is similar to the process used in animal euthanasia. Using one chemical that does not require refrigeration greatly simplifies the process of maintaining and accounting for the lethal injection chemicals.

The one-chemical protocol has several disadvantages. First, the two- and three-chemical protocols would likely result in a more rapid death. Second, the effect and required dosage of sodium thiopental would be less predictable and more variable when it is used as the sole mechanism for producing death than it would when used in combination with pancuronium bromide and potassium chloride. Third, to date no other state has used a similar protocol, and thus in the context of lethal injection executions there is no experience upon which Tennessee can draw.

B. Lethal Injection Chemical Procurement and Storage

The Department's previous protocol provided assurance that the lethal injection chemicals would be procured and stored in such a way as to further minimize the

possibility of contamination, dilution, or adulteration or loss of the chemicals. An examination of best practices from other jurisdictions, however, suggests that accountability would be enhanced through improved documentation of these processes. Accordingly, the protocol includes enhanced documentation requirements with regard to the procurement and storage of lethal injection chemicals.

C. IV Team Qualifications and Training

A review of best practices from other jurisdictions reveals that persons responsible for establishing IV access should have quality training in IV therapy, and preferably possess certification or licensure in a health-related field that includes establishing IV access within its scope of practice. Although Tennessee has always used Emergency Medical Technicians with IV certification or certified paramedics to establish IV access, the previous Execution Manual did not include such a requirement. The updated manual expressly requires that persons responsible for establishing IV access have such training and certification.

Best practices in other jurisdictions require that, in addition to the continuing education required to maintain their certification and licensure, IV team members should also regularly practice establishing IV access during execution training exercises. This practice has always been in place in Tennessee, but not in writing. The updated manual expressly requires it.

D. Use of Cut-Down Procedure

The Department also considered the use of a cut-down procedure and various alternative procedures with several experts. The Department determined that cut-down procedures are not particularly difficult for physicians to perform, especially for those who have prior experience performing the procedure. Accordingly, it has been retained as an option if needed to gain IV access.

E. Executioner Qualifications and Training

Although not all jurisdictions require the executioner to have training in IV therapy, such training prepares the executioner to recognize when IV access is not adequately established, allowing him to take appropriate corrective action. The long-standing but unwritten practice in Tennessee has always been to use an executioner trained in IV therapy. The Department considers this to be an important requirement and has expressly incorporated it into the protocol.

F. Chemical Administration Documentation

An examination of best practices from other jurisdictions suggested that post-execution review of lethal injection executions is facilitated by contemporaneous documentation of the administration of the lethal injection chemicals. An express requirement for contemporaneous documentation by a member of the IV team has been incorporated into the updated manual.

Selected Areas of Inquiry – Electrocutation

The following issues relating to electrocution were among those given particular attention in researching best practices:

A. History of Tennessee's Electric Chair

In 1989, Tennessee's electric chair was refurbished and a new electrocution system was installed by Fred A. Leuchter Associates, Inc. Later the system underwent substantial modifications at the recommendation of Dr. Michael Morse, PhD, and Jay Wiechert, a professional electrical engineer who has consulted with a number of states on electrocution protocols. Through subsequent years Mr. Weichert has consulted with the Tennessee Department of Correction concerning the operation of its electrocution system and has tested and maintained the system in working order.

The Committee met with Mr. Weichert at Riverbend Maximum Security Institution on March 5, 2007. He explained in detail how the system operates, the recommended settings, and how to respond to various contingencies. His recommendations have been incorporated into the electrocution manual.

B. Electrocutation Equipment Control Settings

Expert input received by the Department indicates that the electrocution equipment should be set to render 1750 volts at 7 amps, cycled on for 20 seconds, off for 20 seconds, and on for an additional 15 seconds. These settings have been retained.

C. Electrocutation Equipment Maintenance and Testing

Although not required by the state's previous written protocol, the Department has tested its electrocution system at least quarterly and has conducted regular maintenance as required. The Department considers this schedule to be adequate and has expressly incorporated it into the updated manual. The updated manual also expressly requires documentation of testing, maintenance, and modifications in a permanent ledger.

Selected References

Hamilton v. Jones, 472 F.3d 814 (10th Cir. 2007)

Taylor v. Crawford, 457 F.3d 902 (8th Cir. 2006)

Brown v. Beck, 445 F.3d 752 (4th Cir. 2006), *pet. for cert filed*, (April 20, 2006) (No. 05-10482)

Morales v. Hickman, 438 F.3d 926 (9th Cir. 2006), *cert. denied*, 126 S.Ct. 1314, 163 L.Ed.2d 1148 (2006)

Morales v. Tilton, 465 F.Supp.2d 972 (N.D.Cal. 2006)

Evans v. Saar, 412 F.Supp.2d 519 (D. Md. 2006)

Reid v. Johnson, 333 F.Supp.2d 543 (E.D.Va. 2004)

Blaze v. Rees, ____ S.W.3d ____, 2006 WL 3386544 (Ky. 2006)

Abdur'Rahman v. Bredesen, 181 S.W.3d 292 (Tenn. 2005), *cert. denied*, 126 S.Ct. 2286, 164 L.Ed.2d 813 (2006)

Coe v. Sundquist, No. M2000-00897-SC-R9-CV (Tenn.) (April 19, 2000)

State v. Webb, 252 Conn. 128, 750 A.2d 448 (2000)

Substantive Challenges to Propriety of Execution by Lethal Injection in State Capital Proceedings, 21 A.L.R. 6th 1 (2007)

Denno, Deborah, *When Legislatures Delegate Death: The Troubling Paradox Behind State Uses of Electrocuting and Lethal Injection and What It Says About Us*, 63 Ohio St. L.J.63 (2002)

Appendix

- A. Executive Order No. 43
- B. Florida Governor's Commission on Administration of Lethal Injection
- C. Transcript of April 5, 2007 Public Hearing

Plaintiff's Exhibit 6

to

Complaint for Declaratory Judgment and
Injunctive Relief

**Mr. West's Recision
September 30, 2010**

FILED

Mr. Stephen Michael West - 115717
Riverbend Maximum Security Institution
7475 Cockrill Bend Blvd.
Nashville, TN 37243

2010 OCT 25 AM 11:08
CLERK & MASTER
DAVIDSON CO. CHANCERY CT.

D.C. & M.

Mr. Ricky Bell, Warden
Riverbend Maximum Security Institution
7475 Cockrill Bend Blvd.
Nashville, TN 37243

Dear Warden Bell:

The purpose of this letter is to officially rescind the Affidavit Concerning Method of Execution that I executed on February 13, 2001. That Affidavit no longer has full force and effect since the protocol under which it was signed is no longer in effect. However, you and the other Defendants in *West v. Ray et al.*, case no. 3:10-cv-0778, United States District Court, Middle District of Tennessee, have affirmatively alleged that the Affidavit Concerning Method of Execution that I executed on February 13, 2001, remains in full force and effect in your Motion to Dismiss my complaint in that action. Therefore, in an abundance of caution, I hereby rescind that Affidavit.

You are specifically informed that I neither have made, nor am making, any election of the method of execution under the current execution protocol to be used to carry out the sentence(s) of death imposed upon me by the State of Tennessee on November 9, 2010.

Stephen West

Stephen Michael West

Date: 9/30/10

Jessaca H. Johnson
Witness

Date: 9/30/10

Plaintiff's Exhibit 7

to

**Complaint for Declaratory Judgment and
Injunctive Relief**

**Debra Inglis Letter
Dated October 15, 2010**



STATE OF TENNESSEE
DEPARTMENT OF CORRECTION
4TH FLOOR RACHEL JACKSON BLDG.
320 SIXTH AVENUE NORTH
NASHVILLE, TENNESSEE 37243-0465

FILED
2010 OCT 25 AM 11:08
CLERK & MASTER
DAVIDSON CO. CHANCERY CT.
D.C. & M.

October 15, 2010

Stephen A. Ferrell
Assistant Federal Community Defender
Federal Defender Services of Eastern Tennessee, Inc.
800 S. Gay Street, Suite 2400
Knoxville, TN 37929

Dear Mr. Ferrell:

This is in response to your October 13, 2010 letter concerning the status of Stephen West's election of electrocution as his method of execution through an affidavit he executed on February 13, 2001.

It is the Department of Correction's position that Mr. West's affirmative election of electrocution as his method of execution continues to be in full force and effect. If Mr. West now wishes to choose lethal injection, the Department will allow him to do so by submitting a new affidavit to Warden Bell, no later than October 26, 2010 (14 days prior to the date of the execution) affirmatively stating that he "waives any right he might have to have his execution carried out by electrocution and instead chooses to be executed by lethal injection." To date, the Department has not received an affidavit meeting that requirement from Mr. West.

Sincerely,

A handwritten signature in cursive script that reads "Debra K. Inglis".

Debra K. Inglis
General Counsel

Plaintiff's Exhibit 8

to

Complaint for Declaratory Judgment and
Injunctive Relief

Steve West's 1st Grievance Denial
May 8, 2007

WRD
A

Combined.
(See Attached Memo dated: 5-8-07)



RECEIVED

TENNESSEE DEPARTMENT OF CORRECTION

RESPONSE OF SUPERVISOR OF GRIEVED EMPLOYEE TO DEPARTMENT: 08

Inappropriate per Policy 501.01 VI-C-1
Addressing multiple issues OPERATIONS

Commissioner
Kittle

2010 OCT 25 AM 11:08
DAVIDSON CO. CHAIRMAN
D.C.R.M.

FILED

DATE: 5-8-07

Please respond to the attached grievance, indicating any action taken.

Date Due: 5-11-07

07-0283
189219

Grievance Number

James Jones

Inmate Name

117262

Inmate Number

(AKA:)(Abu-Ali Abdus Rahman)

Grievance denied as untimely. Grievance should have been filed within seven (7) days of the conclusion of inmate's direct review in the state court or expiration of time for seeking such review, or, for purposes of grieving the lethal injection protocol only, within seven (7) days of the date lethal injection became the primary method of execution in Tennessee (March 30, 2000), whichever is later.

Received

MAY 17 2007

RMSI Grievance Office

Sam. Kittle
SIGNATURE

15 MAY 07
DATE

White - Inmate Grievant Canary - Warden Pink - Grievance Committee Goldenrod - Commissioner



STATE OF TENNESSEE
DEPARTMENT OF CORRECTION
RIVERBEND MAXIMUM SECURITY INSTITUTION
7475 COCKRILL BEND BLVD.
NASHVILLE, TENNESSEE 37243-0471
TELEPHONE (615) 350-3100 ! FAX (615) 350-3400

MEMORANDUM

TO: Mr. George Little, Commissioner TDOC of Corrections

FROM:  Sgt. D. Castile, Grievance Chairperson

Date: May 08, 2007

**RE: Grievances Changeling Protocol of Execution
(James Jones #117262) (07-0283 / 189219)
(AKA: Abu-Ali Abdus Rahman)**

The below listed inmates grievances' are combined with the above listed inmate. The grievance chairperson has deemed all grievances to be inappropriate per policy 501.01 VI-C-1 "Addressing Multiple Issues"

Inmate Name	Number	RMSI Number	TDOC Number
Pervis Payne	#121163	07-0284	#189222
Gary Sutton	#218364	07-0285	#189223
Donald Middlebrooks	#129769	07-0286	#189224
Sidney Porterfield	#109736	07-0287	#189225
Jon Hall	#238941	07-0288	#189226
Glen Mann	#148927	07-0289	#189227
Henry Hodge	#102143	07-0290	#189228

Inmate Name	Number	RMSI Number	TDOC Number
Gary Cone	#96618	07-0291	#189229
Don Johnson	#109031	07-0292	#189230
Kevin Burns	#254315	07-0293	#189231
Walter Caruthers	#99361	07-0294	#189233
Larry McKay	#101426	07-0295	#189234
Deelicho Besh	#85450	07-0296	#189235
William Stevens	#81668	07-0297	#189236
Ed Zagorski	#102839	07-0298	#189237
Michael Howell	#121503	07-0299	#189238
Billy Irick	#113945	07-0300	#189239
David Duncan	#99054	07-0301	#189240
Anthony Hines	#109293	07-0302	#189241
David Keen	#157703	07-0303	#189242
Abdus Samad	#101137	07-0304	#189243
Steve Hewley	#109572	07-0305	#189244
Kenneth Henderson	#250126	07-0306	#189245
Tommy King	#97456	07-0307	#189246
Farris Morris	#204071	07-0308	#189247
Byrab Black	#126220	07-0309	#189248
Micahelangelo Coleman	#89754	07-0310	#189249
Oscar Smith	#136424	07-0311	#189250
Charles Wright	#107084	07-0312	#189251
Paul Reid	#303893	07-0313	#189252
Jon Hall	#238941	07-0314	#189253
Johnny Cecil	#90996	07-0315	#189254
Paul Reid	#303893	07-0316	#189255
Steve Billin	#264379	07-0317	#189256
Ron Cauthern	#120258	07-0318	#189257
Akil Jahi	#221001	07-0319	#189258
Clarence Nesbit	#250488	07-0320	#189259
Andrew Therance	#206216	07-0321	#189260
Jonathan Stephenson	#140145	07-0322	#189261
James Stout	#224671	07-0323	#189262
David Ivy	#204455	07-0324	#189263
Edward Harbison	#108926	07-0325	#189264
Harold Nichols	#146457	07-0326	#189267
Olen Flutchison	#144432	07-0327	#189268
David Miller	#95792	07-0328	#189269
Stephen West	#115717	07-0329	#189270
Gregory Thomspou	#108406	07-0330	#189271
Heck Tran	#129356	07-0331	#189272

Inmate Name	Number	RMSI Number	TDOC Number
Lee Hall	#202644	07-0332	#189273
Edward Harbison	#108926	07-0333	#189274
Tyrone Clelmeis	#265398	07-0334	#189275
James Dellinger	#218365	07-0335	#189276
Darrell Taylor	#102240	07-0336	#189277
Charles Rice	#144182	07-0337	#189278
Gerald Powers	#206046	07-0338	#189279
Gregory Robinson	#167488	07-0339	#189280
Dennis Suttles	#109165	07-0340	#189281
Derick Cole	#271395	07-0341	#189282
Andre Bland	#232838	07-0342	#189283
Steven Thacker	#318264	07-0343	#189284
Robert Leah	#323756	07-0344	#189285
Chris Davis	#276838	07-0345	#189286
William Rogers	#234973	07-0346	#189287
Robert Faulkeir	#104924	07-0347	#189288
Vann Gies	#237913	07-0348	#189289
Jerry Davidson	#99263	07-0349	#189290
Nicholas Sutton	#89682	07-0350	#189291
Timothy McKinney	#234673	07-0351	#189292
Vincent Sims	#149011	07-0352	#189294



Warden's Office
Riverhead Maximum Security Institution

TENNESSEE DEPARTMENT OF CORRECTION

INMATE GRIEVANCE

Non-emergency. Return to unit for processing through regular channels.

Rain + Blue 5/8/07
RmSI - Unit 2

Stephen West
NAME

115717
NUMBER

INSTITUTION & UNIT

DESCRIPTION OF PROBLEM: see attached

REQUESTED SOLUTION: see attached

Stephen M. West
Signature of Grievant

5-7-07
Date

07-0329
189270
Grievance Number

TO BE COMPLETED BY GRIEVANCE CLERK

5/8/07
Date Received

Eddie Sweat
Signature Of Grievance Clerk

INMATE GRIEVANCE COMMITTEE'S RESPONSE DUE DATE: 5/17/07

AUTHORIZED EXTENSION: Received
New Due Date Signature of Grievant

MAY 08 2007

INMATE GRIEVANCE RESPONSE

Summary of Grievant's Response and Evidence:

Chairperson's Response and Reason(s):

DATE: CHAIRPERSON:

Do you wish to appeal this response? YES NO

If yes: Sign, date, and return to chairman for processing within five (5) days of receipt of first-level response.

