

APPENDIX A

(Court Filings)

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DAVIDSON COUNTY MASTER
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IN THE CHANCERY COURT OF DAVIDSON COUNTY, TENNESSEE

CHRISTA GAIL PIKE,

Plaintiff,

v.

JONATHAN SKRMETTI, Attorney
General and Reporter, State of
Tennessee, in his official capacity,

and

FRANK STRADA, Commissioner,
Tennessee Department of Correction
in his official capacity,

and

KENNETH NELSEN, Warden,
Riverbend Maximum Security
Institution, in his official capacity,

and

JORDAN CLARK, Warden,
Debra K. Johnson Rehabilitation
Center, in his official capacity,

Defendants.

No. 26-0027-III

Death Penalty Case

(Execution Set for
September 30, 2026)

COMPLAINT

The Plaintiff, Christa Gail Pike, files this complaint for violations of the First, Eighth, and Fourteenth Amendments to the United States Constitution and Article I of the Tennessee Constitution.

Introduction

Finding a vein has been a persistent problem for executioners ever since the adoption of lethal injection as an execution method in 1982. In 2014, Oklahoma prisoner Clayton Lockett was subjected to a torturous hour of executioners trying to find a vein, until they eventually used a vein in his groin area. After that, it took 43 minutes after the injection of chemicals for Lockett to die of a heart attack.¹ In 2014 in Arizona, Joseph Wood repeatedly gasped for one hour and 40 minutes after the injection of chemicals. A media witness counted 640 gasps from Wood as he was dying.² During his execution in Oklahoma in 2014, Michael Lee Wilson stated, “I feel my whole body burning” after being injected with a cocktail of pentobarbital, vecuronium bromide, and potassium chloride.³ In 2016, Georgia officials struggled to locate a vein for 45 minutes during the execution of Brandon Jones. In 2022, during Alabama’s gruesome execution of Joe Nathan James, it took executioners approximately 3 hours to set an IV, before attempting a “cut-down” procedure. An autopsy revealed injuries on his hands and wrists. A doctor who attended James’ autopsy said the execution team “was unqualified for the task in a most dramatic

¹ Eric Eckholm, *One Execution Botched, Oklahoma Delays the Next*, N.Y. Times (Apr. 29, 2014); Cary Aspinwall & Ziva Branstetter, *Secrets Still Shroud Clayton Lockett’s Execution*, Tulsa World (May 11, 2014).

² Bob Ortega, Michael Kiefer & Mariana Dale, *Execution of Arizona Murderer Takes Nearly 2 Hours*, The Republic (July 23, 2014) (available at www.azcentral.com/story/news/local/arizona/2014/07/23/arizona-execution-botched/13070677/ (last accessed Jan. 7, 2026)).

³ Charlotte Alter, *Oklahoma Convict Who Felt “Body Burning” Executed with Controversial Drug*, Time (Jan. 10, 2014) (available at <https://nation.time.com/2014/01/10/oklahoma-convict-who-felt-body-burning-executed-with-controversial-drug/> (last accessed Jan. 7, 2026)).

way.”⁴ Also in 2022, Arizona prison staff struggled for 25 minutes to insert the IV into Clarence Dixon’s arms, eventually resorting to a cut-down procedure in the groin. A media witness observed the staff had to “wipe up a fair amount of blood.”⁵ In the same year, Arizona prison staff had to insert a catheter into Murray Hooper’s femoral artery (in the groin area) after trying for 20 minutes to locate a vein in both of his arms.⁶ In 2024, after 58 minutes of executioners’ failed attempts at IV insertion, Idaho prisoner Thomas Creech was returned to his cell and the execution was called off.⁷

Tennessee’s new lethal injection protocol, calling for a single drug (pentobarbital), is plagued with the same issues that have marked botched executions for decades: secrecy, intentional omission, inattention to detail, and untrained and unlicensed prison personnel attempting to fill a medical role. As the State of Tennessee seeks to execute its first woman in 250 years, and the only woman on Tennessee’s death row—Christa Gail Pike—those problems have come to a head.

The new protocol, as applied to the Plaintiff and her unique medical conditions, is unconstitutional under the United States Constitution and the Tennessee

⁴ Elizabeth Bruenig, *Dead to Rights*, The Atlantic (Aug. 14, 2022); Amy Yurkanin & Joe Nathan, *James ‘Suffered a Long Death’ in Botched Alabama Execution*, Magazine Alleges, AL.com (Aug. 14, 2022).

⁵ Equal Justice Initiative, *Arizona Executes a Blind, Disabled Man Previously Found Legally Insane* (May 11, 2022) (available at <https://eji.org/news/clarence-dixon-execution-arizona/> (last accessed Jan. 7, 2026)).

⁶ Bob Christy & Jaques Billeaud, *Arizona executes man for 1980 killings of 2 people* (Assoc. Press, Nov. 16, 2022) (available at <https://apnews.com/article/arizona-executions-f999919f50df1158b8dc2f4c03915842> (last accessed Jan. 7, 2026)).

⁷ Death Penalty Information Center, *Botched Executions* (last updated Oct. 26, 2025) (available at <https://deathpenaltyinfo.org/executions/botched-executions> (last accessed Jan. 7, 2026)).

Constitution. Tennessee's execution protocol further violates the Eighth Amendment because it fails to provide a contingency plan with emergency medical services on-site in the event of a botch. This violation applies to electrocution as well as lethal injection.

Because of these failures the new protocol and is sure or very likely to result in unnecessary and superadded pain and suffering, terror, and disgrace as applied to the Plaintiff.

Parties

1. The Plaintiff Christa Gail Pike is a United States citizen. She is a death-sentenced prisoner residing at the Debra K. Johnson Rehabilitation Center in Nashville, Davidson County, Tennessee, and in the custody of the Tennessee Department of Correction ("TDOC").

2. The Defendant Jonathan Skrmetti is the Attorney General and Reporter of the State of Tennessee, the state agency located in this District in Nashville, Davidson County, Tennessee. The Plaintiff sues Attorney General Skrmetti in his official capacity as to **Count IV** only. The Attorney General and Reporter has previously filed motions to set the Plaintiff's execution date under Tenn. Sup. Ct. R. 12(4)(A). Additionally, as counsel for the Defendants Strada and Nelsen, the Defendant Skrmetti, through his agents, successors, and assigns, entered into the Agreement filed in *King v. Strada, et al.*, No. 3:18-cv-01234 (M.D. Tenn.) and *Middlebrooks v. Strada, et al.*, No. 3:19-cv-01139 (M.D. Tenn.). The Defendant Skrmetti is a state actor acting under color of state law, and his action refusing to

enter into a similar agreement with the Plaintiff violates her constitutional and statutory rights.

3. The Defendant Frank Strada is the Commissioner of the TDOC, the state agency located in Nashville, Tennessee. The Plaintiff sues Commissioner Strada in his official capacity. Upon information and belief, the Defendant Strada will oversee the administration of the Plaintiff's execution. The Defendant Strada is a state actor acting under color of state law, and his actions in executing the Plaintiff violate her constitutional and statutory rights.

4. The Defendant Kenneth Nelsen is the Warden of Riverbend Maximum Security Institution in Nashville, Tennessee, at which the execution of the Plaintiff will occur. The Plaintiff sues Warden Nelsen in his official capacity. Upon information and belief, the Defendant Nelsen is directly responsible for executing the Plaintiff at RMSI. The Defendant Nelsen is a state actor acting under color of state law, and his actions in executing the Plaintiff violate her constitutional and statutory rights.

5. The Defendant Jordan Clark is the Warden of the Debra K. Johnson Rehabilitation Center in Nashville, Tennessee, where the Plaintiff is held in custody under sentence of death. The Plaintiff sues Warden Clark in his official capacity. Upon information and belief, the Defendant Clark is directly responsible for executing the Plaintiff. The Defendant Clark is a state actor acting under color of state law, and his actions in executing the Plaintiff violate her constitutional and statutory rights.

Jurisdiction and Venue

6. This Court has jurisdiction under Tennessee Code Annotated §§ 29-14-103 and 113.

7. Exhaustion of administrative remedies is not required or would be futile. Nevertheless, the Plaintiff grieved the protocol and the Defendants have denied the Plaintiff's grievance by stating that the grievance of the protocol is not proper.

8. The Plaintiff Pike is incarcerated at the Debrah K. Johnson Rehabilitation Center, and the Defendants will execute the Plaintiff at Riverbend Maximum Security Institution, both of which are located in Nashville, Davidson County, Tennessee, where this Court is located.

Facts

9. On December 27, 2024, the TDOC announced that it had completed its review of the lethal injection protocol, resulting in a new protocol calling for the single drug pentobarbital. See Press Release, attached as **Exhibit 1**; TDOC Lethal Injection Execution Protocol, attached as **Exhibit 2**.

10. The Defendant Strada stated that he was "confident the lethal injection process can proceed in compliance with departmental policy and state laws." (Ex. 1).

11. The new protocol followed the Report and Findings of the Independent Review ordered by Governor Lee following the attempted execution of Oscar Franklin Smith in April 2022. See R. and Findings of the Indep. Rev., attached as **Exhibit 3**.

12. The Report and Findings of the Independent Review identified many problems with Tennessee's implementation of its prior protocol, including:

- The State of Tennessee never provided the pharmacy tasked with testing its lethal injection chemicals with a copy of the lethal injection protocol;
- No employee of the TDOC informed the pharmacy tasked with testing the lethal injection chemicals that it should conduct an endotoxin test until the eve of Oscar Smith's scheduled execution;
- The pharmacy that tested Tennessee's lethal injection chemicals only tested the chemicals for potency and sterility, not endotoxins, because the pharmacy followed United States Pharmacopeia testing guidelines, not Tennessee's lethal injection protocol;
- The chemicals used in the execution of Billy Ray Irick in August 2018 were not tested for endotoxins, and the Midazolam used during Irick's execution was not tested for potency;
- The chemicals to be used in the event that Edmund Zagorski opted for lethal injection in November 2018 were not tested for endotoxins and failed potency testing;
- The chemicals used in the May 2019 execution of Donnie Edward Johnson were not tested for endotoxins;
- The chemicals to be used in the event that Stephen West opted for lethal injection in August 2019 were not tested for endotoxins;
- The chemicals to be used in the event that Lee Hall opted for lethal injection in December 2019 were not tested for endotoxins; and that
- The chemicals to be used in the event that Nicholas Sutton opted for lethal injection in February 2020 were not tested for endotoxins.

13. The Independent Review concluded that there was an "absence of adequate expertise, guidance, and counsel either enlisted by or provided to TDOC in connection with Tennessee's lethal injection process. Instead, TDOC operated in a

task-oriented, tunnel-vision manner that failed to appreciate the interwoven nature of the lethal injection process as a whole.” (Ex 3 at 39).

14. Tennessee’s new lethal injection protocol does not remedy the issues identified in the Independent Review.

15. Additionally, the new lethal injection protocol is devoid of detail, omits certain information, or is otherwise vague.

16. Because of the Defendants’ actions, the Plaintiff is deliberately made unaware of whether the pentobarbital is compounded or manufactured; made unaware of whether the pentobarbital is expired (or will be by the date of her execution); and made unaware of whether the pentobarbital will be tested or the results of the testing.

A. Allegations about the new lethal injection protocol.

17. The new protocol is 44 pages, compared to the previous 106-page protocol.

18. The new protocol does not state the source of the pentobarbital supplier, the procurement process or method—whether legitimate or through the gray or black market—or whether the pentobarbital is compounded or manufactured.

19. The Defendants arbitrarily and as a matter of policy deny records requests for public records related to the new lethal injection protocol in violation of the plain language of the Tennessee Public Records Act, codified at Tennessee Code Annotated § 10-7-504(h).

20. The new protocol allows the Defendant Strada to arbitrarily and capriciously change the protocol “when deemed necessary to effectuate” its purpose. (Ex. 3). Any such change is a violation of the laws and rights declared herein.

21. Upon information and belief, transportation of lethal injection chemicals across state lines violates state and federal law. The Plaintiff reserves the right to amend this Complaint if discovery shows that the Defendants are engaged in the unlawful transportation of lethal injection chemicals.

22. The new protocol makes vague reference to quality assurance and quality control testing, but the Plaintiff is deliberately and unconstitutionally made unaware of the specific testing and regulatory requirements that the Defendants are subject to in their handling and administration of pentobarbital for lethal injection.

23. The new protocol vaguely references that the Defendants will follow recommended guidelines for safe transportation and storage of pentobarbital. However, without information on whether the pentobarbital is compounded, manufactured, or procured legitimately or through the gray or black market, the source of the pentobarbital, and the specific regulations that apply to it, the Plaintiff cannot sufficiently challenge the new protocol. The Plaintiff reserves the right to amend this Complaint if discovery reveals information supporting this allegation.

24. The new protocol requires the selection of a method of execution thirty days prior to the scheduled execution.

25. The selection of electrocution results in an isolation or “death watch” period of three days. The selection of lethal injection results in an isolation period of fourteen days.

26. If the Plaintiff refuses to choose a method of execution for any reason, the default method is lethal injection.

27. The isolation of the Plaintiff for fourteen days is cruel and unusual punishment given her specific medical conditions as set forth below.

28. The selection criteria for the members of the execution team are vague, subjective, and secretive.

29. The selection criteria for specially trained non-department personnel are vague, subjective, and secretive.

30. The new protocol calls for physician assistance during the execution, violating the American Medical Association’s code of ethics.

31. The new protocol allows for the placement of a “central line.” However, upon information and belief, the Defendants do not have the medical personnel or equipment, and cannot secure the same, in order to place a “central line.”

32. The new protocol’s limitation on “clergy” presence during the execution excludes the Plaintiff’s spiritual advisor and restricts the practice of the Plaintiff’s sincerely held religious belief of Buddhism. These actions violate the Plaintiff’s rights under the First Amendment of the United States Constitution, Article I of the Tennessee Constitution, the Religious Freedom Restoration Act of 1993 (RFRA), the Tennessee Preservation of Religious Freedom Act codified at Tennessee Code

Annotated § 4-1-407, and the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA).

33. The new protocol's restriction on the presence of "clergy" substantially burdens the Plaintiff's right to free exercise of religion and there is no legitimate government interest in such a burden.

34. The new protocol does not provide for any life saving measures, in violation of the Plaintiffs rights under the United States Constitution and the Tennessee Constitution in the event that the execution fails.

35. Additionally, the new protocol severely limits the Plaintiff's right to liberty in the final 12 hours of her life by instituting a "blackout policy."

36. Specifically, the new protocol imposes arbitrary restrictions on the right of an individual to communicate with the outside world, including their clergy or spiritual advisor, during the final 12 hours prior to his or her scheduled execution. Such communications are made or scheduled arbitrarily and capriciously by the Defendants.

37. There is no provision for providing the Plaintiff or Plaintiff's counsel with notice upon the Commissioner's unilateral decision to change the protocol when "deemed necessary," or any ability or procedure for the Plaintiff to challenge such changes, in violation of due process.

38. The administration of the revised protocol, as written, would be haphazard and arbitrary and presents a risk that is sure or very likely to cause

serious illness and needless suffering and constitutes cruel and usual punishment under the United States Constitution and the Tennessee Constitution.

II. Allegations about the use of pentobarbital.

39. Tennessee intends to use a single drug pentobarbital (100 ml of a 50 mg/ml solution (a total of 5 grams)) to execute the Plaintiff.

40. The use of pentobarbital in lethal injections causes flash (acute) pulmonary edema as it enters the blood stream and passes through the lungs and burns the membranes of the lungs. Fluid then enters the lungs causing a drowning sensation akin to waterboarding. The drowning sensation is “one of the most powerful, excruciating feelings known to man.” *See* Dept. of Justice Review of Fed. Execution Protocol, at 14 (Jan. 2025), attached as **Exhibit 4**.

41. The injection of pentobarbital itself can “cause extreme pain upon [] injection.” *See* Ex. 4 at 14. It can also “damage the veins in the body, causing the drug to leak into the surrounding tissues,” causing “significant excruciating pain.” *See* Ex. 4 at 14–15.

42. Pentobarbital is a barbiturate that causes unresponsiveness but not unconsciousness. As a result, even if a prisoner appears drowsy upon injection of the pentobarbital, they are sharply awakened with the sensation of drowning and are very likely conscious and being tortured as they are executed.

43. Because pentobarbital causes extreme and superadded physical pain and acute mental terror, and as specifically applied to the Plaintiff, its use constitutes

cruel and unusual punishment under the United States Constitution and the Tennessee Constitution.

44. Only ten states have approved the use of a one-drug pentobarbital protocol, and its use is relatively new and untested in violation of the original meaning of the Eighth Amendment.⁸

45. Tennessee has executed three prisoners using the one-drug pentobarbital protocol, including Byron Black and Harold Wayne Nichols.

46. According to media witnesses, Byron Black moaned and made a statement expressing pain during his execution. *See* Catherine Sweeney, *Autopsy sheds light on Byron Black's painful execution*, WPLN News (Sept. 11, 2025); Travis Loller, *Attorneys say electrocardiogram at Tennessee execution was active after inmate was pronounced dead*, Associated Press (Oct. 24, 2025), attached as collective **Exhibit 5**.

47. Black's autopsy showed that he experienced pulmonary edema and that his heart continued to beat for at least two minutes after pronouncement of death. (Ex. 5).

48. According to media witnesses, Harold Wayne Nichols sighed, groaned and breathed heavily for one minute during his execution. *See* Catherine Sweeney, *Tennessee executes Harold Wayne Nichols in third lethal injection of the year*, WPLN News (Dec. 11, 2025), attached as **Exhibit 6**.

⁸ Death Penalty Information Center, *State-by-State Execution Protocols* (available at <https://deathpenaltyinfo.org/executions/methods-of-execution/state-by-state-execution-protocols> (last accessed Jan. 7, 2026)).

49. Pentobarbital executions in other states have resulted in similar pain and suffering. When South Dakota executed Eric Robert by pentobarbital in 2012, he gasped heavily and snorted loudly with his eyes open, his skin turning purple.⁹ Benjamin Ritchie violently lurched against his restraints during his execution by pentobarbital in Indiana in 2025.¹⁰

50. The use of pentobarbital generally, and as applied to the Plaintiff, causes a torturous and lingering death and is sure or very likely to result in unnecessary and superadded pain and suffering, terror, and disgrace in violation of the United States Constitution and the Tennessee Constitution.

III. Specific allegations related to the Plaintiff.

51. The Plaintiff Pike presents with individual physical characteristics that include, but are not limited to, Thrombocytopenia/Thrombocytosis, Bipolar disorder, Post Traumatic Stress Disorder, hyperlipidemia, and small veins that make insertion of a needle difficult. See Declaration of J. Zivot, M.D., attached as **Exhibit 7**.

52. Thrombocytopenia/Thrombocytosis is a blood condition “characterized by a marked elevation in platelet levels.” (Ex. 7). A high platelet count can “lead to dangerous bleeding as the excess circulating platelets consume another critical blood-clotting component known as the von Willebrand Factor.” (Ex. 7).

⁹ Cassandra Stubbs, *Failed Experiments: Stop All Executions Now*, ACLU (May 1, 2014) (available at www.aclutx.org/en/news/failed-experiments-stop-all-lethal-injections-now (last accessed Jan. 7, 2026)).

¹⁰ Casey Smith, *State executes death row inmate Benjamin Ritchie for fatal shooting of police officer*, Indiana Capital Chronicle (May 20, 2025) (available at <https://indianacapitalchronicle.com/2025/05/20/state-executes-death-row-inmate-benjamin-ritchie-for-fatal-shooting-of-police-officer/> (last accessed Jan. 7, 2026)).

53. The Plaintiff's thrombocytosis is likely due to a rare form of blood cancer called myeloproliferative disorder. (Ex. 7).

54. Because of her severe medical condition, executing the Plaintiff by pentobarbital will "very likely produce an even more severe pattern of bloody froth in the lungs. This is death by drowning in one's own blood." (Ex. 7).

55. The Plaintiff's individual physical characteristics make it sure or very likely that there is a substantial risk that she will experience unnecessary and superadded pain and suffering, terror, and disgrace.

56. The Plaintiff's mental health conditions also make it sure or very likely that she will decompensate "to the point of a loss of agency and be unable to undergo an execution on that basis." (Ex. 7).

57. Treating the Plaintiff's mental health condition "to make her fit for execution is a gross ethical violation of the practice of medicine and cannot take place." (Ex. 7).

58. The Plaintiff also has a history of difficulty with blood draws and needle insertion. Prison medical staff often use a butterfly needle on her arm to draw blood because her veins are so difficult to access. The Plaintiff's physical characteristics will make it significantly more difficult to achieve and/or maintain the peripheral IV access on the Plaintiff that is needed to ensure proper delivery of the pentobarbital.

59. The Plaintiff Pike's individual physical characteristics make it sure or very likely that there is a substantial risk that she will be subjected to unnecessary and serious pain as the Defendants attempt to achieve peripheral IV access on her

during the execution process. When the Defendants are unable to maintain peripheral IV access on her, the Plaintiff's individual physical characteristics make it sure or very likely that there is a substantial risk that the Plaintiff's individual physical characteristics will interfere with the proper delivery of the pentobarbital.

60. Improper delivery of the pentobarbital including, but not limited to, vein damage and leakage, presents a risk that is sure or very likely to cause serious illness, needless suffering, and/or prolonged or lingering death.

61. Additionally, the Plaintiff Pike may develop or may currently have additional physical and/or psychological characteristics, increasing the sure or very likely risk of unnecessary and serious harm caused by the new lethal injection protocol.

62. The new protocol fails to account for any unique physical characteristics of the Plaintiff that may affect the efficacy of or the risk of harm caused by the new protocol.

63. The new protocol also fails to account for any unique psychological or mental characteristics of the Plaintiff that may affect the efficacy of or the risk of harm caused by the new protocol.

IV. Allegations related to the requirement to plead an alternative.

64. Tennessee's adoption of the execution secrecy provisions in Tennessee Code Annotated § 10-7-504(h) and the Defendants' heavy redaction of the new protocol will substantially, if not entirely, impair the Plaintiff's ability to allege and prove alternate execution methods and procedures. The Plaintiff reserves the right

to argue that any alleged defects in these allegations and/or proof with respect to such issues are the result of the secrecy imposed by the statute and the Defendants, and not any failure by the Plaintiff, and to amend this pleading.

65. The Plaintiff asserts that any requirement that she plead an alternative method of execution likewise violates the Eighth Amendment because there was no such requirement when the Eighth Amendment was ratified in 1791 nor when the Fourteenth Amendment was ratified in 1868, and thus no such requirement can, or does, exist now.

66. Additionally, the Plaintiff asserts that any alternative method pleading requirement violates the Due Process Clause of the Fourteenth Amendment of the United States Constitution and Article I of the Tennessee Constitution because imposition of such a requirement in a free nation shocks the conscience and offends principles of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental, where no such requirement existed at common law or at the founding of the Nation.

67. The Plaintiff further asserts that the alternative method pleading requirement violates her rights to conscience and/or to the free exercise of religion under the First Amendment of the United States Constitution, Article I of the Tennessee Constitution, the Religious Freedom Restoration Act of 1993 (RFRA), the Tennessee Preservation of Religious Freed Act codified at Tennessee Code Annotated § 4-1-407, and the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA).

68. The Plaintiff is a practicing Buddhist and the requirement that she plead an alternative method violates her sincerely held religious beliefs against participating in any process leading to her own death.

69. Notwithstanding any allegation of an alternative execution method asserted in this Complaint, the Plaintiff cannot be required to plead or prove an alternative method of execution because such a requirement is a substantial burden on her sincerely held religious beliefs, does not further a compelling governmental interest, and is not the least restrictive means for the government to accomplish its stated interest.

70. Notwithstanding any allegation of an alternative execution method asserted in this Complaint, the Plaintiff asserts that she is unable to constitutionally allege an alternative method or manner of execution because she is insufficiently competent to be able to knowingly and willingly instruct the Defendants how to kill her or, in the alternative, is insufficiently competent to assist her attorneys in identifying an alternative method or manner of execution because she has insufficient medical training and knowledge to be able to identify such an alternative or because her mental health impairments or cognitive deficiencies or intellectual disabilities render her unable to do so.

71. If the Plaintiff must allege alternative methods of execution, she alleges that the following alternative is feasible, readily implemented, and in fact significantly reduce a substantial risk of severe pain as presented in the new protocol.

72. The Plaintiff, by alleging this alternative, alleges only that the alternative in question is available in all relevant respects and subjects her to substantially less risk of experiencing severe or serious pain and needless suffering than the risk posed by the current execution method the Plaintiff challenges.

73. The reduction in risk of severe or serious pain and suffering created by the alternative is clear and considerable in comparison to the level of risk of severe pain and suffering created by the current execution method.

74. Similarly, the reduction in level of severity of pain and suffering created by the alternative is clear and considerable in comparison to the level of severity of pain and suffering created by the current execution method.

75. The Plaintiff also alleges that the pain and suffering inflicted by the new protocol is more than necessary to carry out a death sentence and is therefore “superadded” pain and suffering that the United States Constitution and Tennessee Constitution and forbid.

A. Alternative 1: Use of butterfly needle.

76. The Plaintiff Pike has a history of difficulty with blood draws and needle insertion. Prison medical staff often use a butterfly needle on her arm to draw blood because her veins are so difficult to access.

77. The new protocol does not provide for the use of a butterfly needle to achieve and/or maintain peripheral IV access.

78. The new protocol does not provide for medical staff to achieve and/or maintain peripheral IV access.

79. The Plaintiff's physical characteristics will make it significantly more difficult to achieve and/or maintain peripheral IV access on the Plaintiff, which is needed to ensure proper delivery of the pentobarbital.

80. Use of a butterfly needle, inserted by qualified and trained medical staff, is a feasible and readily implemented alternative that significantly reduces the substantial risk of unnecessary pain and suffering posed by the new protocol.

81. The Defendants possess or have within their control, or could readily obtain, the medical equipment and personnel necessary to achieve and/or maintain peripheral IV access with a butterfly needle because the prison medical staff regularly use a butterfly needle on the Plaintiff currently.

82. This alternative significantly reduces a substantial risk of unnecessary and severe or superadded pain, terror, or disgrace when compared to the new protocol.

Count I:

Tennessee's new protocol is unconstitutional as applied to the Plaintiff given her serious medical conditions in violation of the Eighth Amendment to the United States Constitution and Article I of the Tennessee Constitution.

83. The new protocol is unconstitutional in the way that it will be applied to the Plaintiff because of her serious medical conditions including, but not limited to, Thrombocytopenia/Thrombocytosis, Bipolar disorder, Post Traumatic Stress Disorder, hyperlipidemia, and small veins that make insertion of a needle difficult. (Ex. 7).

84. The Plaintiff suffers from Thrombocytopenia/Thrombocytosis, a blood condition “characterized by a marked elevation in platelet levels.” (Ex. 7).

85. “A very high platelet count can . . . lead to dangerous bleeding as the excess circulating platelets consume another critical blood-clotting component known as von Willebrand Factor.” (Ex. 7).

86. The Plaintiff’s platelet count is significantly elevated, likely due to a rare form of blood cancer called myeloproliferative disorder. (Ex. 7).

87. Because of her severe medical condition, the Plaintiff will suffer even more extreme pulmonary edema than the typical prisoner because of her platelet disorder and predisposition to abnormal clotting. Executing the Plaintiff by lethal injection would likely cause “an even more severe pattern of bloody froth in the lungs.” (Ex. 7).

88. The Plaintiff also suffers from Bi-Polar Disorder and Post Traumatic Stress Disorder. The imminent threat of execution is sure or very likely to cause her mental health to deteriorate to the point of loss of agency and incompetency to withstand execution. *Ford v. Wainwright*, 477 U.S. 399 (1986). *See also Panetti v. Quarterman*, 551 U.S. 930, 932 (2007).

89. The Plaintiff’s severe medical conditions make it sure or very likely that her execution will result in unnecessary and superadded pain and suffering, terror, and disgrace.

90. The new protocol makes no provision for the Plaintiff's serious medical conditions in violation of the Eighth Amendment's prohibition on cruel and unusual punishment and the Tennessee Constitution.

Count II:

Tennessee's new protocol is unconstitutional because it does not provide for the provision of medical care, or the resuscitation of a prisoner in the event of a failed execution in violation of the Eighth Amendment to the United States Constitution and Article I of the Tennessee Constitution.

91. All prisoners have the constitutional right to comprehensive medical care during their incarceration. *Estelle v. Gamble*, 429 U.S. 97, 102 (1976).

92. That constitutional right continues to apply during any attempt to execute the Plaintiff.

93. "If a prisoner survives an attempt at execution but suffers sub-lethal injuries that, without treatment, will or may lead to death or disability, that prisoner must receive medical care, and the warden is under a duty to provide it." (Ex. 7).

94. "If a prisoner survives an execution attempt, the duty requiring the delivery of necessary health care is revived, if it was ever set aside." (Ex. 8). This also applies to other execution methods, including the electric chair, that may involve a lingering death. *See In re Kimmler*, 136 U.S. 436, 447 (1890).

95. Accordingly, the United States Constitution and Tennessee Constitution require the Defendants to have in place the capacity to resuscitate a prisoner.

96. A resuscitation team should include a physician "not in the employ of TDOC" with "unrestricted access to the technique of execution to plan all the

necessary countermeasures for the best chance at reviving the prisoner.” (Ex. 8). Additionally, an “ICU ambulance must be on hand to deliver the full measure of necessary resuscitative measures.” (Ex. 8).

97. The Tennessee protocol does not provide for the provision of medical care or resuscitation in the event of a failed execution, whether it is by electrocution or lethal injection. Rather, the new protocol requires that the steps initiating the execution be repeated.

98. The Defendants have no procedure to evaluate the cause of the failure of the first attempt. Nor does the protocol have a procedure to do so. Rather, in the event the first attempt fails to execute the prisoner, the new protocol requires the preceding steps to be repeated.

99. There is a readily available and feasible alternative for a contingency procedure in the execution protocol in the State of Arizona. *See Arizona Execution Protocol*, attached as **Exhibit 8**, at 7-8.

100. Attempting to execute the Plaintiff without a procedure or mechanism to provide medical care or resuscitation makes it sure or very likely that the Plaintiff’s execution will result in unnecessary and superadded pain and suffering, terror, and disgrace or lingering death.

Count III:

The imposition of a fourteen-day isolation period unless the method of death by electrocution is selected is arbitrary and capricious and violates the First, Eighth, and Fourteenth Amendments to the United States Constitution and Article I of the Tennessee Constitution.

101. Requiring the Plaintiff to select a method of execution violates her rights under the First, Eighth, and Fourteenth Amendments to the United States Constitution and Article I of the Tennessee Constitution.

102. The selection of electrocution results in an isolation or “death watch” period of three days. The selection of lethal injection results in an isolation period of fourteen days.

103. If the Plaintiff refuses to choose a method of execution for any reason, the default method is lethal injection.

104. Forcing the Plaintiff to select a method of execution violates her rights under the First Amendment. However, the new protocol leaves her no choice other than to select a method of execution to assert her Eighth Amendment right against isolation for fourteen days. The new protocol arbitrarily and capriciously forced the Plaintiff to sacrifice one constitutional protection to enforce another and serves no legitimate purpose, has no rational relation to any government purpose, and violates her rights under the First, Eighth, and Fourteenth Amendments to the United States Constitution and Article I of the Tennessee Constitution.

105. The isolation of the Plaintiff for fourteen days is also cruel and unusual punishment given her specific medical conditions.

106. Specifically, the Plaintiff's Bipolar disorder and Post Traumatic Stress Disorder make it sure or very likely that her isolation will result in unnecessary and superadded pain and suffering, terror, and disgrace.

107. It also makes it sure or very likely that her mental health will deteriorate to the point of loss of agency and incompetency to withstand execution. *Ford v. Wainwright*, 477 U.S. 399 (1986); *see also Panetti v. Quarterman*, 551 U.S. 930, 932 (2007).

Count IV:

The execution of the Plaintiff while two similarly situated prisoners enjoy the benefit of a deal struck with the Defendants violates the Due Process and Equal Protection Clauses of the Fourteenth Amendment and Article I of the Tennessee Constitution.

108. After the failed attempt to execute Oscar Franklin Smith in April 2022, two Tennessee death row prisoners with legal challenges pending to the then-three-drug protocol, Terry King and Donald Middlebrooks, reached an agreement with the State to stay their cases. *See King v. Strada, et al.*, No. 3:18-cv-01234 (M.D. Tenn.) (Doc. 220, PageID#: 12749); *Middlebrooks v. Strada, et al.*, No. 3:19-cv-01139 (M.D. Tenn.) (Doc. 219, PageID#: 12737).

109. As part of the motion to stay those cases, the parties also submitted an agreement reading, in relevant part:

A motion to set King's execution date will not be filed pursuant to Tenn. Sup. Ct. R. 12(4)(A) until a judgment is entered by the district court in case number 3:18-cv-01234 (M.D. Tenn.) or, in the event of an appeal from that judgment, until an opinion is issued by a panel of the United States Court of Appeals for the Sixth Circuit. . . .

In the event Middlebrooks's execution date is reset before the conclusion of a trial or other disposition of his complaint in case number 3:19-cv-01139 (M.D. Tenn.), Defendants will not oppose a motion for stay of execution for Middlebrooks filed in that district court case until a judgment is entered by the district court in that case or, in the event of an appeal, a motion for stay of execution filed under the relevant case number in the Sixth Circuit until an opinion is issued by a panel of the Sixth Circuit. If such a motion for stay is denied, Defendants also agree to advocate for another reprieve from the Governor until a judgment is entered by the district court or, in the event of an appeal, an opinion has been issued by a panel of the Sixth Circuit.

See Agreement, attached as **Exhibit 9**.

110. The Plaintiff is a class-of-one, in that she is a similarly situated death-row prisoner to Terry King and Donald Middlebrooks, residing in Nashville, Davidson County, Tennessee, and in the custody of the TDOC.

111. The Defendants have refused to extend any agreement to the Plaintiff staying her execution so that she may challenge the new protocol.

112. By giving Terry King and Donald Middlebrooks the benefit of a stay so that they may challenge the new protocol, but denying it to the Plaintiff as a similarly situated prisoner in the custody of the TDOC residing in Nashville, Davidson County, Tennessee, the Defendants are unequally applying the laws against the Plaintiff here or denying the Plaintiff the equal protection of the laws, in violation of the Fourteenth Amendment to the United States Constitution and Article I of the Tennessee Constitution.

113. The Defendants' decision to deny similarly situated death row prisoners the equal protection of the laws lacks any rational basis.

114. The Defendants have not claimed, and indeed cannot show, any rational basis as to why two prisoners should not be executed in order to challenge the new protocol, while others, including the Plaintiff here, should be denied that right.

115. The Plaintiff has been intentionally treated differently from other similarly situated death row prisoners in violation of the Equal Protection Clause of the Fourteenth Amendment.

Prayer for Relief

Accordingly, the Plaintiff requests that this Court:

A. Declare that the new protocol, as applied to the Plaintiff, is unconstitutional under the Tennessee Constitution and the First, Eighth, and Fourteenth Amendments to the United States Constitution and issue a permanent injunction against use of the new lethal injection protocol against the Plaintiff;

B. Declare that Tennessee must implement a contingency plan in the case that an execution is botched, and that life-saving medical procedures be administered if death does not result within five minutes of the beginning of the execution. This should apply to any form of execution, including electrocution and lethal injection.

C. Declare that the fourteen-day isolation period is unconstitutional on its face and as applied to the Plaintiff under the Eighth Amendment and issue a permanent injunction preventing the Defendants from imposing the same;

D. Apply the equal protection of the laws and order the Defendants to enter into a similar agreement with the Plaintiff here, as they entered into with the

plaintiffs in *King v. Strada, et al.*, No. 3:18-cv-01234 (M.D. Tenn.) and *Middlebrooks v. Strada, et al.*, No. 3:19-cv-01139 (M.D. Tenn.);

E. In the alternative, this Court should declare that the Agreement violates the Plaintiff's rights to equal protection and issue a temporary injunction preventing the Defendants from executing the Plaintiff prior to the completion of the litigation in *King v. Strada, et al.*, No. 3:18-cv-01234 (M.D. Tenn.), *Middlebrooks v. Strada, et al.*, No. 3:19-cv-01139 (M.D. Tenn.), and this challenge; and

F. Any other relief warranted in this Court's discretion.

Respectfully submitted,

FEDERAL DEFENDER SERVICES
OF EASTERN TENNESSEE, INC.

By: /s/ Luke P. Ihnen
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Certificate of Service

I, Patricia McIntosh, certify that on January 8, 2026, a true and correct copy of the foregoing was served via certified mail to opposing counsel, John Skrmetti, Attorney General, Frank Strada, Kevin Nelsen, and Jordan Clark.

/s/ Patricia McIntosh
Patricia McIntosh, Paralegal

Exhibit 1

TDOC Completes Lethal Injection Protocol Review

Friday, December 27, 2024 | 09:10am

NASHVILLE, Tenn. – Following a comprehensive review, the Tennessee Department of Correction has completed its revision of the lethal injection protocol, which will utilize the single drug pentobarbital. Executions were put on hold in May 2022 when Governor Bill Lee ordered an independent review of the procedures and subsequently appointed new leadership to oversee the process. (</content/tn/governor/news/2022/5/2/gov--lee-calls-for-independent-review-following-smith-reprieve.html>)

"I am confident the lethal injection process can proceed in compliance with departmental policy and state laws," said Commissioner Frank Strada.

Commissioner Strada began developing a revised protocol immediately following his appointment in January 2023. The revised protocol was developed in consultation with the Tennessee Attorney General's Office to ensure lawful and effective procedures are followed in carrying out death sentences. The Tennessee Supreme Court is responsible for scheduling execution dates.

FILED
2026 JAN -8 PM 4:28
CLERK OF COURT
DAVIDSON CO. CHANCERY CT
LN
J. D. & M.

ocial Media  (<https://www.facebook.com/TNDepartmentofCorrection>)  (<https://twitter.com/TNTDOC1>)

 (<https://www.youtube.com/user/TNTDOC1>)  (<https://www.instagram.com/tndepartmentofcorrection/>)

 (<https://www.flickr.com/photos/133703040@N06/>)  (<https://www.linkedin.com/company/tndepartmentofcorrection/>)

APP-000031

Exhibit 2

FILED

2026 JAN -8 PM 4: 28

TENNESSEE DEPARTMENT OF
CORRECTION

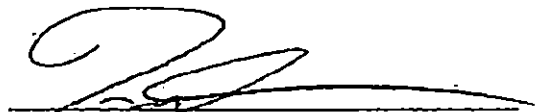
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LN D.C. & M.

LETHAL INJECTION
EXECUTION PROTOCOL

COMMISSIONER'S STATEMENT

The Tennessee Department of Correction ("the Department") is responsible for the incarceration of convicted felons serving sentences ranging from one year to death. Inmates sentenced to death are executed at Riverbend Maximum Security Institution ("RMSI").

As Commissioner of the Department, it is my duty to oversee the humane and constitutional execution of inmates sentenced to death in Tennessee. Tennessee law establishes lethal injection as the primary method for carrying out a death sentence and authorizes the Department to promulgate rules and regulations to facilitate executions by lethal injection. This Protocol will be reviewed as needed by me and/or my designee(s).



Commissioner

1-8-2025

Date

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I. INTRODUCTION

This Protocol summarizes the most significant events, Department procedures, and personnel responsibilities for carrying out the Tennessee Supreme Court's orders on executions by lethal injection. It will be used to ensure the humane and constitutional execution of inmates sentenced to death in Tennessee. There will be no deviation from this Protocol except by order of the Commissioner, when deemed necessary to effectuate the purpose of this Protocol.

II. PRIMARY RESPONSIBILITIES OF DEPARTMENT AND NON-DEPARTMENT PERSONNEL

CENTRAL OFFICE PERSONNEL

COMMISSIONER

The Commissioner is responsible for overseeing the administration of humane and constitutional executions in Tennessee.

[REDACTED]

[REDACTED] is responsible for the planning and overall direction of all pre-execution, execution, and post-execution activities.