GRIEVANT

DATE

WITNESS

Distribution Upon Final Resolution:

White - Inmate Grievant Canary - Warden Pink - Grievance Committee Goldenrod - Commissioner (if applicable)



STATE OF TENNESSEE
DEPARTMENT OF CORRECTION
RIVERBEND MAXIMUM SECURITY INSTITUTION
7475 COCKRILL BEND BLVD.
NASHVILLE, TENNESSEE 37243-0471
TELEPHONE (615) 350-3100 | FAX (615) 350-3400

MEMORANDUM

TO: Commissioner George Little
FROM: Sgt. D. Castile, Grievance Chairperson
Date: May 21, 2007
RE: Due Process of Level III Grievance

I Stephen West #115717 hereby do acknowledge that I have received the following grievance # 07-0329/189270 and hereby acknowledge that my administrative remedies have been exhausted.

Stephen West 5-22-07
Inmate Signature/date

D. Castile
Sgt. D. Castile, Grievance Chairperson

Cc: file

Plaintiff's Exhibit 9

to

Complaint for Declaratory Judgment and
Injunctive Relief

**Steve West's 2nd Grievance Denial
July 2010**



TENNESSEE DEPARTMENT OF CORRECTION

INMATE GRIEVANCE RESPONSE

FILED

OCT 25 AM 11:09
CLERK & MASTER
DAVIDSON CO. CHANCERY CT.
D.C. & M.

Stephen M. West 115717 RMSI U/2 A/204 10-0555/224383
NAME NUMBER INSTITUTION & UNIT GRIEVANCE NUMBER

Summary of Evidence and Testimony Presented to Committee _____

Inmate Grievance Committee's Response and Reasons _____

At hearing Grievant asked to process to the next level.

July, 7 2010. [Signature] [Signature]
DATE CHAIRMAN MEMBER
[Signature] [Signature] [Signature]
MEMBER MEMBER MEMBER

Warden's Response: Agrees-with Proposed Response
Disagrees with Proposed Response
If Disagrees, Reason(s) for Disagreement _____

Action Taken: _____

DATE: 7-27-10 WARDEN'S SIGNATURE: [Signature]
Do you wish to appeal this response? YES NO

If yes: Sign, date, and return to chairman for processing. Grievant may attach supplemental clarification of issues or rebuttal/reaction to previous responses if so desired.

Steve West 7-27-10 [Signature]
GRIEVANT DATE WITNESS

Commissioner's Response and Reason(s): _____

DATE SIGNATURE

Distribution Upon Final Resolution:
White - Inmate Grievant Canary - Warden Pink - Grievance Committee Goldenrod - Commissioner



~~CONFIDENTIAL~~
TENNESSEE DEPARTMENT OF CORRECTION
~~CONFIDENTIAL~~

INMATE GRIEVANCE

Stephen M. West
NAME

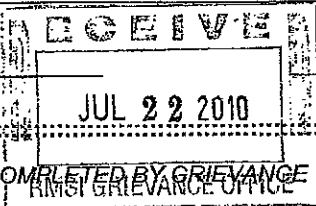
115717
NUMBER

R.M.S.I., Two
INSTITUTION & UNIT

DESCRIPTION OF PROBLEM: I object to the state carrying out an execution under the current protocols because they create an unconstitutional risk of cruel and unusual punishment. The protocols do not call for adequate training of personnel or monitoring of conditions of execution.
CONTINUED ON PAGE #2

REQUESTED SOLUTION: The T.D.C. refrain from using the current protocols to carry out my execution.

Stephen M. West
Signature of Grievant



7-22-10
Date

~~224383/10-0555~~
224383/10-0555
Grievance Number

7-22-10
Date Received

[Signature]
Signature of Grievance Clerk

INMATE GRIEVANCE COMMITTEE'S RESPONSE DUE DATE: 8-13-10

AUTHORIZED EXTENSION: _____
New Due Date

Signature of Grievant

INMATE GRIEVANCE RESPONSE

Summary of Supervisor's Response/Evidence: _____

Chairperson's Response and Reason(s): _____

DATE: 7-23-10

CHAIRPERSON: [Signature]

Do you wish to appeal this response? YES NO

If yes: Sign, date, and return to chairman for processing within five (5) days of receipt of first-level response.

Stephen West
GRIEVANT

7-26-10
DATE

[Signature]
WITNESS

Distribution upon final resolution:

White - Inmate Grievant Canary - Warden Pink - Grievance Committee Goldenrod - Commissioner (if applicable)

01-1-10
8-1-10

page #2



TENNESSEE DEPARTMENT OF CORRECTION
INMATE GRIEVANCE (continuation sheet)

Continued From Page #1

DESCRIPTION OF PROBLEM: State officials have ignored evidence from past executions that inmates may well have been conscious and suffocated. The use of the drugs under the protocol creates a substantial risk of this. I have been given an execution date of 11/9/10.

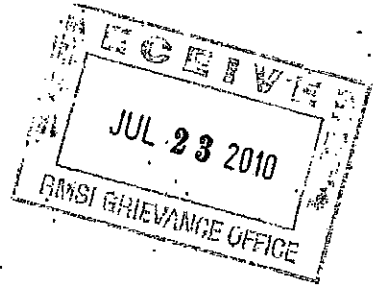
Distribution upon final resolution:

White – Inmate Grievant Canary – Warden Pink – Grievance Committee Goldenrod – Commissioner (if applicable)

TRANSMISSION VERIFICATION REPORT

TIME : 07/22/2010 15:53
NAME : RMSI WARDENS OFFICE
FAX : 615-350-3400
TEL :
SER.# : 000A6J294034

DATE, TIME	07/22 15:52
FAX NO./NAME	97419280
DURATION	00:00:41
PAGE(S)	03
RESULT	OK
MODE	STANDARD ECM



STATE OF TENNESSEE
FAX TRANSMITTAL

TO: <i>Debbie Ingles</i>	FROM: <i>M. Dennis</i>
AGENCY/COMPANY:	DATE:
FAX NUMBER:	TOTAL NUMBER OF PAGES INCLUDING COVER: <i>3</i>
PHONE NUMBER:	SENDER'S PHONE NUMBER:
SUBJECT:	SENDER'S FAX NO.:

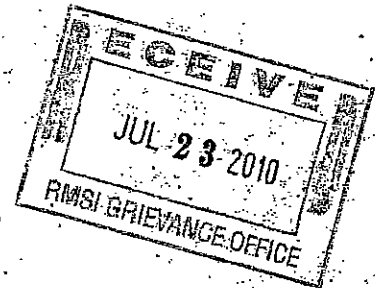
URGENT FOR REVIEW PLEASE REPLY

MESSAGE:

TRANSMISSION VERIFICATION REPORT

TIME : 07/22/2010 15:53
 NAME : RMSI WARDENS OFFICE
 FAX : 615-350-3400
 TEL :
 SER. # : 000A6J294034

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FAX NO./NAME	97419280
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STATE OF TENNESSEE
 FAX TRANSMITTAL

TO: <i>Debra Inglis</i>	FROM: <i>M. D. Jones</i>
AGENCY/COMPANY:	DATE:
FAX NUMBER:	TOTAL NUMBER OF PAGES INCLUDING COVER: 3
PHONE NUMBER:	SENDER'S PHONE NUMBER:
SUBJECT:	SENDER'S FAX NO.:

URGENT FOR REVIEW PLEASE REPLY

MESSAGE:

~~CONFIDENTIAL~~



TENNESSEE DEPARTMENT OF CORRECTION
RESPONSE OF SUPERVISOR OF GRIEVED EMPLOYEE OR DEPARTMENT

DATE: 7-22-10

Please respond to the attached grievance, indicating any action taken.

Date Due: 7-27-10

~~224383~~
224383/10-0555

Grievance Number

Stephen M. West

Inmate Name

115717

Inmate Number

TDOC Protocol meets all Constitutional standards

RECEIVED
JUL 23 2010
TDCG GRIEVANCE OFFICE

[Signature]
SIGNATURE

7-23-10
DATE

White - Inmate Grievant Canary - Warden Pink - Grievance Committee Goldenrod - Commissioner



TENNESSEE DEPARTMENT OF CORRECTION
INMATE GRIEVANCE RESPONSE

Stephen M. West NAME 115717 NUMBER RMSI U/2 A/204 INSTITUTION & UNIT 10-0555/224383 GRIEVANCE NUMBER

Summary of Evidence and Testimony Presented to Committee

Inmate Grievance Committee's Response and Reasons

At hearing Grievant asked to process to the next level.

July, 7 2010. DATE [Signatures] CHAIRMAN MEMBER MEMBER MEMBER

Warden's Response: Agrees with Proposed Response [checked] Disagrees with Proposed Response [] If Disagrees, Reason(s) for Disagreement

Action Taken:

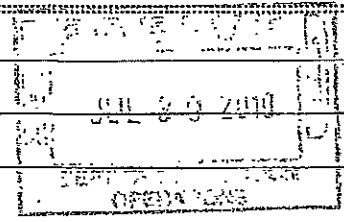
DATE: 7-27-10 WARDEN'S SIGNATURE: [Signature] Do you wish to appeal this response? [checked] YES [] NO

If yes: Sign, date, and return to chairman for processing. Grievant may attach supplemental clarification of issues or rebuttal/reaction to previous responses if so desired.

Steve West GRIEVANT 7-27-10 DATE [Signature] WITNESS

Commissioner's Response and Reason(s):

SEE ATTACHED MEMORANDUM



DATE SIGNATURE

Distribution Upon Final Resolution: White - Inmate Grievant - Canary - Warden Pink - Grievance Committee Goldenrod - Commissioner



STATE OF TENNESSEE
DEPARTMENT OF CORRECTION
 5TH FLOOR RACHEL JACKSON BLDG.
 320 SIXTH AVENUE NORTH
 NASHVILLE, TENNESSEE 37243-0465

MEMORANDUM

Inmate Name: Stephen West TDOC Number: 115712

Institution: RMSI Housing Unit: _____

Institution Grievance Number: 10-0555 TOMIS Grievance Number: 224383

Commissioner's Response and Reasons:

Concur with Warden Concur with Supervisor



8/2/10
Date

Robert H. [Signature]
Assistant Commissioner, Operations

INMATE GRIEVANCE

Name: Stephen Michael West Inmate # 115717
Riverbend Maximum Security Institution, Unit 2

Description of Problem:

On July 15, 2010, the Tennessee Supreme Court set November 9, 2010, as the date for my execution. I was originally sentenced to death on May 27, 1987. At that time, I was sentenced to death by electrocution. Since then, the Tennessee legislature has changed the law to provide for death by lethal injection. On April 30, 2007, the State adopted a revised Protocol for carrying out death sentences. The carrying out of either lethal injection or electrocution under the current protocols would violate my constitutional rights. Now that the Tennessee Supreme Court has set the date for my execution and that execution is imminent, I object to the carrying out of the execution under the current Protocol for the following reasons:

1. Under the Eighth and Fourteenth Amendments, I object to the use of the three-drug cocktail ("Lethal Injection Chemicals") outlined in the current Lethal Injection Protocol. See Exhibit 1, p. 35. The Current Protocol instructs that an inmate will be injected with 5 grams of sodium thiopental, 100 cc of pancuronium bromide (Pavulon), and 100 mg/mL of 2 mEq/mL concentrate of potassium chloride. See Exhibit 1, p. 35. The use of this Protocol is unconstitutional as it is cruel and unusual punishment. The sodium thiopental does not sufficiently anesthetize any individual and is contraindicated for use on individuals like me. The use of pancuronium bromide is arbitrary, serves no legitimate interest, unreasonably risks the infliction of torture, offends the dignity of humanity, and shocks the conscious. The potassium chloride, as used, does not stop the heart and unreasonably risks the infliction of torture. The use of this mixture of chemicals causes an unnecessarily painful and prolonged death experienced without total unconsciousness.

2. This grievance is fully supported by the Declaration of Dr. Mark Heath, who has reviewed and/or testified about lethal injection procedures in twenty-seven jurisdictions. Dr. Heath reviewed the Protocol and reached the following conclusion:

Based on my research into methods of lethal injection used by various states and the federal government, and based on my training and experience as a medical doctor specializing in anesthesiology, it is my opinion stated to a reasonable degree of medical certainty that, given the apparent absence of a central role for a properly trained professional in TDOC's execution procedure, the characteristics of the drugs or chemicals used, the failure to understand how the drugs in question act in the body, the failure to properly account for foreseeable risks, the design of a drug delivery system that exacerbates rather than ameliorates the risk, the TDOC has created an revised execution protocol that does little to nothing to assure they will reliably achieve humane executions by

lethal injection.

See Declaration of Dr. Mark Heath, Exhibit 2, ¶ 69. I object based on each ground raised by Dr. Heath in his Declaration in addition to the grounds outlined here.