[REDACTED]

[REDACTED] is responsible for notifying the inmate and the inmate's counsel of the execution date, obtaining a completed Affidavit for Method of Execution from the inmate, and serving as custodian of the Department's records related to executions in Tennessee.

PERSONNEL AT RMSI

WARDEN

The Warden is responsible for carrying out the directives of the Assistant Commissioner of Prison Operations to ensure that this Protocol is followed.

SPECIAL OPERATIONS TEAM

The Special Operations Team is responsible for preparing the lethal injection chemicals ("LIC") for administration.

RESTRAINT TEAM

The Restraint Team is responsible for inmate management immediately before, during, and after the execution, including the use of appropriate restraint procedures.

ESCORT TEAM

The Escort Team is responsible for coordinating the movement of all pre-approved witnesses.

[REDACTED]

[REDACTED]
[REDACTED]

NON-DEPARTMENT PERSONNEL

IV TEAM

The IV Team is responsible for establishing properly functioning IV lines for administration of the LIC.

PHYSICIAN

The Physician is responsible for determining that the inmate is deceased using accepted medical standards and establishing central line IV access if necessary.

CLERGY

Clergy, [REDACTED], may be approved in accordance with state law and Department policy to deliver chaplaincy services to the inmate and the inmate's family as requested.

III. COMPOSITION, SELECTION, AND TRAINING OF DEPARTMENT AND NON-DEPARTMENT PERSONNEL

COMPOSITION AND SELECTION OF THE EXECUTION TEAM

The Execution Team includes the following individuals and teams:

1. [REDACTED]
2. RMSI Warden.
3. Special Operations Team: consists of a team leader, two members and one alternate member. The team leader and members are selected by [REDACTED] with documented approval of the Commissioner.
4. Restraint Team: consists of a team leader, five other members, and two more alternate members. The team leader, members and alternate members are selected by [REDACTED] with documented approval by the Commissioner.
5. Escort Team: consists of a team leader and at least six other team members. The team leader and members are selected by the Warden.

SELECTION CRITERIA FOR MEMBERS OF THE EXECUTION TEAM

Members of the Execution Team are selected based on factors that include:

1. Length of service with the Department;
2. Job performance;
3. Professionalism;
4. Review of the individual's personnel file;
5. Staff recommendations;
6. Ability to maintain confidentiality;
7. Willingness to participate;
8. Any other relevant or specialized training related to the position.

SELECTION OF SPECIALLY TRAINED NON-DEPARTMENT PERSONNEL

Non-department personnel are selected for roles in the execution as follows:

1. IV Team: consists of at least two members who are either physicians, physician assistants, nurses, emergency medical technicians ("EMTs"), paramedics, military corpsman with relevant medical training, or other certified or licensed personnel including those trained in the United States Military. All team members are currently certified, licensed and/or qualified within the United States to place IV lines. IV Team members are selected by the Commissioner.
2. The Physician is selected by the Commissioner.

SELECTION CRITERIA FOR SPECIALLY TRAINED NON-DEPARTMENT PERSONNEL

Specially trained, non-department personnel are selected based on factors that include:

1. Education, training, and experience;
2. Professionalism;
3. Personal and professional recommendations;
4. Ability to maintain confidentiality;
5. Willingness to participate;
6. Any other relevant or specialized training related to the position.

PROTOCOL REVIEW, PRACTICE SESSIONS, AND SPECIALIZED TRAINING FOR EXECUTION TEAM MEMBERS

Review of the Lethal Injection Execution Protocol

1. After selection, the Execution Team, the IV Team, and the Physician must review this Protocol. This review is documented.
2. At least annually, the Warden or designee reviews the Protocol in its entirety with the Execution Team. This review is documented.

Monthly Practice Sessions

_____ ensures that monthly practice sessions are conducted. Practice sessions are attended by the Warden, the Special Operations Team, the Restraint Team, and the Escort Team. These regular practice sessions include simulations of all steps of the execution process beginning 2 hours before the execution, with the following exceptions:

1. Volunteers play the role of the inmate and the Physician.
2. No IV is inserted into the person playing the role of the inmate.
3. Saline solution is substituted for the LIC.
4. A body is not placed in a body bag.

Additional Pre-Execution Practice Sessions

Additional practice sessions are held at least twice weekly starting two weeks before a scheduled execution. Attendance of all practice sessions during this period is required absent illness or other unavoidable circumstances.

Documentation of Practice Sessions

All practice sessions are documented with the date and time, as well as the printed names and signatures of all participants.

Specialized Training for Department Personnel

Members of the Special Operations Team receive training in vascular access/IV therapy by a qualified third party. Updated training is conducted annually.

CHEMICALS USED IN LETHAL INJECTION

The Department uses the following LIC for executions by lethal injection:

Pentobarbital 100 ml of a 50 mg/ml solution (a total of 5 grams)

The Department will procure a sufficient supply of LIC to be used in lethal-injection executions. The LIC is subject to quality assurance and quality control testing. The Department will follow recommended guidelines for safe transportation and storage of LIC.

LIC will be secured [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] and RMSI Warden will conduct a semi-annual inventory of the container to verify its contents and the expiration dates of LIC. An additional inventory will be conducted 30 days before a scheduled execution. All inventories will be conducted by a minimum of two persons and documented in the log. If an inventory reveals expired LIC, appropriate disposal will occur.
[REDACTED]
[REDACTED]

IV. PROCEDURES BEGINNING 30 DAYS BEFORE EXECUTION

30 Days before the Day of Execution

I. Central Office Personnel

A. [REDACTED]

1. Reviews documentation of training.
2. Confirms team leaders and members with documented approval by the Commissioner.
3. Sets pre-execution practice schedule.
4. Confirms that equipment inventory is completed and that any needed maintenance occurs.
5. Verifies and documents with the Warden the LIC to be used, including its quantity and expiration date.

B. Communications: Issues a news advisory about the date and time of the execution.

C. Office of Victim Services: Identifies family members of the victim(s) of the crime(s) for which the inmate was sentenced to death and advises them of the scheduled date and time of the execution.

II. RMSI or Debra Johnson Rehabilitation Center ("DJRC") Personnel

Warden:

1. Collects the Affidavit For Method of Execution from the inmate (if applicable) and provides copies to the Commissioner and [REDACTED] (See Appendix, p. 25).
2. Provides to the inmate the Affidavit to Select Defense Counsel Witness to Execution and Affidavit to Select Member of Clergy Preparing Inmate for Death. (See Appendix, p. 26).
3. RMSI Warden verifies and documents with the [REDACTED] the LIC to be used, including the quantity and expiration date.

4. RMSI Warden confirms that equipment inventory is completed and that any needed maintenance occurs.
5. Notifies the inmate about changes to the conditions of confinement over the next 30 days.

21 Days before the Execution

Central Office Personnel

Communications:

1. Receives media-witness applications, initiates background investigations on the applications, and advises the Commissioner of any issues arising from the investigations.
2. Sends witness agreement forms (Official Witness Agreement Form, Official Witness/Pool Reporter Agreement Form) to selected witnesses and establishes a deadline to return all completed forms.

14 Days before the Execution

I. Central Office Personnel

A. [REDACTED]

1. Directs the initiation of the Continuous Observation Logs, which record all daily activities of the inmate beginning 14 days before the execution. The logs are maintained at each post where the inmate is located until the execution occurs or a stay of execution is issued.
2. Directs the initiation of the final practice schedule.

B. [REDACTED]

Finalizes a list of all witnesses and prepares written invitations.

II. RMSI or DJRC Personnel

Warden:

1. Confirms receipt of Affidavit to Select Defense Counsel Witness to the Execution and Affidavit to Select Member of Clergy Preparing Inmate for Death.
2. Directs the transfer of the inmate to a cell for enhanced monitoring.
3. RMSI Warden finalizes arrangements with the [REDACTED] for disposition of the inmate's body.
4. RMSI Warden confirms maintenance staff are scheduled to be at RMSI at least 4 hours before the scheduled execution.

48 Hours before the Execution

I. Central Office Personnel

[REDACTED]

1. Confirms adequate staffing and vehicles are in place for regular operations and the execution.
2. Ensures that each room in the Capital Punishment Unit receives final inspection specific to its functions. The Capital Punishment Unit includes, but is not limited to, the inmate's cell, contact and non-contact visitation areas, the control room, the secure monitoring area, execution chamber, and lethal injection room.
3. Oversees transfer of female inmate from DJRC to RMSI, if applicable.

II. RMSI Personnel

Warden:

1. Verifies inventory and functionality of equipment in the Capital Punishment Unit.
2. Oversees the transfer of the inmate to a cell in the Capital Punishment Unit.

12 Hours before the Execution

RMSI Personnel

Warden:

1. Ensures that access to RMSI during the 12 hours before the execution is limited to:
 - a. On-duty Department personnel;
 - b. On-duty contract workers;
 - c. Volunteers deemed necessary by the Warden;
 - d. Approved delivery vehicles;
 - e. Law enforcement personnel on business-related matters;
 - f. Approved witnesses (i.e. defense counsel, clergy, Attorney General's designee).
2. Initiates lockdown of RMSI that will continue through the duration of the execution.
3. Ensures the inmate concludes the last meal by 12:00 a.m. the night before the execution and that all eating utensils and leftover food are removed from the cell.
4. Ensures non-contact visits and phone calls—excluding visits and calls from the inmate's attorney of record—are concluded 12 hours before the scheduled execution unless expressly approved by the [REDACTED]
[REDACTED]

Day of Execution

8:00 a.m.

A. Commissioner or designee:

Provides a brief overview of the execution for the official witnesses.

B. Special Operations Team:

1. Team Leader retrieves LIC with the Warden and/or [REDACTED]
2. Confirms that the phones in the execution chamber are operational.
3. Confirms that the camera used to monitor the IV site is operational.
4. Team Leader prepares the syringes of saline and Pentobarbital which shall be labeled as follows:

CHEMICAL CHART	
Syringe	Label
1A	50 ml Sterile Saline Solution, BLACK
2A	50ml (50mg/ml solution) Pentobarbital, GREEN
3A	50ml (50mg/ml solution) Pentobarbital, GREEN
4A	50 ml Sterile Saline Solution, BLACK

Preparation of syringes occurs in the Lethal Injection Room.

- a. One complete primary set ("Set A") of syringes is prepared and administered in carrying out the death sentence and an additional amount of LIC is available in the Lethal Injection Room for a backup set (Set "B"). Set B is only prepared if the inmate is not deceased after administration of Set A, applicable waiting period, and examination by the Physician.
 - b. The syringes are labeled, identifying the chemical contained in each syringe by (i) assigned number, (ii) chemical name, (iii) chemical amount and (iv) the designated color, as set forth in the chemical chart above. This information is preprinted on a label, with one label affixed to each syringe to ensure the label remains visible.
 - c. Once prepared, each syringe is placed into a designated tray in the order in which they are to be administered. The preparation of syringes is documented by a designated member of the Special Operations Team on the Chemical Preparation Time Sheet. (See Appendix p. 27).
5. After the Special Operations Team prepares the primary-Set A

syringes, the Special Operations Team prepares the IV lines for use by the IV Team. Each IV line consists of a sodium chloride bag, solution set, extension sets, and hemostatic clamps.

C. Escort Team:

1. Official witnesses report to the Administration Building no later than 8:30 a.m. They are greeted by the Escort Team, processed through checkpoint, and moved to the Administration Building conference room. Official witnesses are moved to the Parole Board Room in Building 8 no later than 9:45 a.m., where they remain until final movement to the official witness room.
2. Immediate family members of the victim(s) report to the Administration Building no later than 9:15 a.m. They are greeted by the Escort Team, processed through checkpoint, and moved to the conference room in Building 8 no later than 9:45 a.m., where they remain until final movement to the victim witness room.
3. The Escort Team processes, transports, and remains with the pre-approved official witnesses and victim witnesses through the conclusion of the execution and their return to designated staging areas and ensures that each witness group is always separated from the other groups.
4. [REDACTED] and the Physician are stationed in the capital punishment garage.

10:00 a.m.

1. At the command of the Warden, the Restraint Team removes the inmate from the holding cell, places him/her on the gurney, and secures him/her with restraints.
2. The Restraint Team moves the inmate to the execution chamber and secures the gurney. The Restraint Team secures the inmate's arms to arm extensions on the gurney. The Restraint Team confirms that the restraints are not so restrictive as to impede the inmate's circulation, yet sufficient to prevent the inmate from manipulating the catheter and IV lines.
3. The Warden, [REDACTED] Attorney General or designee, defense counsel witness and clergy, if requested, enter the execution chamber with the inmate.

4. Once the inmate is secured, the IV Team attaches the leads from the electrocardiograph to the inmate's chest. The IV Team confirms that the electrocardiograph is functioning properly. A backup electrocardiograph is on site and readily available, if necessary.
5. The IV Team determines the IV sites. The IV Team members insert a primary IV catheter and a backup IV catheter. The primary IV catheter is used to administer the LIC. The backup catheter is reserved in case the primary fails.
6. The Special Operations Team Leader ensures that the catheters are properly secured, properly connected to the IV lines, and out of reach of the inmate's hands. The Special Operations Team Leader opens the IV line to start a flow of sterile saline solution in each line and administers at a slow rate to keep the lines open. Any failure of an IV line shall be immediately reported to the Commissioner.
7. If necessary, the Physician will insert a central line.
8. The Escort Team secures official witnesses and victim witnesses in the appropriate witness rooms.
9. The Attorney General/designee, defense counsel witness, and any clergy member are escorted to the official witness room.
10. The camera and audio system are activated from the control room.

10:10 a.m.

1. The Warden and [REDACTED] open the blinds to the witness rooms.
2. The Warden contacts the Commissioner to ensure that no last-minute stay or reprieve has been granted.
3. The Warden asks the inmate if he/she wants to make a last statement.
4. The Warden gives the signal to proceed. The Special Operations Team Leader directs the assigned Special Operations Team Member to confirm the chemical name and order of syringes in the Primary Set A.

5. The Special Operations Team Leader administers all syringes in Primary Set A. In the event of a primary line failure with the first syringe of saline, the Special Operations Team Leader switches to the back-up IV line and administers the complete set of syringes.
6. After the four syringes in Primary Set A have been administered, the Special Operations Team Leader signals to the Warden at which time a 5-minute waiting period begins.
7. After the waiting period, all witness blinds are closed, the camera is disengaged, and the privacy curtains are closed. The Warden asks the Physician to enter the room to examine the inmate and determine if he/she is deceased. The Physician determines whether the inmate is deceased.
8. The Physician reports his findings to the Warden.
9. If the inmate is not deceased, a Backup Set B of syringes is prepared, the blinds are reopened, and steps 5 through 8 are repeated.
10. A designated member of the Special Operations Team will document all information contained on the Lethal Injection Chemical Administration Record (See Appendix, pp. 31-33).
11. The Warden announces that the sentence has been carried out and directs the witnesses to exit.

POST-EXECUTION PROCEDURES

1. The Commissioner notifies the Governor or designee and [REDACTED] via telephone that the sentence has been carried out and the time that death occurred.
2. The IV Team clamps and cuts the IV lines leaving them connected to the inmate for examination by [REDACTED]
3. [REDACTED] takes appropriate investigative measures and takes custody of the deceased inmate.
4. Witnesses are escorted out of the Capital Punishment Unit. Each group of witnesses is kept separate from the other.
5. Official witnesses who are media pool reporters are returned to the media tent to participate in the media briefing.
6. Victim witnesses who wish to speak with the media are escorted to the media tent.
7. Media may remain on site in a designated location outside the secure perimeter to complete live broadcasts.
8. The Warden determines when the prison will resume normal operations after consultation with [REDACTED]
9. [REDACTED] collects the Department's records relating to the execution.
10. The Commissioner, [REDACTED] the Warden and other relevant personnel, if any, review the execution process and determine whether any changes or modifications should be made.

STAY OF EXECUTION

1. Upon receiving notification that a court has issued a stay of execution, or the Governor has issued a reprieve, the Commissioner consults with [REDACTED] and advises the Warden.
2. Upon receiving notification, the Warden:
 - a. Advises the witnesses that a stay or reprieve has been issued.
 - b. After consultation with the Commissioner, directs the IV Team to remove the catheters, if applicable, and directs the Restraint Team to return the inmate to the holding cell.
3. The Warden informs the appropriate personnel of the stay or reprieve.
4. The Traffic Control Team Leader notifies any protestors of the stay or reprieve.
5. The Escort Team escorts witnesses from the Capital Punishment Unit.

V. APPENDIX AND FORMS

AFFIDAVIT FOR 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 before the date of the execution and signing a new affidavit to that effect.

I, _____ TDOC No. _____, make the following choice concerning the method of my execution set to be carried out on the ____ day of _____, _____:

_____ 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 For Method of 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 _____.

AFFIDAVIT TO SELECT INMATE WITNESSES TO EXECUTION

Under Tennessee law, Tenn. Code Ann. § 40-23-116, you may select one (1) defense counsel, a member of the clergy, and adult members of your immediate family to witness your scheduled execution. Below, please provide the full names of your selected witnesses.

Defense Counsel _____

Clergy _____

Inmate's immediate family _____

I, _____, TDOC No. _____, select the above
witnesses:

Signature of Inmate

Date

I certify that I presented this Affidavit to Select Inmate Witnesses to Execution to inmate

_____, TDOC No. _____, 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_____

Notary Public

My Commission expires _____

CHEMICAL PREPARATION TIME SHEET

Date _____

PRIMARY SYRINGE SET

Syringe 1A-BLACK-50 ml of Sterile Saline Solution prepared by _____

at _____ a.m.

Witnessed by _____

Syringe 2A-GREEN-50 ml (50mg/ml solution) of Pentobarbital prepared

by _____ at _____ a.m.

Witnessed by _____

Syringe 3A-GREEN-50 ml (50 mg/ml solution) of Pentobarbital prepared

by _____ at _____ a.m.

Witnessed by _____

Syringe 4A-BLACK-50 ml of Sterile Saline Solution prepared by _____

at _____ a.m.

Witnessed by _____

CHEMICAL PREPARATION TIME SHEET

Date _____

BACKUP SYRINGE SET

Syringe 1B-BLACK-50 ml of Sterile Saline Solution prepared by _____

at _____ a.m.

Witnessed by _____

Syringe 2B-GREEN-50 ml (50mg/ml solution) of Pentobarbital prepared

by _____ at _____ a.m.

Witnessed by _____

Syringe 3B-GREEN-50 ml (50 mg/ml solution) of Pentobarbital prepared

by _____ at _____ a.m.

Witnessed by _____

Syringe 4B-BLACK-50 ml of Sterile Saline Solution prepared by _____

at _____ a.m.

Witnessed by _____

LETHAL INJECTION CHEMICAL ADMINISTRATION RECORD

Inmate Name _____ Inmate # _____

Date _____

PRIMARY SET A

	Chemical	Time Begin
Syringe 1-A	Saline 50 ml	_____
Syringe 2-A	Pentobarbital 50 ml	_____
Syringe 3-A	Pentobarbital 50 ml	_____
Syringe 4-A	Saline 50 ml	_____

End Time _____

Recorder Signature _____

LETHAL INJECTION CHEMICAL ADMINISTRATION RECORD

Inmate Name _____ Inmate # _____

Date _____

BACKUP SET B

	Chemical	Time Begin
Syringe 1-B	Saline 50 ml	_____
Syringe 2-B	Pentobarbital 50 ml	_____
Syringe 3-B	Pentobarbital 50 ml	_____
Syringe 4-B	Saline 50 ml	_____

End Time _____

Recorder Signature _____

DAY OF EXECUTION – LETHAL INJECTION EXECUTION RECORDER CHECKLIST

Inmate Name _____ Inmate # _____

Date _____

TIME

_____ Report to designated area for final briefing

_____ Restraint Team and Special Operations Team report to Execution Chamber for final briefing. Special Operations Team sets up IV system.

_____ Physician in place

_____ IV Team in place (EMTs)

_____ [REDACTED] in place

_____ Warden in place

_____ Check blinds and curtains

_____ Advise Escort Team to transport Official Witnesses to Parole Room

_____ Advised by Escort Team that Official Witnesses are in Parole Room

_____ Advise Escort Team to escort Victim's Witnesses to Viewing Room

_____ Advised by Escort Team that Victim's Witnesses are in place

_____ Warden or designee checks to ensure execution is to proceed

_____ Gurney positioned in Death Watch Area

_____ Restraint Team enters cell and secures condemned inmate to gurney

_____ Advise Escort Team to transport Official Witnesses to Death Watch vestibule

_____ Advised by Escort Team that Official Witnesses are in the vestibule

_____ IV Team enters the Execution Chamber

_____ IV Team exits the Execution Chamber

_____ Advise Escort Team to "Transport Official Witnesses in place"

Recorder's Initials _____

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

Inmate Name _____ Inmate # _____

Date _____

TIME

_____ Advised by Escort Team that "Witnesses are in place"

_____ Warden checks with Commissioner to proceed

_____ Warden orders blinds opened, closed circuit TV activated, and audio activated for viewing rooms.

_____ Warden asks inmate for any last comments

_____ Warden orders Special Operations 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 Team to remove Victim's Witnesses

_____ Advise Commissioner or designee that execution is completed

_____ Physician and EMTs depart

_____ [REDACTED] escorted to chamber to take possession of body. Pictures will be taken of body and Execution Chamber before removal of body

_____ Advised by Escort Team Victim's Witnesses are at Checkpoint

_____ Advise Escort Team to remove Official Witnesses

_____ Advised by Escort Team that Official Witnesses are at Checkpoint

_____ The body removed from the institution

Recorder's Initials _____

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

Inmate Name _____ Inmate # _____

Date _____

Inmate's Comments if any:

Lethal Injection Recorder

Date

SPECIFIC POST ORDERS – Special Operations Team (3 Members including a Team Leader and 1 Alternate)

Duty Hours – 6:00 AM – Until properly relieved.

Composition of Team

1. Team Leader
2. Recorder
3. Camera Operator
4. Alternate Member

Equipment

[REDACTED]

Primary Responsibility

You have the responsibility of overseeing and leading the preparation/administration of the lethal injection chemicals, recording the steps and times of the chemical preparation/administration process, and operating the camera in the execution chamber throughout the process.

These are not all-inclusive duties; therefore, staff are subject to other duties as assigned.

Duties:

Team Leader:

1. Upon arrival at the post, visually inspects the area to ensure it is ready to carry out the sentence.
2. Ensure the camera operator tests the equipment upon arrival to the area.
3. Retrieve lethal injection chemical with either the Warden or [REDACTED] and complete inventory.
4. Retrieve IV lines, syringes, saline solution, supplies, etc. needed to perform the injection and complete inventory.
5. Ensure preparation of the lethal injection chemical.
6. Begin setup for lethal injection portion of execution process.

7. Ensure the recorder documents all steps on the Chemical Preparation Time Sheet and Lethal Injection Chemical Administration Record.

Recorder

1. Document all information on the Chemical Preparation Time Sheet(s).
2. Document all information on the Lethal Injection Chemical Administration Record(s).
3. Perform other duties as assigned by the Team Leader.

Camera Operator

1. Operate the overhead camera that monitors the IV catheter during the lethal injection process.
2. Perform other duties as assigned by the Team Leader.

Alternate Member

1. Cross train with team members to learn all duties in case the need arises.

**Depart the area once properly dismissed by the Warden or [REDACTED]

[REDACTED]**

*****END*****

SPECIFIC POST ORDERS – Restraint Team (1 Leader/Supervisor, 5 Members, and 2 Alternates)

Duty Hours – 6:00 AM – Until relieved by a supervisor (Lieutenant or above).

Composition of Team

The team will consist of 1 Team Leader, 5 members, and two alternates.

Equipment

[REDACTED]

[REDACTED]

[REDACTED]

Primary Responsibility

You have the responsibility of safely and securely removing the inmate from the holding cell in the Capital Punishment Unit, securing the inmate to the gurney, and moving the inmate to the Execution Chamber.

Duties:

1. As a team, report to the holding cell to remove the inmate.
2. Team Leader will ask the inmate to approach the cell door and submit to restraints. If the inmate is compliant, the restraints will be applied.
3. If the inmate is non-compliant but passive, inform the inmate you will be entering the cell to apply restraints and remove him/her. The restraint team will enter the cell in the use-of-force formation and apply restraints.
 - a. Team Leader/Supervisor oversees movement and directs team members during move.
 - b. Team member 1 is responsible for pinning, if necessary, monitoring inmate, and maintaining/utilization of the cutters.
 - c. Team member 2 secures the inmates upper right appendage and applies wrist restraint.

- d. Team member 3 secures upper left appendage and applies wrist restraint.
 - e. Team member 4 secures the lower right appendage and applies leg restraint.
 - f. Team member 5 secures the lower left appendage and applies leg restraint.
4. In the event the inmate is non-compliant and exhibits threatening behavior, Team Leader will treat the situation as a potential use of force and begin de-escalation efforts to try and gain voluntary compliance. Should these efforts fail, the team will use force to remove the inmate from the cell.
 5. Upon application of hand restraints, the team will remove the inmate from the cell, search the inmate, and secure the inmate on the gurney.
 6. The team will transport the inmate on the gurney to the Execution Chamber. Once the gurney is in place, secure the inmate's arms to the arm extensions on the gurney.
 7. The team will perform other duties as assigned.

*****END*****

SPECIFIC POST ORDERS – Escort Team (At least 6 Members and 1 Leader/Supervisor)

Duty Hours – 6:00 AM – Until relieved by a supervisor (Lieutenant or above).

Composition of Team

The team will consist of at least 6 members and 1 Team Leader.

Equipment

Primary Responsibility

Escorts are responsible for escorting official witnesses and immediate family members of the victim(s) to designated areas.

Duties:

1. The Escort Team reports to the Administration Building conference room no later than 8:00 AM to receive instructions.
2. The escorts will receive and greet official witnesses at 8:30 AM in the Administration Building. After the official witnesses are processed through checkpoint, they are moved to the Administration Building conference room. They are then escorted to the Parole Board Room in Building 8 no later than 9:45 AM. The official witnesses will remain in the Parole Board Room until final movement to the witness room.
3. The escorts will receive and greet the immediate family members of the victim at 9:15 AM in the Administration Building. After they are processed through checkpoint, the victim witnesses are moved the conference room in Building 8 no later than 9:45 AM. The victim witnesses will remain in the conference room until final movement to the victim witness room.
4. The Escort Team processes, transports, and remains with the pre-approved official witnesses and victim witnesses through the conclusion of the execution and the witnesses' return to the designated staging areas. The Escort Team ensures that each witness group always remains separated from the other groups.

5. Upon pronouncement of the inmate's death, the Escort Team will escort immediate family members of the victim(s) out of the Capital Punishment Unit to the Administration Building for departure.
6. Once confirmation is received that immediate family members of the victim have departed, the Escort Team will escort official witnesses from the Capital Punishment Unit to the Administration Building for departure.
7. Escorts may perform other duties as assigned by a supervisor.

*****END*****

SPECIFIC POST ORDERS – Building 8 Control Room Officer

Duty Hours – 6:00 AM – 6:00 PM (Shift 2) (10A – 6P on day of move)
6:00 PM – 6:00 AM (Shift 1)

Report to Building 8 at approximately 10:00 AM (48 hours before scheduled execution) wearing the prescribed uniform and assume the duties in the Control Room in preparation for the inmate's arrival to a holding cell. If applicable, make your relief, as the equipment is issued on a 24-hour basis, you are required to indicate the key ring number and type of equipment accounted for in your post logbook. Count the keys to ensure the number of keys corresponds with the total number on the key ring chit. Key rings must be secured to a belt by a clip and a metal chain. Contact the Control Center and test your radio/body alarm.

Documentation

Logbook entries must be legible, documenting routine and unusual activity. An example of a log entry is:

6:00 AM Relieved Officer Williams and assumed duties as the Unit 2 Officer. Key Rings F-1, X-22, Radio, (1) set of handcuffs, (1) set of leg irons, (1) handheld metal detector, and (1) flashlight accounted for.
12:01 PM Count announced, Officer Smith backing count.
12:47 PM Clear count with 32 inmates.

Primary Responsibility

This post commences at approximately 10:00 AM, 48 hours before the scheduled execution. You have the responsibility of controlling all electronic access points to the Capital Punishment Unit and recording all activity. In addition, you are responsible for completion of the Lethal Injection Recorder Checklist, including when the time-specific events occur. Other non-routine activity should be noted in the post's logbook.

These are not all-inclusive duties. You are subject to other duties as assigned.

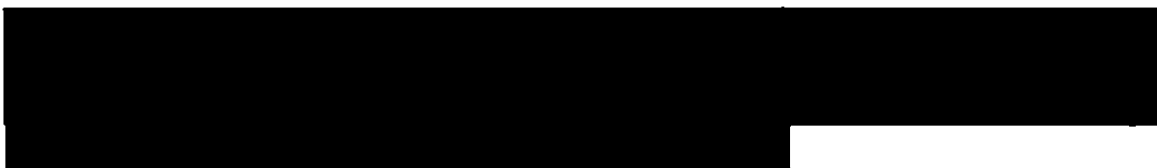
Security Measures

Building access - only authorized staff will be given access to areas within the Capital Punishment Unit. Questions regarding persons other than those with a role or previously identified in the protocols must be approved by the Warden prior to granting access. The request/approval is to be documented in the logbook.

Official count times - Official counts are conducted [REDACTED]
[REDACTED]

Duties:

1. Always remain alert and continuously monitor the unit's activity.
2. Complete the Lethal Injection Recorder Checklist form and note the times any identified activity occurs.
3. Announce official count times to the unit's observation officer.
4. Document the identity of all individuals who access the Capital Punishment Unit, including all staff and inmate visitors.
5. Conduct security inspection of the control room and document discrepancies in the log and submit work request for repairs.
6. Conduct key and equipment accountability during shift.



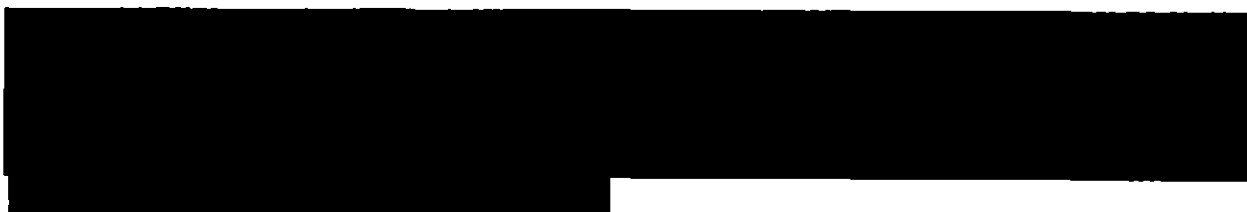
*****END*****

SPECIFIC POST ORDERS - Unit 2 Housing Observation Officer

Duty Hours – 6:00 AM – 6:00 PM (Shift 2)
6:00 PM – 6:00 AM (Shift 1)

Report to Unit 2 wearing the prescribed uniform and relieve the outgoing officer. After you make your relief, as the equipment is issued on a 24-hour basis, you are required to indicate the key ring number and type of equipment accounted for in your post logbook. Count the keys to ensure the number of keys corresponds with the total number on the key ring chit. Key rings must be secured to a belt by a clip and a metal chain. Contact the Control Center and test your radio/body alarm.

Equipment



Primary Responsibility

This post commences 14 calendar days before a scheduled execution. You have the responsibility of continuous direct supervision of the inmate while he/she is housed in the designated general population housing-unit cell in preparation for his/her sentence being carried out. You will be positioned directly outside the inmate's cell with a line of sight inside the cell.

These are not all-inclusive duties. You are subject to other duties as assigned.

Documentation

Logbook entries must be legible and intelligible, documenting routine and unusual activity. An example of a log entry is:

6:00 AM Relieved Officer Williams and assumed duties as the Unit 2 Officer. Key Rings F-1, X-22, Radio, (1) set of handcuffs, (1) set of leg irons, (1) handheld metal detector, and (1) flashlight accounted for.

12:01 PM Count announced, Officer Smith backing count.

12:47 PM Clear count with 32 inmates.

Security Measures / Conditions of Confinement

Restraints – The inmate will be restrained from the rear when going to the recreation area or other unit based out of cell activity. Full restraints will be used when inmate is moved outside of the unit.

Meals – The inmate will be provided meals consistent with the unit feeding schedule. All utensils and feeding materials will be retrieved following each meal.

Telephone use – The inmate will be permitted routine use of the telephone. All requests and initiated/completed calls will be documented in the logbook.

Visits – All inmate requested visits must be made in writing and approved by the Warden.

Personal property – Personal property may be transferred into the cell by/with the inmate upon prior approval from the Warden after consultation with Assistant Commissioner, Prison Operations. All items will be searched prior to allowance into the cell. He/she will be permitted to purchase commissary from the unit's approved list, maintain in the cell legal and religious materials, pencil, paper, and books. Use of hygiene items (soap and toothpaste) toothbrush, and a comb are permissible.

Females may have feminine hygiene items as needed.

All personal property will be visually inspected and electronically screened via x-ray each time items are removed are permitted inside the cell.

Recreation – The inmate will be permitted out of cell, outdoor recreation in one-hour increments on five separate days for a total of five per week. Recreation will be scheduled when the inmate is the sole person in the outdoor recreation area.

Clothing exchange – All clothing issued will be visually and electronically screened for contraband.

Bedding/Mattress– Upon initial placement, issue a new mattress, all new bedding, and towels. Authorized items include two sheets, one blanket, one pillow, one pillowcase, two wash clothes and one towel.

Showers – Upon request, razors will be issued and retrieved upon use each time.

Cell sanitation – Upon request by the inmate, sanitation supplies (broom and cleaner) may be issued only when a supervisor is present in the unit. The items must be collected immediately upon completed use.

Official count times – Official counts are conducted [REDACTED]
[REDACTED]

Clinical rounds – Ensure that Clinical Services staff visits the unit daily. The staff member will be required to initial the CR-2578 form and the officer make an entry documenting their presence in the post logbook.

Duties:

1. Always remain alert and continuously monitor inmate.
2. Ensure inmate is issued one set of clean clothing initially prior to entering cell and exchange clothing prior to re-entering the cell after each exit (shower, recreation, visitation, etc.).
3. Search inmate after each cell exit and prior to re-entering. All searches will include the use of a handheld metal detector.
4. Conduct official counts with a second staff member, sign slip, and submit to the Control Center. Staff must be certain they are observing living, breathing flesh in making an accurate count.
5. Document inmate's actions that are not indicated on the Segregation Unit Record (reading, writing, listening to music, watching tv, etc.) in the post logbook.
6. Document in the post logbook, each request made by the inmate and actions taken.
7. Document the beginning and ending times of meals, visits, and telephone calls.
8. Request a security supervisor or higher prior to removing the inmate from a secured area for supervision oversight and guidance.
9. Conduct a proper search of all items and will document the search in the logbook. Legal mail will be scanned for contraband and opened in the presence of the inmate.



*****END*****

Exhibit 3

TENNESSEE LETHAL INJECTION PROTOCOL INVESTIGATION

REPORT AND FINDINGS

*Confidential Attorney-Client Communication
And Attorney Work Product*

DECEMBER 13, 2022

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INVESTIGATIVE REPORT

*Confidential Attorney-Client Communication
And Attorney Work Product*

To: Governor Bill Lee

From: Butler Snow LLP

Date: December 13, 2022

Subject: Tennessee Lethal Injection Protocol Investigation – Report
and Findings

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Preamble

On or about May 2, 2022, Governor Bill Lee (“Governor Lee”) announced plans to conduct a third-party review into the circumstances that led him to issue a reprieve in connection with the April 21, 2022, scheduled execution of Oscar Franklin Smith (“Mr. Smith”). Subsequently, Butler Snow LLP (“Butler Snow”), led by Edward L. Stanton III, was retained to conduct an independent investigation.¹ Specifically, Governor Lee asked Butler Snow to conduct an independent review of the following:

- Circumstances that led to testing the lethal injection chemicals for only potency and sterility but not endotoxins [in connection with] preparing for the April 21 execution;
- Clarity of the lethal injection process manual that was last updated in 2018, and adherence to testing policies since the update; and
- TDOC staffing considerations.²

This report contains an analysis of Butler Snow’s review into the foregoing areas outlined by Governor Lee. While some interviewees expressed opinions regarding the propriety of the death penalty or necessity of endotoxin testing in future protocols, Butler Snow was not asked to examine these issues and did not do so.

Throughout Butler Snow’s investigation, the State of Tennessee has demonstrated an unwavering commitment to transparency and accuracy. The Tennessee Department of Correction (“TDOC”) and the Office of the Tennessee Attorney General (the “Tennessee Attorney General’s Office”) consistently provided the investigative team with the information/documents they sought and gave them prompt access to all relevant employees requested to be interviewed in connection with the instant investigation.

¹ In addition to Edward L. Stanton III, the investigative team included S. Keenan Carter, Jennifer Svilar, and Alexa Ortiz Hadley.

² See **Exhibit 1**, Governor Lee’s May 2, 2022 Press Release.

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- 5 Letter from Hikma Pharmaceuticals USA Inc.
- 6 Letters from Sandoz, Inc.
- 7 Emails between Drug Procurer and Pharmacy Owner dated May 15, 2019
- 8 Emails between Drug Procurer and Pharmacy Owner dated July 20, 2017
- 9 Emails between Drug Procurer and Pharmacy Owner dated October 30, 2019
- 10 Handwritten Notes of Drug Procurer dated February 25, 2020
- 11 Deposition Transcript of Debbie Inglis
- 12 Emails between Drug Procurer and Pharmacy Owner dated September 7, 2017
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- 17 Emails between Drug Procurer and Pharmacy Owner dated November 28, 2017 through December 4, 2017
- 18 LIC Inventory Page dated December 30, 2017
- 19 Edited LIC Protocol
- 20 LIC Protocol, July 2018
- 21 Pharmacy Services Agreement, June 25, 2015
- 22 Email from Pharmacy Owner to Drug Procurer dated July 16, 2018
- 23 Directions for Unpacking and Storage
- 24 Text Message between Drug Procurer and Pharmacy Owner dated July 5, 2018

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- 25 Emails between Pharmacy Owner and Pharmacist dated August 7, 2018
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- 27 Order, *Smith v. State of Tennessee*
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- 29 Notice-Order (other)-Misc. (Sua Sponte), *Smith v. State of Tennessee*
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- 38 Drug Procurer Text Messages, dated April 20-22, 2022
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- 52 Testing Reports, dated September 24 and October 8, 2018

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- 53 Text Messages between Drug Procurer and Pharmacy Owner, dated September 25, 2018
- 54 Testing Reports, dated September 24 and October 8, 2018
- 55 Email from Pharmacy Owner to Drug Procurer, dated October 10, 2018
- 56 Letter from D. Inglis to K. Henry re: *State of Tennessee v. Zagorski*
- 57 Zagorski Reprieve, dated October 11, 2018
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- 59 Testing Report, dated November 7, 2018
- 60 Miller Notification Letter, dated November 21, 2018
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- 67 Testing Reports, dated April 26 and May 9, 2019
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- 72 Email from Pharmacy Owner to Drug Procurer, dated May 9, 2019
- 73 Email from K. Henry to D. Inglis, dated May 20, 2019
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- 76 Emails between Drug Procurer and Pharmacy Owner, dated June 26, 2019
- 77 Emails between Drug Procurer, Pharmacy Owner and Pharmacist, dated June 26 and July 2, 2019
- 78 West Prescription, dated July 12, 2019

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- 79 Testing Reports, dated July 17, 30, 2019
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- 81 Text Messages between Pharmacy Owner and Drug Procurer, dated July 29-31, 2019
- 82 Email from Pharmacy Owner to Drug Procurer, dated July 31, 2019
- 83 Text Messages between Pharmacy and Drug Procurer, dated August 1, 2019
- 84 Testing Reports, dated August 7, 12, 2019
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- 92 Emails from Pharmacy Owner to Drug Procurer, dated August 12, 2019
- 93 Hall Notification Letter, dated November 5, 2019
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- 102 Text messages between Drug Procurer and Pharmacy Owner, dated December 3, 2019
- 103 Testing Reports, dated November 22, December 5, 16, 2019
- 104 Email from Pharmacy Owner to Drug Procurer, dated December 5, 2019

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- 105 Testing Reports, dated December 5, 16, 2019
- 106 Sutton Prescription, dated December 19, 2019
- 107 Text Messages between Drug Procurer and Pharmacy Owner, dated December 25, 2019 and Jan. 2, 2020
- 108 Testing Reports, dated January 17, 27, 28, 2020
- 109 Testing Reports, dated January 17, 28, 2020
- 110 Sutton Affidavit Concerning Method of Execution
- 111 Testing Reports, dated January 17, 27, 28, 2020
- 112 Deposition Transcripts of Warden Tony Mays

ADDITIONAL DOCUMENTS PROVIDED/REVIEWED

See Appendix.

WITNESS INTERVIEW LIST

Tennessee Attorney General's Office

- 1 Herbert Slatery — Former Attorney General
- 2 Andrée Blumstein — Solicitor General
- 3 Rob Mitchell — Senior Assistant Attorney General
- 4 Scott Sutherland — Deputy Attorney General
- 5 Dianna Shew — Chief Deputy Attorney General

Tennessee Department of Corrections

- 6 Lisa Helton — Interim Commissioner
- 7 Debbie Inglis — Deputy Commissioner/General Counsel
- 8 Tony Mays — Riverbend Maximum Security Institution Warden
- 9 Kelly Young — Inspector General
- 10 Executioner
- 11 Drug Procurer
- 12 Richard Muckle — Special Assistant to the Commissioner
- 13 Tony Parker — Former Commissioner

Pharmacy

- 14 Former Pharmacy Owner
- 15 Pharmacist
- 16 Current Pharmacy Owner

Reprive Organization

- 17 Maya Foa — Joint Executive Director
- 18 Blaire Andres — Head of death penalty projects (United States)

Federal Community Defender Office for the Eastern District of Pennsylvania

- 19 Alex Kursman — Assistant Federal Defender (Capital Habeas Corpus Unit)
- 20 Hayden Nelson-Major — Research/Writing Attorney (Capital Habeas Corpus Unit)

Federal Public Defender for the Middle District of Tennessee

- 21 Kelley Henry — Supervisory Assistant Federal Public Defender
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EXECUTIVE SUMMARY

As independent investigators, Butler Snow conducted an impartial and comprehensive review of all relevant evidence concerning the three areas referenced in Governor Lee's May 2, 2022, press release. This report addresses all relevant policies/protocols, describes related investigative findings, and recommends specific steps to remedy and/or mitigate the likelihood of any issues recurring in the future. The investigative findings are premised on the following: witness interviews; in-depth historical research; an extensive and thorough review of thousands of pages of relevant documents; and an analysis of lethal injection chemical testing data.

Based on the evidence obtained in the investigation, Butler Snow made the following findings:

A. Circumstances that led to testing the lethal injection chemicals for only potency and sterility but not endotoxins [in connection with] preparing for the April 21 execution

- There is no evidence that any failure to test the lethal injection chemicals for endotoxins in connection with Mr. Smith's scheduled execution on April 21 was intentional.
- There is no evidence that, when the State of Tennessee revised its lethal injection protocol in 2018, it ever provided the pharmacy tasked with testing Tennessee's lethal injection chemicals with a copy of Tennessee's lethal injection protocol.
- There is no evidence that, when the State of Tennessee revised its lethal injection protocol in 2018, any employee ever informed the pharmacy tasked with testing Tennessee's lethal injection chemicals that it should conduct an endotoxin test on all lethal injection chemicals – until the eve of Mr. Smith's scheduled execution on April 21.
- The evidence shows that the pharmacy tasked with testing Tennessee's lethal injection chemicals only tested these chemicals for *potency and sterility*, because the pharmacy followed the United States Pharmacopeia testing guidelines, not Tennessee's lethal injection protocol (which was never provided).

B. Clarity of the lethal injection process manual that was last updated in 2018, and adherence to testing policies since the update

- The evidence shows that the lethal injection chemicals used in the August 9, 2018, execution of Mr. Billy Ray Irick ("Mr. Irick") were not tested for endotoxins. The evidence

further shows that the Midazolam used during Mr. Irick's execution was not tested for potency.

- The evidence shows that, although Edmund Zagorski ("Mr. Zagorski") was executed via electrocution on November 1, 2018, the lethal injection chemicals prepared in the event Mr. Zagorski changed his mind and opted to be executed by lethal injection were not tested in accordance with Tennessee's lethal injection protocol. The lethal injection chemicals were not tested for endotoxins and failed the potency testing.
- The evidence shows that, although David Earl Miller ("Mr. Miller") was executed via electrocution on December 6, 2018, the lethal injection chemicals prepared in the event Mr. Miller changed his mind and opted to be executed by lethal injection were not tested in accordance with Tennessee's lethal injection protocol. The lethal injection chemicals were not tested for endotoxins.
- The evidence shows that the lethal injection chemicals used in the May 16, 2019, execution of Mr. Donnie Edward Johnson ("Mr. Johnson") were not tested for endotoxins.
- The evidence shows that, although Stephen West ("Mr. West") was executed via electrocution on August 15, 2019, the lethal injection chemicals prepared in the event Mr. West changed his mind and opted to be executed by lethal injection were not tested in accordance with Tennessee's lethal injection protocol. The lethal injection chemicals were not tested for endotoxins.
- The evidence shows that, although Lee Hall ("Mr. Hall") was executed via electrocution on December 5, 2019, the lethal injection chemicals prepared in the event Mr. Hall changed his mind and opted to be executed by lethal injection were not tested in accordance with Tennessee's lethal injection protocol. The lethal injection chemicals were not tested for endotoxins.
- The evidence shows that, although Nicholas Sutton ("Mr. Sutton") was executed via electrocution on February 20, 2020, the lethal injection chemicals prepared in the event Mr. Sutton changed his mind and opted to be executed by lethal injection were not tested in accordance with Tennessee's lethal injection protocol. The lethal injection chemicals were not tested for endotoxins.

C. TDOC staffing considerations

- The evidence shows that TDOC leadership placed an inordinate amount of responsibility on the Drug Procurer without providing much, if any, professional guidance; resources; or assistance. Instead, TDOC leadership viewed the lethal injection process through a tunnel-vision, result-oriented lens rather than provide TDOC with the necessary guidance and counsel needed to ensure that Tennessee's lethal injection protocol was thorough, consistent, and followed.

I. METHODOLOGY AND SCOPE OF INDEPENDENT INVESTIGATION

Butler Snow's review of the issues referenced in Governor Lee's May 2, 2022, press release involved the following steps:

- (1) Coordinating with the Tennessee Attorney General's Office to obtain relevant documents and interviewing various attorneys with pertinent information.
- (2) Coordinating with TDOC to obtain relevant documents and interviewing various members of the department with pertinent information.
- (3) Coordinating with the Pharmacy used to supply Tennessee's lethal injection chemicals to obtain relevant documents and interviewing Pharmacy personnel with relevant knowledge.
- (4) Collecting, organizing, reviewing, and analyzing relevant documents and data obtained from the Tennessee Attorney General's Office, TDOC, and the Pharmacy.
- (5) Conducting in excess of 25 interviews including, but not limited to, members of the Tennessee Attorney General's Office, TDOC, and the Pharmacy.

This report is organized in the following sections:

- Section II provides background history and information relating to the events that triggered the instant investigation, the adoption of Tennessee's lethal injection protocol, and TDOC's execution training.
- Section III provides an analysis of the three investigative areas: (1) circumstances surrounding the scheduled execution of Mr. Smith, (2) clarity of and adherence to the lethal injection protocol's testing policy since it was finalized in July 2018, and (3) TDOC staffing considerations.
- Section IV provides a summary of investigative findings and recommendations to address/correct the Tennessee lethal injection protocol shortcomings discussed herein.

II. RELEVANT FACTS AND BACKGROUND

This Section provides an overview of the facts surrounding Governor Lee's granting of a temporary reprieve to Mr. Smith.³ Additionally, this Section provides information on Tennessee's efforts to revise its Lethal Injection Protocols (hereinafter, the "Protocol") and to conduct

³ At age 40, Mr. Smith was convicted of murder in the October 1, 1989, killings of his estranged wife, Judy Robird Smith and her minor sons, Chad Burnett and Jason Burnett.

execution training at TDOC. This Section is intended for background purposes, and additional facts and analysis will follow in the subsequent portions of this Report.

A. Events Triggering Independent Investigation

On April 21, 2022, Mr. Smith was scheduled to be executed by lethal injection. The day before the execution, Mr. Smith's attorneys contacted TDOC's Deputy Commissioner of Administration and General Counsel, Debbie Inglis ("Ms. Inglis" or "Deputy Commissioner/General Counsel"), to confirm whether the lethal injection chemicals ("LIC") that would be used during Mr. Smith's execution had been properly tested in accordance with TDOC's LIC Protocol. TDOC determined that the LIC had not been tested for endotoxins⁴ as required by Tennessee's Lethal Injection Protocol (as revised, July 2018) ("July 2018 Protocol" or "current Protocol"). As a result, Governor Lee issued a temporary reprieve to Mr. Smith on April 21, and on May 2, Governor Lee called for an independent investigation, to be led by Edward L. Stanton, III of Butler Snow. Governor Lee outlined three areas of review:

1. Circumstances that led to testing the LIC for only potency and sterility but not endotoxins preparing for the April 21 execution;
2. Clarity of the lethal injection process manual (the Protocol) that was last updated in 2018, and adherence to testing policies since the update; and
3. TDOC staffing considerations.

B. Adoption of Tennessee's Lethal Injection Protocol

Over the years, the Protocol has been revised multiple times. These revisions include, but are not limited to, title changes, drug changes, format changes, testing requirements, and the addition of consciousness checks. This Section covers the changes pertaining to the LIC used for executions.

⁴ Bacterial endotoxin testing measures the presence and quantity of endotoxins in a particular sample. The "endo" in endotoxins refers to something that is within. The "toxin" component relates to something poisonous. Endotoxins come from the cell walls of gram-negative bacteria.

1. One-Drug Protocol and the Search for Pentobarbital

The Drug Procurer is responsible for obtaining the LIC that will be used in an execution by lethal injection.⁵ This position is not defined in any iteration of the Protocol, nor are the responsibilities of the role discussed in the Protocol. Based on instructions from former TDOC Commissioner Tony Parker (“Commissioner Parker”),⁶ TDOC’s Deputy Commissioner/General Counsel selected the current Drug Procurer in the summer of 2016. The same individual has served as Drug Procurer for all LIC executions following the enactment of the current Protocol in July 2018. The current Drug Procurer described it as an “off the books” role, as procuring LIC is not their⁷ sole responsibility with TDOC.⁸

Prior to the Drug Procurer assuming this role, TDOC carried out executions through a one-drug Protocol using a lethal dose of Pentobarbital. In creating this Protocol, TDOC consulted experts who recommended the one-drug Protocol. Accordingly, the Drug Procurer was specifically instructed, by Commissioner Parker, to locate a new source for Pentobarbital, because the compounding pharmacist TDOC previously used could no longer obtain it.

Because TDOC did not have any policies in place for procuring LIC,⁹ the Drug Procurer began conducting Google searches and making cold calls to active pharmaceutical ingredient (“API”) suppliers located in the United States. They were provided with no direction, just the directive to find a Pentobarbital source. In making calls, the Drug Procurer struggled to find a source to supply Pentobarbital, as pharmacies/manufacturers did not have the chemical; did not

⁵ Although the Drug Procurer is an essential role, its position and corresponding duties are noticeably absent from the current Protocol.

⁶ Commissioner Parker retired from his position as TDOC Commissioner effective on or about November 30, 2021.

⁷ With limited exceptions, this Report uses the pronoun “they” for all individuals referred to herein to preserve anonymity.

⁸ Drug Procurement is neither the job title nor primary role of any TDOC employee.

⁹ Another individual served in this role prior to the current appointee, but that individual is no longer employed with TDOC. The two did not exchange information about the responsibilities of the role.

have the quantity requested by TDOC;¹⁰ or did not want to be associated with lethal injection executions.¹¹ TDOC determined that other states were also facing difficulty when trying to locate a source for Pentobarbital. The Drug Procurer contacted at least one state to get information regarding locating a source for Pentobarbital, but that state did not provide any beneficial information.

In late 2016 to early 2017, the Drug Procurer cold-called a compounding pharmacy that was willing to help look for Pentobarbital and agreed to compound the drug if found. This is the same compounding pharmacy that currently supplies TDOC with compounded LIC based on the Pharmacy Services Agreement entered into with TDOC in 2017 (hereinafter, the “Pharmacy”).¹² The Drug Procurer’s primary point of contact was the Pharmacy’s owner.¹³ Before getting involved with TDOC, the Pharmacy’s owners and Pharmacist met to ensure that all individuals were willing to provide LIC (once found) to TDOC for use in executions. None of the individuals voiced any concern or indicated that the Pharmacy should not work with TDOC. As a result, the Pharmacy and Pharmacist undertook efforts to become licensed in Tennessee.

Efforts to find Pentobarbital continued even while the Pharmacy was awaiting licensure in Tennessee. The Pharmacy Owner reached out to various suppliers,¹⁴ but Pentobarbital was either only available in a small quantity, for limited purchasing only, or not available. The Pharmacy Owner found a potential source, but that source would have required the Pharmacy to sign an acknowledgment indicating the chemical would not be used for executions. As a result, the

¹⁰ Text messages between Drug Procurer and Pharmacy Owner, attached hereto as **Exhibit 2** at 2-3; Emails between Drug Procurer and potential suppliers, dated Apr. 4, 6, 2017 and June 20, 2018, attached hereto as **Exhibit 3**.

¹¹ See, e.g., Letter from Alvogen, Inc., dated Apr. 20, 2018, attached hereto as **Exhibit 4**; Letter from Hikma Pharmaceuticals USA Inc., dated Feb. 26, 2020, attached hereto as **Exhibit 5**; Letters from Sandoz, Inc., dated Aug. 15, 2019 and Aug. 2, 2018, attached hereto as **Exhibit 6**.

¹² Pharmacy Services Agreement, attached hereto as **Exhibit 21**.

¹³ The Pharmacy Owner left the Pharmacy in early 2020, and from that point forward, the Drug Procurer communicated with the Pharmacist directly.

¹⁴ Text messages between Drug Procurer and Pharmacy Owner, attached hereto as **Exhibit 2** at 3 (listing the following suppliers: Cardinal Health, McKesson, Medisca, PCCA, ANDA, Amerisource Bergen, Sigma Aldrich).

Pharmacy could not use the source. The Pharmacy Owner and Drug Procurer also considered the possibility of obtaining Pentobarbital from a veterinarian because “[t]hey sometimes have better access to it since it’s widely used for euthanasia in animals.”¹⁵ That effort never came to fruition.

It became clear to TDOC that it was extremely difficult finding a U.S.-based source that would provide Pentobarbital in the amount needed for use in lethal injection executions. The Drug Procurer and Pharmacy Owner also investigated whether the drug could be obtained from an international source and imported.¹⁶ It was ultimately determined that the United States Drug Enforcement Administration (“DEA”) would not allow Pentobarbital to be imported because it is a schedule II drug that was considered “readily available” in the United States.¹⁷

Even if considered “readily available” by the DEA, TDOC was unable to obtain Pentobarbital. Because Pentobarbital was unavailable, TDOC made the decision to adopt a three-drug Protocol. The Drug Procurer’s efforts to locate Pentobarbital continued into at least 2020,¹⁸ even after TDOC adopted its new three-drug Protocol and removed the Pentobarbital Protocol (identified as Protocol A) from TDOC’s current Protocol. Even today, TDOC officials prefer a one-drug protocol to the three-drug protocol.¹⁹ With a one-drug protocol, TDOC representatives told investigators there is a lower risk of mistake in carrying out an execution. Further, according to at least one TDOC official, the potential for mistakes also increases when more compounded LIC are used.

2. First Iteration of Three-Drug Protocol (January 2018)

Having been unable to obtain Pentobarbital for its then one-drug Protocol, in the Fall of 2017, TDOC began inquiring about developing a new three-drug Protocol. Commissioner Parker

¹⁵ Text messages between Drug Procurer and Pharmacy Owner, dated Apr. 6, 2017, attached hereto as **Exhibit 2** at 1.

¹⁶ Emails between Drug Procurer and Pharmacy Owner, dated May 15, 2019, attached hereto as **Exhibit 7**; Emails between Drug Procurer and Pharmacy Owner, dated July 20, 2017, attached hereto as **Exhibit 8**.

¹⁷ Emails between Drug Procurer and Pharmacy Owner, dated Oct. 30, 2019, attached hereto as **Exhibit 9**.

¹⁸ Handwritten Notes of Drug Procurer, dated Feb. 25, 2020, attached hereto as **Exhibit 10**.

¹⁹ Dep. Tr. of Debbie Inglis at 37-39, attached hereto as **Exhibit 11**.

did some research on his own but relied on his Deputy Commissioner/General Counsel, the Drug Procurer, and the Tennessee Attorney General's Office to establish the new, three-drug Protocol. Commissioner Parker reviewed the written Protocol but did not have any involvement in drafting it, including the portions that address testing of LIC, which he assumed were drafted in consultation with the Pharmacist.²⁰

In early September of 2017, the Drug Procurer informed the Pharmacy Owner that TDOC wanted "to try to find Midazolam and then go from there" if Midazolam was unavailable.²¹ The Pharmacy Owner responded that both Midazolam and Potassium Chloride were "readily available" and that they had "reviewed several protocols from states" with three-drug protocols that use those drugs along with a paralytic.²² The Pharmacy Owner voiced "concern with Midazolam," stating that "[b]eing a benzodiazepine, it does not elicit strong analgesic effects," meaning "[t]he subjects may be able to feel pain from the administration of the second and third drugs." The Drug Procurer agreed to "pass this info on to the higher ups."²³

Nevertheless, TDOC chose to proceed with a three-drug Protocol that included Midazolam, Vecuronium Bromide, and Potassium Chloride. The Drug Procurer notified the Pharmacy Owner of this decision on September 21, 2017 and asked various questions about the dosage for each, available quantity, cost, shelf life and storage conditions.²⁴ In response, the Pharmacy Owner explained that the Vecuronium Bromide was available in a powder which would require reconstituting, noted the "typical dosing" for Potassium Chloride, and advised on the quantity required for both.²⁵ The Pharmacy Owner further explained that "there would be no need to

²⁰ Commissioner Parker never spoke to the Pharmacist, as he was advised against such contact by TDOC's attorneys.

²¹ Emails between Drug Procurer and Pharmacy Owner, dated Sept. 7, 2017, attached hereto as **Exhibit 12**. (RE: Update)

²² *Id.*

²³ *Id.*

²⁴ Emails between Drug Procurer and Pharmacy Owner, dated Sept. 21, 2017, attached hereto as **Exhibit 13**.

²⁵ *Id.*

compound” at that point and that the commercially available drugs could be maintained at room temperature and would have a shelf life of one to two years.²⁶ The Drug Procurer communicated this information back to their TDOC superiors.

The Pharmacy began obtaining commercially-manufactured LIC in October 2017. According to the Pharmacy Owner, by October 18, 2017, the Pharmacy had received Midazolam that would expire in June 2018, Vecuronium Bromide that would expire in December 2018, and Potassium Chloride that would expire in May 2018.²⁷ On October 26, 2017, the Drug Procurer again asked the Pharmacy Owner for information on how the LIC needed to be stored as well as how to prepare them for injection.²⁸ The Pharmacy Owner replied that the LIC should be “stored in a secured location at room temperature (between 15 and 30 degrees [Celsius]),” and that they would instruct the Pharmacist to draft a protocol on how to prepare them.²⁹ The Pharmacy Owner also attached a proposed Pharmacy Services Agreement, which contained terms related to the Pharmacy’s provision of prescription medication and compounded preparations. The Pharmacy Owner and Drug Procurer discussed and made various changes to the terms of this Agreement, but the Pharmacy requirements related to compounding (including compliance with pharmaceutical standards, the United States Pharmacopoeia guidelines and accreditation departments) remained the same.

Around that same time, the Drug Procurer and Pharmacy Owner exchanged a draft of certain pages of the Protocol in development. In particular, the Drug Procurer provided the Pharmacy Owner with copies of six pages of the Protocol, including full sections entitled “Chemicals Used in Lethal Injection” and “Protocol B: Lethal Injection Chemical Set-Up and Preparation,” as well as one page of the section ultimately entitled “Chemical Administration and IV Monitoring.”³⁰ The Pharmacy Owner made one revision to these pages, changing the size of

²⁶ *Id.*

²⁷ Emails between Drug Procurer and Pharmacy Owner, dated Oct. 18, 2017, attached hereto as **Exhibit 14**.

²⁸ Emails between Drug Procurer and Pharmacy Owner, dated Oct. 26, 2017, attached hereto as **Exhibit 15**.

²⁹ *Id.*

³⁰ Edited Excerpt of Protocol, attached hereto as **Exhibit 16**.

the syringe used for administration of Potassium Chloride to reduce the number of syringes used in an execution from three to two. The Pharmacy Owner sent these revisions to the Drug Procurer on November 28, 2017, along with a signed copy of the finalized Pharmacy Services Agreement.³¹

As of December 2017, the Protocol had not yet been updated. In preparation for the transition to the new three-drug Protocol, by the end of 2017, TDOC had acquired a bulk order of commercially manufactured Midazolam, Vecuronium Bromide, and Potassium Chloride from the Pharmacy. This order kickstarted the first revision of the Protocol to add the three-drug protocol. The January 2018 version of the Protocol included both protocol alternatives using commercially-manufactured drugs: (A) lethal injection by Pentobarbital and (B) lethal injection by Midazolam, Vecuronium Bromide, and Potassium Chloride.

CHEMICALS USED IN LETHAL INJECTION	
The Department will use one of the following protocols as determined by the Commissioner:	
<u>Protocol A:</u>	
Pentobarbital	100 ml of a 50 mg/mL solution (a total of 5 grams)
<u>Protocol B:</u>	
Midazolam	100 ml of a 5mg/ml solution (a total of 500 mg)
Vecuronium Bromide	100 ml of a 1mg/ml solution (a total of 100 mg)
Potassium Chloride	120 ml of a 2 mEq/ml solution (a total of 240 mEq)

Protocol A was kept because TDOC's search for Pentobarbital was ongoing. Because the January 2018 Protocol does not provide for the use of compounded LIC, there is no discussion of testing in this version of the Protocol.

³¹ Emails between Drug Procurer and Pharmacy Owner, dated Nov. 28, 2017 through Dec. 4, 2017, attached hereto as **Exhibit 17**.

3. Revisions Ahead of July 2018 Protocol

Executions resumed under Tennessee's current Protocol in mid-2018, beginning with the execution of Billy Ray Irick ("Mr. Irick") on August 9, 2018. By this point, TDOC had Potassium Chloride and Vecuronium Bromide that would not expire until July 2019 and June 2020, respectively; however, the Midazolam it had previously acquired was scheduled to expire in June 2018, meaning TDOC would need to procure additional Midazolam for executions.³²

By the time TDOC began efforts to acquire additional Midazolam in 2018, the Pharmacy was no longer able to obtain it in a commercially manufactured form due to suppliers requesting assurances that the drug would not be used for executions. As a result, TDOC began ordering Midazolam in its API form to be compounded by the Pharmacy. Based upon information conveyed to investigators, compounded drugs—in contrast to their commercially manufactured counterparts—should undergo certain testing under pharmaceutical guidelines, have different storage and preparation requirements, and have a much shorter shelf life.

In July 2018, TDOC, in coordination with the Tennessee's Attorney General's Office, revised the initial three-drug Lethal Injection Protocol to include reference to these additional requirements where the LIC are compounded. TDOC also removed alternative "A" – the Pentobarbital protocol – given TDOC's continued inability to obtain it.³³

³² LIC Inventory Page, dated Dec. 30, 2017, attached hereto as **Exhibit 18**.

³³ Edited Protocol, attached hereto as **Exhibit 19**.

CHEMICALS USED IN LETHAL INJECTION

The Department will use the following protocol for carrying out executions by lethal injection:

Midazolam	100 ml of a 5mg/ml solution (a total of 500 mg)
Vecuronium Bromide	100 ml of a 1mg/ml solution (a total of 100 mg)
Potassium Chloride	120 ml of a 2 mEq/ml solution (a total of 240 mEq)

Chemicals used in lethal injection executions will either be FDA-approved commercially manufactured drugs; or, shall be compounded preparations prepared in compliance with pharmaceutical standards consistent with the United States Pharmacopeia guidelines and accreditation Departments, and in accordance with applicable licensing regulations.

According to the Drug Procurer, they consulted the Pharmacy Owner in the course of TDOC's revision of the Protocol, particularly with respect to testing and storage requirements and compliance with the United States Pharmacopocia ("USP") guidelines. The Drug Procurer told investigators that, the Pharmacy Owner recommended testing for sterility,³⁴ potency³⁵ and endotoxins for compounded LIC. Interestingly, both the Pharmacy Owner and Drug Procurer expressed the belief to investigators that sterility testing included endotoxin testing,³⁶ but according to the Pharmacist, there are separate tests for sterility and endotoxins. Further, the Pharmacist noted that USP Chapter 797 only requires testing for endotoxins when compounding more than 25 doses at a time. When compounding single-dose vials—as the Pharmacist does for TDOC—the Pharmacist understands that USP Chapter 797 does not require endotoxin testing and

³⁴ Sterility testing is used to confirm sterile products do not contain viable microorganisms before release and patient administration.

³⁵ Potency testing measures the concentration of the API. It is necessary to ensure the quality, safety, and efficiency of biopharmaceutical products.

³⁶ The Pharmacy Owner, like the Drug Procurer, is not a pharmacist and has had no pharmaceutical training. The Pharmacy Owner's medical training consists of on-the-job training as an orthopedic scrub technician.

only requires “skip lot” testing (i.e. testing approximately every other batch) for sterility and potency. Regardless, there is no dispute that TDOC’s current Protocol requires endotoxin testing.

4. July 2018 Protocol and Extra-Protocol Instructions

The resulting, revised Protocol requires a physician’s order for compounded drugs and requires the Pharmacist to compound the drugs “in a clean sterile environment in compliance with pharmaceutical standards for identity, strength, quality, and purity of the compounded drug that are consistent with the United States Pharmacopoeia guidelines and accreditation Departments and in accordance with applicable licensing regulations pertaining to pharmacies compounding sterile preparations.”³⁷ The current Protocol then references the Pharmacy Services Agreement, which contains nearly identical language.³⁸ The current Protocol further requires the Pharmacist to arrange for independent testing of compounded drugs for potency, sterility and endotoxins.³⁹ Finally, it defers to the Pharmacy’s directions, pharmaceutical standards, and the USP guidelines with respect to the transfer, storage and maintenance of compounded LIC,⁴⁰ as well as Pharmacy directions for preparing the syringes for use in an execution.⁴¹

Specific directions related to the preparation of syringes for compounded LIC were not included in the current Protocol itself. Instead, the Pharmacy provided the Drug Procurer with separate preparation instructions for Midazolam—the only compounded LIC in use at the time—in July 2018.⁴² Similarly, because compounded drugs must be transported and stored at below-

³⁷ July 2018 Protocol, attached hereto as **Exhibit 20** at 35.

³⁸ *Id.*

³⁹ *Id.* The testing requirements also appeared in a 2015 version of a Pharmacy Services Agreement that TDOC may have had with its previous compounding pharmacy. *See* Agreement, dated June 25, 2015, attached hereto as **Exhibit 21**. This language does not appear in the current Agreement between TDOC and the Pharmacy.

⁴⁰ July 2018 Protocol, **Exhibit 20** at 35.

⁴¹ *Id.* at 39.

⁴² Email from Pharmacy Owner to Drug Procurer, dated July 16, 2018, including Revised IV Protocol, attached hereto as collective **Exhibit 22**.

freezing temperatures, the Pharmacy also provided Directions for Unpacking and Storage⁴³ with each shipment of compounded LIC, which were packed with dry ice. The Midazolam Preparation Instructions require transfer of the compounded Midazolam from the freezer to the refrigerator 24 hours prior to use and explain how to prepare the syringe, which includes adding both Midazolam and saline solution to the syringe.⁴⁴ Neither the current Protocol nor these instructions explain how far in advance of an execution compounded LIC should be removed from the refrigerator and prepared in a syringe.⁴⁵

In advance of Mr. Irick's scheduled execution, on or about August 7, 2018,⁴⁶ the Pharmacy Owner and Pharmacist participated in a phone call with the Executioner and at least one intravenous ("IV") Team Member for the purpose of (1) explaining how to prepare the Midazolam, (2) explaining how to reconstitute the Vecuronium Bromide, and (3) answering questions from the Execution Team.

C. Execution Training

In order to carry out safe and effective executions, Riverbend Maximum Security Institution ("RMSI") conducts monthly practice drills.⁴⁷ Under the Protocol, members of the Execution Team simulate Day 3 (day of execution) of the death watch procedures for at least one hour per month.⁴⁸ The training may last longer if needed. Additional training is held within two

⁴³ Directions for Unpacking and Storage, attached hereto as **Exhibit 23**.

⁴⁴ Revised IV Protocol, **Exhibit 22** at 2-4.

⁴⁵ Drug Procurer asked Pharmacy Owner about this via text message on July 5, 2018, to which Pharmacy Owner responded "My assumption is that it would need to be used within an hour. I'll confirm with the pharmacist." Text Message between Drug Procurer and Pharmacy Owner, dated July 5, 2018, attached hereto as **Exhibit 24**.

⁴⁶ Emails between Pharmacy Owner and Pharmacist, dated Aug. 7, 2018, attached hereto as **Exhibit 25**; Text messages between Drug Procurer and Pharmacy Owner, dated Aug. 7, 2018, attached hereto as **Exhibit 26**.

⁴⁷ As part of the investigation, Butler Snow's investigative team attended one of the monthly training sessions in person.

⁴⁸ Protocol, **Exhibit 20** at 32.

weeks before a scheduled execution, at which point RMSI conducts rehearsals at least twice per week.⁴⁹

As lethal injection is the primary method of execution in Tennessee, the monthly training focuses on the procedures for carrying out executions by lethal injection. Every quarter, RMSI also practices its procedures for carrying out executions by electrocution. If an execution by electrocution is scheduled, then the Execution Team will focus more on those procedures during the monthly training sessions. The Warden oversees all such training, and the TDOC Commissioner also attends many of the practices. All individuals who undergo the training are required to sign training rosters, which are maintained by TDOC.

During the lethal injection training, all steps of an execution are practiced with the following exceptions, as outlined in the Protocol:

- A. [TDOC staff] volunteers play the roles of the condemned inmate and the physician.
- B. Saline solution is substituted for the lethal chemicals.
- C. A body is not placed in the body bag.⁵⁰

Beyond monthly training, the Executioner receives initial and periodic instruction from a qualified medical professional.⁵¹ For instance, the Executioner and other members of the IV Team have received training on how to start an IV in case the emergency medical technicians (“EMTs”) are not available. During training, the IV Team practices pushing three syringes of saline, and because they cannot push the actual LIC, nor can they compound any LIC on hand, they simulate the remaining syringes.

⁴⁹ Protocol, **Exhibit 20** at 32.

⁵⁰ Protocol, **Exhibit 20** at 32.

⁵¹ Protocol, **Exhibit 20** at 32.

III. INVESTIGATIVE ANALYSIS

This section provides Butler Snow’s analysis of the facts learned through document review and investigative interviews based on the three areas of investigation provided by Governor Lee.

A. Circumstances Surrounding the Scheduled Execution of Oscar Franklin Smith

Oscar Franklin Smith was originally scheduled to be executed on June 4, 2020.⁵² Mr. Smith filed a motion to stay his execution due to the COVID-19 pandemic, and a stay was granted on April 17, 2020.⁵³ His execution was initially reset for February 4, 2021.⁵⁴ The COVID-19 stay was lifted, and Mr. Smith’s execution was reset for April 21, 2022.⁵⁵ On March 21, 2022, TDOC informed Mr. Smith that his execution would be carried out by lethal injection “according to the protocol and procedures in TDOC’s Lethal Injection Manual, as amended on July 5, 2018, using a three-drug combination consisting of Midazolam, Vecuronium Bromide, and Potassium Chloride.”⁵⁶

A physician’s prescription for Midazolam and Potassium Chloride was issued for Mr. Smith on March 16, 2022.⁵⁷ The Pharmacy compounded the Midazolam and Potassium Chloride and sent samples to the independent testing laboratory⁵⁸ (the “Lab”) for sterility and potency testing on or about March 18 (Potassium Chloride) and April 6 (Midazolam) of 2022. The Potassium Chloride sample passed sterility testing on March 21, and the Midazolam sample passed

⁵² Order, *Smith v. State of Tennessee*, Case No. M2016-01869-SC-R11-PD, attached hereto as **Exhibit 27**.

⁵³ Notice – Order – Stay Execution (Death) Granted, *Smith v. State of Tennessee*, Case No. M2016-01869-SC-R11-PD, attached hereto as **Exhibit 28**.

⁵⁴ *Id.*

⁵⁵ Notice – Order (Other) – Miscellaneous (Sua Sponte), *Smith v. State of Tennessee*, Case No. M2016-01869-SC-R11-PD, attached hereto as **Exhibit 29**.

⁵⁶ Smith Notification Letter, dated Mar. 21, 2022, attached hereto as **Exhibit 30**.

⁵⁷ Smith Prescription, dated Mar. 16, 2022, attached hereto as **Exhibit 31**.

⁵⁸ The Pharmacy has used the same independent testing laboratory since it began working with TDOC.

sterility testing on April 20.⁵⁹ The Potassium Chloride sample yielded a within-range potency of 103% on March 31, and the Midazolam sample yielded a within-range potency of 102% on April 8. The Pharmacist subsequently provided the test results to the Drug Procurer.⁶⁰ The samples were not tested for endotoxins.

The LIC arrived at RMSI on or about April 12. On April 12, 14 and 18, lethal injection training was conducted at the prison.⁶¹ On April 20, the LIC were moved to the refrigerator for thawing prior to the execution. Also, on April 20, Mr. Smith's attorney, Kelley Henry ("Ms. Henry"), sent an email to TDOC's Deputy Commissioner/General Counsel (1) inquiring about whether the LIC to be used in Mr. Smith's execution had been tested for "strength, sterility, stability, potency, and presence of endotoxins" and (2) requesting a copy of the test results.⁶² The Deputy Commissioner/General Counsel informed TDOC Interim Commissioner Lisa Helton ("Interim Commissioner Helton") about Ms. Henry's request.

The Deputy Commissioner/General Counsel forwarded the email to the Drug Procurer⁶³ to determine the status of the LIC testing. The Drug Procurer, in turn, contacted the Pharmacist on April 20 to determine if an endotoxin test had been conducted or if the endotoxin test was the same as sterility testing.⁶⁴ According to a text exchange between the Drug Procurer and the Pharmacist: "No endotoxin test, it's a different test but based on USP 797 the amount we make isn't required.

⁵⁹ Based on this date, the Pharmacist would have had to send the LIC to the Drug Procurer before the test results came back because the execution was scheduled for the following day (April 21), and the LIC must thaw for 24 hours before they can be used. Butler Snow did not find any evidence of when the LIC were sent for Mr. Smith's execution.

⁶⁰ Testing Reports, dated Mar. 21, 31, and Apr. 8, 20, 2022, attached hereto as **Exhibit 32**.

⁶¹ See *supra* for a discussion of TDOC's execution training protocols.

⁶² Email from K. Henry to D. Inglis, dated April 20, 2022, attached hereto as **Exhibit 33**. Ms. Henry also sent a follow-up email on April 21, 2022, at 5:50:42 PM, again requesting the testing results. A copy of this email is attached hereto as **Exhibit 34**. Later that same day, Ms. Henry sent an email asking TDOC to preserve all records, documents, drugs, and drug paraphernalia that were to be used in Mr. Smith's execution. A copy of this email is attached hereto as **Exhibit 35**.

⁶³ Other individuals with TDOC and the Tennessee Attorney General's office received the email, either by virtue of being cc'd or via forward.

⁶⁴ Text messages between Drug Procurer and Pharmacist, dated Apr. 20-21, 2022, attached hereto as **Exhibit 36**.

Is the endotoxin test requested? Sorry I didn't have it tested.”⁶⁵ The Drug Procurer indicated a belief that endotoxin testing had been done on prior occasions and that they would contact the Pharmacist on the following day to discuss the USP 797 guidelines.⁶⁶ Therefore, at least one TDOC employee was aware that no endotoxin testing had been conducted on the LIC during the evening of the day before Mr. Smith's scheduled execution.

1. Day of Execution: TDOC

On the morning of April 21, 2022, the Drug Procurer asked the Pharmacist whether the Lab still had samples and would be able to do the endotoxin testing that day.⁶⁷ The Pharmacist responded that the testing could not be done because they would have had to send extra samples for the Lab to do endotoxin testing.⁶⁸ Around lunchtime on April 21, TDOC employees who were to be involved in the execution gathered at Interim Commissioner Helton's residence for a final walk-through – which is customary on the scheduled day of an execution. During this time, there were also ongoing conversations between TDOC, the Tennessee Attorney General's Office, and Governor Lee's office. TDOC advised that if the LIC were not tested for endotoxins, then TDOC would need to ask Governor Lee for a reprieve. At that point, the Drug Procurer indicated that the testing was not required by USP guidelines. Even so, it was required by the current Protocol, and as such, TDOC would seek a reprieve because the Protocol was not followed. The Tennessee Attorney General's Office also recommended a reprieve.

During the afternoon of Mr. Smith's execution day, while the reprieve request was still being considered, the Execution Team needed to proceed as though the execution would go as scheduled. For instance, Execution Team members needed to take their stations, and the victims' family needed to be moved to their locations. Media representatives also were scheduled to be at RMSI for the execution. For this reason, Interim Commissioner Helton chose to move forward and

⁶⁵ *Id.*

⁶⁶ *Id.* The Pharmacist also testified in a deposition to having tested for endotoxins before, but as explained above, they only did endotoxin testing on the initial batch of Midazolam when they were testing the methodology.

⁶⁷ *Id.*

⁶⁸ *Id.*

continue preparing for the execution until the reprieve was issued. Around 4:30 PM CT, the Drug Procurer met the Executioner to get the LIC out of the refrigerator and transport the LIC to the Execution Chamber.⁶⁹ About 5:30 PM CT, the Execution Team began preparing the syringes to be used during the execution.

TDOC learned that the reprieve would be issued at 5:45 PM CT. Interim Commissioner Helton advised Warden Tony Mays, who told Mr. Smith about the reprieve. Mr. Smith's attorney and spiritual advisor were also present when the news was delivered. Interim Commissioner Helton also spoke with members of TDOC to assure them that they had done a good job preparing for the execution. Once the execution was called off, TDOC stopped setup of the LIC at approximately 5:51 PM CT.⁷⁰ The Execution Team had partially prepared the first (red) set of LIC (saline and Vecuronium Bromide) but had not yet mixed the compounded LIC. TDOC then undertook efforts to preserve the LIC and all documentation in the event of an investigation.⁷¹

2. Day of Execution: Tennessee's Attorney General's Office

Around 1:30 PM CT on April 21, 2022, members of the Tennessee Attorney General's Office met to review documents, review the Protocol, and discuss next steps. The Tennessee Attorney General's Office team concluded that they could not state that TDOC followed the Protocol in preparing for Mr. Smith's execution. Accordingly, the attorneys turned their focus to how best to respond to Mr. Smith's attorney's inquiry. They also spoke with the Pharmacist, who indicated that they had done endotoxin testing in the past but not for the LIC to be used in Mr. Smith's execution. At this point, the Pharmacist purportedly indicated that the lack of endotoxin testing was an "oversight."⁷² The group also spoke with the Drug Procurer, and one member of the Tennessee Attorney General's Office spoke with an expert, who was also a pharmacist and

⁶⁹ Text messages between Drug Procurer and Executioner, dated Apr. 21, 2022, attached hereto as **Exhibit 37**.

⁷⁰ Drug Procurer text messages, dated Apr. 20-22, 2022, attached hereto as **Exhibit 38**.

⁷¹ Inventory of Items Preserved from Apr. 21, 2022 Execution Prep, attached hereto as **Exhibit 39**.