3. Under the Eighth and Fourteenth Amendments, I object to the use of 5 grams of sodium thiopental in the Protocol for the purpose of "general anesthesia." See Exhibit 1, p. 35. Sodium thiopental is an ultra-short acting barbiturate wherein the induction of anesthesia occurs quickly, but its effect wears off in a matter of minutes. The Protocol fails to educate its readers (the execution team) that thiopental not only has a rapid onset, but also has a rapid withdrawal and that it may cause pain if the drug is infiltrated. See Exhibit 1, p. 35. I object to the use of sodium thiopental for the following reasons:

a. Sodium thiopental reacts differently based on a person's weight. The Protocol fails to address an individual prisoner's weight as related to the dosage of sodium thiopental necessary to effectively anesthetize him, but instead just indicates that a 5 gram dose will be given. See Exhibit 1, p. 35. In a study published about the same time the Protocol was adopted, Leonardis Koniaris found that body weight must be taken into account when using sodium thiopental as the sodium thiopental reacts differently in the body depending on weight. See Leonardis Koniaris et al, *Lethal Injection For Execution: Chemical Asphyxiation?*, PLOS Medicine, Vol. 4, Issue 4, April 2007.

b. The current Protocol also fails to address the individual prisoner's medical condition and history as related to the effectiveness of sodium thiopental. See Exhibit 1, p. 35. Several regularly prescribed drugs at Riverbend Maximum Security Institution interfere with the ability of sodium thiopental to act properly as an anesthetic.

c. The current Protocol uses sodium thiopental despite the fact that Tennessee has executed five persons using a three-drug lethal injection protocol (Robert Coe, 2000; Sedley Alley, 2006; Philip Workman, 2007; Steve Henley, 2009; and Cecil Johnson, 2009) and findings made as a result of the three autopsies done on these prisoners show that they were inadequately anesthetized. For Coe, Workman, and Henley, blood levels of sodium thiopental and pancuronium bromide show that all three were executed by suffocation while inadequately anesthetized. See Leonidas Koniaris et al, *Inadequate Anaesthesia In Lethal Injection For Execution*, 365 Lancet 1412-1414 (2005).

d. The current Protocol fails to take into account a study by Leonard Koniaris examining toxicology reports from prisoners executed by California and North Carolina, along with reports from witnesses to executions in other states, that confirms that some prisoners remained conscious during the administration of lethal drugs due to the ineffectiveness of sodium thiopental. See Leonardis Koniaris et al, *Lethal Injection For Execution: Chemical Asphyxiation?*, PLOS Medicine, Vol. 4, Issue 4, April 2007.

e. The current Protocol fails to provide for any monitoring of anesthetic depth as is necessary when using sodium thiopental. See Exhibit 1, p.43. The only monitoring provided for by the Protocol is monitoring of the IV site via close-circuit camera, which is inadequate. See Exhibit 1, p. 43. There is no monitoring of the

inmate for anesthetic depth or of the IV lines and tubing during the administration of the drugs. The Protocol for execution by electrocution requires monitoring for "visible muscle movement" to determine the effectiveness of the electrocution. See Exhibit 5 p.74. No such monitoring with respect to the sodium thiopental is required. Thus, this procedure evinces deliberate indifference to the risk that the sodium thiopental will not be properly mixed and/or drawn into the syringes causing the condemned to not be properly anaesthetized and unnecessarily suffer a painful and tortuous death by asphyxiation while simultaneously feeling the extreme chemical burn from the injection of potassium chloride. This lack of monitoring coupled with the ineffectiveness of sodium thiopental has caused numerous botched executions in the United States.

i. The two most well-known botched executions in the United States related to the failure of sodium thiopental. In Florida in December 2006, Mr. Angel Diaz did not get an effective amount of sodium thiopental because the IV lines were improperly seated in his veins with through and through punctures. As a result, none of the materials injected went to the right place. Instead, the drugs entered his bloodstream first through his flesh and muscle tissue. This process caused foot-long chemical burns on both arms from the sodium thiopental. During execution, observers reported that Mr. Diaz moved and tried to mouth words. It took 34 minutes and 14 syringes of chemicals for Mr. Diaz to die, during which he was clearly in pain, struggling for breath and grimacing. Following the Diaz execution, Governor Bush ordered that all executions be stayed while a committee undertook a review of the Diaz execution and of lethal injection protocols in Florida in general.

ii. During the May 2006 lethal injection of Joseph Lewis Clark, execution team members took over twenty minutes to insert one IV catheter into Mr. Clark's arm. According to protocol two catheters were necessary, but the team proceeded with only one. After the single IV was inserted and the chemicals began to flow, Mr. Clark remained breathing, legs moving, arms strapped down. After minutes, he sat up several times and told executioners, "It's not working, it's not working." Minutes later, Mr. Clark raised up again and said, "can't you just give me something by mouth to end this?" At that point, the team closed the curtain, and witnesses heard groans and moans from Mr. Clark as if he was in agony. Witnesses reported that the cries of pain lasted for about five or ten minutes and were followed by snores from Mr. Clark. Obviously if the sodium thiopental had worked properly then Mr. Clark would not have been able to cry out in pain, feel pain, or sit up during the execution. At that time, Ohio used a lethal injection protocol that is similar to the Protocol here.

f. The current Protocol requires the use of 10 boxes of 500 mg. of thiopental. See Exhibit 1 p.38 Each box, or kit, is prepared separately. This procedure unnecessarily increases the risk of error regarding proper mixture and effectiveness of the chemical.

g. Sodium thiopental begins to degrade as soon as it is mixed into a solution form. The Protocol requires the Lethal Injection Chemicals to be prepared three hours before an execution. See Exhibit 1 p.38. It is possible that the sodium thiopental could be sitting in the tray, in solution form, and degrading for up to 25 hours and 59 minutes before being used in the execution. This unnecessarily increases the risk that the condemned will not be properly anaesthetized and will unnecessarily suffer

a painful and tortuous death by asphyxiation while simultaneously feeling the extreme chemical burn from the injection of potassium chloride.

h. The current Protocol fails to provide instructions and training for mixing the sodium thiopental. See Exhibit 1 p.38. The Execution Team practices with saline and not the Lethal Injection Chemicals. See Exhibit 1 p.33. This unnecessarily increases the risk that the sodium thiopental will not be mixed properly or drawn properly into the syringe causing an unnecessary risk that the condemned will not be properly anaesthetized and will unnecessarily suffer a painful and tortuous death by asphyxiation while simultaneously feeling the extreme chemical burn from the injection of potassium chloride. Further, Protocol for execution by electrocution contains specific instruction for mixing the sodium chloride solution. See Exhibit 1 p.35. Such specific instructions are absent for mixing the sodium thiopental, thus evincing deliberate indifference to the risk that the sodium thiopental will not be properly mixed and/or drawn into the syringes causing the condemned to not be properly anaesthetized and unnecessarily suffer a painful and tortuous death by asphyxiation while simultaneously feeling the extreme chemical burn from the injection of potassium chloride.

i. The Committee which established the use of 5 grams of sodium thiopental to allegedly effect "general anaesthesia" and death by "one lethal 5 gram dose", See Exhibit 1 p.35 and See Exhibit 3 p.8, Report on Administration of Death Sentences in Tennessee, acknowledges that "the effect and required dosage of sodium thiopental [is] less predictable and more variable...". Thus, the Committee has displayed deliberate indifference to the risk of pain and suffering by directing the use of sodium thiopental to supposedly achieve a proper level of anaesthesia while at the same time knowing its effect is unpredictable.

j. Thus, I object to the use of sodium thiopental in the current Protocol. As is clear from both medical studies and from experiences of Tennessee and other states, sodium thiopental, as used in the Protocol (without the assistance of an anesthesiologist or certified nurse anesthetist and at such a low dosage that fails to take into account either body weight or drug interaction), does not adequately anesthetize a person prior to the introduction of pancuronium bromide and potassium chloride, resulting in an excruciatingly painful and horrifying death as a result of the conscious asphyxiation by pancuronium bromide followed by the painful intense burn and cardiac arrest of potassium chloride.

4. Under the Eighth and Fourteenth Amendments, I object to the use of pancuronium bromide in the current Protocol as a "muscle paralytic" that will "assist in the suppression of breathing and ensure death." See Exhibit 1, p. 35. Pancuronium Bromide, marketed under the name Pavulon, is a neuromuscular blocking agent which causes paralysis of the skeletal muscles but does not affect the brain or nervous system. Thus, Pancuronium Bromide does not affect consciousness or the sensation of pain or suffering. An individual under the influence of pancuronium bromide, though paralyzed, still has the ability to think, to be oriented to where he is, to experience fear or terror, to feel pain, and to hear. While pancuronium bromide paralyzes the diaphragm to prevent breathing, it does not affect the heart muscle. Thus pancuronium

bromide would ultimately cause someone to asphyxiate or suffocate to death while still conscious. And if an individual is not properly anesthetized when injected with pancuronium bromide, he will consciously experience extreme pain of suffocation while being completely paralyzed and unable to cry out. Thus, the paralyzing effect of pancuronium bromide also prevents any expression of the pain, horror, or suffering from any other source, such as potassium chloride which will activate the nerves of the venous system causing an extreme burning pain. The current Protocol fails to educate its readers (the execution team) regarding the true nature of pancuronium – that its paralytic nature blocks the ability to determine if someone is in pain. See Exhibit 1, p. 35. Moreover, because there is no legitimate penological purpose articulated in the Protocol for the use of pancuronium bromide, I object to its use. See Exhibit 1, p. 35. See also Declaration of Dr. Heath, Exhibit 2, ¶ 68.

5. Under the Eighth and Fourteenth Amendments, I object to the use of pancuronium bromide where its use serves no legitimate state interest and is not narrowly tailored to any compelling state interest. As Chancellor Ellen Hobbs Lyle has explained:

[T]he use of Pavulon is . . . unnecessary. . . [T]he State [has] failed to demonstrate any reason for its use. The record is devoid of proof that the Pavulon is needed. Thus, the Court concludes that . . . the State's use of Pavulon is . . . in legal terms 'arbitrary.'

Abdur'Rahman v. Sundquist, No. 02-2236-III, In The Chancery Court For The State Of Tennessee, Twentieth Judicial District, p. 13 (June 2, 2003).

a. The Committee which adopted the three-drug protocol set forth no compelling state interest for the use of pancuronium bromide. It does not speed or contribute to the death process. The Committee acknowledges that without the use of pancuronium bromide, the condemned would be able to move and communicate if not properly anaesthetized. The Committee, instead, attributes any such movement as "involuntary movement which might be misinterpreted as a seizure or an indication of consciousness." See Exhibit 3 p.8. Thus the Committee has also displayed deliberate indifference to assuring that the condemned is properly anesthetized or to account for any contingency planning in the improper mixing and/or administration of the sodium thiopental thus creating an unnecessary risk of pain and suffering.

b. Under the Eighth and Fourteenth Amendments, I object to the use of pancuronium bromide as it is arbitrary, unreasonable, degrading to human dignity, shocks the conscious and serves no legitimate interest. Because pancuronium bromide causes paralysis, suffocation, and the suffering attendant to such paralysis and suffocation, in 2001, Tennessee declared in the "Nonlivestock Humane Death Act" (Tenn. Code Ann. 44-17-301 *et seq.*) that pancuronium bromide cannot be used to euthanize animals, because its use is not humane. Where the use of pancuronium bromide is not "humane" to use on non-humans, it is arbitrary to claim that its use is "humane" on humans, and its use on humans to cause death violates basic precepts of human dignity.

6. Under the Eighth and Fourteenth Amendments, I object to the use of

pancuronium bromide in the current Protocol because the Protocol fails to insure the proper storage and effectiveness of pancuronium bromide before its use (assuming it is to effect a quicker death). The Protocol acknowledges that pancuronium bromide "must be refrigerated at approximately 40 degrees." See Exhibit 1 p.36. However, the Protocol directs that three hours before the scheduled execution, the pancuronium bromide, and other Lethal Injection Chemicals, will be moved to the Lethal Injection Room. See Exhibit 1 p.38. The pancuronium bromide could remain in the Lethal Injection Room, at room temperature or higher, for up to 25 hours and 59 minutes before being used. This procedure and handling of pancuronium bromide demonstrates deliberate indifference to the unnecessary risk of pain and suffering by failing to insure the effectiveness of the drug before its use (assuming it is to effect a quicker death).

7. Under the Eighth and Fourteenth Amendments, I object to the use of potassium chloride in the current Protocol as the means for "cardiac arrest and rapid death." See Exhibit 1, p.35. See Leonardis Koniaris et al, *Lethal Injection For Execution: Chemical Asphyxiation?*, PLOS Medicine, Vol. 4, Issue 4, April 2007. Moreover, the Protocol fails to educate its readers (the execution team) about the true nature of potassium chloride – that it would cause extreme pain in someone who is not properly anesthetized. See Exhibit 1, p. 35.

8. Under the Eighth and Fourteenth Amendments, I object to the current Protocol because it fails to indicate how persons on the Execution Team are qualified to participate in an execution, or what screening, if any, has been done to insure that these persons do not have a criminal background, mental health issues, personnel and disciplinary issues, drug or alcohol issues. See Exhibit 1, p.32. Further, the Executioner is not required to be certified in IV training. The Protocol also fails to account for contingency personnel if one or more members of the trained IV Team, Execution Team, Executioner, or the physician, cannot participate. By contrast, the Protocol for execution by electrocution provides for two electricians to serve as reserves if the designated personnel are unable to perform their duties. See Exhibit 5 p.65. The failure to provide contingency personnel for execution by lethal injection displays deliberate indifference to the qualifications and training of the actual persons performing the execution and the proper administration of the Lethal Injection Chemicals creating unnecessary risk of pain and suffering during the lethal injection process.

9. Under the Eighth and Fourteenth Amendments, I object to the current Protocol because it fails to indicate how specialized members of the Execution Team identified as "two (2) EMTs - Paramedic - Certified Emergency Medical Technician" are qualified to participate, how they were chosen to participate, by whom they were chosen, or what screening, if any, has been done to insure that these members do not have a criminal background, mental health issues, personnel and disciplinary issues, drug or alcohol issues. See Exhibit 1, p.32. Moreover, the Protocol fails to indicate what role these EMTs - Paramedic - Certified Emergency Medical Technician" play on the execution team. See Exhibit 1, p. 32.

10. Under the Eighth and Fourteenth Amendments, I object to the current Protocol because it fails to indicate how the "three correctional officers" who "received IV training through the Tennessee Correction Academy by qualified medical professionals" are qualified to participate as part of the IV team, how they were chosen to participate on the IV team, by whom were they chosen to participate, what screening, if any has been done to insure that these specific members do not have a criminal background, mental health issues, personnel and disciplinary issues, drug or alcohol issues, and what screening has been done, if any, to insure that they can competently perform their duties as part of the IV team. See Exhibit 1, p.32. Moreover, the Protocol fails to specifically indicate that these "three correctional officers" actually make up the IV team. See Exhibit 1, p. 21, 32. In addition, the Protocol fails to explain or elaborate on the alleged "IV training through the Tennessee Correction Academy by qualified medical professionals." See Exhibit 1, p. 32.

11. Under the Eighth and Fourteenth Amendments, I object to the current Protocol because it fails to indicate what training is required for members of the execution team. See Exhibit 1, p. 33. The Protocol only indicates that execution team members are required to read the manual and that "the Warden or his designee holds a class during which the manual is reviewed and clearly understood by all participants." See Exhibit 1, p. 33. The Protocol does not explain how the Warden insures that the manual is clearly understood by all participants nor does it explain who teaches the science and medical technique to be utilized in the manual. See Exhibit 1, p. 33. The Protocol fails to include photographs of the lethal injection apparatus and its proper set-up. In contrast, the Electrocutation Protocol contains detailed pictures of the apparatus used for execution by electrocution and its proper set-up. The failure to provide such training and instruction for executions by lethal injections demonstrates deliberate indifference to the proper administration of an execution by lethal injection and the unnecessary infliction of pain and suffering.

12. Under the Eighth and Fourteenth Amendments, I object to the current Protocol because it fails to indicate what instruction the Executioner receives, by whom that instruction is given, and what qualifications, education, training, and licensing that individual has to provide any such instruction. The Protocol only says that "[t]he Executioner receives initial and periodic instruction from a qualified medical professional." See Exhibit 1, p. 33. Moreover the Protocol fails to define the role of Executioner, fails to identify the Executioner, how he or she is chosen, by whom he or she is chosen, what qualifications or training he or she has, or what screening, if any, has been done to insure that the Executioner does not have a criminal background, mental health issues, personnel and disciplinary issues, drug or alcohol issues.

13. Under the Eighth and Fourteenth Amendments, I object to the current Protocol because it fails to indicate what training, education, or licensing the IV Team and the medical doctor has, if any, and if any training, education, or licensing is required for their selection for those positions. See Exhibit 1, pp.20, 21, 32. Moreover, the Protocol fails to indicate how the medical doctor is qualified to participate, how he or

she is chosen, by whom he or she is chosen, or what screening, if any, has been done to insure that the medical doctor does not have a criminal background, mental health issues, personnel and disciplinary issues, drug or alcohol issues. Indeed, the doctor is hardly participating anyway, instead he is "physically remote from the procedure, standing in the garage, and offering no more protection than a potted plant." See Exhibit 2, ¶ 68.

14. Under the Eighth and Fourteenth Amendments, I object to the current Protocol because it fails to indicate what training, education, or licensing the IV Team, the Execution Team and the medical doctor has, if any, in taking remedial action in the event of problems with the administration and delivery of the Lethal Injection Chemicals. Nor does the Protocol indicate what training, education, or licensing the IV Team, the Execution Team and the medical doctor has, if any, in reviving the condemned in the event a stay is issued after the execution begins.

15. Under the Eighth and Fourteenth Amendments, I object to the current Protocol because it fails to indicate how "the Warden or his designee" chooses one member from the execution team who has access to the Lethal Injection Chemicals during their procurement and storage. See Exhibit 1, p. 36. The protocol indicates that "the Warden or his designee" (the designee is not identified) instructs one member of the execution team to "check[] the supply of chemicals and expiration dates," to order additional chemicals, to pick up the additional chemicals and deliver them to RMSI, and to "inventory" the chemicals prior to an execution date. See Exhibit 1, p. 36. The Protocol fails to indicate what qualifications, training, and screening is done to insure that the execution team member who is given this access to the lethal injection chemicals does not have a criminal background, mental health issues, personnel and disciplinary issues, or drug or alcohol issues. It fails to indicate what qualifications, training, and screening is done to insure that the execution team member who is given this access to the Lethal Injection Chemicals is trained and qualified at procuring, storing and transporting the Lethal Injection Chemicals.

16. Under the Eighth and Fourteenth Amendments, I object to the current Protocol because it fails to indicate who prepares, mixes and administers the "Lethal Injection Chemicals" (other than "one member of the execution team") and what training, education, or licensing any member of the execution team has in the preparation, mixing and administration of chemicals. See Exhibit 1, p. 38. Based on the vague descriptions of the execution team, there is no one who has pharmaceutical training or knowledge of drug compounding to mix the drugs. Moreover, the Protocol provides only that "another member of the execution team observes and verifies that the procedure has been carried out correctly." See Exhibit 1, p. 38. Again, the Protocol fails to indicate what training, education, or licensing, or any other qualifications any execution team member has for observing the mixing of the "Lethal Injection Chemicals," drawing them into the syringes and administering the chemicals to make sure it is done correctly. There is no quality control to assure that the chemicals have actually been mixed correctly and at the proper dosage and that they are administered

correctly.

17. Under the Eighth and Fourteenth Amendments, I object to the current Protocol because it fails to include the proper instructions for mixing sodium thiopental by failing to identify what the sodium thiopental should be mixed in, whether it is to be mixed all together (10 boxes in one mixing container) or one box at a time, what instrument is to be used to actually mix the solution, how the syringes should be filled, how many syringes should be filled per box of powder, or what precautions are taken to avoid settling or contamination of the sodium thiopental. See Exhibit 1, p. 38.

18. Under the Eighth and Fourteenth Amendments, I object to the current Protocol because if a catheter cannot be successfully inserted into the antecubital fossa area, other locations for insertion are to occur in a specified order, which includes the wrist as the second preferred location. See Exhibit 1 p.41. Accepted medical standards and procedures dictate that the wrist is usually the last location considered because it is too shallow. Thus, the choice of locations for insertion was established with deliberate indifference to current medically sound procedures.

19. Under the Eighth and Fourteenth Amendments, I object to the current Protocol because if venous access is inaccessible, whether from previous intravenous drug use or other reasons, the Protocol utilizes a cut-down procedure, which is an outdated, dangerous surgical procedure. See Exhibit 1, pp. 41, 67. See also, Declaration of Dr. Mark Heath, Exhibit 2, ¶ 68.

a. The Protocol indicates that a cut-down may be used but does not indicate at what point in the procedure the IV technicians would resort to this option or who would make the determination that a cut-down is necessary.

b. The Protocol is silent as to the physician's qualifications to perform a cut-down. Only 15% of physicians in the United States are qualified to perform a cut-down.

c. Any cut-down procedure is a dangerous and antiquated medical procedure that is rarely performed in the practice of medicine.

d. A cut-down procedure involves making a series of sharp incisions through the skin and through several layers of connective tissue, fat, and muscle - all with only local anesthetic - to expose a suitable vein for IV catheterization.

e. A cut-down is a complicated medical procedure requiring equipment and skill that has a very high probability of not proceeding properly in the absence of adequately trained and experienced personnel, and without the necessary equipment. If done improperly, the cut-down process can result in very serious complications including severe hemorrhage (bleeding), pneumothorax (collapse of a lung which may cause suffocation), and severe pain.

f. Thus, cut-downs are out-dated and are only used in clinical situations that are not pertinent to executions by lethal injection, including emergency scenarios where there has been extensive blood loss, and in situations involving very small pediatric patients and premature infants.

g. Cut-downs have been replaced by the percutaneous technique

which is less invasive, less painful, less mutilating, faster, safer, and less expensive than the cut-down technique.

h. The use of a cut-down as a back-up before trying to find percutaneous access is a profound departure from standard medical methods and from the standard of care used in executions in other jurisdictions.

i. To use a cut-down as the backup method of achieving IV access would defy contemporary medical standards and would be a violation of any modern standard of decency.

j. The current Protocol is completely silent on the procedures that will be followed by the physician should a cut-down become necessary. See Exhibit 1, pp. 41, 67.

20. Under the Eighth and Fourteenth Amendments, I object to the current Protocol because it gives the physician complete discretion to "choose a different method to find an IV site." See Exhibit 1 p.67. The Protocol is completely silent on permissible options for finding an IV site and whether they are medically sound, constitutional and minimize unnecessary pain. The Protocol is silent as to the physician's qualifications and training to perform "a different method" of inserting the primary IV line.

21. Under the Eighth and Fourteenth Amendments, I object to the current Protocol because it fails to indicate whose responsibility it is to watch the IV lines for leaks in the tubing, junctions, and valves during the administration of the Lethal Injection Chemicals and what any member of the execution team would do should a leak be found. See Exhibit 1, p. 43. A leak in the tubing, junctions, or valves can result in the failure to properly administer a full dosage of anesthetic to the inmate, resulting in an excruciatingly painful and horrifying death. The only monitoring prescribed by the Protocol during the administration of the Lethal Injection Chemicals is "by watching the monitor in his room which displays the exact location of the catheter(s) by means of a pan-tilt zoom camera" and allows for the "monitoring the catheter sites for swelling or discoloration." See Exhibit 1, p. 43. Moreover, the person responsible for such monitoring is also responsible for recording time data on the Chemical Administration Record. See Exhibit 1 p.43. Thus, there is no monitoring of the IV tubing or the drip chamber during the administration of Lethal Injection Chemicals. Moreover, the monitoring of an IV site from a remote camera is not medically proper – in order to insure that an IV does not migrate, infiltrate, move, and is working properly, the IV site must be monitored from the bedside. The Protocol does not provide for anyone to monitor the IV site from the bedside, nor is there any qualified medical personnel in the room to do any personal, medical monitoring of the process. See Exhibit 1, p. 43.

22. Under the Eighth and Fourteenth Amendments, I object to the current Protocol because it fails to indicate what Defendants will do if the inmate has small veins or general venous incompetence and which member of the execution team will make a decision surrounding those issues. Small veins or venous incompetence can result in an inability to properly administer a full dosage of anesthetic to the inmate,

resulting in an excruciatingly painful and horrifying death. Moreover, the Protocol fails to identify any execution team member who has medical training in general venous incompetence.

23. Under the Eighth and Fourteenth Amendments, I object to the current Protocol because it fails to indicate what any member of the execution team will do if the catheter migrates during the lethal injection. See Exhibit 1, p. 67. The migration of an IV catheter can result in an inability to properly administer a full dosage of anesthetic to the inmate, resulting in an excruciatingly painful and horrifying death.

24. Under the Eighth and Fourteenth Amendments, I object to the current Protocol because it fails to indicate what any member of the execution team will do if the inmate has a collapsed vein, perforation or leakage of the vein, or a blown vein from the pressure of the syringe plunger. See Exhibit 1, pp. 41-42, 67. A collapsed, torn, or blown vein can result in an inability to properly administer a full dosage of anesthetic to the inmate, resulting in an excruciatingly painful and horrifying death.

25. Under the Eighth and Fourteenth Amendments, I object to the current Protocol because it fails to indicate the manner in which IV tubing, valves, saline solution, etc., shall be modified or repaired if needed, the minimum qualifications and expertise required of the person who has discretion to decide to attempt such action, and the criteria that shall be used in exercising such discretion.

26. Under the Eighth and Fourteenth Amendments, I object to the current Protocol because it fails to indicate which member of the execution team, if any, is responsible for loosening the tourniquets or restraining straps. See Exhibit 1, pp. 41-42. The failure to properly loosen the tourniquets or restraining straps on an inmate can result in an inability to properly administer a full dosage of anesthetic to the inmate, resulting in an excruciatingly painful and horrifying death.

27. Under the Eighth and Fourteenth Amendments, I object to the current Protocol because it fails to indicate the length of time between the administration of each drug. See Exhibit 1, pp. 43-44. This is important to ensure that an inmate is adequately anesthetized by the sodium thiopental prior to the introduction of the pancuronium bromide and potassium chloride.

28. Under the Eighth and Fourteenth Amendments, I object to the current Protocol because it fails to indicate who, if anyone, is monitoring the inmate during the administration of the drugs to assure that the sodium thiopental (anesthesia) is working. See Exhibit 1, pp. 43-44. See also, Declaration of Dr. Mark Heath, Exhibit 2, ¶ 68.

29. Under the Eighth and Fourteenth Amendments, I object to the current Protocol because it fails to indicate the presence of an anesthesiologist or a certified nurse anesthetist who could properly monitor consciousness. See Exhibit 1, pp. 43-44. Indeed, there is no one present on the execution team who is qualified to monitor the

anesthetic depth of the inmate. Moreover, the Protocol fails to indicate the presence of any medical technology that might be used to monitor consciousness. See Exhibit 1, pp. 43-44. See also, Declaration of Dr. Mark Heath, Exhibit 2, ¶ 68

30. Under the Eighth and Fourteenth Amendments, I object to the current Protocol because it does not indicate what plan is in place if the execution must be stopped because the Governor or the courts have entered a stay or reprieve. See Exhibit 1, p. 67. The Protocol does not indicate if anyone on the execution team is qualified to resuscitate the inmate or if any of the necessary equipment is present for resuscitation.

31. Under the Eighth and Fourteenth Amendments, I object to the current Protocol because it does not indicate the minimum qualification and expertise required of the person who is given the responsibility and discretion to order the staff to divert from the established protocols if necessary to avoid inflicting severe and unnecessary pain and suffering on the condemned, and the criteria to be used in exercising this discretion. Further the Protocol does not indicate the minimum qualifications and expertise required of the person who is given the responsibility and discretion to ensure that appropriate procedures are followed in response to unanticipated problems or events arising during the lethal injection and the criteria that shall be used in exercising this discretion.

32. Under the Eighth and Fourteenth Amendments, I object to the current Protocol because the Governor and the TDOC were aware of the risks inherent in the current Protocol, based on prior lethal injection litigation in this state and then ongoing lethal injection litigation in 14 other states (all of which had almost identical protocols to Tennessee's Protocol), but persisted with deliberate indifference in promulgating a protocol that has been declared unconstitutional by other federal courts and unusable by Governors of other states, and that will cause an excruciatingly painful and horrifying death from the use of these three drugs by untrained personnel. See Exhibit 3.

33. Under the Eighth and Fourteenth Amendments, I object to the current Protocol because the Governor and the TDOC failed to consult with and request documents from correctional officials, state officials, or medical experts with experience in lethal injection and lethal injection litigation from any of the listed states or jurisdictions as a part of its review and development of the current Protocol despite their knowledge of the ongoing lethal injection litigation in multiple states and jurisdictions. See Exhibit 3.

34. Under the Eighth and Fourteenth Amendments, I object to the current Protocol because the TDOC's analysis and promulgation of the Protocol, approved by the Governor, was one-sided, unscientific and failed to take into account the serious known and demonstrated risks of the use of the chemicals and procedures selected for the Protocol. See Exhibit 3. The only references reviewed by the Committee were court cases and secondary legal authority concerning method of execution litigation. See

Exhibit 3 p.12. The Protocol was written by State lawyers to establish procedural defenses with an eye toward litigation. It was not written to identify, address and correct problems with Tennessee's execution protocols.

35. Under the Eighth and Fourteenth Amendments, I object to the current Protocol because TDOC's failure to properly consult, review, and research in promulgating its Protocol (a failure which was approved by the Governor), despite the ready availability of experienced state officials and medical experts, demonstrates a deliberate indifference to the excruciatingly painful and horrifying death that will result from the use of these three drugs by untrained personnel under the execution protocol. See Exhibit 3.

36. Under the Eighth and Fourteenth Amendments, I object to the current Protocol because it calls for the dispensing and administration of chemicals which are controlled substances under 21 U.S.C. §§822, 829; 21 C.F.R. 21211301.11; 1306.04(a), and calls for those controlled substances to be dispensed and administered without the prescription of a practitioner issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice and possessing a registration under the Controlled Substances Act.

37. Under the Eighth and Fourteenth Amendments, I object to the current Protocol for electrocution because as described in the Protocol, electrocution is cruel and unusual punishment. See Declaration of Dr. John Wikswo, Ph.D., Exhibit 4.

38. Under the Eighth and Fourteenth Amendments, I object to the current Protocol for electrocution because as described in the Protocol, for example, there is no testing to ensure actual delivery of electricity using sponges saturated with sodium chloride, See Exhibit 1 p. 30, the method of testing the conduction of electricity (using a test load box) does not accurately test for conduction through sponges and human skin, See Exhibit 1 p.31, and an electrician does not supervise the testing of equipment on Day 3, See Exhibit 1 p.60.

In conclusion, the current Protocol, including the combination of chemicals (sodium thiopental, pancuronium bromide, and potassium chloride); the lack of proper training, qualifications, screening and review of the persons involved in the process; the absence of standardized procedures for administration of the chemicals; the absence of a sufficient anesthetic and any monitoring of anesthetic depth; and the absence of a back-up plan should problems arise during the protocol, creates a grave and substantial risk that I, if I am lethally injected, will be conscious throughout the execution process and, as a result, will experience an excruciatingly painful and protracted death in violation of his constitutional rights and substantive due process under the Eighth, Ninth, and Fourteenth Amendments. In addition, the current Protocol, devised and promulgated by the TDOC and approved by the Governor violates evolving standards of decency. See Trop v. Dulles, 356 U.S. 86 (1958). Finally, the current Protocol, devised and promulgated by TDOC and approved by the Governor, demonstrates a

deliberate indifference to the excruciatingly painful and horrifying death that will result from its use in violation of the Fourteenth Amendment. Moreover, electrocution as described in the current Protocol is cruel and unusual punishment and is unconstitutional in violation of the Eighth and Fourteenth Amendments.

Requested Solution:

I respectfully request that the Department of Corrections refrain from using this protocol until the TDOC addresses each of these concerns and provides a new protocol that comports with the United States Constitution and evolving standards of decency.

Stephens West

INMATE SIGNATURE

7-22-10

DATE

Plaintiff's Exhibit 10

to

Complaint for Declaratory Judgment and
Injunctive Relief

**Tennessee Supreme Court Order
Setting Execution Date for
November 9, 2010**

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED
JUL 15 2010
Clerk of the Courts

STATE OF TENNESSEE V. STEPHEN MICHAEL WEST

Criminal Court for Union County
No. 415A

No. M1987-00130-SC-DPE-DD - Filed: July 15, 2010

FILED
2010 OCT 25 AM 11:09
DAVIDSON CO. CLERK OF
D.C.&M.