⁷² The Pharmacist was clear when speaking to Butler Snow that only one endotoxin test had ever been performed because it was not required under the USP guidelines based on the amount of drugs compounded. The purpose of the one endotoxin test, performed in May 2018, was to test the Pharmacy's compounding methodology.

explained why endotoxin testing was important. After the reprieve was issued, members of the Tennessee Attorney General's Office were invited to the executive residence for a meeting with Governor Lee regarding the execution events.

3. Days Following Cancelled Execution

After issuing the reprieve in connection with Mr. Smith's execution, Governor Lee's office asked for a copy of the current Protocol and other documents that would aid in determining why the LIC were not tested for endotoxins. TDOC compiled the requested documents and provided them to Governor Lee's office. At some point between April 21 and 27, the question was raised regarding whether endotoxin testing had been conducted in connection with the lethal injection executions TDOC conducted as scheduled subsequent to adopting the July 2018 Protocol. The Pharmacist apparently had informed the Drug Procurer that they had not done endotoxin testing for any of the prior executions because the test was not required under USP guidelines. The Pharmacist indicated to Butler Snow that they were surprised when the Drug Procurer asked if endotoxin testing had been performed for the LIC for Mr. Smith's execution because they had never been asked to do endotoxin testing before. The Pharmacist was also unaware that endotoxin testing was part of the Protocol. In fact, Butler Snow has found no evidence that the current Protocol was ever provided to the Pharmacy. It appears that the Pharmacist was following the USP guidelines to determine what tests to conduct on the LIC, because TDOC never sent them the Protocol. The Pharmacist had no way of knowing TDOC finalized and implemented the Protocol. The Tennessee Attorney General's Office requested documents, including all LIC testing records. On April 22, 2022, the Tennessee Attorney General's Office received 31 pages of testing results dating back to 2018, although only 17 of those had been produced previously in litigation.

On April 24, in response to an inquiry from the Governor's office, the Drug Procurer provided the following information regarding TDOC's policies for lethal injection: (1) the Protocol does not require any additional testing of the LIC beyond the tests conducted by the Lab after the Pharmacy compounds the LIC; (2) there is no policy or procedure in place to address how the LIC test results are to be maintained following TDOC's receipt; (3) there is no log book to track periodic testing, since it is not required, but all third-party test results are received and maintained

by the Drug Procurer; and (4) there are no documents evidencing TDOC's review (yearly or otherwise) of the Protocol.⁷³

By April 27, it became clear that none of the LIC used and/or prepared for post-2018 executions had been tested for endotoxins. Further, TDOC learned that there were additional problems with the testing of the LIC used in Mr. Irick's execution in 2018 because there was also no potency testing completed.⁷⁴ The explanation provided by the Pharmacy Owner at the time was that the potency test conducted for the batch in May 2018 was good for the LIC provided for the scheduled execution of Mr. Irick in August 2018. Through the course of their post Mr. Smith reprieve dialogue with the Pharmacist, TDOC learned that this was in fact not true.

As stated earlier in this Report, there is no indication that TDOC provided the Pharmacy with a copy of the July 2018 Protocol, under which all of the executions covered in this Report were carried out. The Pharmacist did not conduct endotoxin testing unless it was requested, and TDOC did not specifically request endotoxin testing results until the day of Mr. Smith's execution. However, TDOC consistently only requested sterility and potency testing results from the Pharmacy in connection with each scheduled lethal injection execution.⁷⁵

B. Adherence to Protocol's Testing Policies Since Update in July 2018

Since the Protocol was updated in July 2018, there have been a total of seven executions, two of which were by lethal injection, and five of which were by electrocution.⁷⁶ Butler Snow's review of TDOC's adherence to the Protocol necessitated a review of each execution carried out by TDOC since adoption of the July 2018 Protocol. Butler Snow discovered that only one sample of Midazolam was ever tested for endotoxins, and no samples of Potassium Chloride were tested

⁷³ Emails between Gov. Lee's office and TDOC, dated Apr. 21-24, 2022, attached hereto as **Exhibit 40**.

⁷⁴ See *infra* for more information.

⁷⁵ TDOC likely did not request endotoxin testing because the Drug Procurer was operating under the mistaken belief that endotoxin testing was incorporated in the sterility testing.

⁷⁶ Executions by electrocution are covered under TDOC's Electrocution Protocol (updated March 13, 2017). These executions are only discussed here because, as explained above, TDOC decided to have LIC available for all executions, regardless of the method chosen by the condemned.

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for endotoxins. The only endotoxin test was conducted in May 2018, a few months before Mr. Irick's execution. The following is an illustration of the LIC testing results during the relevant timeframe:

LIC Testing Results Spreadsheet

Test Date	Drug	Test	Results	Date Received	Inmate
5/22/2018	Midazolam	Suitability	Pass	5/10/2018	Irick
5/14/2018	Midazolam	Container Closure Integrity	Pass	5/10/2018	Irick
5/11/2018	Midazolam	Potency	97.00%	5/10/2018	Irick
5/11/2018	Midazolam	Bacterial Endotoxins	Pass	5/10/2018	Irick
5/25/2018	Midazolam	Sterility	Pass	5/10/2018	Irick
8/6/2018	Midazolam	Sterility	Pass	7/21/2018	Irick
9/24/2018	Midazolam	Potency	94.20%	9/22/2018	Zagorski
10/8/2018	Midazolam	Sterility	Pass	9/22/2018	Zagorski
11/7/2018	Midazolam	Potency	54.20%	10/27/2018	Zagorski
12/4/2018	Midazolam	Potency	89.40%	11/21/2018	Miller
12/5/2018	Midazolam	Sterility	Pass	11/21/2018	Miller
4/26/2019	Midazolam	Potency	104.00%	4/25/2019	Johnson
5/9/2019	Midazolam	Sterility	Pass	4/25/2019	Johnson
7/17/2019	Potassium Chloride	Potency	112.00%	7/16/2019	West
7/30/2019	Potassium Chloride	Sterility	Pass	7/16/2019	West
7/18/2019	Midazolam	Potency	92.40%	7/16/2019	West
7/30/2019	Midazolam	Sterility	Pass	7/16/2019	West
7/31/2019	Potassium Chloride	Suitability	Pass	7/26/2019	West
8/12/2019	Potassium Chloride	Potency	94.00%	8/6/2019	West
8/7/2019	Potassium Chloride	Potency	94.00%	8/6/2019	West
8/9/2019	Potassium Chloride	Sterility	Pass	8/6/2019	West
11/18/2019	Midazolam	Potency	114.00%	11/13/2019	Hall
11/22/2019	Midazolam	Potency	98.60%	11/21/2019	Hall
12/5/2019	Potassium Chloride	Potency	94.70%	12/2/2019	Hall
12/5/2019	Midazolam	Sterility	Pass	11/21/2019	Hall
12/16/2019	Potassium Chloride	Sterility	Pass	12/2/2019	Hall
1/17/2020	Potassium Chloride	Potency	104.00%	1/14/2020	Sutton
1/28/2020	Potassium Chloride	Sterility	Pass	1/14/2020	Sutton
1/27/2020	Midazolam	Potency	100.00%	1/14/2020	Sutton
1/28/2020	Midazolam	Sterility	Pass	1/14/2020	Sutton
7/21/2020	Potassium Chloride	Potency	99.50%	7/17/2020	Nichols

Test Date	Drug	Test	Results	Date Received	Inmate
7/21/2020	Midazolam	Potency	98.40%	7/17/2020	Nichols
7/31/2020	Midazolam	Sterility	Pass	7/17/2020	Nichols
7/31/2020	Potassium Chloride	Sterility	Pass	7/17/2020	Nichols
4/8/2022	Midazolam	Potency	102.00%	4/6/2022	Smith
4/20/2022	Midazolam	Sterility	Pass	4/6/2022	Smith
3/21/2022	Potassium Chloride	Sterility	Pass	3/18/2022	Smith
3/31/2022	Potassium Chloride	Potency	103.00%	3/22/2022	Smith

1. Billy Ray Irick

In May 2018, the Pharmacy sent a sample of its first compounded batch of Midazolam to the external Lab for testing. That sample was tested for method suitability,⁷⁷ container closure integrity,⁷⁸ potency, bacterial endotoxins, and sterility.⁷⁹ Although not all tests are required under the USP, the Pharmacist explained that they requested these tests for their first compounded batch to ensure their compounding process was sound. The sample passed each of the tests and yielded a within-range potency of 97%. It appears that this lot was essentially a “test run,” given that this was the first time the Pharmacy would be compounding Midazolam rather than ordering it in commercially manufactured form. According to the Pharmacy Owner—in text messages⁸⁰ with the Drug Procurer—passing the method suitability test indicates that the Pharmacy’s method for compounding the drug is sound and translates across multiple batches. However, passing results on one batch for potency, sterility, and endotoxins does not necessarily indicate that a subsequent batch will yield the same test results. Based on the 45-day shelf life of compounded Midazolam, the batch tested in May 2018 would have surpassed its beyond-use date prior to Mr. Irick’s execution date in August 2018.

⁷⁷ Method suitability testing is performed to determine whether any inhibitory or antimicrobial properties in a drug product will prevent the sterility test from detecting the presence of viable microorganisms.

⁷⁸ Container closure integrity testing is performed to evaluate the adequacy of a closure in maintaining a sterile barrier.

⁷⁹ Testing Reports, attached hereto as **Exhibit 41**.

⁸⁰ Text messages between Drug Procurer and Pharmacy Owner, dated Aug. 8, 2019, attached hereto as **Exhibit 42**.

A physician's prescription for Midazolam was issued for Mr. Irick on July 18, 2018,⁸¹ and the Pharmacy compounded the Midazolam on July 20.⁸² A sample of that lot was sent for testing on or about July 21, 2018.⁸³ This lot was tested for sterility on August 6, 2018 and passed,⁸⁴ and the Pharmacy Owner sent those test results to the Drug Procurer via email the same day.⁸⁵ Text messages between the Drug Procurer and the Pharmacy Owner indicate that, at TDOC's urging, the Pharmacy Owner shipped the Midazolam to TDOC before receiving those test results.⁸⁶

This lot of Midazolam was not tested for potency or endotoxins. When the sterility test came back, the Drug Procurer asked the Pharmacy Owner via text message about the potency results.⁸⁷ The Pharmacy Owner replied that the pharmacist did not request a potency verification given that our methodology and suitability passed in May with the same midazolam lot.⁸⁸ The Drug Procurer asked whether this indicated that "the potency portion is good for that whole 50-gram batch."⁸⁹ The Pharmacy Owner responded:

"Our methodology is good for any batch of midazolam. It just verifies that how we process the compound yields the intended dosing within an acceptable range. Potency testing isn't required for every lot, however, given the sensitive nature of

⁸¹ Irick Prescription, dated July 18, 2018, attached hereto as **Exhibit 43**.

⁸² Email from Pharmacy Owner to Drug Procurer, dated Aug. 8, 2018, including copy of Logged Formula Worksheet, dated July 20, 2018, attached hereto as **Exhibit 44**.

⁸³ Testing Report, dated Aug. 6, 2018, attached hereto as **Exhibit 45**.

⁸⁴ *Id.* (25)

⁸⁵ Email from Pharmacy Owner to Drug Procurer, dated Aug. 6, 2018, including copy of Testing Report, dated Aug. 6, 2018, attached hereto as **Exhibit 46**.

⁸⁶ Text messages between Drug Procurer and Pharmacy Owner, dated July 25-26, 2018, attached hereto as **Exhibit 47**.

⁸⁷ Text messages between Drug Procurer and Pharmacy Owner, attached hereto as **Exhibit 48**.

⁸⁸ *Id.*

⁸⁹ Text messages between Drug Procurer and Pharmacy Owner, dated Aug. 7, 2018, attached hereto as **Exhibit 49**.

its intended use, I have instructed [the Pharmacist] to request it every time moving forward.”⁹⁰

The Drug Procurer accepted this explanation and did not inform the Pharmacy Owner that a potency test was nevertheless required under the Protocol. It appears that this batch of Midazolam was used in the execution of Mr. Irick on August 9, 2018.

2. Edmund Zagorski

Edmund Zagorski (“Mr. Zagorski”) was initially scheduled to be executed on October 11, 2018 by lethal injection.⁹¹ A physician’s prescription for Midazolam was issued for Mr. Zagorski on September 21, 2018.⁹² Upon compounding the Midazolam, the Pharmacy sent a sample of that lot to the Lab for testing on or about September 22, which was tested for both sterility and potency.⁹³ While this testing was pending, the Drug Procurer asked the Pharmacy Owner “to go ahead and ship the latest batch” on September 25, which the Pharmacy Owner did.⁹⁴ The sample ultimately passed the sterility test and yielded a within-range potency of 94.2%.⁹⁵ The Pharmacy Owner sent these results to the Drug Procurer via email on October 10, 2018.⁹⁶ The sample was not tested for endotoxins.

On October 8, Mr. Zagorski apparently submitted an Affidavit Concerning Method of Execution purporting to waive his right to execution by lethal injection and electing to be executed

⁹⁰ *Id.*

⁹¹ Zagorski Notification Letter, dated Sept. 27, 2018, attached hereto as **Exhibit 50**.

⁹² Zagorski Prescription, dated Sept. 21, 2018, attached hereto as **Exhibit 51**.

⁹³ Testing Reports, dated Sept. 24 and Oct. 8, 2018, attached hereto as **Exhibit 52**.

⁹⁴ Text messages between Drug Procurer and Pharmacy Owner, dated Sept. 25, 2018, attached hereto as **Exhibit 53**.

⁹⁵ Testing Reports, dated Sept. 24 and Oct. 8, 2018, attached hereto as **Exhibit 54**.

⁹⁶ Email from Pharmacy Owner to Drug Procurer, dated Oct. 10, 2018, including Testing Report, attached hereto as **Exhibit 55**.

by electrocution instead.⁹⁷ Given this late change, then Tennessee Governor Bill Haslam issued a reprieve on October 11, which remained in effect until October 21.⁹⁸ Mr. Zagorski ultimately confirmed his decision to be executed by electrocution, to which TDOC agreed, and his execution was rescheduled for November 1. Nevertheless, although not explicitly required by the Protocol, TDOC made the decision from that point forward to obtain LIC for each execution in the event of a last-minute method change. Accordingly, a second physician's prescription for Midazolam was issued for Mr. Zagorski on October 24,⁹⁹ the Pharmacy compounded the Midazolam, and sent a sample to the Lab for sterility and potency testing on or about October 27.¹⁰⁰ The sample was not tested for endotoxins. By the time the potency test was completed on November 7—yielding a below-range result of 54.2%—Mr. Zagorski had already been executed by electrocution on November 1.

3. David Earl Miller

David Earl Miller (“Mr. Miller”) was scheduled to be executed on December 6, 2018, and TDOC notified Mr. Miller by letter dated November 21 that it planned to carry out this execution by lethal injection.¹⁰¹ A physician's prescription for Midazolam was issued for Mr. Miller on November 16,¹⁰² and the Pharmacy compounded the Midazolam and sent a sample to the Lab for sterility and potency testing on or about November 21.¹⁰³ Mr. Miller elected to be executed by electrocution on November 23.¹⁰⁴ The sample later passed sterility testing but yielded a below-

⁹⁷ Letter from D. Inglis to K. Henry re: *State of Tennessee v. Edmund Zagorski*, M1996-00110-SC-DPE-DD, dated Oct. 9, 2018, attached hereto as **Exhibit 56**.

⁹⁸ Zagorski Reprieve, dated Oct. 11, 2018, attached hereto as **Exhibit 57**.

⁹⁹ Second Zagorski Prescription, attached hereto as **Exhibit 58**.

¹⁰⁰ Testing Report, dated Nov. 7, 2018, attached hereto as **Exhibit 59**.

¹⁰¹ Miller Notification Letter, dated Nov. 21, 2018, attached hereto as **Exhibit 60**.

¹⁰² Miller Prescription, dated Nov. 16, 2018, attached hereto as **Exhibit 61**.

¹⁰³ Testing Reports, dated Dec. 4, 5, 2018, attached hereto as **Exhibit 62**.

¹⁰⁴ Miller Notification Letter signed by Miller, dated Nov. 23, 2018, attached hereto as **Exhibit 63**.

range potency of 89.4%.¹⁰⁵ The sample was not tested for endotoxins. The Midazolam was not used, as Mr. Miller was executed by electrocution on December 6 as scheduled.

4. Donnie Edward Johnson

Donnie Edward Johnson (“Mr. Johnson”) was scheduled to be executed on May 16, 2019 by lethal injection.¹⁰⁶ A physician’s prescription for Midazolam was issued for Mr. Johnson on April 17, 2019,¹⁰⁷ the Pharmacy compounded the Midazolam, and sent a sample to the Lab for sterility and potency testing on or about April 25.¹⁰⁸ The potency test came back first, on April 26, with a within-range result of 104%. The Pharmacy Owner sent this result to the Drug Procurer on April 29.¹⁰⁹ While the sterility test was still pending, the Drug Procurer asked the Pharmacy Owner via text message if they could send the Midazolam to TDOC early, stating “[It would] be good to go ahead and get it stored since next week will be execution week and a little hectic.”¹¹⁰ The Pharmacy Owner agreed and shipped the Midazolam on May 8 via priority overnight.¹¹¹ The package arrived and the sterility test came back the next day—May 9—with a passing result, which the Pharmacy Owner sent to the Drug Procurer.¹¹² The sample was not tested for endotoxins. Mr. Johnson was executed by lethal injection on May 16 as scheduled with the compounded Midazolam received from the Pharmacy and the unexpired, commercially-manufactured

¹⁰⁵ Testing Reports, **Exhibit 64**.

¹⁰⁶ Johnson Notification Letter, dated Apr. 16, 2019, attached hereto as **Exhibit 65**.

¹⁰⁷ Johnson Prescription, dated Apr. 17, 2019, attached hereto as **Exhibit 66**.

¹⁰⁸ Testing Reports, dated Apr. 26 and May 9, 2019, attached hereto as **Exhibit 67**.

¹⁰⁹ Email from Pharmacy Owner to Drug Procurer, dated Apr. 29, 2019, including Testing Report, attached hereto as **Exhibit 68**.

¹¹⁰ Text messages between Pharmacy Owner and Drug Procurer, dated May 8, 2019, attached hereto as **Exhibit 69**.

¹¹¹ Text messages between Pharmacy Owner and Drug Procurer, dated May 8, 2019, attached hereto as **Exhibit 70**.

¹¹² Text messages between Pharmacy Owner and Drug Procurer, dated May 9, 2019, attached hereto as **Exhibit 71**; Email from Pharmacy Owner to Drug Procurer, dated May 9, 2019, including Testing Report, attached hereto as **Exhibit 72**.

Vecuronium Bromide and Potassium Chloride that TDOC still had in its inventory. Following Mr. Johnson's execution, on May 20, 2019, Ms. Henry requested "all data regarding the lethal injection chemicals used in the execution including the results of the sterility testing of the chemicals[.]"¹¹³

5. Stephen West

Stephen West ("Mr. West") was scheduled to be executed on August 15, 2019 by lethal injection.¹¹⁴ Because the Potassium Chloride in TDOC's inventory would expire in July 2019, TDOC needed to acquire both Midazolam and Potassium Chloride in advance of Mr. West's planned execution. As with the Midazolam in early 2018, the Pharmacy was no longer able to obtain commercially-manufactured Potassium Chloride, necessitating it to compound the drug instead. In preparation for this switch, the Pharmacist drafted separate Preparation Instructions for Potassium Chloride at the Drug Procurer's request.¹¹⁵ The Pharmacy Owner and Drug Procurer exchanged drafts of these instructions on June 26, 2019, with the Drug Procurer making edits to the quantity of saline, number of syringes, and certain outlined steps.¹¹⁶ The Pharmacy Owner forwarded the Drug Procurer's revised draft to the Pharmacist, who approved the same on July 2.¹¹⁷ Like the Midazolam Preparation Instructions, these instructions require transfer of the compounded Potassium Chloride from the freezer to the refrigerator 24 hours prior to use and explain how to prepare the syringe, but they do not instruct on how far in advance of an execution to prepare that syringe.

¹¹³ Email from K. Henry to D. Inglis, dated May 20, 2019, attached hereto as **Exhibit 73**.

¹¹⁴ West Notification Letter, attached hereto as **Exhibit 74**.

¹¹⁵ Text messages between Drug Procurer and Pharmacy Owner, dated June 17, 21 and 24, 2019, attached hereto as **Exhibit 75**.

¹¹⁶ Emails between Drug Procurer and Pharmacy Owner, dated June 26, 2019, including Potassium Chloride Preparation Instructions, attached hereto as **Exhibit 76**.

¹¹⁷ Emails between Drug Procurer, Pharmacy Owner and Pharmacist, dated June 26 and July 2, 2019, attached hereto as **Exhibit 77**.

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A physician's prescription for Midazolam and Potassium Chloride was issued for Mr. West on July 12, 2019.¹¹⁸ The Pharmacy compounded the Midazolam and Potassium Chloride and sent samples to the Lab for sterility and potency testing on or about July 16.¹¹⁹

The Midazolam sample yielded a within-range potency of 92.4% on July 18, but the Potassium Chloride sample yielded an above-range potency of 112% on July 17.¹²⁰ The Pharmacy Owner sent both results to the Drug Procurer on July 24.¹²¹ By separate text message, the Pharmacy Owner instructed the Drug Procurer to "scratch that batch" of Potassium Chloride in light of the above-range potency result and informed the Drug Procurer that the Pharmacy had prepared and sent another batch for testing.¹²² The Midazolam sample passed sterility testing on July 30, and the Pharmacy Owner sent those results to the Drug Procurer via email the next day.¹²³

On August 1, the Pharmacy Owner informed the Drug Procurer via text message that the Pharmacy was "having issues with the potassium chloride" and that they "can't use it" because it was "falling out of solution."¹²⁴ According to investigative interviews, when a drug is falling out of solution, it means the API is not fully dissolving into the intended liquid form during the compounding process. The Pharmacy ultimately compounded several batches and sent a successful sample of one of those batches to the Lab for sterility and potency testing on or about

¹¹⁸ West Prescription, dated July 12, 2019, attached hereto as **Exhibit 78**.

¹¹⁹ Testing Reports, dated July 17, 30, 2019, attached hereto as **Exhibit 79**.

¹²⁰ *Id.*

¹²¹ Email from Pharmacy Owner to Drug Procurer, dated July 24, 2019, including Testing Reports, attached hereto as **Exhibit 80**.

¹²² Text messages between Pharmacy Owner and Drug Procurer, dated July 29-31, 2019, attached hereto as **Exhibit 81**.

¹²³ Email from Pharmacy Owner to Drug Procurer, dated July 31, 2019, including Testing Report, attached hereto as **Exhibit 82**.

¹²⁴ Text messages between Pharmacy Owner and Drug Procurer, dated Aug. 1, 2019, attached hereto as **Exhibit 83**.

August 6, 2019.¹²⁵ It appears a separate sample was also sent for Suitability testing and passed.¹²⁶ On August 8, while this testing was pending, the Drug Procurer asked the Pharmacy Owner via text message if they could send the LIC the following day, explaining “[the] higher ups [don’t] wanna [sic] wait till [sic] Tuesday.”¹²⁷ The Pharmacy Owner agreed. The Drug Procurer also asked if they could rely on the sterility testing from a prior batch of Potassium Chloride for sterility on the new batch.¹²⁸ Initially, the Pharmacy Owner replied “Absolutely.” However, in response to further questioning by the Drug Procurer regarding USP guidelines for relying on testing from a prior batch, the Pharmacy Owner explained, “You could rely on that as proof that our methodology is valid. You cannot apply one lot’s sterility to another lot.”¹²⁹

The Drug Procurer and Pharmacy Owner made further edits to the Pharmacy’s instructions for Potassium Chloride on August 8.¹³⁰ On August 9, the Pharmacy Owner also sent the Drug Procurer an “in-house sterility report” for the Potassium Chloride batch, which showed a passing result.¹³¹ The Drug Procurer continued to follow up with the Pharmacy Owner via text message in the subsequent days regarding test results.¹³² On August 12, the Pharmacy Owner emailed the potency test report for the Potassium Chloride, which showed a within-range potency of 94%.¹³³

¹²⁵ Testing Reports, dated Aug. 7, 12, 2019, attached hereto as **Exhibit 84**.

¹²⁶ Testing Reports, dated July 31, 2019, attached hereto as **Exhibit 85**.

¹²⁷ Text messages between Drug Procurer and Pharmacy Owner, dated Aug. 8, 2019, attached hereto as **Exhibit 86**.

¹²⁸ Text messages between Drug Procurer and Pharmacy Owner, attached hereto as **Exhibit 87**.

¹²⁹ Text messages between Drug Procurer and Pharmacy Owner, dated Aug. 8, 2019, attached hereto as **Exhibit 88**.

¹³⁰ Emails between Drug Procurer and Pharmacy Owner, dated Aug. 8, 2019, including Potassium Chloride Preparation Instructions, attached hereto as **Exhibit 89**.

¹³¹ Email from Pharmacy Owner to Drug Procurer, dated Aug. 9, 2019, including In-House Sterility Report, dated Aug. 6, 2019, attached hereto as **Exhibit 90**. Note that the Protocol requires the Pharmacist to arrange **independent** testing of the LIC. *See* Protocol, **Exhibit 20** at 35.

¹³² Text messages between Drug Procurer and Pharmacy Owner, dated Aug. 8-12, 2019, attached hereto as **Exhibit 91**.

¹³³ Emails from Pharmacy Owner to Drug Procurer, dated Aug. 12, 2019, including Testing Reports dated Aug. 7, 12, 2019, attached hereto as **Exhibit 92**.

The sample was not tested for endotoxins. Ultimately, Mr. West elected to be executed by electrocution, which proceeded as scheduled on August 15.

6. Lee Hall

Lee Hall (“Mr. Hall”) was scheduled to be executed on December 5, 2019 by lethal injection.¹³⁴ A physician’s prescription for Midazolam and Potassium Chloride was issued for Mr. Hall on November 1, 2019.¹³⁵ Shortly thereafter, Mr. Hall elected to be executed by electrocution; however, consistent with its practice, TDOC proceeded to obtain back-up LIC. The Pharmacy compounded a batch of Midazolam and sent a sample to the Lab for sterility and potency testing on or about November 13.¹³⁶ The potency test came back on November 18 with an above-range potency of 114%. The Pharmacy Owner sent this result to the Drug Procurer via email on November 20.¹³⁷

The Pharmacy compounded a second batch of Midazolam and sent a sample to the Lab for sterility and potency testing on or about November 21.¹³⁸ The potency test on that sample came back on November 22 with a within-range potency of 98.6%. On November 25, the Pharmacy Owner shipped two packages to the Drug Procurer—presumably the Midazolam and Potassium Chloride—and sent shipping information via text message.¹³⁹ The Pharmacy Owner then sent the Midazolam potency result to the Drug Procurer via email on November 26.¹⁴⁰

¹³⁴ Hall Notification Letter, dated Nov. 5, 2019, attached hereto as **Exhibit 93**.

¹³⁵ Hall Prescription, dated Nov. 1, 2019, attached hereto as **Exhibit 94**.

¹³⁶ Testing Reports, dated Nov. 18, 2019, attached hereto as **Exhibit 95**.

¹³⁷ Email from Pharmacy Owner to Drug Procurer, dated Nov. 20, 2019, including Testing Report dated Nov. 18, 2019, attached hereto as **Exhibit 96**.

¹³⁸ Testing Report, dated Nov. 22, 2019, attached hereto as **Exhibit 97**.

¹³⁹ Text messages between Drug Procurer and Pharmacy Owner, dated Nov. 25, 2019, attached hereto as **Exhibit 98**.

¹⁴⁰ Email from Pharmacy Owner to Drug Procurer, dated Nov. 26, 2019, attached hereto as **Exhibit 99**.

At some point, the Pharmacy also compounded a batch of Potassium Chloride and sent it to the Lab for sterility and potency testing; however, on December 2, the Pharmacy Owner texted the Drug Procurer to inform him that they had “missed the mark by 2% points” on the Potassium Chloride and were sending a new batch.¹⁴¹ The Pharmacy sent a sample of that new batch to the Lab for potency and sterility testing on or about December 2.¹⁴² The Pharmacy Owner then mailed the new Potassium Chloride to TDOC on December 3.¹⁴³ On December 5, the second batch of Midazolam passed sterility testing and the second batch of Potassium Chloride yielded a within-range potency of 94.7%.¹⁴⁴ The Pharmacy Owner sent both results to the Drug Procurer the same day.¹⁴⁵ Mr. Hall was executed via electrocution as scheduled that evening. The Pharmacy did not receive a passing sterility result on the Potassium Chloride until December 16.¹⁴⁶ None of the samples were tested for endotoxins.

7. Nicholas Sutton

Nicholas Sutton (“Mr. Sutton”) was scheduled to be executed on February 20, 2020. A physician’s prescription for Midazolam and Potassium Chloride was issued for Mr. Sutton on December 19, 2019.¹⁴⁷ Around that time, the Pharmacy Owner—TDOC’s only contact at the Pharmacy—began transitioning out of the Pharmacy as a result of a buyout of their ownership share, with their last day scheduled for January 15, 2020.¹⁴⁸ The Drug Procurer and the New

¹⁴¹ Text messages between Drug Procurer and Pharmacy Owner, dated Nov. 25 and Dec. 2, 2019, attached hereto as **Exhibit 100**.

¹⁴² Testing Reports, dated Dec. 5, 16, 2019, attached hereto as **Exhibit 101**.

¹⁴³ Text messages between Drug Procurer and Pharmacy Owner, dated Dec. 3, 2019, attached hereto as **Exhibit 102**.

¹⁴⁴ Testing Reports, dated Nov. 22, Dec. 5, 16, 2019, attached hereto as **Exhibit 103**.

¹⁴⁵ Email from Pharmacy Owner to Drug Procurer, dated Dec. 5, 2019, including Testing Reports dated Nov. 22 and Dec. 5, 2019, attached hereto as **Exhibit 104**.

¹⁴⁶ Testing Reports, dated Dec. 5, 16, 2019, attached hereto as **Exhibit 105**.

¹⁴⁷ Sutton Prescription, dated Dec. 19, 2019, attached hereto as **Exhibit 106**.

¹⁴⁸ Text messages between Drug Procurer and Pharmacy Owner, dated Dec. 25, 2019 and Jan. 2, 2020, attached hereto as **Exhibit 107**.

Pharmacy Owner discussed TDOC's desire to continue working with the Pharmacy. Thereafter, the Drug Procurer began communicating directly with the Pharmacist, not the Pharmacy Owner.

The Pharmacy compounded the Midazolam and Potassium Chloride and sent samples to the Lab for sterility and potency testing on or about January 14, 2020.¹⁴⁹ The Potassium Chloride yielded a within-range potency of 104% on January 17.¹⁵⁰ On January 21, Mr. Sutton elected to be executed by electrocution.¹⁵¹ The Midazolam ultimately yielded a within-range potency of 100% on January 27, and both the Midazolam and Potassium Chloride passed their sterility tests on January 28.¹⁵² The samples were not tested for endotoxins. Butler Snow has not seen any record to indicate that the Pharmacist sent these results to TDOC prior to Mr. Sutton's execution. Mr. Sutton was executed by electrocution as scheduled on February 20, 2020.

C. Clarity of and Adherence to the July 2018 Protocol

1. Inconsistencies in the Protocol

Many individuals interviewed by Butler Snow indicated that there are inconsistencies contained within the July 2018 Protocol. The interviewees attributed any inconsistencies to revisions being made to one section or an addition of a new section without reviewing the entire document to determine if other areas have been impacted. Beyond the LIC testing failures that are the primary focus of this investigation, gaps and inconsistencies have been noted, particularly by TDOC employees, but changes have yet to be made. For instance, as noted above, one of the most significant gaps is the absence of any reference to the Drug Procurer or their responsibilities in the Protocol. It is Butler Snow's understanding that although the term "Drug Procurer" came about through litigation, the Drug Procurer responsibilities preexisted any litigation referencing the role. The current Protocol does not have any discussion of steps to be taken by the Drug Procurer when

¹⁴⁹ Testing Reports, dated Jan. 17, 27, 28, 2020, attached hereto as **Exhibit 108**.

¹⁵⁰ Testing Reports, dated Jan. 17, 28, 2020, attached hereto as **Exhibit 109**.

¹⁵¹ Sutton Affidavit Concerning Method of Execution, attached hereto as **Exhibit 110**.

¹⁵² Testing Reports, dated Jan. 17, 27, 28, 2020, attached hereto as **Exhibit 111**.

acquiring LIC. Furthermore, there is no discussion of how the Drug Procurer (or any other individual) should go about confirming that the required independent testing has been conducted.

Another issue with the current Protocol raised during the investigative interviews addressed the storage and accountability of the compounded LIC. For example, the Protocol states that the compounded LIC are to be stored in “an unmovable heavy gauge steel container with security grade locks.”¹⁵³ The Investigative Team observed that the LIC are stored securely but not in an “unmovable heavy gauge steel container” as mandated. As a result, the Protocol should be revised to reflect the true nature in which the LIC are stored. There are also no LIC temperature requirements referenced in the Protocol, no LIC storage guidelines, or instructions regarding when the LIC should be removed to allow for thawing. Accordingly, TDOC relies exclusively on the instructions from the Pharmacy with regard to how the compounded LIC are to be stored.¹⁵⁴

Finally, another unanswered question exists regarding how far in advance of an execution a compounded LIC should be removed from the refrigerator and prepared in a syringe. Neither the Protocol nor the Pharmacy’s instructions address this issue. The compounded LIC have a very short shelf-life, and this information is seemingly essential to ensuring an execution is carried out with only viable LIC.

2. Following the Protocol

Inconsistencies in the Protocol preclude TDOC’s ability to follow the Protocol to the letter in practice, and there is no formal process for determining if and when TDOC should deviate from the Protocol. The most egregious deviation seen by Butler Snow is the failure to test the LIC for endotoxins (and potency in Mr. Irick’s case). The Drug Procurer indicated that they consulted the Pharmacy Owner when drafting the July 2018 Protocol. The similarities in language used in the revised January 2018 Protocol and the Pharmacy Services Agreement relating to same corroborate the Drug Procurer’s recollection; however, Butler Snow has not uncovered any written

¹⁵³ July 2018 Protocol, **Exhibit 20** at 35.

¹⁵⁴ Directions for Unpacking and Storage, **Exhibit 23**.

communications between the Drug Procurer and the Pharmacy Owner regarding changes to the Protocol between January and July 2018. Similarly, Butler Snow has found no evidence that the current Protocol was ever sent to the Pharmacy. Instead, it appears that the Drug Procurer only sent the six-page drafts of sections regarding the chemicals used, their set-up and preparation, and the sequence and administration of the chemicals during the process of preparing the initial January 2018 iteration of the Protocol.

Both the Pharmacy Owner and Drug Procurer shared a misunderstanding of endotoxin testing, specifically whether such testing is included in sterility testing, and based on this misunderstanding, it appears neither consulted the Pharmacist on this topic in the course of discussing the July 2018 Protocol. Crucially, the Pharmacy never received a copy of these revisions or a complete copy of the July 2018 Protocol from TDOC, and the Pharmacist was never informed that the Protocol requires testing for potency, sterility, and endotoxins.

Other examples include the storage of the LIC, as well as TDOC's efforts to have LIC on hand even if the condemned has chosen electrocution as the method of execution. This practice began after the execution of Mr. Zagorski, but at least one TDOC employee indicated that the decision to have LIC on hand as a backup method is not required by the Protocol. Another example is in the disposal of expired LIC. Under the Protocol, the LIC is to be *disposed of upon expiration by hazardous waste pick-up*. However, inspections are only required to be done on a semi-annual basis, and on at least one occasion, LIC were disposed of that had been expired for several months.¹⁵⁵ With only semi-annual inspections, it is possible that expired LIC may be sitting for months before being disposed of in accordance with the Protocol, which increases the possibility of expired LIC being used inadvertently during an execution.

At least one TDOC employee indicated that when reviewed by a person familiar with the actual process followed during an execution, the Protocol is not strictly followed because it is inaccurate. Timing of events during execution was specifically noted as an area of the Protocol that needed to be examined and revised.

¹⁵⁵ Dep. Tr. of Warden Tony Mays at 193:25-196:25, attached hereto as **Exhibit 112**.

3. No Checks and Balances

There are no internal policies to ensure the Protocol is followed. Deviations occur, and although such deviations may ensure compliance with USP guidelines in the context of compounded LIC, this does not change the fact that the Protocol is not being followed. Commissioners Parker and Helton both indicated that it is ultimately their responsibility to ensure the Protocol is being followed, but to do so, a more rigorous review system must be put in place to ensure accountability. Several individuals referenced TDOC's general preference to have limited documentation and a hesitance to make changes to the Protocol, but the overall sense is that the Protocol needs to be reviewed to ensure that it is consistent in all aspects.

Furthermore, there is no structured review process. Members of the Execution Team¹⁵⁶ are required to review the Protocol annually once they become members of the Execution Team, but there is no verification process. According to the Protocol, the Warden or his designee holds an annual class to review the Protocol, but this training was not mentioned during Butler Snow's interviews with TDOC employees. Some RMSI training records identify the topic of training as "Protocol" via "lethal injection" or "electrocution," which may be a reference to the above-referenced class. When asked, some individuals stated they review the entire Protocol multiple times a year, and many indicated that they review portions of the Protocol when needed. It is imperative that all individuals involved understand what is required under the Protocol and how to meet those requirements. See recommendations below for how to improve this process.

¹⁵⁶ Under the Protocol, the Execution Team consists of the Warden, Associate Warden of Security, Executioner, IV Team, Extraction Team, Death Watch Team, Lethal Injection Recorder, Facility Maintenance Supervisor, ITS Security Systems Technician(s), and Escort Officers. July 2018 Protocol at 32.

D. TDOC Staffing Considerations

Butler Snow also attended one of the monthly lethal injection training sessions to observe the TDOC staff's involvement in the execution process. This allowed the investigative team to assess (1) the staff's expertise in carrying out lethal injection executions and (2) their ability to comply with the current Protocol. Butler Snow notes that all TDOC training participants appeared to be extremely professional, serious, dedicated and committed.

As far as the failure to test the LIC for endotoxins, there were no checks and balances in place to ensure testing occurred. Butler Snow's investigation revealed that neither the Pharmacy nor the Pharmacist ever received a full copy of the July 2018 Protocol, or even a partial copy that spoke to the testing requirements. Only one TDOC employee—the Drug Procurer—received the testing reports from the Pharmacy, and as a result, no one else had any insight into whether the LIC were prepared and tested in accordance with the Protocol. It should be noted that the Drug Procurer does not have a medical or pharmaceutical background, and as a result, they do not have any formal training that would aid them in understanding testing reports or assessing which tests are necessary for compounded LIC. It should be further noted that there is no Drug Procurer job description or list of duties stating that they are responsible for ensuring the LIC are properly tested in accordance with the current Protocol. Even so, a plain reading of the third-party lab reports indicates that only one endotoxin test occurred, and that was in May 2018. The fact of the matter is not one TDOC employee made it their duty to understand the current Protocol's testing requirements and ensure compliance with same. And, based upon information provided during investigative interviews, the Former Commissioner; Interim Commissioner; Deputy Commissioner/General Counsel; and Drug Procurer were in the best positions to ensure compliance with the Protocol.

While medical training may not be strictly necessary to perform the roles required for executions, it is certainly beneficial. Members of the Execution Team receive some medical training on how to start IVs, but other instruction on preparing and delivering the LIC during an execution came via instructions and a phone call with the Pharmacy. The Pharmacy Owner recalled that their impression from that phone call was that the members of the Execution Team they spoke

with were inexperienced in preparing syringes for injection. Neither the Executioner nor the IV Team Member recalled this phone call at the time of this Investigation. Even though the Executioner¹⁵⁷ has no formal healthcare training, they have participated in 13 executions for the state of Tennessee and have observed an execution in at least 1 other state. They learned how to fulfill their role primarily through on-the-job training and are very experienced at this point in time. It would be difficult to find another individual, however, with this experience and/or medical training to perform executions, because of the Hippocratic oath. Accordingly, in the event that this individual leaves TDOC, there does not appear to be anyone in place prepared or qualified to assume this role.

Additionally, placing the onus of finding LIC and verifying that the LIC are fit for use per the Protocol and USP guidelines is an enormous task to place on one individual, especially when they have other roles to fill and particularly when they are given zero guidance on how to carry out these tasks. Moreover, this method does not allow for any checks and balances whatsoever. Putting all of this responsibility on one person seems like an abdication of responsibility by TDOC leadership and the reason for the failures to comply with the current Protocol cited in this Report. See the recommendations below for how to remedy this issue.

IV. Investigative Findings and Recommendations

As independent investigators, Butler Snow conducted a comprehensive review of the available and relevant evidence concerning the circumstances which led Governor Lee to issue a reprieve in connection with the April 21, 2022, scheduled execution of Mr. Smith. In addition to this issue, the investigative team also (1) examined Tennessee's Lethal Injection Protocol and any deviations from same prior to April 21 and (2) determined the extent of TDOC's staff's responsibility relating to these issues. As previously stated, the investigative findings are primarily based upon the information gleaned through witness interviews as well as an extensive review of thousands of pages of documents and/or data. While the interviews were very insightful, they

¹⁵⁷ The Executioner is not involved in the testing of the LIC but is aware of the requirement by virtue of the Protocol.

further showed the absence of adequate expertise, guidance, and counsel either enlisted by or provided to TDOC in connection with Tennessee's lethal injection process. Instead, TDOC operated in a task-oriented, tunnel-vision manner that failed to appreciate the interwoven nature of the lethal injection process as a whole.

A. Investigative Findings

Based on the evidence obtained in the investigation, Butler Snow has made the following findings:

1. **Circumstances that led to testing the lethal injection chemicals for only potency and sterility but not endotoxins [in connection with] preparing for the April 21 execution**

- There is no evidence that any failure to test the lethal injection chemicals for endotoxins in connection with Mr. Smith's scheduled execution on April 21 was intentional.
- There is no evidence that, when the State of Tennessee revised its lethal injection protocol in 2018, it ever provided the pharmacy tasked with testing Tennessee's lethal injection chemicals with a copy of Tennessee's lethal injection protocol.
- There is no evidence that, when the State of Tennessee revised its lethal injection protocol in 2018, any employee ever informed the pharmacy tasked with testing Tennessee's lethal injection chemicals that it should conduct an endotoxin test on all lethal injection chemicals—until the eve of Mr. Smith's scheduled execution on April 21.
- The evidence shows that the pharmacy tasked with testing Tennessee's lethal injection chemicals only tested these chemicals for *potency and sterility*, because the pharmacy followed the United States Pharmacopeia testing guidelines, not Tennessee's lethal injection protocol.

2. **Clarity of the lethal injection process manual that was last updated in 2018, and adherence to testing policies since the update**

- The evidence shows that the lethal injection chemicals used in the August 9, 2018, execution of Mr. Billy Ray Irick ("Mr. Irick") were not tested for endotoxins. The evidence further shows that the Midazolam used during Mr. Irick's execution was not tested for potency.
- The evidence shows that, although Edmund Zagorski ("Mr. Zagorski") was executed via electrocution on November 1, 2018, the lethal injection chemicals prepared in the event

Mr. Zagorski changed his mind and opted to be executed by lethal injection were not tested in accordance with Tennessee's lethal injection protocol. The lethal injection chemicals were not tested for endotoxins and failed the potency testing.

- The evidence shows that, although David Earl Miller ("Mr. Miller") was executed via electrocution on December 6, 2018, the lethal injection chemicals prepared in the event Mr. Miller changed his mind and opted to be executed by lethal injection were not tested in accordance with Tennessee's lethal injection protocol. The lethal injection chemicals were not tested for endotoxins.
- The evidence shows that the lethal injection chemicals used in the May 16, 2019, execution of Mr. Donnie Edward Johnson ("Mr. Johnson") were not tested for endotoxins.
- The evidence shows that, although Stephen West ("Mr. West") was executed via electrocution on August 15, 2019, the lethal injection chemicals prepared in the event Mr. West changed his mind and opted to be executed by lethal injection were not tested in accordance with Tennessee's lethal injection protocol. The lethal injection chemicals were not tested for endotoxins.
- The evidence shows that, although Lee Hall ("Mr. Hall") was executed via electrocution on December 5, 2019, the lethal injection chemicals prepared in the event Mr. Hall changed his mind and opted to be executed by lethal injection were not tested in accordance with Tennessee's lethal injection protocol. The lethal injection chemicals were not tested for endotoxins.
- The evidence shows that, although Nicholas Sutton ("Mr. Sutton") was executed via electrocution on February 20, 2020, the lethal injection chemicals prepared in the event Mr. Sutton changed his mind and opted to be executed by lethal injection were not tested in accordance with Tennessee's lethal injection protocol. The lethal injection chemicals were not tested for endotoxins.

3. TDOC staffing considerations

- The evidence shows that TDOC leadership placed an inordinate amount of responsibility on the Drug Procurer without providing much, if any, guidance; help; or assistance. Instead, TDOC leadership viewed the lethal injection process through a tunnel-vision, result-oriented lens rather than provide the necessary guidance and counsel to ensure that Tennessee's lethal injection protocol was thorough, consistent, and followed.

B. Recommendations

The instant investigation has helped bring to light issues that have impacted TDOC's ability to comply with Tennessee's Lethal Injection Protocol since it was put in place in 2018. As a result,

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Butler Snow makes the following recommendations for corrective action, further investigation, or training:

- Consider hiring a full-time employee or retaining a consultant with a pharmaceutical background to provide guidance in connection with the lethal injection process.
 - Conduct an exhaustive review of the current Protocol.
 - Review the current Protocol's testing requirements.
 - Establish testing guidelines for any compounded LIC with procedures for confirming that the appropriate tests are being performed.
 - Establish a procedure for storing and maintaining test results.
 - Establish a procedure for storing and maintaining LIC, including recommendations regarding suitable equipment for storage.
 - Assist with locating LIC sources and communicating pertinent information to same.
- Ensure that a copy of any current or future version of the TDOC Protocol is provided to the LIC provider.
- Evaluate the roles and outline the duties of all TDOC employees, as well as any third parties, tasked with participating in the lethal injection process.
- Consider hiring a full-time employee or retaining a consultant with a healthcare background to provide scheduled guidance and training to the Execution Team.
 - Determine whether any Execution Team members should be required to obtain any certifications and/or licenses.
- Establish a team/committee to review all relevant testing data prior to each scheduled execution to ensure that there are no deviations from the Protocol.
 - Consider incorporating deadlines to obtain testing results in sufficient time to ensure that failing LIC are not made available or used during a scheduled execution.
 - Consider annual audits to ensure compliance and to evaluate Protocol efficiencies and best practices.

Appendix

ADDITIONAL DOCUMENTS PROVIDED/REVIEWED

Documents from TDOC

1. Prescription orders for lethal drugs
2. 2017-2018 Handwritten inventory for lethal drugs
3. 11/15/2018 Inventory for lethal injection supplies
4. 12/20/2017 Inventory for lethal drugs
5. 11/1/2019 Inventory for lethal drugs
6. Research re compounding pharmacies and compounded drug products
7. 12/20/2017 Inventory for lethal drugs
8. Handwritten lethal drug inventory and storage pictures
9. 2022 Handwritten inventory for lethal drugs
10. 11/30/2020 Inventory for lethal injection supplies
11. 2018-2022 [Lab] Validation and Lab Reports for drugs
12. Handwritten notes re drug supplier status and maintenance
13. Handwritten notes re court and lethal drug storage and suppliers
14. Vendor list for Fentanyl and Midazolam manufacturers
15. Cardinal Health list of restricted products to Unqualified/incarceration facility customers
16. 4/25/2018 Letter from Alvogen rejecting use of its drugs in lethal injection
17. Handwritten notes re status of lethal drug suppliers
18. Handwritten notes re lethal drugs and suppliers
19. 12/20/2017 Fax cover from [Drug Procurer] to [Pharmacy] (no enclosure)

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20. 11/27/2017 [Pharmacy] Specialty Pharmacy, LLC Pharmacy Services Agreement
21. [Pharmacy] 2017 invoices
22. [Pharmacy] Formula Worksheets
23. 10/2018 Medical supplies purchased from Moore Medical
24. Intravenous Training documents
25. Draft Memo re project to search for new source of Pentobarbital and case
26. Compounding pharmacy search
27. Handwritten notes re compounding pharmacy
28. Research re compounded drug products
29. Research re compounding pharmacies search
30. Compounded drugs sterility, potency and endotoxin requirements and US Pharmacopeial Convention guidelines
31. Handwritten notes re lethal drugs
32. Handwritten notes re lethal drugs
33. Research re clinical pharmacology for lethal drugs
34. Research re lethal drugs
35. Research re DEA and importing controlled substances
36. List of inmates
37. 4/11/2019 Letter from Debra Inglis to Kelley Henry (federal public defender) re Johnson Affidavit re Method of Execution
38. 8/23/2019 Email from Charlotte Davis (AAG) encl Nicholas Sutton stay pleading
39. 4/20/2022 Oscar Smith Spiritual Advisor Attendance to Execution form
40. Oscar Smith movement and execution planning

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41. Litigation hold re evidence intended for Oscar Smith's execution
42. 3/16/2022 Fax from [Drug Procurer] to [Pharmacist] re John Moody (no enclosure)
43. 2017 TDOC Controlled Substance Registration Certificate
44. TDOC payments to drug suppliers
45. TDOC Lethal Injection Manual rev 7/5/2018
46. Public records requests
47. Tony Parker's Third Supplemental Response to Plaintiff's First Set of Interrogatories
48. 1/24/2019 Return receipt card from Debra Inglis to Jessica Johnson (investigator)
49. 4/4/2017 Agreed (Pharmacy) Board Order for [Pharmacist]
50. 9/1/2016 Letter from (unknown) to (unknown) re authorization to dispense prescriptions for Schedule II Controlled substances
51. 2017 Hotel invoices for [Drug Procurer]
52. Handwritten notes re condition of body after executions
53. Handwritten notes re Protocol A
54. 5/10/22 Email, Subject Fwd: Delegated Authorities for Execution Fys 18-22
55. 6/30/2022 Email, Subject RE: Documents
56. 6/23/2022 Email, Subject Fwd: Oscar Smith's Execution
57. 6/23/2022 Email, Subject {NO SUBJECT}
58. 6/23/2022 Email, Subject {NO SUBJECT}
59. 6/3/2022 Email, Subject {NO SUBJECT}
60. 6/23/2022 Email, Subject FW: Oscar Frank Smith

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61. 6/23/22 Email, Subject FW: Oscar Frank Smith
62. 6/22/22 Email, Subject Secured Document
63. 5/25/2022 Email, Subject [secure email]
64. 5/12/2022 Email, Subject [EXTERNAL] RE: documents
65. 5/12/2022 Email, Subject [EXTERNAL] RE: documents
66. 5/12/2022 Email, Subject [EXTERNAL] documents
67. 5/10/2022 Email, Subject FW: Reprieve
68. 5/2/2022 Email, Subject RE: [secure email]
69. 4/28/2022 Email, Subject Screenshot 2022-04-28 at 7.04.54 AM
70. 4/28/2022 Email, Subject Screenshot 2022-04-28 at 7.04.18 AM
71. 4/27/2022 Email, Subject Screenshot 2022-04-27 at 12.11.37 PM
72. 4/27/2022 Email, Subject Screenshot 2022-04-27 at 12:10.07 PM
73. 4/24/2022 Email, Subject RE: Privileged and Confidential - Document Request
74. 4/24/2022 Email, Subject RE: Privileged and Confidential - Document Request
75. 4/24/2022 Email, Subject RE: Privileged and Confidential - Document Request
76. 4/24/2022 Email, Subject RE: Privileged and Confidential - Document Request
77. 4/24/2022 Email, Subject FW: Privileged and Confidential - Document Request
78. 4/23/2022 Email, Subject RE: Privileged and Confidential - Document Request
79. 4/22/2022 Email, Subject [EXTERNAL] RE: testing docs
80. 4/22/2022 Email, Subject [EXTERNAL] testing docs

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81. 4/22/2022 Email, Subject RE: Privileged and Confidential - Document Request
82. 4/21/2022 Email, Subject Privileged and confidential - Document Request
83. 4/21/2022 Email, Subject Order setting date
84. 4/21/2022 Email, Subject Reprieve
85. 4/12/2022 Email, Subject RE: [EXTERNAL] RE: Order
86. 4/12/2022 Email, Subject [EXTERNAL] RE: Order
87. 4/12/2022 Email, Subject [EXTERNAL] RE: Order
88. 4/10/2022 Email, Subject Rimmer Letter
89. 4/8/2022 Email, Subject [secure email]
90. 4/7/2022 Email, Subject [secure email]
91. 4/6/2022 Email, Subject [EXTERNAL] RE: Order
92. 3/16/2022 Email, Subject [EXTERNAL] RE: Order
93. 3/16/2022 Email, Subject [EXTERNAL] RE: Order
94. 3/16/2022 Email, Subject Order
95. 3/11/2022 Email, Subject RE: Secured Documents
96. 3/10/2022 Email, Subject RE: Secured Documents
97. 3/10/2022 Email, Subject Secured Documents
98. 2/24/2022 Email, Subject FW: 00218364 SUTTON, GARY W. order setting execution date
99. 2/10/2022 Email, Subject Training Docs
100. 1/13/2022 Email, Subject Documentation (special)
101. 1/4/2022 Email, Subject [EXTERNAL] FW: Invoice 20211130TN from [Pharmacy] Specialty Pharmacy LLC
102. 11/29/2021 Email, Subject RE: [EXTERNAL] RE: Order

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- 103. 11/24/2021 Email, Subject RE: [EXTERNAL] RE: Order
- 104. 11/22/2021 Email, Subject RE: [EXTERNAL] RE: Further Discovery
- 105. 11/1/2021 Email, Subject RE: Docs
- 106. 11/19/2021 Email, Subject RE: Docs
- 107. 11/18/2021 Email, Subject RE: [EXTERNAL] RE: Further Discovery
- 108. 11/17/2021 Email, Subject RE: [EXTERNAL] RE: Further Discovery
- 109. 11/9/2021 Email, Subject RE: [EXTERNAL] RE: Further Discovery
- 110. 11/9/2021 Email, Subject RE: [EXTERNAL] RE: Further Discovery
- 111. 11/9/2021 Email, Subject Further Discovery
- 112. 11/5/2021 Email, Subject RE: [EXTERNAL] RE: Order
- 113. 11/5/2021 Email, Subject Re: [EXTERNAL] RE: Order
- 114. 11/5/2021 Email, Subject [EXTERNAL] RE: Order
- 115. 11/5/2021 Email, Subject FW: Rimmer 110874 Order
- 116. 11/5/2021 Email, Subject Order
- 117. 11/5/2021 Email, Subject FW: [EXTERNAL] Court News: Supreme Court Sets Two Execution Dates
- 118. 11/4/2021 Email, Subject RE: Products
- 119. 11/2/2021 Email, Subject RE: Products
- 120. 11/2/2021 Email, Subject RE: Products
- 121. 11/2/2021 Email, Subject RE: Products
- 122. 10/29/2021 Email, Subject Products
- 123. 10/15/2021 Email, Subject Training Documents for October
- 124. 10/12/2021 Email, Subject [EXTERNAL] RE: Discovery Request

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- 125. 10/12/2021 Email, Subject Discovery Request
- 126. 9/29/2021 Email, Subject Re: [EXTERNAL] RE: Order
- 127. 9/29/2021 Email, Subject [EXTERNAL] RE: order
- 128. 9/29/2021 Email, Subject [EXTERNAL] FW:
- 129. 9/29/2021 Email, Subject [EXTERNAL] RE: Invoice 20210901 TN from [Pharmacy] Specialty Pharmacy LLC
- 130. 9/29/2021 Email, Subject RE: Invoice 20210901 TN from [Pharmacy] Specialty Pharmacy LLC
- 131. 9/23/2021 Email, Subject Documents from this month
- 132. 9/23/2021 Email, Subject Training documents
- 133. 9/20/2021 Email, Subject [EXTERNAL] RE: Twoish Things
- 134. 9/20/2021 Email, Subject [EXTERNAL] RE: Twoish Things
- 135. 9/20/2021 Email, Subject Fwd: Twoish Things
- 136. 9/17/2021 Email, Subject [EXTERNAL] RE: kci inventory
- 137. 9/17/2021 Email, Subject RE: kci inventory
- 138. 9/17/2021 Email, Subject RE: kci inventory
- 139. 9/17/2021 Email, Subject [EXTERNAL] kci inventory
- 140. 9/17/2021 Email, Subject [EXTERNAL] RE: midazolam inventory
- 141. 9/17/2021 Email, Subject RE: midazolam inventory
- 142. 9/17/2021 Email, Subject [EXTERNAL] midazolam inventory
- 143. 9/16/2021 Email, Subject [EXTERNAL] FW: Invoice 20210901TN from [Pharmacy] Specialty Pharmacy LLC
- 144. 9/16/2021 Email, Subject [EXTERNAL] FW: Invoice 20210906AF from [Pharmacy] Specialty Pharmacy LLC
- 145. 9/15/2021 Email, Subject RE: Thursday

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- 146. 9/15/2021 Email, Subject Thursday
- 147. 7/28/2021 Email, Subject [EXTERNAL] RE: Discovery Items
- 148. 7/26/2021 Email, Subject [EXTERNAL] RE: Deposition
- 149. 7/15/2021 Email, Subject RE: [EXTERNAL] travel logistics
- 150. 7/15/2021 Email, Subject RE: [EXTERNAL] travel logistics
- 151. 7/15/2021 Email, Subject [EXTERNAL] travel logistics
- 152. 7/15/2021 Email, Subject [EXTERNAL] RE: King Depo Prep
- 153. 7/9/2021 Email, Subject [EXTERNAL] RE: King Depo Prep
- 154. 7/9/2021 Email, Subject [EXTERNAL] RE: King Depo Prep
- 155. 7/6/2021 Email, Subject [EXTERNAL] RE: AVAILABILITY
- 156. 7/6/2021 Email, Subject RE: Training logs
- 157. 7/6/2021 Email, Subject [EXTERNAL] RE: AVAILABILITY
- 158. 7/6/2021 Email, Subject [EXTERNAL] FW: AVAILABILITY
- 159. 7/1/2021 Email, Subject Letter from Federal Public Defenders Office
- 160. 6/22/2021 Email, Subject [EXTERNAL] AVAILABILITY
- 161. 6/4/2021 Email, Subject Updated document
- 162. 6/2/2021 Email, Subject Re: 2 of 2
- 163. 6/2/2021 Email, Subject 2 of 2
- 164. 6/2/2021 Email, Subject 1 of 2
- 165. 4/14/2021 Email, Subject confidential documents
- 166. 4/12/2021 Email, Subject confidential documents
- 167. 3/1/2021 Email, Subject Confidential
- 168. 1/26/2021 Email, Subject [EXTERNAL] Fw: Invoice TN20210126 from [Pharmacy] Pharmacy LLC

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- 169. 1/14/2021 Email, Subject RE: Training Rosters
- 170. 1/13/2021 Email, Subject Additional rosters from today
- 171. 11/18/2020 Email, Subject [EXTERNAL] Fw: Invoice TN20200511 from [Pharmacy] Specialty Pharmacy LLC
- 172. 9/24/2020 Email, Subject FW: Letter from VP Witmer w/B. Braun Medical
- 173. 9/24/2020 Email, Subject FW: Letter from General Counsel Wohlfeil w/Meithcal Pharmaceuticals
- 174. 9/14/2020 Email, Subject Fwd: Letter from VP McDonnel w/Sandoz, Inc.
- 175. 8/18/2020 Email, Subject RE: Request
- 176. 8/13/2020 Email, Subject [EXTERNAL] requested info
- 177. 8/12/2020 Email, Subject {NO SUBJECT}
- 178. 7/28/2020 Email, Subject [EXTERNAL] Fw: Invoice TN202000728 from [Pharmacy] Specialty Pharmacy LLC
- 179. 7/22/2020 Email, Subject [EXTERNAL] potency
- 180. 4/15/2020 Email, Subject [EXTERNAL] February invoice
- 181. 12/20/2019 Email, Subject [EXTERNAL] New Invoice
- 182. 12/19/2019 Email, Subject FW: Question
- 183. 12/9/2019 Email, Subject [EXTERNAL] New Invoice
- 184. 12/5/2019 Email, Subject [EXTERNAL] Report
- 185. 11/26/2019 Email, Subject [EXTERNAL] Lab results
- 186. 11/21/2019 Email, Subject [EXTERNAL] Alternatives
- 187. 11/20/2019 Email, Subject [EXTERNAL] see attached
- 188. 10/30/2019 Email, Subject [EXTERNAL] RE: API
- 189. 9/19/2019 Email, Subject [EXTERNAL] Invoices

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- 190. 8/15/2019 Email, Subject [EXTERNAL] Scanned from a Xerox [Pharmacy] Pharmacy.pdf
- 191. 8/12/2019 Email, Subject [EXTERNAL] 2019-18034.pdf
- 192. 8/12/2019 Email, Subject [EXTERNAL] ETX-190806-0007-LabReport.pdf
- 193. 8/9/2019 Email, Subject [EXTERNAL] results
- 194. 8/8/2019 Email, Subject [EXTERNAL] Suitability Test
- 195. 8/8/2019 Email, Subject [EXTERNAL] KCI
- 196. 8/8/2019 Email, Subject [EXTERNAL] RE: kci protocol
- 197. 8/7/2019 Email, Subject [EXTERNAL] Invoice
- 198. 7/31/2019 Email, Subject [EXTERNAL] Report
- 199. 7/29/2019 Email, Subject [EXTERNAL] RE: Declaration
- 200. 7/26/2019 Email, Subject RE: Declaration
- 201. 7/24/2019 Email, Subject [EXTERNAL] Report
- 202. 7/10/2019 Email, Subject RX
- 203. 7/2/2019 Email, Subject [EXTERNAL] FW: kci protocol
- 204. 6/26/2019 Email, Subject kci protocol
- 205. 6/26/2019 Email, Subject Proposed Alternative
- 206. 6/26/2019 Email, Subject [EXTERNAL] <http://leucadiapharma.com/anti-capital-punishment-statement/>
- 207. 6/26/2019 Email, Subject KCI
- 208. 6/26/2019 Email, Subject [EXTERNAL] KCI Protocol
- 209. 5/13/2019 Email, Subject FW: Midazolam
- 210. 5/13/2019 Email, Subject RE: Invoice Check

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- 211. 5/9/2019 Email, Subject RE: Invoices
- 212. 5/9/2019 Email, Subject Invoices
- 213. 5/9/2019 Email, Subject report
- 214. 4/29/2019 Email, Subject Potency report
- 215. 4/2/2019 Email, Subject follow up
- 216. 2/26/2019 Email, Subject New Invoice
- 217. 2/14/2019 Email, Subject RE: Summary of Invoices
- 218. 11/7/2018 Email, Subject RE: Payments [secure email]
- 219. 11/6/2018 Email, Subject Open Invoices
- 220. 11/2/2018 Email, Subject Invoice
- 221. 10/31/2018 Email, Subject Invoice
- 222. 10/10/2018 Email, Subject Final Report
- 223. 8/27/2018 Email, Subject Our friend Wally
- 224. 8/24/2018 Email, Subject Fwd: Tennessee License
- 225. 8/23/2018 Email, Subject Fwd:
- 226. 8/16/2018 Email, Subject TN81618
- 227. 8/15/2018 Email, Subject Invoice
- 228. 8/8/2018 Email, Subject Log
- 229. 8/6/2018 Email, Subject USP 71
- 230. 7/25/2018 Email, Subject updated invoice
- 231. 7/23/2018 Email, Subject Shipping SOP
- 232. 7/18/2018 Email, Subject RE: sample RX
- 233. 7/17/2018 Email, Subject sample Rx

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- 234. 7/16/2018 Email, Subject Protocol
- 235. 7/15/2018 Email, Subject Fwd: Certificates
- 236. 7/12/2018 Email, Subject Testing report
- 237. 7/9/2018 Email, Subject RE: Invoices
- 238. 7/9/2018 Email, Subject Invoices
- 239. 7/9/2018 Email, Subject {NO SUBJECT}
- 240. 7/5/2018 Email, Subject Invoice
- 241. 7/3/2018 Email, Subject FW: ACHC Accreditation Decision_60062
[Pharmacy] Specialty Pharmacy
- 242. 6/22/2018 Email, Subject {NO SUBJECT}
- 243. 6/20/2018 Email, Subject Product Inquiry
- 244. 4/5/2018 Email, Subject FW: Invoices
- 245. 1/22/2018 Email, Subject List of restricted drugs
- 246. 4/9/2018 Vendor Letter
- 247. 12/4/2017 TX Case Order
- 248. 5/6/2020 TPRA Final Response Letter General
- 249. 1/10/2017 TN DEA Lic
- 250. Summary re draft of information re TDOC's search for Pentobarbital
- 251. 10/18/2019 *Roane v. Gonzales*_Govt's Response to Motion for Preliminary Injunction
- 252. 4/9/2018 Removal of Vendor Information Request
- 253. 2017 Receipts – [Drug Procurer]'s hotel invoices
- 254. Motion Responses - Word document providing responses to questions
- 255. 4/9/2018 Email, Subject FW: Removal of Vendor Information Request

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- 256. 2018-2019 Electric chair testing logs
- 257. Draft Bill on election timeframe
- 258. 9/1/2017 Death Row Report
- 259. 7/1/2017 Delegated Authority for Tennessee's execution related services
- 260. 9/1/2017 D.R. Offenders with Execution Date
- 261. 9/1/2017 D.R. Offender Demographics
- 262. 9/1/2017 D.R. by Offender TOMIS ID
- 263. 9/1/2017 D.R. by Offender Last Name
- 264. CONSULTANT SERVICES AGREEMENT
- 265. CentralPharmacyLicense5661
- 266. 4/13/2022 handwritten inventory log of lethal drugs
- 267. 4/21/20.22 handwritten inventory log of lethal drugs
- 268. 9/7/2017 Email, Subject Updtac
- 269. 12/4/2017 Email confirming vecuronium is the only chemical requiring reconstitution
- 270. 9/6/2017 Email, Subject Touch Base
- 271. 9/21/2017 Email, Subject Status Update
- 272. 8/30/2021 Letter from Sandoz
- 273. 12/5/2017 Redacted email discussing supplier for lethal drugs
- 274. 9/7/2017 Email, Subject RE: "Updtac"
- 275. 9/7/2017 Email, Subject RE: "Updtac"
- 276. 9/7/2017 Email, Subject RE: "Updtac"
- 277. 10/26/2017 Email, Subject RE: Additional Info

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- 278. 9/20/2017 Email, Subject Is there a good time for me to give you a buzz today? Thanks
- 279. 9/21/2017 Email, Subject Fwd: Status Update
- 280. 6/18/2018 Letter from Fresenius Kabi USA, LLC
- 281. 1/22/2018 PDF of emails
- 282. 2017 PDF of emails and attachments
- 283. 2017 PDF of emails and attachments
- 284. 6/18/2018 Letter from Athenex
- 285. 2018, 2019, 2020 and 2022 lab reports for lethal drugs
- 286. Draft of Midazolam storage and preparation instructions with comment from [Drug Procurer]
- 287. Blank Pharmacy Services Agreement form in notepad
- 288. 7/23/2018 Letter to Billy Ray Irick from Tony Mays notifying of execution date and method
- 289. Potassium Chloride preparation instructions
- 290. Execution Procedures for Lethal Injection, rev 7/11/2016
- 291. Execution Procedures for Lethal Injection in notepad
- 292. Execution Procedures for Lethal Injection, rev 6/25/2015
- 293. 12/11/2017 Email, Subject FW: Lemaricus Davidson (#328954) Order Granting Stay of Execution
- 294. Execution Procedures for Electrocution, rev 7/11/2016
- 295. Lethal Injection Execution Manual Execution Procedures for Lethal Injection, rev 7/5/2018
- 296. Lethal Injection Execution Manual Execution Procedures for Lethal Injection, rev 7/5/2018
- 297. Blank Affidavit Concerning Method of Execution and Affidavit to Select Defense Counsel Witness to Execution

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- 298. Lethal Injection Execution Manual Execution Procedures for Lethal Injection, rev 7/5/2018
- 299. Handwritten inventory logs of lethal drugs from 7/27/2018 – 8/14/2019
- 300. Handwritten inventory logs of lethal drugs from 5/15/2019 – 8/14/2019
- 301. Lethal Injection Execution Manual Execution Procedures for Lethal Injection, rev 1/8/2018
- 302. Draft Execution Procedures for Electrocution, rev 6/26/2014
- 303. Draft Execution Procedures for Electrocution, rev 6/26/2014
- 304. Draft Execution Procedures for Electrocution, rev 6/26/2014
- 305. Execution Procedures for Electrocution, rev 3/13/2017
- 306. Redacted Execution Procedures for Electrocution, rev 3/13/2017
- 307. Execution Procedures for Lethal Injection, rev 9/22/2014
- 308. Execution Procedures for Lethal Injection, rev 9/22/2014
- 309. Execution Procedures for Lethal Injection, rev 9/18/2014
- 310. Execution Procedures for Lethal Injection, rev 9/18/2014
- 311. Execution Procedures for Lethal Injection
- 312. Execution Procedures for Lethal Injection
- 313. Redacted Execution Procedures for Electrocution
- 314. Draft Execution Procedures for Electrocution, rev 6/26/2014
- 315. Draft Execution Procedures for Electrocution, rev 6/26/2014
- 316. Draft Execution Procedures for Electrocution
- 317. Draft Execution Procedures for Electrocution
- 318. Draft Execution Procedures for Electrocution
- 319. Draft Execution Procedures for Electrocution

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- 320. Draft of amendment to TCA 40-23-114 - relative to election of the method of execution
- 321. Draft of amendment to TCA 40-23-114 - relative to election of the method of execution
- 322. PDF of Draft of amendment to TCA 40-23-114 with notes - relative to election of the method of execution with the Warden's primary role and Affidavit Concerning Method of Execution from TDOC's Execution Procedures for Lethal Injection
- 323. 11/15/2018 Order for supplies
- 324. 11/3/2020 Order for supplies
- 325. 3/1/2022 Email, Subject RE: 3680_001.pdf
- 326. Orders setting execution dates for Donald Ray Middlebrooks, Gary Wayne Sutton and Byron Lewis Black
- 327. 12/11/2019 Order Denying Motion and Order Staying execution re Abu Ali AbdurRahman
- 328. 11/16/2018 Order setting execution date re Abu Ali AbdurRahman
- 329. 7/1/2019 Order setting execution date re Abu Ali AbdurRahman
- 330. Orders setting execution dates and sealed order for transport re Byron Lewis Black
- 331. 2/24/2020 Order setting execution date re Byron Lewis Black
- 332. 11/1/2019 Potassium Chloride and Midazolam prescriptions for Leroy Hall
- 333. 11/5/2019 Letter to Lee Hall from Tony Mays notifying of execution date and method
- 334. 9/26/2019 Letter from Kelly A. Gleason to Debra Inglis and Tony Mays requesting to be present when method of execution is presented to Hall
- 335. 11/1/2019 Lidocaine HCL 2% prescription for Leroy Hall
- 336. Visit logs, outlook scheduled meetings for visits, Special Visit Requests, Request and Affidavit re disposition of belongings, personal property

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inventories and letters re presence at execution on 12/5/2019 for Lee Hall (53 pages)

- 337. Redacted TDOC Incident Report, Execution Recorder Checklist, Death row watch logs and Record of staff visits for Lee Hall (51 pages)
- 338. Unredacted TDOC Incident Report, Execution Recorder Checklist, Death row watch logs and Record of staff visits for Lee Hall (51 pages)
- 339. 11/16/2018 Order setting execution date for Lee Hall
- 340. 7/10/2018 Amended Order setting execution date for Billy Ray Irick
- 341. 8/8/2018 Response to Motion for Leave to Serve Subpoena Duces Tecum Instantly re Billy Ray Irick
- 342. 7/18/2018 Prescription for Midazolam for Billy Ray Irick
- 343. 7/23/2018 Letter to Billy Ray Irick from Tony Mays notifying of execution date and method
- 344. 5/22/2018 Lab report for Midazolam suitability re Billy Ray Irick
- 345. 7/24/2018 Letter to Tennessee Attorney General and Billy Ray Irick's attorneys enclosing the 7/23/2018 execution notification letter
- 346. 8/6/2018 Lab report for Midazolam sterility re Billy Ray Irick
- 347. 8/6/2018 Order denying Billy Ray Irick's motion to vacate execution date
- 348. Dissent to 8/6/2018 Order
- 349. Tennessee's Brief in Opposition to Billy Ray Irick's application for stay of execution
- 350. Tennessee's Response to Billy Ray Irick's Petition for Writ of Habeas Corpus and Application for a stay of execution
- 351. 5/25/2018 Lab report for Midazolam potency, endotoxins and sterility re Billy Ray Irick
- 352. 5/14/2018 Lab report for Midazolam container closure integrity re Billy Ray Irick
- 353. 8/6/2018 Gov. Haslam's statement that clemency not appropriate for Billy Ray Irick

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- 354. 4/11/2019 Letter from Debra Inglis to Kelley J. Henry re presenting the Affidavit re Method of Execution and notification letter to Donnie Johnson
- 355. 5/9/2019 Lab report for Midazolam potency and sterility re Donnie Johnson
- 356. 4/17/2019 Midazolam prescription for Donnie Johnson
- 357. 5/1/2019 Letter to Donnie Johnson from Tony Mays notifying of execution date and method
- 358. 4/11/2019 Letter from Debra Inglis to Kelley J. Henry re presenting the Affidavit re Method of Execution and notification letter to Donnie Johnson
- 359. 4/26/2019 Lab report for Midazolam potency re Donnie Johnson
- 360. 11/16/2018 Order setting execution date re Donnie Johnson
- 361. 4/16/2019 Letter to Donnie Johnson from Tony Mays notifying of execution date and method
- 362. 11/21/2018 Letter to David Miller from Tony Mays notifying of execution date and method with waiver election
- 363. 11/9/2018 Letter to Stephen Kissinger from [Drug Procurer] in response to correspondence
- 364. 11/16/2018 Midazolam prescription for David Miller
- 365. 11/21/2018 Letter to David Miller from Tony Mays notifying of execution date and method with waiver election
- 366. 11/21/2018 Letter to David Miller from Tony Mays notifying of method of execution by lethal injection due to waiver not being provided by deadline
- 367. 3/15/2018 Order granting amicus brief and denying Tennessee's Motion to set an execution date prior to 6/1/2018 re David Miller
- 368. 3/15/2018 Order setting execution date for David Miller
- 369. 11/21/2018 Letter to David Miller from Tony Mays notifying of execution date and method with waiver election

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- 370. 11/6/2018 Letter to Stephen Kissinger from Tony Mays enclosing Affidavit Concerning Method of Execution for lethal injection waiver to be presented to David Miller
- 371. 11/16/2018 Midazolam prescription for David Miller
- 372. Blank Affidavit to Select Defense Counsel Witness to Execution
- 373. 11/27/2018 signed and completed Affidavit to Select Defense Counsel Witness to Execution re David Miller and 11/27/2018 Letter from Tony Mays to David Miller and Kissinger acknowledging receipt of Miller's election waiving lethal injection and notifying that Miller will be executed via electrocution.
- 374. Copy of envelope to Tony Mays from David Miller
- 375. 11/23/2018 Handwritten note from David Miller waiving lethal injection and electing electrocution
- 376. 11/8/2018 Letter to Tony Mays from Stephen Kissinger requesting information re David Miller
- 377. 12/9/2019 Potassium Chloride and Midazolam prescription for Sutton
- 378. 2/4/2020 Letter to Nicholas Sutton from Tony Mays notifying of execution date and method, Sutton waived lethal injection
- 379. 2/4/2020 Letter to Nicholas Sutton from Tony Mays notifying of execution date and method via execution
- 380. 1/21/2020 Affidavit Concerning Method of Execution and Affidavit to Select Defense Counsel Witness to Execution re Nicholas Sutton
- 381. 2/3/2020 Email, Subject Fwd: Sutton Update
- 382. Day of Execution - Electrocution Execution Recorder Checklist for Nicholas Sutton (11 pages)
- 383. Death watch logs for Nicholas Sutton (40 pages)
- 384. Letters notifying individuals of selection to witness the execution, correspondence to Nicholas Sutton's attorney, correspondence regarding attending execution, Inmate Inquiry form, Inventories of property, notification letter, Affidavit Concerning Method of Execution, Cremation form, Volunteer Application and certification for reverend, Outlook

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scheduled meetings with visitors, Visit request forms, Release form and Staff visit logs re Nicholas Sutton (81 pages)

- 385. 11/16/2018 Order for execution for Nicholas Sutton
- 386. Letter to Stephen West from Tony Mays notifying of execution date and method
- 387. 5/4/2019 Email, Subject RE: contact information – re Stephen West
- 388. 7/12/2019 Potassium Chloride and Midazolam prescription for Stephen West
- 389. 7/15/2019 Letter to Stephen West from Tony Mays notifying of execution date and method
- 390. 7/18/2019 Lab report for Midazolam potency re Stephen West
- 391. 7/30/2019 Lab report for Midazolam sterility and potency re Stephen West
- 392. 7/15/2019 Affidavit to Select Defense Counsel Witness to Execution and Affidavit Concerning Method of Execution re Stephen West
- 393. 7/12/2019 Potassium Chloride and Midazolam prescription for Stephen West
- 394. 7/17/2019 Lab report for potassium chloride potency re Stephen West
- 395. Redacted Letters notifying individuals of selection to witness the execution, correspondence to Stephen West's attorney, Outlook scheduled meetings with visitors, correspondence regarding attending execution and inventory of personal belongings re Stephen West (66 pages)
- 396. Letters notifying individuals of selection to witness the execution, correspondence to Stephen West's attorney, Outlook scheduled meetings with visitors, correspondence regarding attending execution and inventory of personal belongings re Stephen West (66 pages)
- 397. Redacted TDOC Incident Report, Day of Execution - Electrocution Execution Recorder Checklist and Staff visit logs re Stephen West (22 pages)
- 398. TDOC Incident Report, Day of Execution - Electrocution Execution Recorder Checklist and Staff visit logs re Stephen West (22 pages)
- 399. Redacted Death watch logs for Stephen West (42 pages)

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- 400. Death watch logs for Stephen West (42 pages)
- 401. 11/16/2018 Order for execution for Stephen West
- 402. 8/6/2019 Sixth Circuit order affirming district court's order and denying Stephen West's motion for a stay of execution
- 403. 11/16/2018 Order for execution for Charles Wright
- 404. 10/22/2018 Order for execution for Edmund Zagorski
- 405. 10/11/2018 Reprieve from Gov. Haslam until 10/21/2018 for Edmund Zagorski
- 406. 9/11/2018 Email, Subject Zagorski forms
- 407. Excel spreadsheet of Midazolam test results for sterility and potency for Edmund Zagorski
- 408. 9/27/2018 Letter to Edmund Zagorski from Tony Mays notifying of execution date and method
- 409. 10/9/2018 Letter to Kelley Henry from Debra Inglis advising Affidavit ineffective and execution will proceed by lethal injection re Edmund Zagorski
- 410. 10/9/2018 Letter to Kelley Henry from Debra Inglis advising Affidavit ineffective and execution will proceed by lethal injection re Edmund Zagorski
- 411. 10/10/2018 Defendants' Response to Plaintiffs' Motion for Temporary Restraining Order re Edmund Zagorski
- 412. 9/21/2018 Midazolam prescription for Edmund Zagorski
- 413. 10/24/2018 Midazolam prescription for Edmund Zagorski
- 414. 10/24/2018 Midazolam prescription for Edmund Zagorski
- 415. PDF of TCA Sec 39-16-201, policies and procedures for visits, visitation application and forms, highlights re electronic devices
- 416. PDF of TCA Sec 39-16-201, policies and procedures for visits, visitation application and forms