ORDER

On April 30, 2010, the State filed a motion to set an execution date for Stephen Michael West. The State alleges that Mr. West has completed the standard three-tier appeals process and that an execution date should therefore be set in accordance with Tenn. S. Ct. R. 12.4(A).

On May 24, 2010, Mr. West filed a response to the State's motion. Mr. West requests that this Court either deny the State's motion and modify his sentence to life in prison or, in the alternative, issue a certificate of commutation under Tenn. Code Ann. §40-27-106 (2006). Mr. West alleges that this relief is appropriate for several reasons. First, he asserts that carrying out the death sentence in his case would be manifestly unfair where the actual killer of the two victims received a life sentence. Second, he contends that no court has ever evaluated his extensive mitigating evidence under the proper legal standard. Third, he alleges that he is severely mentally ill and asserts that no execution date should be set for a prisoner who suffers from severe mental illness. Finally, he contends that cumulative error in his case, including prosecutorial misconduct, requires that the Court deny the State's Motion or issue a certificate of commutation.

We conclude that Mr. West has failed to present any legal ground or factual basis for denying the State's motion to set an execution date or for issuing a certificate of commutation to the Governor. It is, therefore, ordered that the Warden of the Riverbend Maximum Security Institution, or his designee, shall execute the sentence of death as provided by law at 10:00 p.m. on the 9th day of November, 2010, or as soon as possible thereafter within the following twenty-four hours, unless otherwise ordered by this Court or other appropriate authority.

Counsel for Mr. West shall provide a copy of any order staying execution of this order to the Office of the Clerk of the Appellate Court in Nashville. The Clerk shall expeditiously

furnish a copy of any order of stay to the Warden of the Riverbend Maximum Security Institution.

PER CURIAM

Plaintiff's Exhibit 11

to

Complaint for Declaratory Judgment and
Injunctive Relief

**Defendants' Response to
Motion for Temporary Injunction**

IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE

STEPHEN MICHAEL WEST,

Plaintiff,

v.

GAYLE RAY, in her official capacity as Tennessee Commissioner of Correction, et al.,

Defendants.

No. 10-1675-I

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DEFENDANTS' RESPONSE TO MOTION FOR TEMPORARY INJUNCTION

The plaintiff, Stephen West, a condemned inmate residing at Riverbend Maximum Security Institution, in Nashville, Davidson County, Tennessee, filed this action seeking a temporary injunction effectively enjoining the defendants from carrying out his execution scheduled for November 9, 2010. Specifically, plaintiff contends that his February 2001 choice of electrocution as his method of execution is of no force and effect and that the defendants have not and cannot now present him with an Affidavit Concerning Method of Execution thirty days prior to his execution as outlined in the execution protocols. For the reasons stated below, the motion should be denied and this case dismissed.

On February 13, 2001, plaintiff executed an Affidavit to Elect Method of Execution in which he chose electrocution as the method of his execution and waived his right to be executed by lethal injection. Attachment C to Motion for Temporary Injunction. In response to a 42 U.S.C. § 1983 action in which plaintiff challenged the constitutionality of the Tennessee lethal injection protocol, the state defendants argued that plaintiff was bound by the election he made on

February 13, 2001; consequently, his challenge to the Tennessee lethal injection protocol was hypothetical and did not present a justiciable case or controversy. *West v. Ray*, No. 3:10-cv-0778, Memorandum in Support of Motion to Dismiss filed Sept 3, 2010 (M.D. Tenn. 2010). Plaintiff was also advised that the Tennessee Department of Correction would permit him to change his election by submitting a new affidavit, no later than 14 days prior to the date of the execution, affirmatively stating that he "waives any right he might have to have his execution carried out by electrocution and instead chooses to be executed by lethal injection." *Id.* On October 12, 2010, plaintiff presented the defendants with a letter in which he purported to rescind his previous election of electrocution; he did not, however, elect lethal injection as his method of execution. Instead, he informed the defendants that he was making no election of the method of execution (see Motion for Temporary Injunction, Attachment F).

This Court is without jurisdiction to enjoin or restrain the July 15, 2010, order of the Tennessee Supreme Court that plaintiff's sentence of death be executed on November 9, 2010. See *Coe v. Sundquist*, No. M2000-00897-SC-R9-CV (Tenn. 2000). Nothing in *Coe v. Sundquist*, however, would appear to preclude this Court's jurisdiction to the extent that plaintiff seeks declaratory relief alone.

The defendants maintain that the February 13, 2001, Election Affidavit is valid and still effective. Plaintiff made that election pursuant to Tenn. Code Ann. § 40-23-114(a), which remains unchanged. Although revisions have since been made to the Tennessee Execution Protocol, that protocol also remains materially unchanged. See *Workman v. Bredesen*, 486 F.3d 896, 900-901 (6th Cir. 2007).

Nevertheless, the defendants have no desire to litigate this issue. Defendants will therefore accept plaintiff's October 12, 2010, rescission of his previous election of electrocution. With the plaintiff having rescinded his previous election and waiver, plaintiff's sentence of death will now be executed by means of lethal injection, by operation of law. See Tenn. Code Ann. § 40-23-114(a). Consequently, there is simply no need for plaintiff to be presented with a new election affidavit, as he insists.¹ In addition, the plaintiff has affirmatively declared that he would make no election of a method of execution, further obviating any need to present him with a new election affidavit.

Because this Court lacks jurisdiction to order the injunctive relief sought, plaintiff's motion for temporary injunction should be denied. Furthermore, because the defendants have accepted plaintiff's rescission of his election of electrocution, and his execution will now proceed by means of lethal injection, plaintiff's complaint is rendered moot and should therefore be dismissed.

¹ In any event, the plaintiff has no "right" under the Protocol to be presented with an affidavit of election within 30 days of the execution date. The Protocol is a statement concerning only the internal management of state government. Furthermore, the 30-day requirement is obviously for the benefit of the Department, so that it may have sufficient time to prepare for execution by means of the chosen method.

Respectfully submitted,

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Attorney General and Reporter




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CERTIFICATE OF SERVICE

I hereby certify that on October 20, 2010, a copy of the foregoing was forwarded
by facsimile and U.S. Mail to:

Stephen A. Ferrell
Stephen M. Kissinger
FEDERAL DEFENDER SERVICES
OF EASTERN TENNESSEE, INC.
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Plaintiff's Exhibit 12

to

Complaint for Declaratory Judgment and
Injunctive Relief

**Nooner v. Norris Order No. 06-00110
(E.D. Ark.), June 26, 2006 Order**

FILED

2006 OCT 25 AM 11:09

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DAVIDSON CO. CHANCERY CT.
D.C. & M.

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION

TERRICK TERRELL NOONER,

PLAINTIFF

and

DON WILLIAMS DAVIS

INTERVENOR PLAINTIFF

No. 5:06CV00110 SWW

VS.

LARRY NORRIS, Director,
Arkansas Department of Correction;
GAYLON LAY, Warden,
Arkansas Department of Correction;
WENDY KELLY, Deputy Director for
Health and Correctional Programs;
JOHN BYUS; Administrator, Correctional
Medical Services, Arkansas Department of Correction; and
OTHER UNKNOWN EMPLOYEES,
Arkansas Department of Correction

DEFENDANTS

ORDER

Terrick Terrell Nooner ("Nooner") and Don Williams Davis ("Davis"), Arkansas death-row inmates, bring this action pursuant to 42 U.S.C. § 1983 claiming that the protocol for carrying out execution by lethal injection in Arkansas violates the Fifth, Eighth, and Fourteenth Amendments of the United States Constitution. Plaintiffs seek a declaration that the protocol is unconstitutional, and an injunction enjoining Defendants from carrying out future executions in accordance with the protocol.

Before the Court is Plaintiff Davis's motion for a preliminary injunction (docket entry #21) asking the Court to stay his July 5, 2006 execution and permit him to litigate his constitutional claims. Defendants have responded (docket entry #28), and the matter is ready for

decision. After careful consideration, and for the reason that follow, the Court concludes that the motion for a preliminary injunction should be granted.

I.

In 1992, Davis was convicted of capital murder, burglary, and theft of property and sentenced to death. His conviction and sentence were affirmed on direct appeal,¹ and his petition for post-conviction relief in state court was denied.² On September 14, 2005, the Eighth Circuit affirmed denial of Davis's petition for habeas relief,³ and on April 17, 2006, the United States Supreme Court denied Davis's petition for a writ of certiorari.⁴ Plaintiff Nooner initiated this § 1983 action on May 1, 2006, and on May 4, 2006, Davis filed a motion to intervene as a party plaintiff. On May 11, 2006, Governor Mike Huckabee scheduled Davis's execution for July 5, 2006. On May 26, 2006, the Court granted Davis's motion to intervene, and on June 16, 2006, Davis filed the present motion for a preliminary injunction.

Arkansas' lethal injection statute provides that the "punishment of death is to be administered by a continuous intravenous injection of a lethal quantity of an ultra-short-acting barbiturate in combination with a chemical paralytic agent until the defendant's death is pronounced according to accepted standards of medical practice." Ark. Code Ann. 5-4-17(a)(1). Arkansas law gives the Director of the Arkansas Department of Correction ("ADC") the responsibility to determine the substances to be administered and the procedures to be used in

¹*Davis v. State*, 314 Ark. 257 (1993), *cert. denied*, 511 U.S. 1026 (1994).

²*Davis v. State*, 354 Ark. 161 (2001).

³*Davis v. Norris*, 423 F.3d 868 (8th Cir. 2005).

⁴*Davis v. Norris*, 126 S. Ct. 1826 (2006).

any execution. *See* Ark. Code Ann. § 5-4-617(a)(2). The Director's protocol for execution by lethal injection, set forth in ADC Administrative Directive 96-06 ("AD 96-06"), calls for the administration of three chemicals in the following order: (1) a 2-gram injection of sodium pentothal (also known as thiopental), administered to cause unconsciousness; (2) 2, 50-milligram injections of pancuronium bromide, administered to cause paralysis; and (3) up to 3, 50-milliequivalent injections of potassium chloride, to stop the heart.⁵ Each injection is followed by a saline flush. According to AD 96-06, the injections are administered by way of control devices located in a control room, separate from the execution chamber. The control devices are connected, by extension tubing, to IV catheters inserted into each arm of the condemned inmate. The catheters are inserted by an "IV team" and the injections are administered by executioners, whose identities are kept secret. AD 96-06 contains no provision requiring that the IV team or executioners have any type of medical training or certification.⁶

Davis alleges that the State's protocol creates a substantial risk that the first injection (2 grams of sodium pentothal) will fail to render him unconscious to the point that he will not experience intense pain and agony after the administration of pancuronium bromide and potassium chloride.

Davis's medical expert, Mark J. S. Heath, M.D., a board-certified anesthesiologist and the Assistant Professor of Clinical Anesthesiology at Columbia University in New York City, states that the ADC's lethal injection procedure creates medically unacceptable risks of inflicting

⁵Docket entry #21, Ex. 1 (ADC Administrative Directive 96-06).

⁶The State asserts that the protocol requires the use of trained individuals for both the placement of the IV lines and the administration of chemicals. Docket entry #28, at 9. The Court has carefully reviewed ADC 96-06 and finds no such provision.

excruciating pain and suffering. *See* docket entry #21, Ex. 1 (Heath Decl.), ¶ 51. In his declaration, Dr. Heath explains that pancuronium bromide stops all movement, including that necessary to breathe, but it has no effect on the ability to feel pain, and potassium chloride burns intensely as it travels through the veins to the heart. Thus, if a condemned inmate is conscious when the pancuronium bromide and potassium chloride are administered, he or she will feel the sensations of slow suffocation and excruciating pain.

Dr. Heath maintains that the ADC's protocol creates an unacceptable risk that condemned inmates will be conscious for the duration of the execution procedure. He states that the protocol fails to comply with medical standards of care for inducing and maintaining anesthesia and the American Veterinary Medical Association's standards for the euthanasia of animals. Dr. Heath finds that the protocol fails to address several foreseeable situations in which human or technical error could result in the failure to successfully administer the 2-gram dose of sodium pentothal. Further, Dr. Heath opines that the protocol creates a substantial risk of unnecessary pain which is easily remedied.

In addition to Dr. Heath's declaration, Davis submits the declaration of a witness to the 1992 execution of Steven Hill. The witness states: "Approximately 3-5 minutes after the IV fluid began to flow, I noticed Steven struggling to breathe. He was strapped down, but his chest was heaving He appeared to be gasping for air. Within another minute, he turned a bright red color and then lay completely still." Docket entry #21, Ex. 38. Davis also submits several newspaper articles containing eye-witness accounts of ADC executions which, according to Davis, indicate that inmates remained conscious and suffered pain during their executions. *See* docket entry #21, Exs. 28, 34, 37, 42, 45, 49.

II.

The factors to consider when deciding whether to grant or deny motions for preliminary injunctions include (1) the threat of irreparable harm to the movant; (2) the state of the balance between his harm and the injury that granting the injunction will inflict on other parties involved in the litigation; (3) the probability the movant will succeed on the merits; and (4) the public interest. See *Dataphase Sys., Inc. v. CL Sys.*, 640 F.2d 109, 113 (8th Cir. 1981). Additionally, a court considering a stay of execution must apply “a strong equitable presumption against the grant of a stay where a claim could have been brought at such a time as to allow consideration of the merits without requiring an entry of a stay.” *Hill v. McDonough*, 2006 WL 1584710, at *8 (U.S. June 12, 2006)(quoting *Nelson v. Campbell*, 124 S. Ct. 2117, 2126 (2004)).

The Court finds that Davis has shown that he is personally under a threat of irreparable harm. If Davis remains or becomes conscious during the execution, he will suffer intense pain that will never be rectified. The Court further finds that the balance of potential harms favors Davis. If a stay is granted and Davis’s allegations prove true, he and others will be spared subjection to an unconstitutional execution procedure, and the State’s interest in enforcing death penalties in compliance with constitutional standards will be served. If, on the other hand, a stay is granted and Davis’s allegations are without merit, the State can carry out Davis’s execution without the specter that the ADC’s protocol carries an unreasonable risk of inflicting unnecessary pain.

The State argues that the equities favor the State because Davis unjustifiably delayed bringing his claims. However, Davis moved to intervene in this case before the State set his execution date and shortly after he exhausted all means for challenging his conviction. The

Court disagrees that Davis delayed pursuing his claims.⁷

Next, the Court must consider the probability that Davis will succeed on the merits. The Eighth Amendment prohibits punishments repugnant to “the evolving standards of decency that mark the progress of a maturing society” or those involving “unnecessary and wanton infliction of pain.” *Estelle v. Gamble*, 97 S. Ct. 285, 290, 290 (1976) (quoting *Trop v. Dulles*, 78 S. Ct. 590, 598 (1958)(first quote); *Gregg v. Georgia*, 96 S. Ct. 2909, 2925 (1976) (second quote)).

The State contends that Davis has not shown that he might succeed on the merits because Dr. Heath’s declaration offers no information about the probability that Davis might experience unnecessary pain. However, Davis need not show a mathematical probability of success at trial

⁷The Eighth Circuit’s opinion in *Taylor v. Crawford*, 445 F.3d 1095 (8th Cir. 2006), indicates that the Court of Appeals would agree that Davis did not delay bringing his claims. In *Taylor*, Larry Crawford, sentenced to death in 1991, brought claims under § 1983, challenging Missouri’s three-chemical protocol for executions by lethal injection. Like Davis, Taylor initiated his lawsuit after he exhausted his state post-conviction remedies and after his petitions for habeas relief were denied in federal court. Also similar to this case, the State of Missouri set Taylor’s execution date after he commenced suit under § 1983. The district court stayed Taylor’s execution, but gave no reasons for the stay, other than the court’s inability to hold an evidentiary hearing before the scheduled execution date.