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- 417. 9/27/2018 Letter to Edmund Zagorski from Tony Mays notifying of execution date and method
- 418. 9/24/2018 Lab report for Midazolam potency re Edmund Zagorski
- 419. 8/30/2018 Letter from Kelley Henry re request for Edmund Zagorski not to be presented with an Affidavit Concerning Method of Execution
- 420. 10/8/2018 Lab report for Midazolam sterility and potency re Edmund Zagorski
- 421. 9/27/2018 Affidavit Concerning Method of Execution re Edmund Zagorski
- 422. TDOC policies and procedures re Attorney Access to Inmates and blank release
- 423. 7/22/2020 Email, Subject [EXTERNAL] potency – re Harold Wayne Nichols
- 424. 7/1/2020 Potassium chloride and midazolam prescriptions for Harold Wayne Nichols
- 425. 7/2/2020 Letter to Harold Wayne Nichols from Tony Mays notifying of execution date and method with waiver election
- 426. 1/15/2020 order setting execution for Harold Wayne Nichols
- 427. 11/3/2021 order setting execution for Harold Wayne Nichols
- 428. 11/3/2020 Potassium chloride and Midazolam prescriptions for Pervis Payne
- 429. 11/3/2020 Letter to Pervis Payne from Tony Mays notifying of execution date and method with waiver election, Affidavit Concerning Method of Execution and Affidavit to Select Defense Counsel Witness to Execution
- 430. 11/3/2020 Letter to Pervis Payne from Tony Mays notifying of execution date and method with waiver election
- 431. 2/24/2020 Order setting execution for Pervis Payne
- 432. 4/11/2020 Letter to Michael Rimmer from Tony Mays notifying of execution date and method with waiver election
- 433. 4/16/2021 Judgment affirming conviction and sentence and appeal documents re Michael Rimmer

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- 434. 3/16/2022 Potassium Chloride and Midazolam prescriptions for Oscar Smith
- 435. 3/16/2022 Potassium Chloride and Midazolam signed prescriptions for Oscar Smith
- 436. 12/21/2020 Letter from Amy Harwell to Tony Mays re Oscar Smith's objection to signing the Affidavit Regarding Method of Execution
- 437. 1/5/2021 Order staying Oscar Smith's execution date due to COVID-19
- 438. 3/21/2022 Letter to Oscar Smith from Tony Mays notifying of execution date and method with waiver election
- 439. Inventory of items preserved from 4/21/2022 execution preparation and chemical preparation forms re Oscar Smith
- 440. 4/20/2022 Lab reports of Midazolam sterility and potency re Oscar Smith
- 441. 3/31/2022 Lab report of potassium chloride potency re Oscar Smith
- 442. 3/31/2022 Lab report of potassium chloride sterility re Oscar Smith
- 443. 4/20/2022 Non-Disclosure Agreement, Spiritual Advisor Attendance to Execution of Death Sentence re Oscar Smith
- 444. 1/15/2020 order setting execution date for Oscar Smith
- 445. 4/17/2020 order setting execution date for Oscar Smith
- 446. Orders setting execution dates re Oscar Smith
- 447. *Workman v Bredesen* case, 486 F.3d 896 (2007)
- 448. Opinion affirming trial court's judgment, trial court did not err in dismissing Plaintiff's claims (3/28/2017) re Stephen West
- 449. *West v Schofield* case, 460 S.W.3d 113 (2015)
- 450. Ohio Execution Protocol Litigation - Opinion affirming district court's granting of preliminary injunction enjoining Ohio's execution of 3 inmates to allow further litigation re midazolam's efficacy before Ohio executes 3 inmates (4/6/2017)

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- 451. Ohio Execution Protocol Litigation - Opinion affirming district court's denial of Henness' request to stay his execution (9/11/2019)
- 452. *Heckler v Chaney* case, 470 U.S. 821 (1985)
- 453. *Glossip v Gross* Resp Brief, Oklahoma's brief re whether a 3-drug lethal injection protocol creates a substantial risk of severe pain due to Midazolam use as first drug (4/8/2015)
- 454. *Glossip v Gross* case, 135 S.Ct. 2726 (2015)
- 455. *Cook v Food and Drug Administration* case, 733 F.3d 1 (2013)
- 456. *Bray v Lombardi* case, 2017 WL 574909 (2/14/2017)
- 457. *AbdurRahman v Bredesen* case, 181 S.W.3d 292 (10.17.2005)
- 458. Method of Execution Act of 2015, A.C.A. Sect 5-4-617 - re Arkansas law
- 459. 6/4/2018 Email, Subject FW: Shults, No. CV-17-544 – re Arkansas law
- 460. 3/29/2018 - Wood Concurring Dissenting Opinion - Arkansas Supreme Court dissent from majority's conclusion that the identity of drug manufacturers is not protected under the confidentiality provisions of the Method of Execution Act
- 461. 3/29/2018 - Majority Opinion - Arkansas Supreme Court opinion finding that the identity of drug manufacturers is not protected under the confidentiality provisions of the Method of Execution Act
- 462. 3/29/2018 - Kemp Concurring Dissenting Opinion - Arkansas Supreme Court opinion concurring in part and dissenting in part to majority's opinion
- 463. April 2017 redacted text messages re acquiring lethal drugs produced in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 464. 6/5/2018 Deposition transcript of Tony Parker in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 465. 6/4/2018 Deposition transcript of Tony Mays in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 466. 7/7/2018 Plaintiffs' Response to Motion for Protective Order in *Adbur Rahman v. Parker* – Chancery Court proceedings

467. 8/13/2017 Redacted TDOC Lethal Injection Update PowerPoint presentation advising on the current death row inmates, laws re executions and efforts made to procure chemical to compound lethal drugs for executions produced in *Adbur Rahman v. Parker* – Chancery Court proceedings
468. 2/20/2018 Plaintiffs' First Set of Interrogatories to Defendants in *Adbur Rahman v. Parker* – Chancery Court proceedings
469. 2/20/2018 Plaintiffs' First Request for Production of Documents in *Adbur Rahman v. Parker* – Chancery Court proceedings
470. Redacted April and July 2017 emails re procuring Pentobarbital produced in *Adbur Rahman v. Parker* – Chancery Court proceedings
471. Picture of the first page of article "Using pain to assess neurologic response" produced in *Adbur Rahman v. Parker* – Chancery Court proceedings
472. 5/7/2018 Order Granting in Part and Denying in Part Plaintiffs' Motion to Compel in *Adbur Rahman v. Parker* – Chancery Court proceedings
473. 6/29/2018 Memorandum and Order Granting in Part and Denying in Part Plaintiffs' Motion to Amend in *Adbur Rahman v. Parker* – Chancery Court proceedings
474. 5/24/2018 Memorandum and Order Denying Motion for Protective Order Seeking to Quash Parker and Mays Depositions But Issuing Limitations on Time and Scope of Depositions; and Additional Orders on Deadlines on Expert Disclosures and Defendants' Summary Judgment Filing in *Adbur Rahman v. Parker* – Chancery Court proceedings
475. 7/3/2018 Orders: (1) Denying Plaintiffs' 7/2/2018 Motion to Reconsider; (2) Permitting Offer of Proof at Trial; and (3) Denying Defendants' Motion to Strike Second Amended Complaint and Submit Corrected Version in Accordance with the Court's Order in *Adbur Rahman v. Parker* – Chancery Court proceedings
476. 6/25/2018 Notice of Filing Exhibit in Support of Plaintiffs' Motion and Memorandum of Law Regarding Defendants New Unwritten Protocol Using Compounded High Risk Sterile Injectables Under Seal in *Adbur Rahman v. Parker* – Chancery Court proceedings
477. 6/11/2018 Notice of Filing (Deposition of Commissioner Parker and Warden Mays) in *Adbur Rahman v. Parker* – Chancery Court proceedings

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- 478. Redacted handwritten notes re procuring Pentobarbital produced in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 479. 5/4/2018 Memorandum and Order Granting in Part and Denying in Part Defendants' Motion to Dismiss in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 480. 5/29/2018 Defendants' Motion for Summary Judgment in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 481. September 2017 redacted emails re ordering Midazolam, Vecuronium and Potassium Chloride for a 3-drug protocol produced in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 482. 6/25/2018 Plaintiffs' Motion and Memorandum of Law Regarding Defendants New Unwritten Protocol Using Compounded High-Risk Sterile Injectables filed in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 483. Draft of Defendants Answer to the Amended Petition for Declaratory Judgment in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 484. Drafts of language for request for admissions in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 485. 6/2/2018 Email, Subject Fw: Plaintiffs Motion to Compel Deposition Testimony re *Adbur Rahman v. Parker* – Chancery Court proceedings
- 486. 5/29/2018 Defendants' Statement of Undisputed Material Facts in Support of Motion for Summary Judgment in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 487. 5/29/2018 Defendants' Memorandum of Law in Support of Motion for Summary Judgment in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 488. Draft of Defendants' Answer to Amended Complaint with redlines in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 489. 3/29/2018 Defendants' Motion to Compel Complaint for Declaratory Judgment in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 490. 3/29/2018 Memorandum of Law in Support of Motion to Dismiss Complaint for Declaratory Judgment in *Adbur Rahman v. Parker* – Chancery Court proceedings

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- 491. 6/21/2018 Deposition transcript of Debbie Inglis in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 492. 2/20/2018 Complaint for Declaratory Judgment in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 493. 5/8/2018 Defendants' Answer to Amended Complaint in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 494. Draft of proposed answers to Plaintiffs' amended complaint in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 495. Amended Complaint for Declaratory Judgment in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 496. 6/13/2018 Memorandum and Orders on: (1) Plaintiffs' Motion to Compel; (2) Plaintiffs' Notice to Extend Summary Judgment Response time; (3) Altering and Amending 6/12/2018 Memorandum and Orders; and (4) 6/20/2018 Telephone Conference in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 497. 7/17/2018 Memorandum and Order Regulating (Pursuant to Tenn. Code Ann. § 10-7-504(h)) Plaintiffs' Offer of Proof in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 498. 7/26/2018 Order Dismissing With Prejudice Plaintiffs' Challenge to Tennessee Lethal Injection Protocol and Memorandum of Findings of Fact and Conclusions of Law in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 499. 5/14/2018 Issued Subpoenas to take the depositions of Debbie Inglis and [Drug Procurer] in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 500. USP 38 - Compounding for Animal Patients produced in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 501. January 2018 FDA Compounding Guidance - Compounded Drug Products That are Essentially Copies of a Commercially Available Drug Product Under Section 503A of the Federal Food, Drug, and Cosmetic Act produced in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 502. 6/25/2018 Email re search to procure Pentobarbital and April 2017 text messages re acquiring lethal drugs produced in *Adbur Rahman v. Parker* – Chancery Court proceedings

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- 503. Redacted training rosters for electrocution, lethal injection, Practice, protocol review/training and training materials produced in in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 504. Redacted IV training results and certificates of completion, redacted training rosters for execution, protocol review/training, Death Watch, Practice, Training, electrocution, lethal injection and training materials produced in in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 505. 7/30/2018 filed Plaintiffs Notice of Appeal in in *Adbur Rahman v. Parker* – Chancery Court proceedings
- 506. 7/30/2018 Motion to Vacate Execution Date for Billy Ray Irick
- 507. 8/6/2018 Order Denying the Motion to Vacate Execution Date for Billy Ray Irick
- 508. 8/6/2018 Dissenting Order to majority's opinion
- 509. 7/30/2018 Motion to Proceed In Forma Pauperis
- 510. Picture of thermometer reading in *King v. Parker* – Middle District of Tennessee proceedings
- 511. 6/24/2019 email from Scott Sutherland to Inglis and [Drug Procurer] enclosing the Amended Complaint and requesting information in *King v. Parker* – Middle District of Tennessee proceedings
- 512. Draft of a declaration from TDOC Employee in *King v. Parker* – Middle District of Tennessee proceedings
- 513. Declaration from President of Pharmacy Z signed 7/29/2019 in *King v. Parker* – Middle District of Tennessee proceedings
- 514. Draft of Declaration from President of Pharmacy Z in *King v. Parker* – Middle District of Tennessee proceedings
- 515. Declaration from RMSI Officer signed 7/30/2019 in *King v. Parker* – Middle District of Tennessee proceedings
- 516. Draft of Declaration from RMSI Officer in *King v. Parker* – Middle District of Tennessee proceedings
- 517. Draft of Declaration from RMSI Mental Health Professional in in *King v. Parker* – Middle District of Tennessee proceedings

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- 518. Draft of Declaration from RMSI Employee in *King v. Parker* – Middle District of Tennessee proceedings
- 519. Draft of Tony Parker's Answer to Amended Complaint in *King v. Parker* – Middle District of Tennessee proceedings
- 520. Draft of Tony May's Answer to Complaint with comments from [Drug Procurer] in *King v. Parker* – Middle District of Tennessee proceedings
- 521. Declaration from RMSI Mental Health Professional signed 7/29/2019 in *King v. Parker* – Middle District of Tennessee proceedings
- 522. 9/7/2017 emails regarding procuring lethal drugs, possible insufficiency of Midazolam as an analgesic produced in *King v. Parker* – Middle District of Tennessee proceedings
- 523. Redacted handwritten notes re procuring Pentobarbital in *King v. Parker* – Middle District of Tennessee proceedings
- 524. 8/13/2017 TDOC Lethal Injection Update PowerPoint presentation advising on the current death row inmates, laws re executions and efforts made to procure chemical to compound lethal drugs for executions produced in *King v. Parker* – Middle District of Tennessee proceedings
- 525. Spreadsheet re TDOC employee's involvement with procuring the lethal drugs and discoverable records in *King v. Parker* – Middle District of Tennessee proceedings
- 526. 1/25/2019 Amended Complaint for Injunctive Relief in *King v. Parker* – Middle District of Tennessee proceedings
- 527. 7/5/2019 Tony May's Answer to Amended Complaint in *King v. Parker* – Middle District of Tennessee proceedings
- 528. 7/5/2019 Tony Parker's Answer to Amended Complaint in *King v. Parker* – Middle District of Tennessee proceedings
- 529. 2/11/2020 and 8/4/2020 redacted lethal injection chemical ledgers produced in *King v. Parker* – Middle District of Tennessee proceedings
- 530. 12/20/2019, 2/11/2020 and 7/28/2020 redacted Lethal injection chemical Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings

531. Redacted lethal drug prescriptions for Irick, Zagorski, Miller, Johnson, West, Hall, Sutton and Nichols produced in *King v. Parker* – Middle District of Tennessee proceedings
532. 1/8/2020 Tony Parker's Response to Plaintiff's 1st Set of Interrogatories in *King v. Parker* – Middle District of Tennessee proceedings
533. Redacted dashboard of invoices and payments to pharmacy for lethal drugs produced in *King v. Parker* – Middle District of Tennessee proceedings
534. Sections of policies and procedures for the Execution team, Victim Services, Execution Perimeter Security cover page, and Execution Forms produced in *King v. Parker* – Middle District of Tennessee proceedings
535. Lethal injection procedures (page 1-50), rev. 7/5/2018 produced in *King v. Parker* – Middle District of Tennessee proceedings
536. 8/19/2020 Defendants' Response to Plaintiff's Request for Production of Documents in *King v. Parker* – Middle District of Tennessee proceedings
537. Draft of information to supplement responses to Interrogatory 8 in *King v. Parker* – Middle District of Tennessee proceedings
538. 8/19/2020 Tony Mays' Supplemental Response to Plaintiff's 1st Set of Interrogatories in *King v. Parker* – Middle District of Tennessee proceedings
539. Draft of information to supplement responses to Interrogatory 8 in *King v. Parker* – Middle District of Tennessee proceedings
540. 8/19/2020 Tony Parker's Supplemental Response to Plaintiff's 1st Set of Interrogatories in *King v. Parker* – Middle District of Tennessee proceedings
541. Redacted lethal drug prescription orders for Irick, Zagorski, Miller, Johnson, West, Hall, Sutton and Nichols produced in *King v. Parker* – Middle District of Tennessee proceedings
542. Tony Parker's Supplemental Response to Plaintiff's 1st Set of Interrogatories in *King v. Parker* – Middle District of Tennessee proceedings
543. Tony May's Supplemental Response to Plaintiff's 1st Set of Interrogatories in *King v. Parker* – Middle District of Tennessee proceedings

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- 544. Draft of proposed supplemental responses to Interrogatories number 8, 9 and 10 in *King v. Parker* – Middle District of Tennessee proceedings
- 545. Redacted 11/27/2017 executed Pharmacy Services Agreement and 2/20/2018 provider agreement for services rendered by doctor during execution produced in *King v. Parker* – Middle District of Tennessee proceedings
- 546. 2017 emails re Pentobarbital, new 3-drug protocol including Midazolam, Vecuronium and Potassium Chloride, handwritten notes re procuring Pentobarbital and Pentobarbital property information produced in *King v. Parker* – Middle District of Tennessee proceedings
- 547. Notes providing names of "Individuals Listed Pages 12-29" and "35-38" in *King v. Parker* – Middle District of Tennessee proceedings
- 548. 12/19/2019 Email, Subject RE Question in *King v. Parker* – Middle District of Tennessee proceedings
- 549. Draft of Tony Parker's Supplemental Response to Plaintiff's 1st Set of Interrogatories in *King v. Parker* – Middle District of Tennessee proceedings
- 550. Draft of Tony May's Supplemental Response to Plaintiff's 1st Set of Interrogatories in *King v. Parker* – Middle District of Tennessee proceedings
- 551. 12/20/2019 Email, Subject 1N Invoice 20191220.xlsx produced in *King v. Parker* – Middle District of Tennessee proceedings
- 552. 12/19/2019 Email, Subject FW: Question produced in *King v. Parker* – Middle District of Tennessee proceedings
- 553. 12/9/2019 Email, Subject [EXTERNAL] New Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 554. 12/5/2019 Email, Subject [EXTERNAL] Report produced in *King v. Parker* – Middle District of Tennessee proceedings
- 555. 11/26/2019 Email, Subject [EXTERNAL] Lab results produced in *King v. Parker* – Middle District of Tennessee proceedings
- 556. 11/21/2019 Email, Subject [EXTERNAL] Alternatives produced in *King v. Parker* – Middle District of Tennessee proceedings

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- 557. 11/20/2019 Email, Subject [EXTERNAL] see attached produced in *King v. Parker* – Middle District of Tennessee proceedings
- 558. 10/30/2019 Email, Subject [EXTERNAL] RE: API produced in *King v. Parker* – Middle District of Tennessee proceedings
- 559. 9/19/2019 Email, Subject [EXTERNAL] Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
- 560. 8/15/2019 Email, Subject [EXTERNAL] Scanned from a Xerox [Pharmacy] Pharmacy.pdf produced in *King v. Parker* – Middle District of Tennessee proceedings
- 561. 8/12/2019 Email, Subject [EXTERNAL] 2019-18034.pdf produced in *King v. Parker* – Middle District of Tennessee proceedings
- 562. 8/12/2019 Email, Subject [EXTERNAL] ETX-190806-0007-1.labReport.pdf produced in *King v. Parker* – Middle District of Tennessee proceedings
- 563. 8/9/2019 Email, Subject [EXTERNAL] results produced in *King v. Parker* – Middle District of Tennessee proceedings
- 564. 8/8/2019 Email, Subject [EXTERNAL] Suitability Test produced in *King v. Parker* – Middle District of Tennessee proceedings
- 565. 8/8/2019 Email, Subject [EXTERNAL] KCI produced in *King v. Parker* – Middle District of Tennessee proceedings
- 566. 8/8/2019 Email, Subject [EXTERNAL] RE: kcl protocol produced in *King v. Parker* – Middle District of Tennessee proceedings
- 567. 8/7/2019 Email, Subject [EXTERNAL] Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 568. 7/31/2019 Email, Subject [EXTERNAL] Report produced in *King v. Parker* – Middle District of Tennessee proceedings
- 569. 7/29/2019 Email, Subject [EXTERNAL] RE: Declaration produced in *King v. Parker* – Middle District of Tennessee proceedings
- 570. 7/26/2019 Email, Subject RE: Declaration produced in *King v. Parker* – Middle District of Tennessee proceedings
- 571. 7/24/2019 Email, Subject [EXTERNAL] Report produced in *King v. Parker* – Middle District of Tennessee proceedings

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- 572. 7/10/2019 Email, Subject RX produced in *King v. Parker* – Middle District of Tennessee proceedings
- 573. 7/2/2019 Email, Subject [EXTERNAL] FW: kcl protocol produced in *King v. Parker* – Middle District of Tennessee proceedings
- 574. 6/26/2019 Email, Subject kcl protocol produced in *King v. Parker* – Middle District of Tennessee proceedings
- 575. 6/26/2019 Email, Subject Proposed Alternative produced in *King v. Parker* – Middle District of Tennessee proceedings
- 576. 6/26/2019 Email, Subject [EXTERNAL] <http://leucadiapharma.com/anti-capital-punishment-statement/> produced in *King v. Parker* – Middle District of Tennessee proceedings
- 577. 6/26/2019 Email, Subject KCI produced in *King v. Parker* – Middle District of Tennessee proceedings
- 578. 6/26/2019 Email, Subject [EXTERNAL] KCI Protocol produced in *King v. Parker* – Middle District of Tennessee proceedings
- 579. 5/13/2019 Email, Subject FW: Midazolam produced in *King v. Parker* – Middle District of Tennessee proceedings
- 580. 5/13/2019 Email, Subject RE: Invoice Check produced in *King v. Parker* – Middle District of Tennessee proceedings
- 581. 5/9/2019 Email, Subject RE: Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
- 582. 5/9/2019 Email, Subject Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
- 583. 5/9/2019 Email, Subject report produced in *King v. Parker* – Middle District of Tennessee proceedings
- 584. 4/29/2019 Email, Subject Potency report produced in *King v. Parker* – Middle District of Tennessee proceedings
- 585. 4/2/2019 Email, Subject follow up produced in *King v. Parker* – Middle District of Tennessee proceedings
- 586. 2/26/2019 Email, Subject New invoice produced in *King v. Parker* – Middle District of Tennessee proceedings

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- 587. 2/14/2019 Email, Subject RE: Summary of Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
- 588. 11/7/2018 Email, Subject RE: Payments [secure email] produced in *King v. Parker* – Middle District of Tennessee proceedings
- 589. 11/6/2018 Email, Subject Open invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
- 590. 11/2/2018 Email, Subject Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 591. 10/31/2018 Email, Subject Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 592. 10/10/2018 Email, Subject Final Report produced in *King v. Parker* – Middle District of Tennessee proceedings
- 593. 8/27/2018 Email, Subject Our friend Wally produced in *King v. Parker* – Middle District of Tennessee proceedings
- 594. 8/24/2018 Email, Subject Fwd: Tennessee License produced in *King v. Parker* – Middle District of Tennessee proceedings
- 595. 8/23/2018 Email, Subject Fwd: produced in *King v. Parker* – Middle District of Tennessee proceedings
- 596. 8/16/2018 Email, Subject TN 81618 produced in *King v. Parker* – Middle District of Tennessee proceedings
- 597. 8/15/2018 Email, Subject Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 598. 8/8/2018 Email, Subject Log produced in *King v. Parker* – Middle District of Tennessee proceedings
- 599. 8/6/2018 Email, Subject USP 71 produced in *King v. Parker* – Middle District of Tennessee proceedings
- 600. 7/25/2018 Email, Subject updated invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 601. 7/23/2018 Email, Subject Shipping SOP produced in *King v. Parker* – Middle District of Tennessee proceedings

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- 602. 7/18/2018 Email, Subject RE: sample RX produced in *King v. Parker* – Middle District of Tennessee proceedings
- 603. 7/17/2018 Email, Subject sample RX produced in *King v. Parker* – Middle District of Tennessee proceedings
- 604. 7/16/2018 Email, Subject Protocol produced in *King v. Parker* – Middle District of Tennessee proceedings
- 605. 7/15/2018 Email, Subject Fwd: Certificates produced in *King v. Parker* – Middle District of Tennessee proceedings
- 606. 7/12/2018 Email, Subject Testing report produced in *King v. Parker* – Middle District of Tennessee proceedings
- 607. 7/9/2018 Email, Subject RE: Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
- 608. 7/9/2018 Email, Subject Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
- 609. 7/9/2018 Email, Subject {No Subject} produced in *King v. Parker* – Middle District of Tennessee proceedings
- 610. 7/5/2018 Email, Subject Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 611. 7/3/2018 Email, Subject FW: ACHC Accreditation Decision_60062 [Pharmacy] Specialty Pharmacy produced in *King v. Parker* – Middle District of Tennessee proceedings
- 612. 6/22/2018 Email, Subject {No Subject} produced in *King v. Parker* – Middle District of Tennessee proceedings
- 613. 6/20/2018 Email, Subject Product Inquiry produced in *King v. Parker* – Middle District of Tennessee proceedings
- 614. 4/5/2018 Email, Subject FW: Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
- 615. 1/22/2018 Email, Subject List of restricted drugs produced in *King v. Parker* – Middle District of Tennessee proceedings
- 616. 87-page PDF containing duplicate copies of 65 emails above produced in *King v. Parker* – Middle District of Tennessee proceedings

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- 617. Draft document providing responses to Interrogatories and Requests for Production produced in *King v. Parker* – Middle District of Tennessee proceedings
- 618. Tony Parker's Second Supplemental Response to Plaintiff's 1st Set of Interrogatories produced in *King v. Parker* – Middle District of Tennessee proceedings
- 619. 2020 - 2021 Unredacted training rosters for strap down electrocution and lethal injection, electrocution, lethal injection, protocol review and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
- 620. 2020-2021 training rosters for strap down electrocution and lethal injection, electrocution, lethal injection, protocol review and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
- 621. 5/7/2021 Email from Robert Mitchell to Inglis and Young re depositions requested from Plaintiffs and supplementing discovery responses produced in *King v. Parker* – Middle District of Tennessee proceedings
- 622. 7/29/2020 redacted training roster for lethal injection and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
- 623. Draft of Tony May's 3rd Supplemental Response to Plaintiff's Interrogatories produced in *King v. Parker* – Middle District of Tennessee proceedings
- 624. Redacted compounding formulas for Sodium Hydroxide 1%, Edetate Disodium 1%, Hydrochloric Acid 1%, Midazolam and Potassium Chloride produced in *King v. Parker* – Middle District of Tennessee proceedings
- 625. Screen shot of text messages re ordering lethal drugs and expiration date produced in *King v. Parker* – Middle District of Tennessee proceedings
- 626. Screen shot of text messages re inventory of lethal drugs and expiration dates produced in *King v. Parker* – Middle District of Tennessee proceedings
- 627. Screen shot of text messages re trip to Nashville (for deposition) produced in *King v. Parker* – Middle District of Tennessee proceedings
- 628. Screen shot of text messages re emailed inventories for lethal drugs, status of ordering Vecuronium and potassium chloride and formulas produced in *King v. Parker* – Middle District of Tennessee proceedings

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- 629. Screen shot of text messages re travel to Nashville (for deposition) produced in *King v. Parker* – Middle District of Tennessee proceedings
- 630. Screen shot of text messages re lethal drug and timeframe for its proper use produced in *King v. Parker* – Middle District of Tennessee proceedings
- 631. Screen shot of text messages re pick up from airport produced in *King v. Parker* – Middle District of Tennessee proceedings
- 632. Screen shot of text messages re temperature for lethal drug produced in *King v. Parker* – Middle District of Tennessee proceedings
- 633. Screen shot of text messages re status of ordering lethal drugs and order of vecuronium produced in *King v. Parker* – Middle District of Tennessee proceedings
- 634. Screen shot of text messages re wanting to discuss latest lawsuit produced in *King v. Parker* – Middle District of Tennessee proceedings
- 635. Screen shot of text messages re formulas being proprietary and status of lethal drug orders, potassium chloride has come in, availability of vecuronium unclear produced in *King v. Parker* – Middle District of Tennessee proceedings
- 636. Same Text messages all compiled in a pdf (not in chronological order) produced in *King v. Parker* – Middle District of Tennessee proceedings
- 637. Same Text messages all compiled in a pdf in chronological order produced in *King v. Parker* – Middle District of Tennessee proceedings
- 638. 12/20/2019 Email, Subject [EXTERNAL] New Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 639. 12/5/2019 Email, Subject [EXTERNAL] Report produced in *King v. Parker* – Middle District of Tennessee proceedings
- 640. 11/26/2019 Email, Subject [EXTERNAL] Lab results produced in *King v. Parker* – Middle District of Tennessee proceedings
- 641. 11/21/2019 Email, Subject [EXTERNAL] Alternatives produced in *King v. Parker* – Middle District of Tennessee proceedings
- 642. 11/20/2019 Email, Subject [EXTERNAL] sec attached produced in *King v. Parker* – Middle District of Tennessee proceedings

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- 643. 10/30/2019 Email, Subject [EXTERNAL] RE: API produced in *King v. Parker* – Middle District of Tennessee proceedings
- 644. 9/19/2019 Email, Subject [EXTERNAL] Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
- 645. 8/15/2019 Email, Subject [EXTERNAL] Scanned from a Xerox [Pharmacy] Pharmacy.pdf produced in *King v. Parker* – Middle District of Tennessee proceedings
- 646. 8/12/2019 Email, Subject [EXTERNAL] 2019-18034.pdf produced in *King v. Parker* – Middle District of Tennessee proceedings
- 647. 8/12/2019 Email, Subject [EXTERNAL] ETX-190806-0007-LabReport.pdf produced in *King v. Parker* – Middle District of Tennessee proceedings
- 648. 8/9/2019 Email, Subject [EXTERNAL] results produced in *King v. Parker* – Middle District of Tennessee proceedings
- 649. 8/8/2019 Email, Subject [EXTERNAL] Suitability Test produced in *King v. Parker* – Middle District of Tennessee proceedings
- 650. 8/8/2019 Email, Subject [EXTERNAL] KCI produced in *King v. Parker* – Middle District of Tennessee proceedings
- 651. 8/8/2019 Email, Subject [EXTERNAL] RE: kci protocol produced in *King v. Parker* – Middle District of Tennessee proceedings
- 652. 8/7/2019 Email, Subject [EXTERNAL] Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 653. 7/31/2019 Email, Subject [EXTERNAL] Report produced in *King v. Parker* – Middle District of Tennessee proceedings
- 654. 7/24/2019 Email, Subject [EXTERNAL] Report produced in *King v. Parker* – Middle District of Tennessee proceedings
- 655. 7/10/2019 Email, Subject RX produced in *King v. Parker* – Middle District of Tennessee proceedings
- 656. 7/2/2019 Email, Subject [EXTERNAL] FW: kci protocol produced in *King v. Parker* – Middle District of Tennessee proceedings
- 657. 6/26/2019 Email, Subject kci protocol produced in *King v. Parker* – Middle District of Tennessee proceedings

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- 658. 6/26/2019 Email, Subject Proposed Alternative produced in *King v. Parker* – Middle District of Tennessee proceedings
- 659. 6/26/2019 Email, Subject [EXTERNAL] <http://leucadiapharma.com/anti-capital-punishment-statement/> produced in *King v. Parker* – Middle District of Tennessee proceedings
- 660. 6/26/2019 Email, Subject KCI produced in *King v. Parker* – Middle District of Tennessee proceedings
- 661. 6/26/2019 Email, Subject [EXTERNAL] KCI Protocol produced in *King v. Parker* – Middle District of Tennessee proceedings
- 662. 5/13/2019 Email, Subject FW: Midazolam produced in *King v. Parker* – Middle District of Tennessee proceedings
- 663. 5/13/2019 Email, Subject RE: Invoice Check produced in *King v. Parker* – Middle District of Tennessee proceedings
- 664. 5/9/2019 Email, Subject RE: Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
- 665. 5/9/2019 Email, Subject Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
- 666. 5/9/2019 Email, Subject report produced in *King v. Parker* – Middle District of Tennessee proceedings
- 667. 4/29/2019 Email, Subject Potency report produced in *King v. Parker* – Middle District of Tennessee proceedings
- 668. 4/2/2019 Email, Subject follow up produced in *King v. Parker* – Middle District of Tennessee proceedings
- 669. 2/26/2019 Email, Subject New Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 670. 2/14/2019 Email, Subject RE: Summary of Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
- 671. 11/7/2018 Email, Subject RE: Payments [secure email] produced in *King v. Parker* – Middle District of Tennessee proceedings
- 672. 11/6/2018 Email, Subject Open Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings

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- 673. 11/2/2018 Email, Subject Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 674. 10/31/2018 Email, Subject Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 675. 10/10/2018 Email, Subject Final Report produced in *King v. Parker* – Middle District of Tennessee proceedings
- 676. 8/16/2018 Email, Subject TN81618 produced in *King v. Parker* – Middle District of Tennessee proceedings
- 677. 8/15/2018 Email, Subject Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 678. 8/8/2018 Email, Subject Log produced in *King v. Parker* – Middle District of Tennessee proceedings
- 679. 8/6/2018 Email, Subject USP 71 produced in *King v. Parker* – Middle District of Tennessee proceedings
- 680. 7/25/2018 Email, Subject updated invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 681. 7/23/2018 Email, Subject Shipping SOP produced in *King v. Parker* – Middle District of Tennessee proceedings
- 682. 7/18/2018 Email, Subject RE: sample RX produced in *King v. Parker* – Middle District of Tennessee proceedings
- 683. 7/17/2018 Email, Subject sample Rx produced in *King v. Parker* – Middle District of Tennessee proceedings
- 684. 7/16/2018 Email, Subject Protocol produced in *King v. Parker* – Middle District of Tennessee proceedings
- 685. 7/12/2018 Email, Subject Testing report produced in *King v. Parker* – Middle District of Tennessee proceedings
- 686. 7/9/2018 Email, Subject RE: Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
- 687. 7/9/2018 Email, Subject Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings

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- 688. 7/5/2018 Email, Subject Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 689. 7/3/2018 Email, Subject FW: ACHC Accreditation Decision_60062 [Pharmacy] Specialty Pharmacy produced in *King v. Parker* – Middle District of Tennessee proceedings
- 690. 6/22/2018 Email, Subject {NO SUBJECT} produced in *King v. Parker* – Middle District of Tennessee proceedings
- 691. 12/5/2017 Email, Subject RE: More Info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 692. 12/4/2017 Email, Subject RE: {Redacted} produced in *King v. Parker* – Middle District of Tennessee proceedings
- 693. 12/4/2017 Email, Subject RE {Redacted} produced in *King v. Parker* – Middle District of Tennessee proceedings
- 694. 12/4/2017 Email, Subject Agreement produced in *King v. Parker* – Middle District of Tennessee proceedings
- 695. 11/28/2017 Email, Subject RE {Redacted} produced in *King v. Parker* – Middle District of Tennessee proceedings
- 696. 11/28/2017 Email, Subject Re: More Info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 697. 11/28/2017 Email, Subject RE: {Redacted} produced in *King v. Parker* – Middle District of Tennessee proceedings
- 698. 11/28/2017 Email, Subject {Redacted} produced in *King v. Parker* – Middle District of Tennessee proceedings
- 699. 11/27/2017 Email, Subject Re: Update produced in *King v. Parker* – Middle District of Tennessee proceedings
- 700. 11/15/2017 Email, Subject Agreement produced in *King v. Parker* – Middle District of Tennessee proceedings
- 701. 11/14/2017 Email, Subject Re: Agreement produced in *King v. Parker* – Middle District of Tennessee proceedings
- 702. 11/14/2017 Email, Subject FW: TN drugs produced in *King v. Parker* – Middle District of Tennessee proceedings

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- 703. 11/14/2017 Email, Subject Info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 704. 11/9/2017 Email, Subject RE: DEA License produced in *King v. Parker* – Middle District of Tennessee proceedings
- 705. 11/9/2017 Email, Subject Question produced in *King v. Parker* – Middle District of Tennessee proceedings
- 706. 11/7/2017 Email, Subject Update produced in *King v. Parker* – Middle District of Tennessee proceedings
- 707. 11/1/2017 Email, Subject RE: Additional Info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 708. 11/1/2017 Email, Subject More Info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 709. 11/1/2017 Email, Subject Re: Additional Info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 710. 10/31/2017 Email, Subject Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 711. 10/26/2017 Email, Subject RE: Additional Info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 712. 10/20/2017 Email, Subject Can you send the inventory and invoice info? produced in *King v. Parker* – Middle District of Tennessee proceedings
- 713. 10/18/2017 Email, Subject Re: Question produced in *King v. Parker* – Middle District of Tennessee proceedings
- 714. 10/17/2017 Email, Subject Re: Question produced in *King v. Parker* – Middle District of Tennessee proceedings
- 715. Attachments providing dosing information for lethal drugs, quantities needed and available and costs produced in *King v. Parker* – Middle District of Tennessee proceedings
- 716. 12/28/2017 Email, Subject Updated Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 717. 12/28/2017 Email, Subject New Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings

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- 718. 12/15/2017 Email, Subject RE: Info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 719. 12/14/2017 Email, Subject RE: Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 720. 12/12/2017 Email, Subject RE: Call produced in *King v. Parker* – Middle District of Tennessee proceedings
- 721. 12/12/2017 Email, Subject RE: Call produced in *King v. Parker* – Middle District of Tennessee proceedings
- 722. 12/11/2017 Email, Subject Re: Status produced in *King v. Parker* – Middle District of Tennessee proceedings
- 723. 12/11/2017 Email, Subject {Redacted} produced in *King v. Parker* – Middle District of Tennessee proceedings
- 724. 12/11/2017 Email, Subject {Redacted} produced in *King v. Parker* – Middle District of Tennessee proceedings
- 725. 12/11/2017 Email, Subject RE: Question produced in *King v. Parker* – Middle District of Tennessee proceedings
- 726. 12/11/2017 Email, Subject RE: Can you confirm {Redacted} produced in *King v. Parker* – Middle District of Tennessee proceedings
- 727. 12/11/2017 Email, Subject RE: Can you confirm {Redacted} produced in *King v. Parker* – Middle District of Tennessee proceedings
- 728. 12/6/2017 Email, Subject Re: Update produced in *King v. Parker* – Middle District of Tennessee proceedings
- 729. 12/5/2017 Email, Subject RE: More Info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 730. Redacted 2/11/2020 and 8/4/2020 lethal drugs inventory produced in *King v. Parker* – Middle District of Tennessee proceedings
- 731. Redacted 12/30/2017 – 11/26/2019 lethal drugs inventory produced in *King v. Parker* – Middle District of Tennessee proceedings
- 732. Manual for the Glock Transition Course produced in *King v. Parker* – Middle District of Tennessee proceedings

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- 733. Lesson plan for the Glock Transition Course, FY 2017/2018 produced in *King v. Parker* – Middle District of Tennessee proceedings
- 734. Lesson plan for the Glock Transition Course, FY 2017/2018 produced in *King v. Parker* – Middle District of Tennessee proceedings
- 735. PowerPoint presentation on the Glock produced in *King v. Parker* – Middle District of Tennessee proceedings
- 736. PowerPoint presentation on the Glock produced in *King v. Parker* – Middle District of Tennessee proceedings
- 737. Program Curriculum for Revolver training, 4/23/2019 produced in *King v. Parker* – Middle District of Tennessee proceedings
- 738. Firearms Skills Sheet for Revolver/Shotgun produced in *King v. Parker* – Middle District of Tennessee proceedings
- 739. PowerPoint presentation on the Revolver produced in *King v. Parker* – Middle District of Tennessee proceedings
- 740. PowerPoint on pre-service firearms training program covering policies and procedures produced in *King v. Parker* – Middle District of Tennessee proceedings
- 741. Program curriculum for firearms policies and procedures, rev 7/18/2016 produced in *King v. Parker* – Middle District of Tennessee proceedings
- 742. Program curriculum for range familiarization, rev 7/5/2016 produced in *King v. Parker* – Middle District of Tennessee proceedings
- 743. Unredacted spreadsheet of staff commissioned as personal protection officers, as of 12/17/2019 produced in *King v. Parker* – Middle District of Tennessee proceedings
- 744. Unredacted copies of TDOC Annual Weapons Qualification Cards produced in *King v. Parker* – Middle District of Tennessee proceedings
- 745. TDOC policies and procedures for Standard Firearms Qualification Training, effective 4/1/2019 produced in *King v. Parker* – Middle District of Tennessee proceedings
- 746. Midazolam storage and preparation instructions and Potassium Chloride preparation instructions produced in *King v. Parker* – Middle District of Tennessee proceedings