The Eighth Circuit reversed the stay after concluding that the State’s interest in prompt execution of its judgment was not outweighed by the district court’s scheduling difficulties. The Eighth Circuit ordered that the case be reassigned to a district judge who could hear the case immediately “[i]n recognition of Mr. Taylor’s equally strong interest in having an evidentiary hearing on his claims prior to his execution.” *Taylor*, 445 F.3d at 1098-99. The district court followed the Eighth Circuit’s instructions and determined that Taylor’s claims had no merit. Taylor appealed, arguing that the district court, in its haste to make a decision before Taylor’s execution date, prevented him from calling medical witnesses. On appeal, the Eighth Circuit stayed Taylor’s execution, concluding that it asked the district court to do too much in too little time. The Court of Appeals stated, “In view of the existing record, the importance of the issue to this plaintiff as well as others, and the likelihood of recurrence of these identical issues in future Missouri death penalty cases, we remand for . . . a continuation of the hearing . . .” *Taylor*, 445 F.3d at 1099.

before a stay can be granted. It is enough that Davis has raised serious questions that call for deliberate investigation. *See Dataphase*, 640 F.2d at 113 (“But where the balance of other factors tip decidedly toward movant a preliminary injunction may issue if movant has raised questions so serious and difficult as to call for more deliberate investigation.”).

Finally, the Court finds that the public interest will be served if the Court holds an evidentiary hearing on Plaintiffs’ claims. Crime victims and the general public have an important interest in the timely enforcement of criminal sentences. However, failure to consider Davis’s allegations would ignore the equally important public interest in the humane and constitutional application of the State’s lethal injection statute.

III.

For the reasons stated, Plaintiff Davis’s motion for a preliminary injunction (docket entry #21) is GRANTED. IT IS HEREBY ORDERED that the State of Arkansas is STAYED from implementing an order for the execution of Don William Davis until further notice from this Court.

The Court will attempt to schedule an expedited hearing. The time of the hearing will depend on the Court’s schedule as well as the schedules of others involved.

IT IS SO ORDERED THIS 26TH DAY OF JUNE, 2006.

/s/Susan Webber Wright

UNITED STATES DISTRICT JUDGE

Plaintiff's Exhibit 13

to

Complaint for Declaratory Judgment and
Injunctive Relief

Arkansas Democrat Gazette Article
*Stoic Murderer Meets His Fate By Quiet
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Worthen's bid sets showdown with state on branch bank laws
- Page 1D

Even Iran's enemies give money, offer aid for earthquake relief
- Page 5A

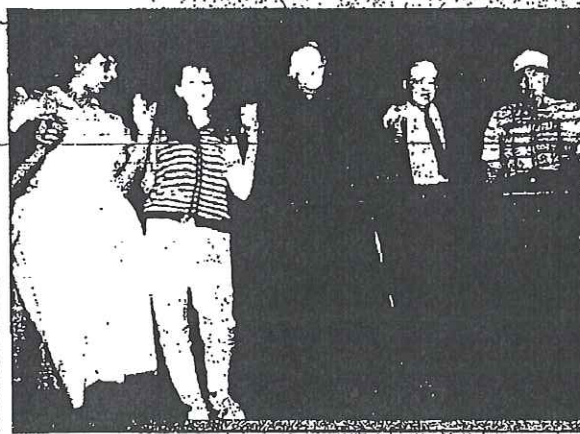
Car wars: Police speeders locked in radar detector duel
- Page 4A

Arkansas Democrat

119TH YEAR - 261 LITTLE ROCK, JUNE 26, 1990 40 PAGES, 6 SECTIONS ARKANSAS NEWSPAPER

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Simmons gets wish, dies for 16 murders



DEATH PROTESTERS Dallas Stansberry, Charles Baker, the Rev. John O'Donnel, Alana Merrill and Deborah Hixson (from left) hold hands and pray just minutes before the Monday night execution of convicted mass murderer Gene Simmons. They were at the prison, leading to his prison.

Injectons take 17 minutes to kill man who massacred family in '87

BY MAX PARKER
Convicted mass murderer Ronald Gene Simmons was pronounced dead at 9:19 p.m. Monday, at last fulfilling his wish to die by lethal injection and suffering in the end.
The law of lethal drugs began at 8:02 p.m. Simmons, 49, was pronounced dead 17 minutes later by Lincoln County Coroner Keith Griffin, who made the announcement after examining the inmate with a stethoscope.
Once in the execution chamber, the condemned inmate asked prison Director A.L. "Art" Lockhart, "Shouldn't she (execution) proclamation be done first?"
"No," Lockhart responded. "I want to see just a few words," Simmons said. "Justice delayed finally is done is justifiable homicide."
The proclamation was read after he was pronounced dead. Simmons, of near Dover (Pope County) was executed for the December 1987 murders of 16 people, including his relatives, making it the nation's largest family massacre.

It marked the state's first execution by lethal injection and the first in which an inmate waived all appeals.
It was Arkansas' second execution in a week.
As expected, Simmons took to his grave his reasons for the murders, which resulted in two separate capital murder convictions and two death sentences. Eighty-three journalists signed in for the event at the Cummins Unit near Varner (Lincoln County).
Many believe the Christmas holiday massacre was prompted by Simmons' incessant obsession with his eldest daughter, Sheila Simmons McCall, and his belief that his family was planning to leave him.
The condemned inmate was strapped to a gurney. A white sheet stretched from his feet to his gray beard, said Bill Simmons, Little Rock bureau chief for The Associated Press, who was selected as one of two media representatives.
Pope County Sheriff James Bolin and Prosecuting Attorney JAMES BOLIN, Page 8A

Stoic murderer meets his fate by quiet means

EDITOR'S NOTE - The following is a first-person account of the Monday night execution of Gene Simmons as witnessed by Bill Simmons, Arkansas bureau chief for The Associated Press.
BY BILL SIMMONS
Associated Press Writer
VARNER - If R. Gene Simmons was scared, he didn't show it.
At 9 p.m. Monday, the curtains were parted from the windows through which 14 witnesses peered into the room in which Simmons was to die.
He was strapped to a gurney; a white sheet covered him from his flowing gray beard to

On the inside

Public defender drives more than three hours to protest. Gody residents say Simmons' crimes were not a lot of saving grace. KARK, TV Channel 3 station to interrupt for word of execution. Simmons' father on history of the Simmons case.
BY JOHN RAMAN
Pleasant Grove, Ark. - There was a lot of noise at the Simmons' funeral Monday night. It was a lot of noise, but it was not the noise of a funeral. It was the noise of a protest. The protesters were from Gody, a small town in Lincoln County. They were protesting the execution of Gene Simmons. Simmons was executed Monday night. He was executed for the murders of 16 people, including his relatives. Simmons was a member of the Pleasant Grove community where Simmons was murdered. Simmons was a member of the Pleasant Grove community where Simmons was murdered. Simmons was a member of the Pleasant Grove community where Simmons was murdered.

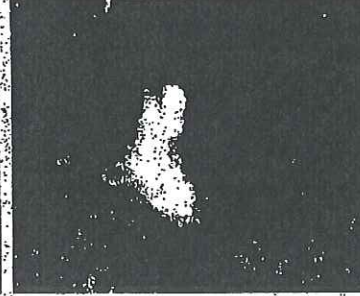
Russellville, nearby residents let Simmons, case die quietly

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High court upholds abortion notice laws

BY RICHARD CARELL
Associated Press Writer
WASHINGTON - The Supreme Court made it significantly more difficult Monday for girls to obtain legal abortions by ruling that states need not notify parents before a minor can have an abortion without first notifying their parents.
The court voted 6-3 to uphold an Ohio law that bans abortions for unmarried girls under 18 who are dependent on one or both parents unless a parent is notified or a judge's approval is obtained.
And the court voted 5-4 to

Fire fighting



Flag flap burns on in Senate

BY STEVEN KOMAROW
Associated Press Writer
WASHINGTON - The Senate on Monday debated a constitutional amendment against flag burning.
The amendment would allow a person to be killed by the House last week but remained alive with political consequence.
Flag burning, like pornography, was "beyond the founding fathers' understanding of freedom," said Sen. Jesse Helms, R-NC, calling on the Senate to help send the amendment to

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Plaintiff's Exhibit 14

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Complaint for Declaratory Judgment and
Injunctive Relief

Arkansas Democrat Gazette Article
Moans Pierced Silence During Wait

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Rector's time came, painfully late

"We could hear every second ticking without having to look at the clock." — John Byas, administrator for medical and dental services at the state Department of Correction, discussing a 45-minute delay Friday night in the execution of Ricky Ray Rector of Conway.

BY JOE FARNER
Reporter, Conway Press Daily Dispatch

FARNER — Nobody was happy with the execution of Ricky Ray Rector on Friday night.

The execution was scheduled to start at 8 p.m., but was delayed 45 minutes because the team assigned to set up the intravenous line for lethal injection couldn't find a vein in the 6-foot-1-inch, 230-pound condemned man.

Rector, 40, of Conway was sentenced to die for the 1981 shooting death of Conway police officer Robert W. Martin. After killing Martin, Rector shot himself in the head. His attorneys argued that he shouldn't have been executed.

Because of his brain damage, the courts, including the U.S. Supreme Court, disagreed. The state opted for injection in its means of execution in 1990.

For 30 years, Rector had been sentenced to die by electrocution, but the law gave him a choice. He selected injection.

John Rosenzweig and John Jewell of Little Rock, his attorneys who witnessed events in the death chamber at the Department of Correction's Cummins Unit in Lincoln County, said they heard moans and were concerned. Herbert Rule, president of the Arkansas Coalition Against the Death Penalty, called it a form of torture.

Moans pierced silence during wait

EDITOR'S NOTE: Here is a first-person account from the Log Cabin Democrat in Conway.

BY SONJA CLINESMITH
Log Cabin Democrat

FARNER — Ricky Ray Rector was not an easy man to execute.

Loud moans filtered from the death chamber as technicians pierced Rector's skin with needles and searched almost an hour for a suitable vein to carry lethal doses of chemicals.

Thirteen witnesses in the next room could not see the procedure, their view veiled by a thick, black curtain. They later learned that Rector helped with the procedure.

After the three women and 10 men were seated, Art Lock-

hart, director of the state Department of Correction, gave them a brief overview of the procedure and thanked them. "It's a lengthy process when you use lethal injection," he said.

Lockhart couldn't have known how long it would really take for the state to complete the execution of the man who killed a Conway police officer almost 11 years ago.

Conversation in the witness room was light with few mentions of Rector and the case as the long wait began. The room seemed like a small theater playing a suspenseful movie.

Rector's outbursts interrupted the silence more than

once.

Three Conway law officers dressed in civilian clothing took three of the five orange seats on the front row. "We're relieved it's finally going to be concluded," Sgt. Bill Milburn said.

With a small Bible tucked in his left coat pocket, the Rev. Kelvin Motton, Rector's minister and pastor of St. James CME Church in Conway, sat next to the officers. Two thin silver ribbons, apparently marking his place, dangled from the pages.

White County Sheriff Jess Odum took the remaining front row seat.

Another officer, Jerry Bradley, chief deputy at the Faulkner County sheriff's office, sat on the second row.

See CONWAY, Page B8

David White, a spokesman for the state Department of Correction, said it was a problem with the system.

About 30 journalists attended the execution. John Byas, the department's administrator of medical and dental services, for more than a half hour about the problem mainly on the medical qualifications of the team and what to look for.

Byas, who is not a doctor, said Saturday afternoon that he understood those concerns but said the people in the chamber with Rector could really understand what happened.

"We weren't just sticking him every minute," Byas said.

"We were looking for a new vein. We kept thinking the next one would be it."

Byas described a scene that was tense and growing worse by the second.

"I didn't notice any time," he said. "To us, every second was an hour."

He said the eight-member team went into the chamber at 8 p.m. expecting problems.

"We had eight people in there when this all started," Byas said. "The lie-down people were helping, and by the end we had three more medical people."

Byas said the team found a vein within five minutes of entering the room, but the vessel collapsed.

"We thought we had it, but we didn't," he said. "That's unusual, but it happens. He had spindly veins that collapsed easily. We searched. We were lucky to find a vein at all."

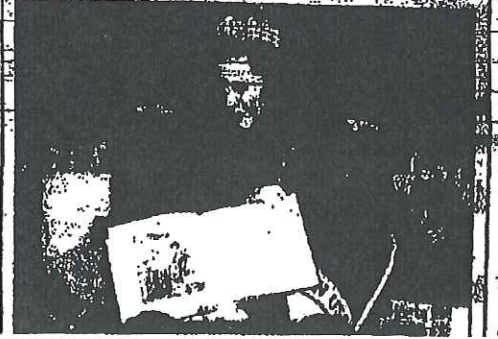
A combination of three lethal drugs is supposed to be fed through one of two IVs in each of the victim's arms. The second is the backup.

"That blood vessel has to handle 10 times the normal dosage of those drugs," Byas said.

By the time they found a vein, Rector's right hand, he said, had already been preparing for his fall-down, a military term that means into an arm.

See RECTOR, Page B8

Reading beauty



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Clark's license on line if theft verdict stands

BY RACHEL O'NEAL
Conway Press Daily Dispatch

As a convicted felon, former Attorney General Steve Clark may lose his law license without a job.

The state Supreme Court upheld Clark's 1989 felony theft conviction Tuesday — placing his law license in jeopardy.

Clark, 44, was convicted in Faulkner County Circuit Court on Nov. 1, 1989, of theft by deception for fraudulently charging food and entertainment on

but the committee didn't say whether it would file an appeal.

Neal said the lawyer is then notified of the committee's decision to initiate disciplinary proceedings and is given the opportunity to surrender his law license.

If a lawyer refuses to surrender his license, the committee

13 outsiders view death of Rector

Witnesses listen; wait beyond curtain

EDITOR'S NOTE: This is a first-person account from The Associated Press of the Friday night execution of Ricky Ray Rector.

BY RON FOURNIER
Associated Press Writer

VARNER The witness room was stuffy and quiet. The witnesses were curious. What is that noise in the death chamber? Is Ricky Ray Rector groaning? Why hasn't the execution started?

At 8:50 p.m. Friday, six policemen, two lawyers, two reporters, a state employee, a painter and a housewife filed into the witness area, a dimly lit 10-by-12-foot room.

About 9:35 p.m., Rector's lips moved rapidly — as if he was drawing shallow breaths. His lips stopped moving a minute later.

Almost like a movie crowd waiting for the feature picture, the witnesses stared ahead at four glass windows covered by dark curtains.

On the other side of the dark curtains, the brain-damaged police killer was being prepared for his 9 p.m. execution by injection, the witnesses were told.

Ten minutes passed, but the curtain did not open. The execution was not going to go off on schedule.

"This your first time?" Jeff Rosenzweig, one of Rector's attorneys, asked a fellow witness.

"Yes," the man said. "I hope it's my last," the lawyer said, rocking forward on his elbows and looking at the floor.

A.L. "Art" Lockhart, director of the Department of Correction, entered the witness room at 9:02 p.m. and looked at the dark curtains. "The medical team is having difficulty securing a good vein in both arms," he told the witnesses.