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- 747. LIC Administration and IV Training and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
- 748. 2017 redacted rosters for Execution, Death watch, Practice, Protocol Review, and Training and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
- 749. 2020 redacted training rosters for Execution, Review of Protocol, Lethal Injections, Electrocutation and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
- 750. 2019 - 2020 redacted training rosters for Electrocutation, Lethal Injection, Protocol and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
- 751. 2019 redacted training rosters for protocol, Lethal Injection and Strap down and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
- 752. 2019 redacted training rosters for Lethal Injection, Spike with bag and Establish IV and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
- 753. 2019 redacted training rosters for lethal injection and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
- 754. 2018 - 2019 redacted training rosters for lethal injection and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
- 755. 9/25/2018 lethal injection training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
- 756. 2018 redacted training rosters for protocol review, lethal injection, LIC Administration and IV Training and execution and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
- 757. Redacted printout of payments made for lethal drugs and supplies to pharmacy produced in *King v. Parker* – Middle District of Tennessee proceedings
- 758. Redacted printout of payments made for lethal drugs and supplies to pharmacy produced in *King v. Parker* – Middle District of Tennessee proceedings

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- 759. Redacted 12/20/2019, 2/11/2020 and 7/28/2020 pharmacy Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
- 760. Redacted dashboard printout of payments to pharmacy and redacted pharmacy Invoices from 10/26/2017, 11/1/2017, 11/27/2017, 12/14/2017, 12/28/2017, 7/5/2018, 7/5/2018, 8/7/2019, 8/7/2019, 8/16/2018, 10/31/2018, 2/26/2019, and 12/6/2019 produced in *King v. Parker* – Middle District of Tennessee proceedings
- 761. Redacted 12/20/2017 Prescription for Midazolam 800 vials, Vecuronium Bromide 400 vials and Potassium Chloride 120 vials produced in *King v. Parker* – Middle District of Tennessee proceedings
- 762. July 2018 redacted training rosters for lethal injection and Protocol review and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
- 763. Redacted 2017 emails re procuring lethal drugs, 2015 and 2017 training rosters and materials and Execution Procedures for Electrocution, rev 3/13/2017 produced in *King v. Parker* – Middle District of Tennessee proceedings
- 764. 7/10/2018 redacted training roster for execution protocol produced in *King v. Parker* – Middle District of Tennessee proceedings
- 765. 6/13/2018 redacted training roster for lethal injection practice and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
- 766. 10/15/2018 Letter to Kelley Henry at the Federal Public Defender's Office providing 87 pages of records related to the 9/28/2018 request produced in *King v. Parker* – Middle District of Tennessee proceedings
- 767. Redacted 2018 training rosters for lethal injection and electric chair and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (87 pages)
- 768. 10/8/2018 Letter to Kelley Henry at the Federal Public Defender's Office responding to request for records related to the 9/28/2018 request produced in *King v. Parker* – Middle District of Tennessee proceedings
- 769. 9/28/2018 Letter requesting records under the TPRA related to executions via lethal injection and electrocution produced in *King v. Parker* – Middle District of Tennessee proceedings

- 770. Redacted 2007 - 2018 testing logs for electric chair and annual electrocution equipment inspection letters produced in *King v. Parker* – Middle District of Tennessee proceedings (16 pages)

- 771. Redacted 2018 training rosters for electrocution practice, electrocution protocol review, lethal injection protocol, lethal injection practice and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (106 pages)

- 772. 10/18/2018 Letter from Kelley Henry at the Federal Public Defender's Office requesting records under the TPRA related to executions via lethal injection and electrocution and 10/29/2018 Letter providing records in response produced in *King v. Parker* – Middle District of Tennessee proceedings

- 773. Redacted emails, Victim forms and letters re attendance at execution, Outlook notifications for inmate meetings, Electrocution Chronological Execution Report, TDOC Incident Report and dashboard printouts, Offender Attributes printout, Personal Property Inventory, Summary of Death report, Execution day planning docs, Zagorski's Telephone Call Log, Death Row Offender Info, Tool Inventory and checks, Key Log, Post-Inspection Form and Tool Control Form produced in *King v. Parker* – Middle District of Tennessee proceedings (137 pages)

- 774. Redacted Emails, Victim forms and letters re attendance at execution, Outlook notifications for inmate meetings, Electrocution Chronological Execution Report, TDOC Incident Report and dashboard printouts, Offender Attributes printout, Personal Property Inventory, Summary of Death report, Execution day planning docs, Zagorski's Telephone Call Log, Death Row Offender Info, Tool Inventory and checks, Key Log, Post-Inspection Form and Tool Control Form produced in *King v. Parker* – Middle District of Tennessee proceedings (121 pages)

- 775. Redacted emails, Victim forms and letters re attendance at execution, Media info and forms for attendance at execution, filings and orders, Zagorski execution elections, execution notification drafts and final copies produced in *King v. Parker* – Middle District of Tennessee proceedings (207 pages)

- 776. Emails, Victim forms and letters re attendance at execution, Media info and forms for attendance at execution, filings and orders, Zagorski execution elections, execution notification drafts and final copies produced in *King v. Parker* – Middle District of Tennessee proceedings

- 777. Emails, execution attendance letters, media attendance and applications, Zagorski's execution election letter and affidavit to have counsel at

execution, letters from Zagorski's counsel, records re preparation for execution, Victim Services letters, Outlook meeting records for visits, Electrocution chronological report records, TDOC Incident Report, Discipline records, Memo re last meal, offender info, personal property inventory, Offender information, tool inventory and tool check record produced in *King v. Parker* – Middle District of Tennessee proceedings

778. Redacted training rosters for electrocution practice and lethal injection, and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (32 pages)
779. 11/9/2018 Letter from Jessica Johnson, investigator in the Federal Defender Services requesting records related to Zagorski's 11/1/2018 execution and records related to drugs intended for use in David Earl Miller's execution on 12/6/2018 produced in *King v. Parker* – Middle District of Tennessee proceedings
780. Redacted Death Watch logs for Zagorski and redacted Record of staff visits produced in *King v. Parker* – Middle District of Tennessee proceedings (37 pages)
781. Death Watch logs for Zagorski and Record of Staff Visits for use in *King v. Parker* – Middle District of Tennessee proceedings
782. Redacted Death Watch logs for Zagorski produced in *King v. Parker* – Middle District of Tennessee proceedings (75 pages)
783. Death Watch logs for Zagorski produced in *King v. Parker* – Middle District of Tennessee proceedings
784. 11/14/2018 Letter responding to request advising records will be compiled produced in *King v. Parker* – Middle District of Tennessee proceedings
785. 11/27/2018 Letter advising that requested records are ready and the cost for same produced in *King v. Parker* – Middle District of Tennessee proceedings
786. 11/7/2017 Email, Subject produced in *King v. Parker* – Middle District of Tennessee proceedings
787. 11/28/2017 Email, Subject [Pharmacy] Pharmacy produced in *King v. Parker* – Middle District of Tennessee proceedings
788. 11/28/2017 Email, Subject Registering to do business with TN produced in *King v. Parker* – Middle District of Tennessee proceedings

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789. 11/27/2017 Email, Subject Re: Update produced in *King v. Parker* – Middle District of Tennessee proceedings
790. 11/27/2017 Email, Subject RE: Update produced in *King v. Parker* – Middle District of Tennessee proceedings
791. 11/28/2017 Email, Subject Re: [Pharmacy] Pharmacy produced in *King v. Parker* – Middle District of Tennessee proceedings
792. 12/4/2017 Email, Subject Re: [Pharmacy] Pharmacy produced in *King v. Parker* – Middle District of Tennessee proceedings
793. 11/28/2017 Email, Subject RE: Registering to do business with TN produced in *King v. Parker* – Middle District of Tennessee proceedings
794. 11/28/2017 Email, Subject RE: Registering to do business with TN produced in *King v. Parker* – Middle District of Tennessee proceedings
795. 10/18/2017 Email, Subject Re: Question produced in *King v. Parker* – Middle District of Tennessee proceedings
796. 10/17/2017 Email, Subject Re: Question produced in *King v. Parker* – Middle District of Tennessee proceedings
797. 10/17/2017 Email, Subject Re: Question produced in *King v. Parker* – Middle District of Tennessee proceedings
798. 10/18/2017 Email, Subject Re: Question produced in *King v. Parker* – Middle District of Tennessee proceedings
799. 11/28/2017 Email, Subject Re: More Info produced in *King v. Parker* – Middle District of Tennessee proceedings
800. 11/9/2017 Email, Subject RE: DEA License produced in *King v. Parker* – Middle District of Tennessee proceedings
801. 11/9/2017 Email, Subject RE: DEA License produced in *King v. Parker* – Middle District of Tennessee proceedings
802. 10/18/2017 Email, Subject RE: Applicant for licensure as a [Pharmacist] in TN produced in *King v. Parker* – Middle District of Tennessee proceedings
803. 11/14/2017 Email, Subject Re: Agreement produced in *King v. Parker* – Middle District of Tennessee proceedings

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- 11/14/2017 Email, Subject RE: Agreement produced in *King v. Parker* – Middle District of Tennessee proceedings
- 804.
- 10/26/2017 Email, Subject Re: Additional Info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 805.
- 10/27/2017 Email, Subject RE: Additional Info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 806.
- 11/1/2017 Email, Subject RE: Additional Info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 807.
- 11/9/2017 Email, Subject Question produced in *King v. Parker* – Middle District of Tennessee proceedings
- 808.
- 10/18/2017 Email, Subject Fwd: Question produced in *King v. Parker* – Middle District of Tennessee proceedings
- 809.
- 11/8/2017 Email, Subject Fwd: DEA License produced in *King v. Parker* – Middle District of Tennessee proceedings
- 810.
- 11/14/2017 Email, Subject FW: TN drugs produced in *King v. Parker* – Middle District of Tennessee proceedings
- 811.
- 10/18/2017 Email, Subject Applicant for licensure as a [Pharmacist] in TN produced in *King v. Parker* – Middle District of Tennessee proceedings
- 812.
- 12/4/2017 Email, Subject Agreement produced in *King v. Parker* – Middle District of Tennessee proceedings
- 813.
- 10/26/2017 Email, Subject Additional Info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 814.
- 10/26/2017 Email, Subject Re: Additional Info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 815.
- Redacted emails from 1/3/2018 re Pharmacy's Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
- 816.
- Redacted emails from 12/5/2017 – 1/3/2018 re Pharmacy's Invoices, confidentiality of pharmacy under TCA 10-7-504(h), shipments of drugs, scheduling a time to talk on the telephone and Pharmacy's Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
- 817.

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- 2/20/2018 Agreement between TDOC and redacted unknown party, Emails, Electric chair testing logs and training logs and materials produced in *King v. Parker* – Middle District of Tennessee proceedings (61 pages)
818. 6/5/2018 Letter from Kelley Henry requesting records related to executions, lethal injections and electrocutions produced in *King v. Parker* – Middle District of Tennessee proceedings
819. Unredacted 5/15/2018 and 5/16/2018 Training rosters for Protocol review and Lethal Injection and training materials for use in the *King v. Parker* – Middle District of Tennessee proceedings
820. 6/12/2018 Letter from Debra Inglis responding to 6/5/2018 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
821. 6/20/2018 Letter from Debra Inglis providing records in response to 6/5/2018 request produced in *King v. Parker* – Middle District of Tennessee proceedings
822. Redacted 5/15/2018 and 5/16/2018 Training rosters for Protocol review and Lethal Injection and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (13 pages)
823. Redacted March 2018 Training rosters for Electric chair, Death Watch, Lethal Injection, and Protocol Review and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (21 pages)
824. 6/8/2018 Letter from Debra Inglis enclosing records in response to 2/2/2018, 3/7/2018, 4/7/2018 and 5/4/2018 requests, Redacted Agreement between TDOC and medical provider, March 2016 - August 2018 Electric chair testing logs, 2018 redacted training rosters and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (93 pages)
825. 4/2/2018 Letter from Debra Inglis providing records in response to requests on 2/2/2018 and 3/7/2018 produced in *King v. Parker* – Middle District of Tennessee proceedings
826. Redacted Billy Ray Irick Affidavit Concerning Method of Execution and Affidavit to Select Defense Counsel Witness to Execution and redacted July 2018 Training rosters for electrocution and lethal injection and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (21 pages)
- 827.

828. Billy Ray Irick Affidavit Concerning Method of Execution and Affidavit to Select Defense Counsel Witness to Execution and unredacted July 2018 Training rosters for electrocution and lethal injection and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
829. 7/10/2018 Letter from Debra Inglis enclosing records in response to 7/3/2018 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings (22 pages)
830. 7/3/2018 Letter from Kelley Henry requesting records related to lethal injection and electrocution produced in *King v. Parker* – Middle District of Tennessee proceedings
831. 7/30/2018 Letter from Debra Inglis responding to 7/16/2018 request for records and enclosing TDOC rules and regulations revision chart produced in *King v. Parker* – Middle District of Tennessee proceedings (8 pages)
832. 7/16/2018 Letter from Michael Chavis requesting records re TDOC's rules and regulations and 7/25/2018 Letter from Debra Inglis responding to the 7/16/2018 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
833. 7/16/2018 Letter from Michael Chavis requesting records re TDOC's rules and regulations produced in *King v. Parker* – Middle District of Tennessee proceedings
834. 8/15/2018 Letter from Debra Inglis enclosing records in response to the 7/26/2018 request with redacted records enclosed produced in *King v. Parker* – Middle District of Tennessee proceedings (55 pages)
835. 8/15/2018 Payment receipt for records request produced in *King v. Parker* – Middle District of Tennessee proceedings
836. 8/6/2018 Letter from Debra Inglis in response to 7/16/2018 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
837. 7/26/2018 Letter from Kelley Henry requesting records re lethal injection, electrocution and executions produced in *King v. Parker* – Middle District of Tennessee proceedings
838. Redacted July 2018 training rosters for lethal injection, Protocol training, execution training and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (27 pages)

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- 839. Unredacted July 2018 training rosters for lethal injection, protocol training, execution training and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
- 840. Unredacted July 2018 training rosters for lethal injection and protocol and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
- 841. Redacted July 2018 training rosters for lethal injection and protocol and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (29 pages)
- 842. 8/21/2018 Letter from Debra Inglis responding to requests for records on 8/8/2018 and 8/15/2018 produced in *King v. Parker* – Middle District of Tennessee proceedings
- 843. 7/18/2018 Billy Ray Irick Prescription for Midazolam produced in *King v. Parker* – Middle District of Tennessee proceedings
- 844. TDOC Incident Report re Billy Ray Irick's execution via lethal injection produced in *King v. Parker* – Middle District of Tennessee proceedings
- 845. Death watch logs for Billy Ray Irick produced in *King v. Parker* – Middle District of Tennessee proceedings
- 846. Court filings and orders re Billy Ray Irick produced in *King v. Parker* – Middle District of Tennessee proceedings
- 847. Victim Services forms and letters re attending Irick's execution, Media information and forms for attending Irick's execution and Elections to attend Irick's execution produced in *King v. Parker* – Middle District of Tennessee proceedings
- 848. Irick Motion, Emails, Inmate Inquiry, Visitation records and Order produced in *King v. Parker* – Middle District of Tennessee proceedings
- 849. Irick Execution day logistics records, Irick TDOC Segregation Unit Record for Death Sentenced Inmates, Death Row Offender Info, Key Log, Post Inspection Form, Weekly Tool Inventory, Tool Checks and Control forms produced in *King v. Parker* – Middle District of Tennessee proceedings
- 850. Midazolam storage and preparation instructions and Pharmacy Invoice information produced in *King v. Parker* – Middle District of Tennessee proceedings

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- 851. Unredacted July and August 2018 Training rosters for Lethal Injection and training materials for use in *King v. Parker* – Middle District of Tennessee proceedings
- 852. 9/14/2018 Letter from Michael Chavis renewing his previous request for certain records re Irick's execution produced in *King v. Parker* – Middle District of Tennessee proceedings
- 853. 9/4/2018 Letter from Debra Inglis responding to 8/15/2018 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
- 854. 8/15/2018 Letter from Michael Chavis requesting certain records re Irick's execution produced in *King v. Parker* – Middle District of Tennessee proceedings
- 855. 9/11/2018 Draft letter from Debra Inglis providing records in response to 8/15/2018 request produced in *King v. Parker* – Middle District of Tennessee proceedings
- 856. 9/21/2018 Draft letter from Debra Inglis responding to 9/14/2018 and 8/15/2018 requests for records produced in *King v. Parker* – Middle District of Tennessee proceedings.
- 857. Victim Notification Services - What to Expect on Execution Day produced in *King v. Parker* – Middle District of Tennessee proceedings (7 pages)
- 858. 9/24/2018 Letter from Debra Inglis enclosing records in response to 8/15/2018 and 9/14/2018 requests for records and enclosing Victim Notification Services brochure re What to Expect on Execution Day produced in *King v. Parker* – Middle District of Tennessee proceedings
- 859. TDOC Critical Incident Stress Management info for family members and friends after an execution produced in *King v. Parker* – Middle District of Tennessee proceedings
- 860. 9/11/2018 Letter from Debra Inglis providing records in response to 8/15/2018 request produced in *King v. Parker* – Middle District of Tennessee proceedings
- 861. Redacted June and July 2018 training rosters for lethal injection practice, protocol training and review, electrocution and execution training and training materials and Irick's Affidavits Concerning Method of Execution and selection of attorney to witness the execution produced in *King v. Parker* – Middle District of Tennessee proceedings (141 pages)

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- 862. 9/4/2018 Letter from Debra Inglis providing records in response to requests on 8/8/2018 and 8/15/2018 produced in *King v. Parker* – Middle District of Tennessee proceedings
- 863. 8/8/2018 Letter from Paul Bottei requesting records re lethal drugs for Irick's execution produced in *King v. Parker* – Middle District of Tennessee proceedings
- 864. Redacted Media Info and forms for Irick's execution and elections to witness Irick's execution produced in *King v. Parker* – Middle District of Tennessee proceedings (41 pages)
- 865. Redacted July and August 2018 training rosters for lethal injection and training materials, Irick Death Watch logs, Irick Midazolam prescription, Midazolam storage and preparation instructions, TDOC Incident Report, Affidavits re selection of defense counsel to witness execution and method of execution, notification letter re execution, Irick's Day of Execution - Lethal Injection Execution Recorder Checklist, Chemical preparation records and Victim Services forms and letters re attendance at execution produced in *King v. Parker* – Middle District of Tennessee proceedings (150 pages)
- 866. Execution documents for Billy Ray Irick produced in *King v. Parker* – Middle District of Tennessee proceedings (17 pages)
- 867. Redacted 9/18/2019 training rosters for Lethal injection practice and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (14 pages)
- 868. 10/15/2019 Letter from Debra Inglis providing records in response to 9/24/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
- 869. 9/24/2019 Letter from Kelley Henry requesting records re lethal injection, electrocution and execution produced in *King v. Parker* – Middle District of Tennessee proceedings
- 870. 11/6/2019 Letter from Evelyn Caicedo requesting records re Execution Procedures for Electrocution produced in *King v. Parker* – Middle District of Tennessee proceedings
- 871. 11/13/2019 Letter from [Drug Procurer] responding to 11/6/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings

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- 872. 11/22/2019 Letter from [Drug Procurer] providing records in response to 11/6/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
- 873. Execution Procedures for Electrocution, rev. 3/13/2017 produced in *King v. Parker* – Middle District of Tennessee proceedings (88 pages)
- 874. Lethal Injection Execution Manual Execution Procedures for Lethal Injection, rev 7/5/2018 produced in *King v. Parker* – Middle District of Tennessee proceedings (99 pages)
- 875. 1/2/2019 Letter from Jessica Johnson requesting records re procurement of lethal injection chemicals produced in *King v. Parker* – Middle District of Tennessee proceedings
- 876. 1/3/2019 Letter from Debra Inglis responding to 1/2/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
- 877. 1/18/2018 Letter from Debra Inglis providing records in response to 1/2/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings (29 pages)
- 878. Records re Invoices and payments to [Pharmacy], [Pharmacy] Invoices, 7/1/2018 Letter re approval of vouchers for payment with redacted info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 879. 1/2/2019 Email from Neysa Taylor to Debbie Inglis enclosing a 1/2/2019 public records request addressed to the Tennessee Department of Finance from Jessica Johnson produced in *King v. Parker* – Middle District of Tennessee proceedings
- 880. 2/15/2019 draft letter from Debra Inglis providing records in response to 2/11/2019 and 10/31/2018 request produced in *King v. Parker* – Middle District of Tennessee proceedings
- 881. 2/5/2019 Letter from Debra Inglis responding to 1/2/2019 and 1/29/2019 requests sent to the Department of Health and responding to 1/31/2019 request for additional information produced in *King v. Parker* – Middle District of Tennessee proceedings
- 882. 2/8/2019 Letter from Debra Inglis providing a response to the 1/8/2019 request and enclosing redacted [Pharmacy] Invoices and TDOC payment records produced in *King v. Parker* – Middle District of Tennessee proceedings (6 pages)

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- 883. 1/3/2019 Letter from Debra Inglis responding to the 1/2/2019 request addressed to the Tennessee Department of Finance produced in *King v. Parker* – Middle District of Tennessee proceedings
- 884. 1/10/2019 Letter from Debra Inglis responding to the 1/2/2019 request addressed to the Tennessee Department of Finance produced in *King v. Parker* – Middle District of Tennessee proceedings
- 885. Redacted TDOC records re [Pharmacy] Invoices and payments produced in *King v. Parker* – Middle District of Tennessee proceedings (3 pages)
- 886. 2/22/2019 Letter from Debra Inglis responding to 2/11/2019 Letter and enclosing Redacted TDOC records re [Pharmacy] Invoices and payments produced in *King v. Parker* – Middle District of Tennessee proceedings (4 pages)
- 887. 1/2/2019 Letter from Jessica Johnson to TDOC requesting records re procurement of lethal injection chemicals produced in *King v. Parker* – Middle District of Tennessee proceedings
- 888. 1/2/2019 Letter from Jessica Johnson to Tennessee Department of Finance requesting records re procurement of lethal injection chemicals produced in *King v. Parker* – Middle District of Tennessee proceedings
- 889. 2/11/2019 Letter from Jessica Johnson following up to original request on 1/2/2019 produced in *King v. Parker* – Middle District of Tennessee proceedings
- 890. Redacted Death Watch logs for Stephen West produced in *King v. Parker* – Middle District of Tennessee proceedings (28 pages)
- 891. Redacted August 2019 - November 2019 training rosters for Strap Down training, Lethal Injection, Electrocution, Protocol Review, and training materials, Media info and forms re attendance at execution, Outlook notifications for meetings, Victim Services notices and letters, elections to attend execution, TDOC Incident Report of West's death, Day of Execution - Electrocution Execution Recorder Checklist, Record of Staff Visits and Death Watch Logs produced in *King v. Parker* – Middle District of Tennessee proceedings (147 pages)
- 892. Redacted August 2019 Training Rosters for Lethal Injection and Electric Chair and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (33 pages)
- 893. Redacted May 2019 - August 2019 Training Rosters for Electrocution, Lethal Injection and Spike IV Bag and Establish IV and training materials

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produced in *King v. Parker* – Middle District of Tennessee proceedings (139 pages)

- 894. 11/14/2019 Letter from Debra Inglis responding to 11/14/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
- 895. 12/17/2019 Letter from Debra Inglis providing records in response to 11/14/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
- 896. Redacted TDOC Incident Report re death of West, Day of Execution - Electrocutation Execution Recorder Checklist and Record of Staff Visits produced in *King v. Parker* – Middle District of Tennessee proceedings (22 pages)
- 897. 12/9/2019 Letter from Debra Inglis responding to 12/9/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
- 898. 11/14/2019 Letter from Jessica Johnson requesting records re lethal injection records and West electrocution records produced in *King v. Parker* – Middle District of Tennessee proceedings
- 899. Redacted 10/29/2018 Training rosters for Electrocutation practice and Lethal Injection and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (32 pages)
- 900. 1/31/2019 Letter from Debra Inglis responding to 1/22/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
- 901. Redacted October 2018 - January 2019 Training rosters for Electrocutation practice, Lethal Injection and Electric Chair and training materials and Electric Chair testing logs, [Pharmacy] invoice and payment info produced in *King v. Parker* – Middle District of Tennessee proceedings (128 pages)
- 902. Redacted December 2017 - 2018 lethal drug inventory logs produced in *King v. Parker* – Middle District of Tennessee proceedings (3 pages)
- 903. 1/22/2019 Letter from Kelley Henry requesting records re lethal injection, electrocution and executions and 1/25/2019 Letter from Debra Inglis responding to 1/22/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
- 904. Redacted Electric Chair testing logs for 2018, Unredacted November 2018 - January 2019 training rosters for Electric Chair, Lethal Injection and Electrocutation and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings

905. 2/13/2019 Email from [Drug Procurer] to [Drug Procurer] enclosing unredacted 12/30/2017 – 11/20/2018 lethal drug inventories produced in *King v. Parker* – Middle District of Tennessee proceedings
906. 2/19/2019 Letter from Debra Inglis in response to 2/8/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
907. Record of staff visits, Zagorski's Medical Examiner's Report and Labs, Irick's Medical Examiner's Report and Labs, TDOC Incident Report for Miller's death, Email requesting Miller's autopsy report, Miller's TDOC Summary of Death, Letter Requesting Miller's autopsy report, and Media Info and selection records produced in *King v. Parker* – Middle District of Tennessee proceedings (130 pages)
908. Redacted Death Watch logs for Miller produced in *King v. Parker* – Middle District of Tennessee proceedings (42 pages)
909. Redacted Media Info and selection records, Miller execution attendance elections, Miller's affidavit re selection of attorney at execution, letters from Miller's attorney, Emails, Notification letter re execution, Outlook notifications for visits, Offender info, Miller TDOC Incident Reports re Miller's execution, Miller's Day of Execution - Electrocution Execution Recorder Checklist, Inmate Inquiry, Miller Summary of Death, TDOC Health Services Morbidity and Mortality Summary, Miller filings and Orders, Visitor and visitation records, TDOC Incident record, 12/6/2018 handwritten note re staying Miller's execution, Miller Incident reports and USPS Return Receipts produced in *King v. Parker* – Middle District of Tennessee proceedings (172 pages)
910. Miller Incident report, USPS Return Receipts, Redacted Record of Staff Visits and redacted lethal drug inventories from September 2018 - December 2018 produced in *King v. Parker* – Middle District of Tennessee proceedings (37 pages)
911. Media info and selections to attend execution, Miller Death Watch logs, Victim Services letters and elections to attend execution, Miller's Affidavit re selecting counsel to attend execution, Outlook notifications of visits, Memo re Miller's legal visits, Emails, Offender Info, TDOC Incident Reports, Day of Execution - Electrocution Execution Recorder Checklist, Inmate Inquiry, Orders and filings and Miller visitor and visitation records produced in *King v. Parker* – Middle District of Tennessee proceedings (192 pages)

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- 912. 2/8/2019 Email from Debbie Inglis to [Drug Procurer] forwarding an email from Kelley Henry clarifying records requested produced in *King v. Parker* – Middle District of Tennessee proceedings
- 913. 2/19/2019 Email from [Drug Procurer] to Janet Santana regarding records requested produced in *King v. Parker* – Middle District of Tennessee proceedings
- 914. Unredacted Record of staff visits, Zagorski's Medical Examiner's Report and Labs, Irick's Medical Examiner's Report and Labs, TDOC Incident Report for Miller's death, Email requesting Miller's autopsy report, Miller's TDOC Summary of Death, Letter Requesting Miller's autopsy report, and Media Info and selection records produced in *King v. Parker* – Middle District of Tennessee proceedings
- 915. Unredacted Death Watch logs for Miller produced in *King v. Parker* – Middle District of Tennessee proceedings
- 916. Unredacted Media Info and selection records, Miller execution attendance elections, Miller's affidavit re selection of attorney at execution, letters from Miller's attorney, Emails, Notification letter re execution, Outlook notifications for visits, Offender info, Miller TDOC Incident Reports re Miller's execution, Miller's Day of Execution - Electrocution Execution Recorder Checklist, Inmate Inquiry, Miller Summary of Death, TDOC Health Services Morbidity and Mortality Summary, Miller filings and Orders, Visitor and visitation records, TDOC Incident record, 12/6/2018 handwritten note re staying Miller's execution, Miller Incident reports and USPS Return Receipts produced in *King v. Parker* – Middle District of Tennessee proceedings
- 917. 4/15/2019 Letter from Debra Inglis responding to 3/28/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
- 918. Redacted electric chair testing log, Redacted February 2019 - March 2019 Training Rosters for Injection and Electrocution and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (48 pages)
- 919. Unredacted electric chair testing log, Unredacted February 2019 - March 2019 Training Rosters for Injection and Electrocution and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
- 920. 4/1/2019 Letter from Debra Inglis responding to 3/28/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings

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- 921. 3/28/2018 Letter from Kelley Henry requesting records re lethal injection, electrocution and execution produced in *King v. Parker* – Middle District of Tennessee proceedings
- 922. Redacted April 2019 - May 2019 Training Rosters for Lethal Injection, Electrocution, and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
- 923. 2/26/2019 [Pharmacy] Invoice for Bacteriostatic water, Sodium Chloride and Lactated Ringers produced in *King v. Parker* – Middle District of Tennessee proceedings
- 924. Redacted November 2018 - March 2019 Training Rosters for Electrocution, Lethal Injection, 2018 - 2019 electric chair testing logs, 2/26/2019 [Pharmacy] Invoice and May 9, 2019 lethal drug inventory produced in *King v. Parker* – Middle District of Tennessee proceedings
- 925. 5/8/2019 Letter from Debra Inglis responding to 5/6/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
- 926. 5/23/2019 Letter from Debra Inglis responding to 5/6/2019 request with cost produced in *King v. Parker* – Middle District of Tennessee proceedings
- 927. 5/6/2019 Letter from Jessica Johnson requesting records re lethal injection and electrocution produced in *King v. Parker* – Middle District of Tennessee proceedings
- 928. 6/14/2019 Letter from Debra Inglis responding 6/10/2019 request and enclosing Dec 2017 - Nov 2018 redacted lethal drugs inventory produced in *King v. Parker* – Middle District of Tennessee proceedings (9 pages)
- 929. Redacted Dec 2017 - Nov 2018 lethal drugs inventory produced in *King v. Parker* – Middle District of Tennessee proceedings (7 pages)
- 930. Unredacted Dec 2017 - Nov 2018 lethal drugs inventory for use in *King v. Parker* – Middle District of Tennessee proceedings
- 931. 6/10/2019 Letter from Jessica Johnson requesting records re lethal drug inventories produced in *King v. Parker* – Middle District of Tennessee proceedings
- 932. 6/5/2019 Email from [Drug Procurer] to Janet Santana responding to 5/20/2019 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings

933. Redacted Record of Staff Visits, Donnie Johnson Day of Execution - Lethal Injection Execution Recorder Checklist, Chemical prep sheets and TDOC Incident Report for Charles Walton Wright produced in *King v. Parker* – Middle District of Tennessee proceedings (18 pages)
934. Inmate card, Media Info and selections for execution, Elections to attend execution, Victim Services forms and letters, Johnson's Affidavit to Select Defense Counsel Witness to Execution, Emails, Method of execution notification letter, Affidavit Concerning Method of Execution, Outlook notifications for meetings, TDOC Offender Info, TDOC Incident Reports, Visitor and Visitation records, Letters to Gov. Lee re clemency, Death Watch logs, May 9, 2019 Inventory of Midazolam and Record of Staff Visits produced in *King v. Parker* – Middle District of Tennessee proceedings (188 pages)
935. 5/22/2019 Email from [Drug Procurer] to Debbie Inglis with draft response to Kelly Henry's 5/20/2019 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
936. Unredacted 5/9/2019 lethal drug inventory for Midazolam for use in *King v. Parker* – Middle District of Tennessee proceedings
937. 6/5/2019 Letter from Debra Inglis to Kelley Henry responding to 5/20/2019 request with cost produced in *King v. Parker* – Middle District of Tennessee proceedings
938. 4/24/2019 Email from Melissa Hood to Debbie Inglis enclosing 4/16/2019 Letter from the Eleos Institute re upgrading state's electric chair produced in *King v. Parker* – Middle District of Tennessee proceedings
939. Redacted Inmate card, Media Info and selections for execution, Elections to attend execution, Victim Services forms and letters, Johnson's Affidavit to Select Defense Counsel Witness to Execution, Emails, Method of execution notification letter, Affidavit Concerning Method of Execution, Outlook notifications for meetings, TDOC Offender Info, TDOC Incident Reports, Visitor and Visitation records, Execution day planning records, Phone call logs and Letters to Gov. Lee re clemency produced in *King v. Parker* – Middle District of Tennessee proceedings (182 pages)
940. Unredacted Inmate card, Media Info and selections for execution, Elections to attend execution, Victim Services forms and letters, Johnson's Affidavit to Select Defense Counsel Witness to Execution, Emails, Method of execution notification letter, Affidavit Concerning Method of Execution, Outlook notifications for meetings, TDOC Offender Info, TDOC Incident Reports, Visitor and Visitation records, Execution day planning records,

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Phone call logs and Letters to Gov. Lee re clemency for use in *King v. Parker* – Middle District of Tennessee proceedings

- 941. Redacted Johnson Death Watch logs produced in *King v. Parker* – Middle District of Tennessee proceedings (48 pages)
- 942. Unredacted Johnson Death Watch logs for use in *King v. Parker* – Middle District of Tennessee proceedings
- 943. Redacted TDOC internal record of Johnson's execution, Summary of Death, Execution day planning records, record of staff visits, Johnson Day of Execution - Lethal Injection Execution Recorder Checklist, Chemical prep records and TDOC Incident Report for Charles Walton Wright produced in *King v. Parker* – Middle District of Tennessee proceedings (35 pages)
- 944. Unredacted TDOC internal record of Johnson's execution, Summary of Death, Execution day planning records, record of staff visits, Johnson Day of Execution - Lethal Injection Execution Recorder Checklist, Chemical prep records and TDOC Incident Report for Charles Walton Wright for use in *King v. Parker* – Middle District of Tennessee proceedings
- 945. Redacted April 2019 - August 2019 Training rosters for lethal injection, electrocution, Spike IV Bag and Establish IV, Strap down and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (325 pages)
- 946. Unredacted April 2019 - August 2019 Training rosters for lethal injection, electrocution, Spike IV Bag and Establish IV, Strap down and training materials for use in *King v. Parker* – Middle District of Tennessee proceedings
- 947. 8/6/2019 Letter from Debra Inglis responding to 8/1/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
- 948. 8/30/2019 Letter from Debra Inglis providing records in response to 8/1/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
- 949. 8/1/2019 Letter from Kelley Henry requesting records re lethal injection, electrocution and execution produced in *King v. Parker* – Middle District of Tennessee proceedings
- 950. 11/16/2020 Email from Richard Tennent to [Drug Procurer] enclosing 11/16/2020 request for records re COVID-19 policies and procedures in

place at Riverbend produced in *King v. Parker* – Middle District of Tennessee proceedings

951. 11/24/2020 Letter from [Drug Procurer] responding to 11/16/2020 request for records and enclosing TDOC Memos and protocols re COVID-19 produced in *King v. Parker* – Middle District of Tennessee proceedings
952. 11/16/2020 Letter from Richard Tennent requesting records re COVID-19 policies and procedures in place at Riverbend produced in *King v. Parker* – Middle District of Tennessee proceedings
953. 1/15/2020 Email from [Drug Procurer] to Janet Santana responding to 12/13/2019 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
954. November 2019 - December 2019 redacted training rosters for electrocution and lethal injection and training materials, redacted emails from/about [Pharmacy] re invoices, payments, lethal drug shipments, procuring lethal drugs and lab reports produced in *King v. Parker* – Middle District of Tennessee proceedings (67 pages)
955. October 2019 - November 2019 redacted training rosters for lethal injection, electrocution and lethal injection protocol reviews, electrocution, and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (52 pages)
956. Redacted Record of Staff Visits produced in *King v. Parker* – Middle District of Tennessee proceedings (10 pages)
957. Media Info and selections to view execution of Stephen West, letters re attendance at execution, Outlook notifications for visitations, West' Personal Property inventory and Storage Request, Death Watch logs, TDOC Incident Report and Day of Execution - Electrocution Execution Recorder Checklist produced in *King v. Parker* – Middle District of Tennessee proceedings (120 pages)
958. 12/13/2019 Letter from Kelley Henry requesting records re lethal injection, electrocution and execution produced in *King v. Parker* – Middle District of Tennessee proceedings
959. 12/18/2019 Letter from Debra Inglis responding to request for records on 12/13/2019 produced in *King v. Parker* – Middle District of Tennessee proceedings

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- 960. 1/31/2020 Letter from Kelley Henry requesting records re lethal injection, electrocution and execution produced in *King v. Parker* – Middle District of Tennessee proceedings
- 961. Redacted 12/20/2019 Invoice from [Pharmacy] produced in *King v. Parker* – Middle District of Tennessee proceedings
- 962. 12/20/2019 Invoice from [Pharmacy] for Midazolam and KCI produced in *King v. Parker* – Middle District of Tennessee proceedings
- 963. Redacted February 2020 Training rosters for Electrocution and training materials, redacted drug logs and redacted 12/20/2019 Invoice from [Pharmacy] produced in *King v. Parker* – Middle District of Tennessee proceedings (9 pages)
- 964. Redacted January 2020 - February 2020 Training rosters for Protocol, lethal injection, electrocution, and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (116 pages)
- 965. 2/4/2020 Letter from Debra Inglis responding to 1/31/2020 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
- 966. 2/24/2020 Letter from Debra Inglis providing records in response to 1/31/2019 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
- 967. Unredacted February 2020 - March 2020 Training rosters for electrocution, lethal injection, Review of Protocol, and training materials and Day of Execution - Electrocution Execution Recorder Checklist for use in *King v. Parker* – Middle District of Tennessee proceedings
- 968. 3/2/2020 Letter from Kelley Henry requesting records re lethal injection, electrocution and execution produced in *King v. Parker* – Middle District of Tennessee proceedings
- 969. Redacted February 2020 - March 2020 Training rosters for electrocution, review of protocol, lethal injection, and training materials, and redacted August 2019 - February 2020 drug inventory logs produced in *King v. Parker* – Middle District of Tennessee proceedings (21 pages)
- 970. 3/9/2020 Letter from Debra Inglis responding to 3/2/2020 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings

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- 971. 3/23/2020 Letter from Debra Inglis providing records in response to 3/2/2020 request produced in *King v. Parker* – Middle District of Tennessee proceedings
- 972. Redacted August 2019 - February 2020 Electric chair testing logs produced in *King v. Parker* – Middle District of Tennessee proceedings
- 973. Unredacted August 2019 - February Electric chair testing logs produced in *King v. Parker* – Middle District of Tennessee proceedings
- 974. 6/3/2020 Email from [Drug Procurer] to Debbie Inglis with draft response to 5/29/2020 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
- 975. Redacted 5/28/2020 training roster for Lethal Injections, Aug 2019 - Feb 2020 Electric Chair testing log, 2/11/2020 Lethal drug inventory and 2/11/2020 [Pharmacy] Invoice for KCI and Midazolam produced in *King v. Parker* – Middle District of Tennessee proceedings (5 pages)
- 976. Redacted January 2020 - March 2020 and May 2020 training rosters for Protocol, Lethal Injection, Electrocution, Review of Protocol, and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (144 pages)
- 977. 5/29/2020 Email from Debbie Inglis to [Drug Procurer] forwarding 5/29/2020 Request for Records re lethal injection and electrocution produced in *King v. Parker* – Middle District of Tennessee proceedings
- 978. 6/8/2020 Letter from Debra Inglis responding to 5/29/2020 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
- 979. 5/29/2020 Letter from Michael Chavis requesting records re lethal injection and electrocution produced in *King v. Parker* – Middle District of Tennessee proceedings
- 980. Redacted June 2020 - July 2020 training rosters for lethal injection, electrocution and Protocol and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (22 pages)
- 981. 8/7/2020 Email from Debbie Inglis to [Drug Procurer] re responding to records request produced in *King v. Parker* – Middle District of Tennessee proceedings
- 982. Redacted 7/29/2020 training roster for lethal injection and training materials, 7/28/2020 [Pharmacy] Invoice the annual service fee, lethal

drugs and supplies produced in *King v. Parker* – Middle District of Tennessee proceedings