DEATH DISCUSSION — Jeff Rosenzweig, one of Ricky Ray Rector's attorneys, talks about Rector's execution Friday night at the Cummins Unit in Vanner.

Rosenzweig witnessed the execution, which was delayed by problems finding a vein suitable for the lethal injection.

Rosenzweig said he had expected it would be tough to find a vein to inject the killer fluid because the nearly 300-pound Rector was flabby and out of shape.

At 9:17 p.m. the witnesses heard the first noise from behind the dark curtains. Rosenzweig said it sounded like Rector groaning, probably after getting stuck with a needle.

The same quick, deep noise was heard at least seven more times between 9:20 p.m. and 9:35 p.m. Prison officials later confirmed Rector was cooperative but groaned when stuck by a needle at least eight times.

Rosenzweig and co-counsel John Jewell talked about what would happen if the execution could not be carried out by midnight. They decided a new death warrant would be issued, but a new trial would not be required.

"Another 2 1/2 hours," Rosenzweig said. "And they'll have to start all over."

The witnesses could hear what sounded like skin slipping off. Medical officials apparently were trying to raise a vein in Rector's arm.

"They're going to beat him

to death," Lt. Rod Pearson of the Conway Police Department said.

He and his colleagues attended the execution because Rector killed fellow officer Robert Martin in 1981. After killing Martin, Rector shot himself in the head, causing severe brain damage. Courts and doctors said he was competent to be executed because he understood his punishment.

The medical team secured the line to Rector about 9:40 p.m. and the dark curtain opened 10 minutes later.

There's not anything moving in that monitor at all. It's straight across.

Rector was strapped to a gurney, a white sheet covered him from his feet to his lower lip.

The murderer moved his lips, but he could not be heard through the glass. Prison officials later said Rector's last words were: "I got baptized and saved."

Lockhart gave the order to begin the lethal drip about 9:50 p.m., 30 minutes behind schedule.

Rector blinked his eyes

slowly. He looked like a man nodding off to sleep for about two minutes when he closed his eyes for good.

Lockhart, now inside the execution chamber, fidgeted with a folder piece of paper, writing and reading, writing and reading.

Several witnesses stood up for a better view.

About 9:55 p.m., Rector's lips moved rapidly — as if he was drawing shallow breaths. His lips stopped moving a minute later.

He didn't move again.

At 10:06, Conway police detective Bob Barham looked at what appeared to be a heart monitor at the head of the gurney. "It looks like it's flat-lining," he said. "Oh, there was a jump. There's another flutter."

Two minutes later, he said, "There's not anything moving in that monitor at all. It's straight across."

Rector was pronounced dead at 10:09 p.m.

When an orange brace was removed from his neck, witnesses saw that Rector's black gavel board had been chipped in a stubble.

"He wanted to look nice for his family," Jewell whispered. The dark curtains closed.

Californian visits LR, uncorks 4 new wines

BY RICK KRON
Democrat-Gazette Food Editor

Most 2-year-olds drink milk, water and maybe even Kool-Aid, but for Jim Bundschu, wine was the beverage of choice.

Bundschu, now 48, is the fifth-generation owner of the

The new releases Bundschu unveiled included Gundlach Bundschu Gewurgtraminer, 1990; Gundlach Bundschu Chardonnay, 1990; Gundlach-Bundschu Merlot, 1989; and a 1989 cabernet sauvignon. The wines will retail for about \$14

age and is priced lower than normal.

The winery owner said the recent "90 Minutes" piece about the health benefits of red wine has given the wine industry a tremendous push. "It's the first positive to

gives us some ammo to counterbalance the negative attacks."

Bundschu added that he likes to separate wine from the liquor or "booze" category.

"Wine is a beverage unto itself," he said. "It's a great ex-

Actress

The Associated Pr

PARIS — Dalia, 61, who sings, Brit suspended Friday and repeated jewelry store

Dalia, 61, who sings in the "Blue" was a singer about 30 years ago. She was hit by a plane in November. The jewelry store

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Arkansas Democrat Gazette Article
13 Outsiders view death of Rector

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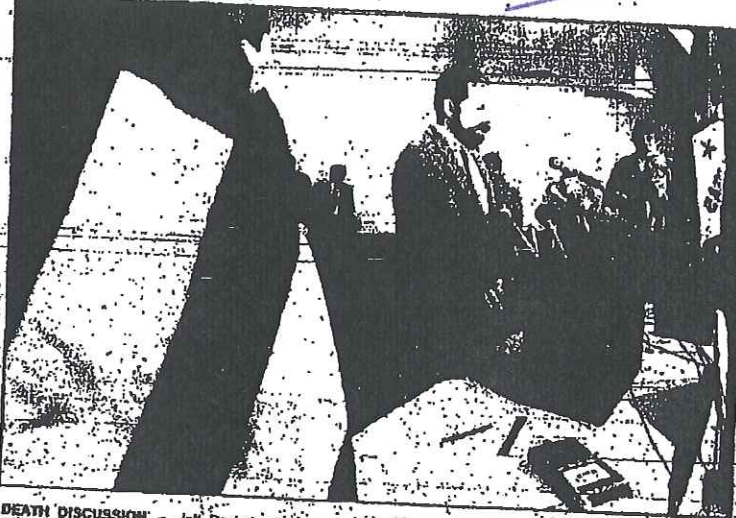
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Arkansas Democrat Gazette Article
Rector, 40, Executed for Officer's Slaying

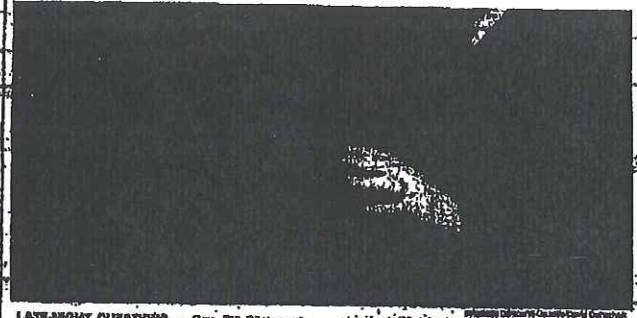
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Bush to propose \$4 billion cut in defense with program hit list

WASHINGTON - The Bush administration will propose a cut of about \$4 billion from current military programs in a bill that accompanying its first defense budget since the collapse of the Soviet Union, according to draft documents.

Congress puts marble in elevators

WASHINGTON - House members who returned to the Capitol this week, concerned about potential election-year downers had to look no further than the floor beneath their feet on three members only.

Rector, 40, executed for officer's slaying

YARNER - Ricky Ray Rector died by lethal injection at the Okfuskee Unit in 10:29 p.m. Friday in an execution that took medical staff more than 40 minutes to find veins in his arms.

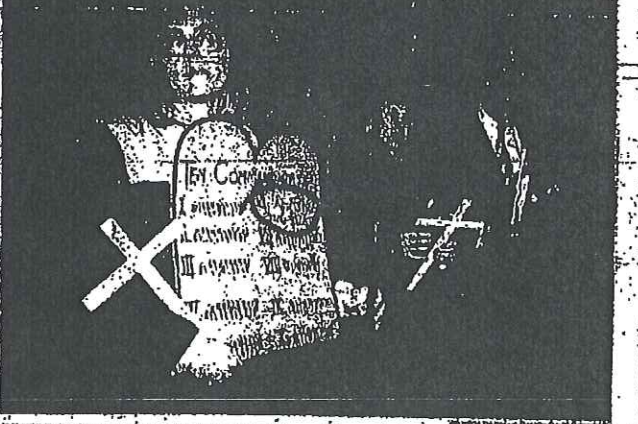
Rival for job files grievance over Flowers

GENIEFER FLOWERS, the supervisor of the date agency who filed the grievance, was not a grievance claim by another employee who wanted the job, records showed Friday.

Clinton, who is seeking the Democratic nomination for president, issued forceful denials. His office announced Thursday that a member of the governor's staff, Jack O'Gedy, had referred from 19 the job of administrator...

Russians approve austere budget in face of hardships ahead

MOSCOW - Russian lawmakers on Friday approved an austerity budget after the country's Finance chief warned about breaking...



RECTOR PROTEST - Diane Harney (left) participated in a protest of the execution of Ricky Ray Rector...

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 Andy Park, M.D.
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CUSTOM-CRAFT STYLE SOFA \$189

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VICTORIAN STYLE WHITE & BRASS DAYBED \$83
3 PIECE DUNLOP DINETTE \$163
IMPROVED ASSOCIATION \$57
SPONGE-BATHING CHINA FROM \$68
CHASSIS PFD RECLINER \$298
LIMITED EDITION CHINA FROM \$93

FREIGHT SALES

Plaintiff's Exhibit 17

to

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Arkansas Democrat Gazette Article
Hill Dies By Injection for '84 Police Killing

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held the charred remains of a shopping center and listened to pleas for quick help from the victims of three days of violent unrest.

At a prayer service inside the riot corridor of south-central Los Angeles, the president called for stronger families but offered no specific remedies for the neighborhood's problems. "This is no time to outline federal programs," he told black community leaders at Mount Zion Missionary Baptist Church.

"All of us must ask ourselves what we can do to help."

the city was "well on its way to recovery" after unrest that left at least 55 dead and \$770 million in damage.

It was an emotional day for Bush, who came to examine firsthand the scene of the most critical domestic challenge of his presidency.

He was driven through neighborhoods where windows were boarded up and the smell of smoke still hung heavily around the blackened remains of stores, restaurants and whole shopping centers. Few onlookers, except school-

See BUSH, Page 11A

DAMAGE REPORT - Presidents Bush and Sen. John Seymour, R-Calif., listen Thursday as Derek Cam, manager of The Boy's grocery store, talks of doing a jobbing that occurred in Los Angeles last week after the verdicts in the Rodney King beating trial.

Top pick for LR superintendent job withdraws

BY CYNTHIA HOWELL
Democratic-Examiner Staff Writer

Dr. Henry P. Williams, superintendent of the Syracuse, N.Y., City School District and apparent top contender for the Little Rock superintendent's job, withdrew from consideration late Thursday.

"Given the circumstances and conditions, I thought it best that I withdraw for personal and professional reasons," Williams told the Arkansas Democrat-Gazette about 11 p.m. Thursday.

He said division among Little Rock School Board mem-

Related article 15A

bers about his employment deterred him from taking the job. He said it would be very difficult to go into a situation where as many as three board members might not be supportive of administration programs. "It's not healthy or productive," he said.

"A lot of people appeared interested in my coming," he said. "They will be disappointed that they won't have the candidate of their choice."

Williams said his decision

had nothing to do with the suggested salary of \$130,000 or the fact that he is one of two finalists for the superintendentcy in Cleveland, Ohio, a district of 71,000 students and a budget of \$500 million.

The Cleveland School Board is scheduled to meet at 8 p.m. today to select a superintendent. Patricia Martin, a district spokeswoman, said Thursday. The district has not publicized how much it would pay a new superintendent. The interim superintendent is making \$84,000.

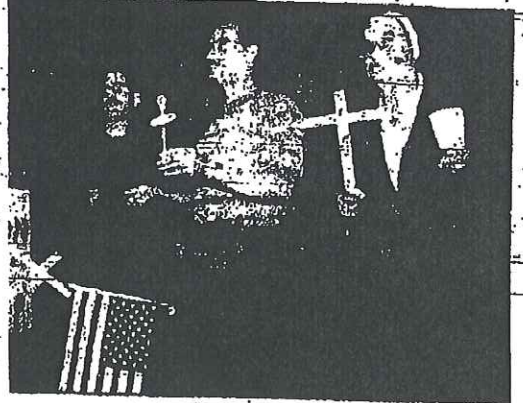
The Plain Dealer, a Cleve-

land newspaper, is publishing a story in today's editions saying that at least five of the seven Cleveland board members favor Williams over the other finalist, who is an administrator in the North Carolina Department of Education.

Little Rock School Board member John Moore said he talked with Williams about 10 p.m. Thursday. Williams said then he did not want to be considered for the job. Moore said.

Little Rock board members Tuesday had approached Wil-

See SCHOOL, Page 14A



Arkansas Democrat-Gazette Staff Photographer

They hold a candlelight vigil for Steven Hill. Hill was executed Thursday night for the slaying death Oct. 15, 1984, of state police investigator Robert Klein.

Hill dies by injection for '84 police killing

BY ANDY GOTTIER
AND LINDA SATTER
Democratic-Examiner Staff Writers

VARTNER - Steven Douglas Hill, 26, of Scott, the youngest inmate on Arkansas' death row, died at 9:10 p.m. Thursday by lethal injection.

The medical staff at the Cummins Unit at Vanner (Lincoln County) connected an intravenous line to Hill at 9:02 p.m. He was pronounced dead eight minutes later by Lincoln County Coroner Jimmy Hawkins.

Related article 17A, 7D

executed in Arkansas since the state resumed executions in 1990 and the third to die for killing a police officer.

Hill was convicted March 7, 1985, in the Oct. 15, 1984, shooting death of Arkansas State Police investigator Robert Klein, 39.

The three chemicals used were sodium pentothal, which makes a person unconscious; Pavulon, a muscle relaxer; and potassium chloride, which stops the heart.

Hill is the fourth inmate ex-

David White, spokesman for the state Department of Correction, said that Hill's last words were, "Yep, I would like everyone to know that I'm rooting for me that they're going to have to go home and live with it. I ask for my family's forgiveness for the pain I caused, and officer Klein's family. The

See HILL, Page 17A

Hill

A Governor says he has to be ready to sign the bill. He says he will sign it if it passes the House. He says he will sign it if it passes the House. He says he will sign it if it passes the House.

The two bills passed the House. The two bills passed the House. The two bills passed the House. The two bills passed the House.

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Sixty protest Hill execution

About 60 people gathered on the steps of the State Capitol in Little Rock on Thursday to protest the execution of James Earl Ray. They held signs and sang songs. They held signs and sang songs. They held signs and sang songs.

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Bill

who was serving two years for a conviction of first-degree murder. He was serving two years for a conviction of first-degree murder. He was serving two years for a conviction of first-degree murder.

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This time, execution goes smoothly

When the curtain opened, the execution went smoothly. When the curtain opened, the execution went smoothly. When the curtain opened, the execution went smoothly.

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William Bonin Execution Log

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STATE OF CALIFORNIA

CLERK & MASTER
DAVIDSON CO. CLERKERY CT.
DEPARTMENT OF CORRECTIONS
D.C. & M.

CALIFORNIA STATE PRISON
SAN QUENTIN, CALIFORNIA

LETHAL INJECTION - EXECUTION RECORD

No. C-4460 Name BONIN, William G. Age 49
Date Received 03-12-82 Date Executed 4/23/96
Doctors _____

OPERATION	TIME	RATE		REMARKS
		HEART	RESP.	
Injection Drugs on Hand	2300			
Prisoner Entered Chamber	2336			<i>1st min</i> <i>Tachycardia hyperreflexic</i>
Saline Solution IV Set and Running	2353			<i>1 to 2 min - apnea</i>
Chamber Door Locked	0003	60	24	
Drug - Sodium Pentothal Started	0008	84	22	<i>VARIED</i> pulse 97 to 81
Drug - Pancuronium Bromide Started	0009	73	0	0010 <i>2nd</i> Pancuronium given
Drug - Potassium Chloride Started	0011		0	<i>Gradual fall in pulse</i>
Special Comments				70 to 60 to 50 <i>then sudden drop (precip. tw.)</i> <i>in pulse to 20, 10, 1</i> <i>0 (time 0011 to 0013)</i> <i>includes flat line w/ 4th</i> <i>two ectopic narrow</i> <i>complexes immediately after;</i> <i>two burst of slow</i> <i>irregularly irregular</i> <i>irregularly irregular - also</i> <i>low amplitude QRS.</i>
Respirations Ceased	0009			
Cardiac Monitor - Flatline	0013			<i>(note last 3 sec. flat</i> <i>ECG monitor)</i>
Prisoner Pronounced Dead	0013			

Disposition of Remains: *See file 5/1/96*

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Manuel Babbit Execution Log

STATE OF CALIFORNIA

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DEPARTMENT OF CORRECTIONS

CLERK & REC'D BY
DAVIDSON CO. CHANCERY

D.C. & M.

CALIFORNIA STATE PRISON
SAN QUENTIN, CALIFORNIA

LETHAL INJECTION - EXECUTION RECORD

No. C50400 Name MANUEL BABBIT Age _____
Date Received _____ Date Executed 5/4/99
Doctors _____

OPERATION	TIME	RATE		REMARKS
		HEART	RESP.	
Injection Drugs on Hand	0013	—	—	
Prisoner Entered Chamber	0013	—	24	
Saline Solution IV Set and Running	0019		30	
Chamber Door Locked	0021	96	24	
Drug - Sodium Pentothal Started	0024	95	20	
Drug - Pancuronium Bromide Started	0031	95	20	SHALLOW RESPIRATIONS
Drug - Potassium Chloride Started	0035	96	—	
Special Comments				
BRIEF SPASMODIC MOVEMENTS				
OF UPPER ABDOMEN / CHEST				
@ 0032 LASTING ~ 10 SECONDS				
Respirations Ceased	PAC 0037 0037			
Cardiac Monitor - Flatline	0037			
Prisoner Pronounced Dead	0037			
Disposition of Remains:				

Plaintiff's Exhibit 20

to

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Margo Rocconi Declaration

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DECLARATION OF MARGO A. ROCCONI

I, Margo A. Rocconi, declare and state as follows:

I have personal knowledge of the following and, if called to testify, I could and would competently testify thereto:

1. I am a deputy federal public defender at the Federal Public Defender's Office in the Central District of California. I represented Stephen Wayne Anderson in federal habeas proceedings challenging his conviction and death sentence.

2. I was a witness to the execution of Stephen Wayne Anderson on January 29, 2002 at San Quentin State Prison in California. At about 11:40 p.m. on January 28, 2002, I was transported to the execution viewing area with two other witnesses. The three of us were the last witnesses to enter the viewing area just before 12:00 a.m. on January 29, 2002. We stood on two steps to the left side of the execution chamber. Shortly thereafter, Stephen Anderson was brought into the execution chamber and strapped down onto the table. His right foot twitched from time to time.

3. A male technician came in to the room with a caddy full of syringes and needles. He tried for quite awhile to insert the needle into a vein in Mr. Anderson's left arm. He was not able to find a vein and Mr. Anderson's arm began to bleed. The technician wiped the blood off with gauze several times. The technician became frustrated, removed his gloves, put them back

MR

on, and started over. During this time, Mr. Anderson looked over at his arm several times to see what was happening. Mr. Anderson attempted to help the technician find a vein by pumping his fist. After what took at least 3 to 4 minutes, the technician successfully inserted the needle in Mr. Anderson's arm and taped it down.

4. The male technician then left the room and a female technician entered. She inserted a needle into Mr. Anderson's right arm in less than one minute.

5. Mr. Anderson's table was then turned and the IV lines were attached to a mechanism in the wall of the execution chamber. At this point, Mr. Anderson lifted his head up several times and looked at the three of us standing on the risers.

6. Mr. Anderson then laid his head back down and waited. Within a minute his eyes closed and his head rolled over slightly. Thereafter, his cheeks began puffing as if air were coming out of his mouth. Within moments after that, Mr. Anderson's chest and stomach area began to heave upward. The convulsions continued with some irregular pauses in between. Altogether, Mr. Anderson's chest and stomach heaved more than 30 times.

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WAL

7. More than 10 and less than 15 minutes elapsed from the time that Mr. Anderson had closed his eyes until the guard announced that he was dead. I never looked away during that time period.

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.

EXECUTED this 28th day of January, 2004.


Margo Q. Rocconi

Plaintiff's Exhibit 21

to

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New York Times Article
*Trouble Finding Inmate's Vein Slows Lethal
Injection in Ohio*

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May 3, 2006

Trouble Finding Inmate's Vein Slows Lethal Injection in Ohio

By ADAM LIPTAK

It took almost 90 minutes to execute Joseph L. Clark in an Ohio prison yesterday, in what critics of the death penalty said was the latest in a series of botched executions nationwide.

Courts around the country are considering a variety of challenges to lethal injections, which lawyers for death row inmates contend can be needlessly painful and therefore cruel and unusual punishment.

In Mr. Clark's case, prison technicians had trouble finding a suitable vein through which to administer the lethal chemicals, said a prison spokeswoman, Andrea Dean. Ms. Dean speculated that Mr. Clark's veins might have been damaged by drug abuse.

"It took them about 22 minutes, and they found one good site," she said.

The deadly chemicals started to flow at 10:25 a.m., Ms. Dean said.

"But after about three or four minutes," she continued, "the inmate was able to raise his head off the gurney and said, 'It's not working.' " The vein had collapsed, she said.

The curtains separating witnesses from the execution chamber were then closed for more than a half-hour while technicians tried to find a second suitable vein. After one was located, the execution continued, and Mr. Clark was pronounced dead at 11:26 a.m.

Ohio has executed 21 prisoners since 1999, all by lethal injection. "We have never had an incident like this," Ms. Dean said. "We are going to review our policies and our protocol."

Mr. Clark, 57, was convicted of the 1984 killing of David Manning, a gas station clerk. He was also serving a life sentence for killing a second man. He was executed at the Southern Ohio Correctional Facility in Lucasville.

Opponents of the death penalty said it was time to re-examine lethal injections, which are used in 37 states.

"The constitutional requirement is that the best available technology be used to extinguish life as painlessly as

possible," said Eric M. Freedman, a law professor at Hofstra University. "Today's botched execution makes perfectly clear that the first generation of drug protocols needs to be succeeded by a second generation, just as the electric chair became technologically obsolete and therefore vanished."

Deborah W. Denno, a Fordham University law professor who is an authority on methods of execution, expressed surprise at yesterday's events. "With all the visibility of this topic and all the scrutiny," she said, "the authorities still are not able to do these executions properly."

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New York Times Article
New Execution Method is Used in Ohio

The New York Times

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December 9, 2009

New Execution Method Is Used in OhioBy **IAN URBINA**

Saying he was now "paroled to my Father in heaven," a convicted killer in Ohio on Tuesday became the first person in the United States to be executed with a one-drug intravenous lethal injection.

The new method, which involved a large dose of anesthetic, akin to how animals are euthanized, has been hailed by most experts as painless and an improvement over the three-drug cocktail used in all other states that employ lethal injection, but it is unlikely to settle the debate over the death penalty.

While praising the shift to a single drug, death penalty opponents argue that Ohio's new method, and specifically its backup plan of using intramuscular injection if the authorities are unable to find a usable vein, has not been properly vetted by legal and medical experts. Since it had never been tried on humans before, they contend it is the equivalent of human experimentation.

But the United States Supreme Court refused to intervene on Tuesday morning, and the procedure went largely as planned.

The inmate, Kenneth Biros, 51, died at 11:47 a.m. Terry J. Collins, director of the Ohio Department of Rehabilitation and Correction, said the drug took about 10 minutes to take effect, roughly the same length of time as the three-drug cocktail. It took about 30 minutes for the execution team to find a usable vein, after having inserted the needle several times into each arm.

Ohio adopted the one-drug method last month after a failed execution attempt in September in which the authorities spent more than two hours trying to find a usable vein in Romell Broom, 53, who was convicted of the 1984 abduction, rape and murder of a 14-year-old girl.

Mr. Biros was convicted of sexually assaulting and killing Tami Engstrom, 22, near Warren, in northeastern Ohio, in 1991 after offering to drive her home from a bar, then scattering her body parts in Ohio and Pennsylvania. She had been stabbed more than 90 times. Mr. Biros acknowledged killing her but said it was done during a drunken rage.

Ms. Engstrom's mother, brother and sister attended the execution, as did one of Mr. Biros's lawyers, John Parker, and two of Mr. Biros's friends. Thomas Altieri, the sheriff for Trumbull County, where the murder occurred, also watched the execution.

As Ms. Engstrom's family members entered the prison on Tuesday, a reporter asked if they were ready. "We've been ready for 18 years," one of the Engstroms said, according to The Columbus Dispatch.

Shortly before the execution, Mr. Biros gave his personal belongings — seven CDs, an address book, a portable CD player, a rosary and a notebook — to his siblings.

“I’m sorry from the bottom of my heart,” he said after thanking his family and friends for their support.

It was the second trip to the holding cell for Mr. Biros, who spent a day and night there in March 2007 as his lawyers scrambled to halt his execution. The Supreme Court intervened that time because of challenges involving the three-drug cocktail.

Opponents of the death penalty have long argued that using a single drug is more humane than the three-drug cocktail, which involves a short-acting barbiturate to render the inmate unconscious, followed by a paralytic and then a chemical to stop the heart.

Still, death penalty opponents criticized the state for not allowing more time for closer scrutiny of the new protocol.

“The key is due process,” said Richard C. Dieter, executive director of the Death Penalty Information Center in Washington. He said that, for example, when New York introduced the electric chair in 1890, the case went to the Supreme Court, which decided that the punishment might be more humane than hanging.

“The court held that death row prisoner received due process because the New York Legislature had considered the punishment method carefully,” Mr. Dieter added. “In this case, however, everyone has taken the Ohio Department of Corrections at their word, without an adversarial debate.”

But Kent Scheidegger, the legal director of the Criminal Justice Legal Foundation in Sacramento, which supports the death penalty, said he doubted that the state’s new protocol would merit a Supreme Court review.

Mr. Scheidegger also dismissed the criticism that the new approach was untested on humans. “What kind of test do they expect?” he said. “A controlled study with volunteers? Not likely.”

Deborah W. Denno, a Fordham University law professor who is an expert on the death penalty and lethal injection, said she believed that the constitutionality of the new state protocol could be challenged if it was found not to be “substantially similar” to the three-drug method used by the State of Kentucky, which the court approved last year.

A federal judge in Ohio disagreed, however, and on Monday he denied a request from Mr. Biros to delay his execution until lawyers could conduct a review of the new protocol.

On Monday night, Mr. Biros’s lawyers filed an emergency request with the Supreme Court asking for his execution to be stopped. That was rejected.

Mr. Biros was moved to the holding area for death row inmates about 15 feet from the death chamber at the Southern Ohio Correctional Facility in Lucasville on Monday morning, prison officials said.

In the afternoon, he had a snack of peanut butter and jelly sandwiches. At night, he was to be served a meal of cheese pizza, onion rings, fried mushrooms, Doritos, French onion dip, blueberry ice cream, cherry pie

and Dr Pepper, they said.

On Tuesday, Mr. Biros received communion and seemed calm as he awaited his fate, prison officials said.

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TampaBay.com Article
Executed Man Takes 34 Minutes To Die

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Executed man takes 34 minutes to die

Early edition

CHRIS TISCH and CURTIS KRUEGER
Published December 13, 2006

STARKE — A death row inmate who had argued that Florida's execution procedures were cruel hung on for much longer than usual after his lethal injection Wednesday evening, once again calling into question the way the state kills condemned prisoners.

Angel Diaz winced, his body shuddered and he remained alive for 34 minutes, nearly three times as long as the last two executions.

Department of Corrections officials said they had to take the rare step of giving Diaz a second dose of drugs to kill him.

A second dose is part of their protocol and was anticipated in this case because Diaz had liver disease, which they said can slow the time it takes the drugs to metabolize, they said.

But capital defense lawyers said Diaz's execution was so unusual that it could once again upend executions in Florida.

"Obviously there was something very wrong here," said Neal Dupree, supervisor of the capital collateral regional counsel office for South Florida, which represented Diaz in his appeals.

Dupree, who sat in the front row while Diaz was executed, said the procedure appeared botched, particularly when Diaz squinted his eyes and tightened his jaw as if in pain.

Twenty-six minutes into the procedure, Diaz's body suddenly jolted.

"It looked like Mr. Diaz was in a lot of pain," Dupree said. "He was gasping for air for 11 minutes. This is a big deal. This is a problem."

Corrections officials acknowledged that 34 minutes was an unusually long time but said no records are kept that would tell if it's the longest ever in state history.

They were not sure how many other times a second dose was needed.

Gretl Plessinger, a DOC spokeswoman, said it's unknown at what times the first and second doses were given because those records are not kept.

Diaz began snoring after the first dose was given and never regained consciousness, she said.

The execution team called for the second dose after noticing on heart monitors that Diaz was not dying, she said.

Diaz's cousin Maria Otero said the family had no knowledge of any liver disease. She said the execution was political.

"Who came down to earth and gave you the right to kill somebody?" Otero said, referring to Gov. Jeb Bush. "Why a stupid second dose?"

Florida voluntarily began using lethal injection in 2000 after a number of gruesome executions in the electric chair put electrocutions at risk of being declared unconstitutionally cruel and unusual punishment.

But capital defense lawyers have said lethal injection, which in Florida and most states is given with a three-drug cocktail, has its own cruelty

problems. They cite a recent study that shows a painkiller administered first wears off before the third and fatal drug kills the person. That third drug can cause excruciating pain, the study said, but no one would know because the second drug in the cocktail paralyzes the person.

Martin McClain, an attorney who has represented more than 100 death row inmates, said authorities should conduct a complete investigation to get to the bottom of what went wrong with Diaz's execution.

McClain said the state should have disclosed any liver problems in advance and explained its plans for dealing with them. This scenario makes McClain wonder if Diaz was given the pain-inducing drug potassium chloride before the anesthetic started working.

He said he's concerned that this could have caused the kind of pain in Diaz that constitutes "cruel and unusual punishment," outlawed by the U.S. Constitution.

Lethal injection had been a subject of legal challenges, including one to the U.S. Supreme Court, which put executions in Florida on hold for much of this year. But once those legal maneuvers failed, Gov. Jeb Bush began signing death warrants.

Diaz, 55, was the fourth person to be executed this year, the most the state has put to death since six were executed in 2000.

Diaz was condemned for the 1979 shooting death of Joseph Nagy, a topless bar manager in Miami. Nagy was killed during a robbery by three men. The case was unsolved for four years before a girlfriend of Diaz's called police to say he was involved.

Diaz had been sentenced to life in prison in Puerto Rico for another murder but escaped and came to the United States. He also escaped from a prison in Connecticut and tried to arrange an escape from jail in Miami.

Though no one witnessed Diaz pull the trigger, a jury convicted him of Nagy's murder and sentenced him to death by an 8-4 vote.

His defense lawyers vigorously challenged his conviction and death sentence, especially after the jailhouse snitch recanted his testimony. But courts let the death sentence stand.

Diaz clung to his innocence in his final statement.

"The state of Florida is killing an innocent person," Diaz said in Spanish. "The state of Florida is committing a crime because I am innocent. The death penalty is a form of vengeance but also a cowardly act by humans. I am sorry for what is happening to me and my family who have been put through this."

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