983. 8/10/2020 Email from Melissa Hood to [Drug Procurer] encl unredacted 7/29/2020 training roster for lethal injection and training materials for use in *King v. Parker* – Middle District of Tennessee proceedings
984. Unredacted 7/29/2020 training roster for lethal injection and training materials for use in *King v. Parker* – Middle District of Tennessee proceedings (16 pages)
985. 7/29/2020 Letter from Michael Chavis requesting records re lethal injection, electrocution and execution produced in *King v. Parker* – Middle District of Tennessee proceedings
986. 3/14/2022 Draft letter from Debra Inglis to Kelley Henry providing records in response to 2/11/2022 request produced in *King v. Parker* – Middle District of Tennessee proceedings
987. 2/11/2022 Letter from Kelley Henry requesting records re lethal injection, electrocution and execution produced in *King v. Parker* – Middle District of Tennessee proceedings
988. Redacted Nov 2021 - January 2022 Training rosters for protocol, strap down, electrocution, and lethal injection, and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (36 pages)
989. Redacted Nov 2021 - January 2022 Training rosters for protocol, strap down, electrocution, and lethal injection, and training materials, 11/30/2021 [Pharmacy] Invoice, Lethal drugs inventory log, and November 2021 emails re ordering lethal drugs and status of delivery produced in *King v. Parker* – Middle District of Tennessee proceedings (23 pages)
990. 1/3/2022 Letter from Kelley Henry requesting records re lethal injection, electrocution and execution produced in *King v. Parker* – Middle District of Tennessee proceedings
991. 11/30/2021 Redacted [Pharmacy] Invoice for Sodium Chloride and Vecuronium produced in *King v. Parker* – Middle District of Tennessee proceedings
992. Redacted 12/1/2021 Drug inventory log for Vecuronium Bromide produced in *King v. Parker* – Middle District of Tennessee proceedings
993. Unredacted 12/1/2021 Drug inventory log for Vecuronium Bromide for use in *King v. Parker* – Middle District of Tennessee proceedings

994. Draft 1/25/2022 Letter from Debra Inglis to Kelley Henry responding to 1/3/2022 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
995. Draft 1/31/2022 Letter from Debra Inglis to Kelley Henry providing records in response to 1/3/2022 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
996. Redacted Feb 2022 - Mar 2022 training rosters for lethal injection, redacted email re training requirements for sterile compounding and inventory of lethal drugs, discovery responses, Midazolam and KCI inventory log, training rosters, ordering lethal drugs and supplies, shipments of lethal drugs and supplies, pharmaceutical letters re misuse of products, Redacted Tennessee Board of Pharmacy license and DEA license, [Pharmacy] Invoices, Feb 2020 - Dec 2021 lethal drug inventory logs, potassium chloride and midazolam logs, and Feb 2020 - Oct 2021 Electric chair testing logs produced in *King v. Parker* – Middle District of Tennessee proceedings (61 pages)
997. Redacted June 2021 - Nov 2021 and Jan 2022 - Feb 2022 training rosters for Protocol, lethal injection, electrocution, strap down team, and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (132 pages)
998. Redacted June 2021 training rosters for electrocution (and page 2 of lethal injection) and lethal injection training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (20 pages)
999. Redacted July 2020 - June 2021 training rosters for protocol review, lethal injection, electrocution and lethal injection strap down, electrocution, lethal injection, electrocution and lethal injection protocol review and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (139 pages)
1000. Draft 3/11/2022 Letter from Debra Inglis responding to 3/2/2022 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
1001. Draft March 2022 Letter from Debra Inglis responding to 3/2/2022 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
1002. 3/2/2022 Letter from Michael Chavis requesting records re lethal injection, electrocution, and execution produced in *King v. Parker* – Middle District of Tennessee proceedings

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- 1003. April 2021 - February 2022 Redacted Electric Chair Testing Logs produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1004. 3/18/2022 Letter from Kelley Henry requesting records re lethal injection, electrocution and execution produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1005. Redacted 3/8/2022 training rosters for lethal injection and training materials, Redacted Sept 2021 - Feb 2022 Electric Chair testing log, and redacted 3/16/2022 email re an order produced in *King v. Parker* – Middle District of Tennessee proceedings (13 pages)
- 1006. Draft 3/25/2022 Letter from Debra Inglis responding to 3/18/2022 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1007. 4/26/2022 Email from [Drug Procurer] to [Drug Procurer] attaching picture of unredacted 4/13/2022 lethal drugs inventory log produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1008. Unredacted 4/13/2022 lethal drugs inventory log produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1009. Unredacted 4/21/2022 inventory logs for drugs and supplies in the refrigerator and cabinet for use in *King v. Parker* – Middle District of Tennessee proceedings
- 1010. Unredacted 4/21/2022 lethal drugs inventory log for use in *King v. Parker* – Middle District of Tennessee proceedings
- 1011. Redacted March 2021 - June 2021 training rosters for lethal injection, protocol, electrocution, and training materials, pharmaceutical letters re misuse of product, 8/13/2020 Email re suppliers' inventory of lethal drugs after compounding and attached logs produced in *King v. Parker* – Middle District of Tennessee proceedings (67 pages)
- 1012. Redacted Feb 20, 2020 - Jan 26, 2021 electric chair testing logs, Feb 2020 - August 2020 lethal drug inventory logs, [Pharmacy] invoices, training rosters May 2020 - July 2020, Oct 2020 and Dec 2020 - March 2021 for protocol review, electrocution, Lethal injection, electrocution strap down, lethal injection strap down, and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (134 pages)
- 1013. 6/28/2021 Letter from Kelley Henry requesting records re lethal injection, electrocution and execution and 7/1/2021 Letter from Debra Inglis

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responding to 6/28/2021 request produced in *King v. Parker* – Middle District of Tennessee proceedings

- 1014. 7/7/2021 Letter from Debra Inglis providing records in response to 6/28/2021 request produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1015. 2/14/2018 RMSI Death Watch Post Orders, Protester sign-in sheet for David Miller, List of Protesters, surveillance pictures of protesters produced in *King v. Parker* – Middle District of Tennessee proceedings (16 pages)
- 1016. 1/31/2019 Letter from [Drug Procurer] responding 1/1/2018 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1017. 1/29/2019 email from Korey Cooper to [Drug Procurer] attaching, 2/4/2018 redacted and unredacted RMSI Death Watch Post Orders, 1/20/2019 letter from Manday Strickland requesting records re protest at Irick's execution, surveillance pictures of protesters and Protester sign-in sheet for David Miller produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1018. Redacted 1/3/2018 emails re [Pharmacy] invoices, 2/20/2018 TDOC agreement with provider, 1/22/2018 email re [Pharmacy] invoice, 2018 - 2019 lethal drug inventory logs, TDOC Tennessee Board of Pharmacy license, July and August 2018, Oct 2018, February 2019 and August 2019 [Pharmacy] invoices, Screenshot of TDOC payments to [Pharmacy], 2018 accounts payable records, 11/27/2017 Pharmacy Services Agreement, TDOC - RMSI's Procurement, Preparation, Introduction of the Lethal Injection Chemical, and Procedures of Accountability policies and procedures, rev 7/5/2018, Midazolam storage and preparation instructions, and Potassium Chloride preparation instructions produced in *King v. Parker* – Middle District of Tennessee proceedings (61 pages)
- 1019. 8/28/2019 draft of letter from Debra Inglis responding to 8/23/2019 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1020. 10/4/2019 Letter from Debra Inglis providing records in response to 8/23/2019 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1021. 10/4/2019 draft of letter from Debra Inglis providing records in response to 8/23/2019 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings

1022. 12/14/2018 Letter from Debra Inglis responding to 12/6/2018 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
1023. 1/15/2019 Letter from Debra Inglis providing cost for records in response to 12/6/2018 request produced in *King v. Parker* – Middle District of Tennessee proceedings
1024. Redacted Dec 2017 - 2018 lethal drug inventory logs, TDOC [Pharmacy] vendor payments, 2017 - 2018 [Pharmacy] invoices, 11/27/2017 Pharmacy Services Agreement, 2017-2018 Emails re procuring lethal drugs, supplier payments, protocols, supplies received, the use of other potential lethal drugs, and Pharmaceutical letters re misuse of products produced in *King v. Parker* – Middle District of Tennessee proceedings (121 pages)
1025. Redacted 12/30/2017 - 2018 lethal drug inventory logs produced in *King v. Parker* – Middle District of Tennessee proceedings (3 pages)
1026. 12/14/2018 draft letter from Debra Inglis responding to 12/6/2018 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
1027. 1/15/2019 Letter from Debra Inglis responding to 12/6/2018 request for records with costs produced in *King v. Parker* – Middle District of Tennessee proceedings
1028. Redacted 7/5/2018, 8/16/2018 and 10/31/2018 [Pharmacy] Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings (3 pages)
1029. 12/6/2018 Letter from Seamus Kelly requesting records re lethal injection produced in *King v. Parker* – Middle District of Tennessee proceedings
1030. Redacted 2016-2018 electric chair and equipment inspection and testing logs produced in *King v. Parker* – Middle District of Tennessee proceedings (5 pages)
1031. Redacted 10/2018 – 12/2018 Training rosters for electrocution protocol, electric chair, and training materials, redacted 2017 -2018 invoices, and electrocution policies and procedures, rev. 7/11/2016 produced in *King v. Parker* – Middle District of Tennessee proceedings (150 pages)
1032. 12/12/2018 Letter from Debra Inglis responding to 10/22/2018 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings

1033. TDOC Electrocutation policies and procedures, rev. 3/13/2017 produced in *King v. Parker* – Middle District of Tennessee proceedings (88 pages)
1034. Redacted emails and letters re attendance at Zagorski's execution, Internal and External media list for execution, media elections to attend execution, letters/emails from Zagorski's attorney re execution, Zagorski execution affidavits, execution notification letter, Victim services emails and correspondence, Microsoft outlook notifications for visits, emails re visitation, Zagorski note and memo re no family attending execution and last meal, TDOC offender info, and Zagorski request not to have autopsy performed after execution produced in *King v. Parker* – Middle District of Tennessee proceedings (187 pages)
1035. 10/22/2018 Letter from Seamus Kelly requesting records re electric chair and Zagorski's upcoming execution produced in *King v. Parker* – Middle District of Tennessee proceedings
1036. Redacted 11/2016 – 10/2018 Training rosters for electrocution practice, protocol for execution, electrocution and lethal injection, execution, electrocution death watch, electric chair, and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (133 pages)
1037. 4/29/2020 Letter from Rivkin requesting records re lethal injection produced in *King v. Parker* – Middle District of Tennessee proceedings
1038. 5/6/2020 Letter from [Drug Procurer] encl records in response to 4/9/2020 request produced in *King v. Parker* – Middle District of Tennessee proceedings
1039. Redacted 2/11/2020, 12/20/2019 and 12/6/2019 [Pharmacy] invoices, 9/2019 – 12/2019 emails re [Pharmacy] invoices/payments, lab results, lethal drug sources, procuring lethal drugs, 9/2019 – 2/2020 lethal drug inventory logs produced in *King v. Parker* – Middle District of Tennessee proceedings (14 pages)
1040. Redacted lethal inventory log for 9/2019 – 12/2019 produced in *King v. Parker* – Middle District of Tennessee proceedings
1041. 12/11/2020 Letter from [Drug Procurer] in response to 12/9/2020 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
1042. 5/22/2020 Letter from [Drug Procurer] in response to 4/29/2020 follow up request produced in *King v. Parker* – Middle District of Tennessee proceedings

1043. 6/8/2020 letter from [Drug Procurer] in response to 4/29/2020 additional follow up request produced in *King v. Parker* – Middle District of Tennessee proceedings
1044. Redacted 9/29/2021 email re lethal drug and supply orders, 7/26/2021 lethal drug inventory, Midazolam and potassium chloride Inventory and Use logs produced in *King v. Parker* – Middle District of Tennessee proceedings (8 pages)
1045. 10/9/2021 letter from Rivkin requesting records re lethal injection produced in *King v. Parker* – Middle District of Tennessee proceedings
1046. Redacted 7/2020 – 12/2020 Training rosters for electrocution, electrocution and lethal injection protocol review, lethal injection, electrocution and lethal injection strap down team, and training materials, redacted 8/2020 – 11/2020 emails re lethal drugs inventory, sterile compounding training requirements, payments, invoices, attaching inventory logs for midazolam and potassium chloride, info re payments made to [Pharmacy] and invoices, pharmaceutical letters re misuse of products and 2/2020 redacted lethal drug inventory log produced in *King v. Parker* – Middle District of Tennessee proceedings (122 pages)
1047. Redacted 7/2020 – 12/2020 Training rosters for electrocution, electrocution and lethal injection protocol review, lethal injection, electrocution and lethal injection strap down team, and training materials, redacted 8/2020 – 11/2020 emails re lethal drugs inventory, sterile compounding training requirements, payments, invoices, attaching inventory logs for midazolam and potassium chloride, info re payments made to [Pharmacy] and invoices, pharmaceutical letters re misuse of products and 2/2020 redacted lethal drug inventory log produced in *King v. Parker* – Middle District of Tennessee proceedings (122 pages)
1048. Redacted Training rosters for electrocution, lethal injection, electrocution and lethal injection protocol review, electrocution and lethal injection strapdown, redacted 8/2020 – 11/2020 emails re lethal drugs inventory, sterile compounding training requirements, payments, invoices, attaching inventory logs for midazolam and potassium chloride, info re payments made to [Pharmacy] and invoices, pharmaceutical letters re misuse of products and 2/2020 redacted lethal drug inventory log produced in *King v. Parker* – Middle District of Tennessee proceedings (129 pages)
1049. TDOC Electrocution policies and procedures, rev. 3/13/2017, Redacted 7/29/2020 Training rosters for lethal injection and training materials, redacted 7/28/2020 [Pharmacy] Invoice, Redacted 1/2020 – 7/2020 - training rosters for lethal injection, electrocution, protocol, and training

materials produced in *King v. Parker* – Middle District of Tennessee proceedings (150 pages)

- 1050. TDOC policies and procedures re Death Watch, Execution Team, Death Watch Supervisor and Control Monitor, rev. 3/13/2017 produced in *King v. Parker* – Middle District of Tennessee proceedings (11 pages)
- 1051. 1/15/2021 Letter from [Drug Procurer] in response to 12/9/2020 request for records and enclosing TDOC Lethal Injection Execution Manual, rev. 7/5/2018, and TDOC Electrocution Execution Manual, rev. 3/13/2017 produced in *King v. Parker* – Middle District of Tennessee proceedings (146 pages)
- 1052. 12/9/2020 request for records from Rivkin re lethal injection and electrocution produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1053. Redacted 2/20/2020 – 11/12/2020 electric chair testing logs produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1054. 12/9/2020 letter from Rivkin requesting records re lethal injection and electrocution produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1055. 1/4/2021 Letter from [Drug Procurer] responding to 12/9/2020 request for records with cost info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1056. Redacted 1/26/2021 [Pharmacy] Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1057. 6/10/2021 Letter from [Drug Procurer] providing records in response to 6/4/2021 request produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1058. 6/10/2021 Draft of letter from [Drug Procurer] providing records in response to 6.4.21 request produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1059. 6/4/2021 request for records from Rivkin re lethal injection produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1060. 8/12/2020 Letter from Rivkin requesting records re lethal injection produced in *King v. Parker* – Middle District of Tennessee proceedings

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- 1061. 8/17/2020 Letter from [Drug Procurer] responding to 8/12/2020 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1062. 8/27/2020 draft letter from [Drug Procurer] following up to 8/12/2020 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1063. Redacted 7/28/2020 Invoice from [Pharmacy] and 2/11/2020 and 8/4/2020 Lethal drugs inventory log produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1064. Redacted 2/11/2020 and 8/4/2020 Lethal drugs inventory log produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1065. 12/11/2020 Letter from [Drug Procurer] responding to 12/9/2020 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1066. 8/18/2020 Letter from Rivkin follow up request for records re lethal drugs produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1067. Redacted 7/22/2020 email re midazolam and kcl potency results and 7/28/2020 Invoice from [Pharmacy] produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1068. 7/22/2020 email from [Pharmacist] re midazolam and kcl potency results and 7/28/2020 Invoice from [Pharmacy] produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1069. 8/27/2020 letter from [Drug Procurer] following up to 8/12/2020 request for records and enclosing redacted 7/22/2020 email re midazolam and kcl potency results and 7/28/2020 Invoice from [Pharmacy] produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1070. 10/9/2019 Letter requesting records re communications between TDOC and Idaho state actors re lethal injection produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1071. 10/24/2019 Letter from Debra Inglis responding to 10/9/2019 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1072. Redacted Jan 2017 - Dec 2017 training rosters re Execution, Electrocution and Lethal Injection protocol review, Death Watch, Practice, Protocol

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Review, Lethal Injection, and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (107 pages)

- 1073. 6/19/2018 Letter from [Drug Procurer] providing records in partial response to records request produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1074. 5/9/2018 Letter from [Drug Procurer] responding to records request with info re records that are confidential and cost produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1075. 7/17/2018 Draft letter from [Drug Procurer] responding to records request with info re records that are confidential and cost produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1076. 4/12/2018 letter from [Drug Procurer] responding to records request produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1077. 6/27/2018 request for records re lethal injection and 7/17/2018 response with info re records that are confidential and cost produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1078. 2/23/2018 request for records re lethal injection produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1079. Redacted Jan 2017 - Dec 2017 training rosters re Execution, Electrocutation and Lethal Injection protocol review, Death Watch, Practice, Protocol Review, Lethal Injection, and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (107 pages)
- 1080. 1/5/2018 Letter from [Drug Procurer] in response to 12/13/2017 request for records and 12/13/2017 and 10/16/2017 records request re lethal injection produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1081. Subpoena to Tony Parker re Ohio Execution Protocol Litigation requesting records re execution documents for Irick and Johnson produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1082. Redacted Record of Staff Visits, Day of Execution - Lethal Injection Execution Recorder, and TDOC Incident Report for Charles Walton Wright produced in *King v. Parker* – Middle District of Tennessee proceedings (18 pages)
- 1083. Redacted Johnson inmate card, Media information and selections for execution, victim services and attendance at execution emails and letters, Affidavits re defense counsel to witness execution and method of

execution, Method of Execution letter, Microsoft Outlook notifications re visits, TDOC Offender info and Incident Reports for execution, TDOC visitation records, spiritual advisor at execution selection, records re TDOC preparation for execution, Johnson clemency records, Death Watch logs, 5/9/2019 lethal drug inventory log, Johnson mug shot, and record of staff visits produced in *King v. Parker* – Middle District of Tennessee proceedings. (188 pages)

1084. Affidavit of Records Custodian signed by [Drug Procurer] produced in *King v. Parker* – Middle District of Tennessee proceedings
1085. Redacted Media information and selections for execution of Irick, and letter to counsel requesting info re attorneys on site during death watch produced in *King v. Parker* – Middle District of Tennessee proceedings (41 pages)
1086. Redacted July 2018 - August 2018 training rosters re lethal injection and training materials, Death Watch logs, lethal drugs prescription for Irick, Midazolam storage and preparation instructions, TDOC Incident Report, Affidavits re defense counsel selection to attend execution and method of execution, Method of execution letter, Day of Execution - Lethal Injection Execution Recorder Checklist, Victim services forms and letters re execution and attendance at execution produced in *King v. Parker* – Middle District of Tennessee proceedings (150 pages)
1087. Redacted Media information and selections for execution of Irick, and letter to counsel requesting info re attorneys on site during death watch produced in *King v. Parker* – Middle District of Tennessee proceedings (41 pages)
1088. Affidavit of Records Custodian signed by [Drug Procurer] produced in *King v. Parker* – Middle District of Tennessee proceedings
1089. 2018 - 2019 Redacted electric chair testing logs produced in *King v. Parker* – Middle District of Tennessee proceedings
1090. Redacted Jan 2018 - emails re [Pharmacy] Invoices, Provider Agreement, July 2018 - November 2018 Lethal drugs inventory logs, May 9, 2019 Midazolam Inventory, Tennessee Board of Pharmacy license, February 2019 - August 2019 [Pharmacy] Invoices, Vendor records, Pharmacy Services Agreement, TDOC policies and procedures re Procurement, Preparation, Introduction of the lethal Injection Chemical and Procedures of Accountability, rev. 7/5/2018, Midazolam storage and preparation instructions and KCL preparation instructions produced in *King v. Parker* – Middle District of Tennessee proceedings (61 pages)

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- 1091. 8/26/2019 Letter from Debra Inglis responding to 8/22/2019 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1092. Draft of 8/26/2019 Letter from Debra Inglis responding to 8/22/2019 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1093. Draft of 1/13/2020 Letter from Debra Inglis responding to 1/9/2020 follow up request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1094. 11/22/2019 Letter from Debra Inglis providing records in response to 11/1/2019 request, July 2018 - Aug 2019 lethal drug inventory logs, vendor invoices and payments, Feb 2019 - Aug 2019 [Pharmacy] Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings (15 pages)
- 1095. Draft of 9/25/2019 letter from Debra Inglis providing records in response to 8/22/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1096. 11/22/2019 Draft letter from Debra Inglis providing records in response to 11/1/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1097. 11/15/2019 Letter from Debra Inglis responding to 11/1/2019 request for additional records produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1098. 9/17/2019 Letter from Debra Inglis responding to 8/22/2019 request for records with cost produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1099. 8/22/2019 Letter requesting records re lethal injection produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1100. 9/20/2018 filed Motion to Stay Proceedings based on Colorado River Abstention Doctrine and Memo of Law in Support produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1101. 8/21/2018 Complaint for Injunctive Relief produced in *King v. Parker* – Middle District of Tennessee proceedings
- 1102. Outline of new website

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- 1103. United States Pharmacopeial Convention guidance
- 1104. [Pharmacy]'s current Texas pharmacy license expiring 4/30/2024
- 1105. Unsigned Pharmacy Services Agreement between [Pharmacy] and TDOC
- 1106. [Pharmacy]'s 6/26/2018 Application to Add License Modifier to Tennessee Board of Pharmacy, attaching [Pharmacist]-in-Charge compounding information, [Pharmacy]'s ownership and management information, Texas Board of Pharmacy disciplinary action and inspection reports, DEA License and List of Reference books
- 1107. 12/8/2017 Letter to Texas State Board of Pharmacy from [Pharmacy] re the pharmacy's suspension of sterile compounding.
- 1108. April 2018 [Pharmacy] Application to Change Pharmacy License Classification to Compounding Sterile Preparations.
- 1109. 11/27/2017 signed Pharmacy Services Agreement between [Pharmacy] and TDOC.
- 1110. 7/18/2018 Billy Ray Irick Prescription for Midazolam
- 1111. List of sterile compounding pharmacies in Tennessee
- 1112. Redacted formula for Midazolam
- 1113. Formula for Midazolam
- 1114. 12/8/2017 Letter to Texas State Board of Pharmacy from [Pharmacy] re the pharmacy's suspension of sterile compounding.
- 1115. April 2018 [Pharmacy] Application to Change Pharmacy License Classification to Compounding Sterile Preparations.
- 1116. Blank order form for Midazolam, Vecuronium Bromide and Potassium Chloride
- 1117. 2016 Texas State Board of Pharmacy Notice of Inspection
- 1118. 2014 Texas Board of Pharmacy Agreed Order for Sun City Compounding, LLC signed by [Former Pharmacy Owner]
- 1119. Information regarding Beyond Use Dates on compounded sterile preparations

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- 1120. Blank sample pharmacy agreement between Riverbend Maximum Security and a [Pharmacist], rev 6/25/2015
- 1121. 6/15/2018 Email from [Former Pharmacy Owner] to [Drug Procurer] enclosing Beyond Use Dating for Sterile Compounding information
- 1122. [Pharmacy]'s Texas pharmacy license expiring 4/30/2018
- 1123. 2016 Texas State Board of Pharmacy Notice of Inspection
- 1124. 5/22/2018 Midazolam method suitability test result
- 1125. 5/11/2018 Midazolam potency, bacterial endotoxins and sterility test results
- 1126. 5/14/2018 Midazolam container closure integrity test result
- 1127. Dashboard reflecting 2017-2019 [Pharmacy] Invoices and payments
- 1128. Redacted [Pharmacy] Invoices
- 1129. 2017 - 2019 [Pharmacy] Invoices
- 1130. [Pharmacy]'s current Texas pharmacy license expiring 4/30/2024
- 1131. [Pharmacy]'s Tennessee pharmacy license expiring 7/31/2022
- 1132. [Pharmacy]'s current DEA license expiring 2/28/2023
- 1133. 2/26/2020 Letter from Hikma Pharmaceuticals objecting to the use of its products in capital punishment and requesting confirmation that TDOC is not in possession of any Hikma/West Ward products
- 1134. 8/15/2019 Letter from Sandoz objecting to the use of its products in capital punishment and demanding the return of any products in TDOC's possession
- 1135. 8/2/2018 Letter from Sandoz objecting to the use of its products in capital punishment and demanding the return of any products in TDOC's possession
- 1136. 8/15/2019 Letter from Sandoz objecting to the use of its products in capital punishment and demanding the return of any products in TDOC's possession

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- 1137. Redacted text messages from Oct 2017 - April 2018 re lethal drugs procurement *produced in response to public records request* (17 pages)
- 1138. Draft 6/10/2019 Letter from Tennessee Office of the Attorney General responding to 6/4/2019 request for records *produced in response to public records request*
- 1139. Redacted 12/2017 Order for Midazolam, Vecuronium Bromide and Potassium Chloride *produced in response to public records request*
- 1140. 11/13/2019 Draft letter from [Drug Procurer] responding to 11/6/2019 request for records with costs *produced in response to public records request*
- 1141. 11/22/2019 Draft letter from [Drug Procurer] responding to 11/6/2019 request for records with costs *produced in response to public records request*
- 1142. Redacted lethal drug procurement handwritten notes *produced in response to public records request* (6 pages)
- 1143. Unredacted April 2017 - April 2018 text messages between [Drug Procurer] and [Former Pharmacy Owner] re lethal drugs procurement *produced in response to public records request* (23 pages)
- 1144. Unredacted September 2019 - December 2019 lethal drug inventory logs *produced in response to public records request*
- 1145. Redacted July 2018 Training rosters for lethal injection, protocol review, and training materials *produced in response to public records request* (25 pages)
- 1146. Redacted April 2017 - April 2018 text messages between [Drug Procurer] and [Former Pharmacy Owner] re lethal drugs procurement *produced in response to public records request* (23 pages)
- 1147. 8/13/2018 Letter from Debra Inglis requesting the return of documents provided in response to public record requests that have led to the discovery of individuals/entities involved in the lethal execution process *produced in response to public records request*
- 1148. 4/15/2019 Letter from Debra Inglis responding to 3/28/2019 request for records with costs *produced in response to public records request*
- 1149. 2/18/2022 Draft Letter from Debra Inglis responding to 2/11/2022 request for records *produced in response to public records request*

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- 1150. 4/4/2022 Draft Letter from Debra Inglis responding to 3/18/2022 request for records *produced in response to public records request*
- 1151. 3/3/2022 Draft Letter from Debra Inglis responding to 3/2/2022 request for records *produced in response to public records request*
- 1152. 6/8/2020 Draft Letter from Debra Inglis responding to 5/29/2020 request for records with cost *produced in response to public records request*
- 1153. March 2022 Draft Letter from Debra Inglis responding to 3/2/2022 request for records *produced in response to public records request*
- 1154. 2/12/2018 Draft Letter from [Drug Procurer] responding to request for records received 2/6/2018 and asking for the requester to narrow the scope *produced in response to public records request*
- 1155. Redacted Feb 2017 - Sept 2017 emails re lethal drug procurement, 9/1/2016 Authorization to dispense Prescriptions for Schedule II Controlled Substances, Declaration regarding chemical products intended use, Aug 2015 and Feb 2017 - July 2017 redacted training rosters re lethal injection, Electrocution, Death Watch, Execution protocols for lethal injection and electrocution, and training materials, and Execution Procedures for Electrocution, rev Mar 13, 2017 *produced in response to public records request*
- 1156. Unredacted July 2018 - August 2019 lethal drug inventory logs *produced in response to public records request* (10 pages)
- 1157. Redacted 7/10/2018 Training roster for Execution Protocol *produced in response to public records request*
- 1158. Redacted 6/13/2018 Training roster for lethal injection and training materials *produced in response to public records request* (10 pages)
- 1159. Unredacted 6/13/2018 Training roster for lethal injection and training materials *produced in response to public records request* (10 pages)
- 1160. Redacted 4/13/2022 lethal drugs inventory *produced in response to public records request*
- 1161. Unredacted 12/20/2017 order for Midazolam, Vecuronium Bromide and Potassium Chloride, TDOC DEA licenses and Unredacted 2017 [Pharmacy] Invoices for lethal drugs signed as received by TDOC staff *produced in response to public records request* (8 pages)

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- 1162. 11/3/2021 request for records re lethal injection, electrocution and execution *produced in response to public records request*
- 1163. Redacted April 2021 - Oct 2021 Electric chair testing logs, July 2021 - Nov 2021 Training rosters re Protocol Review, Lethal Injection, Electrocution, Strap down team, and training materials, redacted July 2021 - emails re training logs, docs needed for discovery responses, lethal drugs and supply procurement, Tennessee Board of Pharmacy license, DEA license, Inventory and Use logs for Potassium Chloride, Midazolam, and 7/26/2021 lethal drug inventory logs *produced in response to public records request* (127 pages)
- 1164. Unredacted 7/26/2021 lethal drug inventory log *produced in response to public records request*
- 1165. Unredacted 7/26/2021 lethal drug inventory log *produced in response to public records request*
- 1166. 11/15/2021 letter from Debra Inglis responding to 11/3/2021 request for records *produced in response to public records request*
- 1167. 1/12/2022 Request for records re lethal injection *produced in response to public records request*
- 1168. 1/31/2022 Email from [Drug Procurer] to Robert Reburn enclosing responsive docs to records request *produced in response to public records request*
- 1169. Redacted Nov 2021 - emails re lethal drugs and supplies procurement, redacted 11/30/2021 [Pharmacy] Invoice and redacted lethal drugs inventory log *produced in response to public records request*
- 1170. 3/1/2022 Email from [Drug Procurer] enclosing 3/1/2022 email from [Drug Procurer] to Robert Reburn with docs responsive to records request *produced in response to public records request*
- 1171. Redacted Nov 2021 - Emails re lethal drugs procurement, Redacted Oct 2021 - Feb 2022 Training rosters re protocol, Electrocution, Lethal Injection, Strap down Team, and training materials *produced in response to public records request*
- 1172. 2/9/2022 Email from Robert Reburn to [Drug Procurer] forwarding follow up request for records *produced in response to public records request*
- 1173. Redacted lethal drugs inventory log *produced in response to public records request*

- 1174. 3/8/2022 Email from Robert Reburn to [Drug Procurer] forwarding 3/8/2022 request for records re lethal injection *produced in response to public records request*
- 1175. 4/13/2022 Email from [Drug Procurer] to Robert Reburn enclosing responsive docs to request for records *produced in response to public records request*
- 1176. Redacted March 2022 - April 2022 Emails re lethal drugs and supplies procurement *produced in response to public records request*
- 1177. 4/6/2022 request for records re lethal injection *produced in response to public records request*
- 1178. Unredacted March 2022 - April 2022 Emails between [Drug Procurer] and [Pharmacist] re lethal drugs and supplies procurement *produced in response to public records request*
- 1179. 5/3/2022 Email from Robert Reburn to [Drug Procurer] forwarding request for records *produced in response to public records request*
- 1180. Redacted April 2022 - May 2022 Emails re lethal drugs procurement and supplies, executions, and Oscar Smith reprieve, sterile compounding info, Redacted 4/12/2022 [Pharmacy] Invoice, Tennessee Board of Pharmacy license and DEA license, 4/21/2022 text message inquiring about whether chemicals needed to be maintained in the event of a challenge, 5/11/2022 email attaching text messages re Smith's reprieve, 4/21/2022 text messages re lethal drugs and preserving the drugs, April 2022 text messages re lethal drugs and testing reports, 4/21/2022 text messages re halting lethal drugs preparation, 5/11/2022 Inventory & Use logs for Midazolam and Potassium Chloride, and 4/13/2022 and 4/21/2022 lethal drugs inventory logs *produced in response to public records request*
- 1181. 5/12/2022 request for records re lethal drugs *produced in response to public records request*
- 1182. 5/31/2022 Email from Robert Reburn to [Drug Procurer] forwarding 5/12/2022 records request re lethal drugs *produced in response to public records request*
- 1183. 6/8/2022 Email from Robert Reburn to [Drug Procurer] forwarding follow up request for records *produced in response to public records request*
- 1184. Redacted text messages re lethal drugs preparation, 4/21/2022 lethal drugs inventory logs, Smith Reprieve, 10/22/2018 entered Order setting

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Zagorski's execution date and 5/12/2022 redacted emails re training
produced in response to public records request

- 1185. April 13, 2022 unredacted lethal drugs inventory log *produced in response to public records request*
- 1186. 3/23/2022 Email from [Drug Procurer] to Dorinda Carter enclosing records responsive to request *produced in response to public records request*
- 1187. Redacted 3/16/2022 emails re lethal drugs procurement, 11/30/2021 [Pharmacy] Invoice and lethal drugs inventory log *produced in response to public records request*
- 1188. 3/22/2022 Email from Dorinda Carter to [Drug Procurer] forwarding 3/16/2022 request for records re lethal drugs *produced in response to public records request*
- 1189. Unredacted Jan 2022 - April 2022 emails between [Drug Procurer] and [Pharmacist] re [Pharmacy] invoices and lethal drugs procurement, 11/30/2021 and 4/12/2022 [Pharmacy] Invoices and 4/13/2022 lethal drugs inventory log *produced in response to public records request*
- 1190. Subpoena to Tony Parker re Ohio Execution Protocol Litigation requesting records re execution documents for Irick and Johnson *produced in response to public records request*
- 1191. Redacted Record of Staff Visits, Day of Execution - Lethal Injection Execution Recorder, and TDOC Incident Report for Charles Walton Wright *produced in response to public records request*
- 1192. Redacted Johnson inmate card, Media information and selections for execution, victim services and attendance at execution emails and letters, Affidavits re defense counsel to witness execution and method of execution, Method of Execution letter, Microsoft Outlook notifications re visits, TDOC Offender info and Incident Reports for execution, TDOC visitation records, spiritual advisor at execution selection, records re TDOC preparation for execution, Johnson clemency records, Death Watch logs, 5/9/2019 lethal drug inventory log, Johnson mug shot, and record of staff visits *produced in response to public records request*.
- 1193. Affidavit of Records Custodian signed by [Drug Procurer] *produced in response to public records request*
- 1194. Redacted Media information and selections for execution, and letter to counsel requesting info re attorneys on site during death watch *produced in response to public records request*

1195. Redacted July 2018 - August 2018 training rosters re lethal injection and training materials, Death Watch logs, lethal drugs prescription for Irick, Midazolam storage and preparation instructions, TDOC Incident Report, Affidavits re defense counsel selection to attend execution and method of execution, Method of execution letter, Day of Execution - Lethal Injection Execution Recorder Checklist, Victim services forms and letters re execution and attendance at execution *produced in response to public records request*
1196. Redacted Media information and selections for execution, and letter to counsel requesting info re attorneys on site during death watch *produced in response to public records request*
1197. Affidavit of Records Custodian signed by [Drug Procurer] *produced in response to public records request*
1198. 2018 - 2019 Redacted electric chair testing logs *produced in response to public records request*
1199. 12/3/2018 email from Neysa Taylor forwarding request for electric chair testing records *produced in response to public records request*
1200. Text messages re lethal drugs and prep *produced in response to public records request* (7 pages)
1201. Text messages re lethal drugs and prep *produced in response to public records request* (7 pages)
1202. Text messages re lethal drugs and prep *produced in response to public records request* (3 pages)
1203. Text messages re lethal drugs and prep *produced in response to public records request*
1204. Text messages re lethal drugs and prep *produced in response to public records request*
1205. Text messages re lethal drugs and prep *produced in response to public records request*
1206. Text message re preserving evidence *produced in response to public records request*
1207. Letter responding to TPRA re records for scheduled execution of Smith *produced in response to public records request*

- 1208. Training logs and materials, 4/21/2022 drug inventory, 4/12/2022 [Pharmacy] invoice for drugs, emails between [Drug Procurer] and [Pharmacist] *produced in response to public records request* (44 pages)
- 1209. Training logs and materials, 4/21/2022 drug inventory, 4/12/2022 [Pharmacy] invoice for drugs, emails between [Drug Procurer] and [Pharmacist] *produced in response to public records request* (44 pages)
- 1210. Open records requests from media, TDOC policies and procedures re TPRA, form for requesting records and blank forms. *produced in response to public records request*
- 1211. Training logs and materials *produced in response to public records request* (114 pages)
- 1212. Training logs and materials *produced in response to public records request* (112 pages)
- 1213. Emails and text messages re Smith on death watch and status of execution *produced in response to public records request* (26 pages)
- 1214. Reprieve docs, emails and text messages *produced in response to public records request* (7 pages)
- 1215. Reprieve docs, emails and text messages *produced in response to public records request* (7 pages)
- 1216. Template for responses to media seeking TPRA re Smith *produced in response to public records request*
- 1217. TPRA request for records re Smith's execution *produced in response to public records request*
- 1218. 4/26/2022 Letter from counsel for Harold Wayne Nichols req recs related to Smith's 4/21/2022 execution date, permission to inspect and photograph items and request re Nichols' pending execution *produced in response to public records request*
- 1219. 4/29/2022 Letter from Inglis responding to Federal Public Defender's request seeking records re Oscar Smith's execution *produced in response to public records request*
- 1220. 4/25/2022 Letter from Federal Public Defender's seeking records re Oscar Smith's execution *produced in response to public records request*

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- 1221. 4/29/2022 Letter from Inglis responding to Federal Public Defender's request seeking records re Oscar Smith's execution *produced in response to public records request*
- 1222. 4/29/2022 Letter from Inglis responding to Federal Public Defender's request *produced in response to public records request*
- 1223. Debbie Inglis emails preserved per Order *produced in response to public records request* (100 pages)
- 1224. 4/20/2022 -4/21/2022 Text messages re drugs *produced in response to public records request*
- 1225. 4/20/2022 -4/21/2022 Text messages re drugs *produced in response to public records request*
- 1226. 4/20/2022 -4/21/2022 Text messages re drugs *produced in response to public records request*
- 1227. Delegation Authority Amendments for Execution related services in 2019 *produced in response to public records request* (14 pages)
- 1228. Delegation Authority Amendments for Execution related services in 2018 *produced in response to public records request* (9 pages)
- 1229. Delegated Authority for Execution related services in 2022 *produced in response to public records request* (7 pages)
- 1230. Delegated Authority for Execution related services in 2021 *produced in response to public records request* (7 pages)
- 1231. Delegated Authority for Execution related services in 2020 *produced in response to public records request* (7 pages)
- 1232. Redacted Inmate clothing card *produced in response to public records request*
- 1233. Inmate clothing card *produced in response to public records request*
- 1234. Redacted Death watch logs *produced in response to public records request* (5 pages)
- 1235. Death watch logs *produced in response to public records request* (5 pages)
- 1236. Redacted Death watch logs *produced in response to public records request* (5 pages)

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- 1237. Death watch logs *produced in response to public records request* (5 pages)
- 1238. Redacted Death watch logs *produced in response to public records request* (6 pages)
- 1239. Death watch logs *produced in response to public records request* (6 pages)
- 1240. Redacted Record of staff visits *produced in response to public records request* (7 pages)
- 1241. Record of staff visits *produced in response to public records request* (7 pages)
- 1242. Redacted TDOC disciplinary record, Inmate Grievance records, Emails re execution day parking and email re other offenders *produced in response to public records request* (8 pages)
- 1243. TDOC disciplinary record, Inmate Grievance records, Emails re execution day parking and email re other offenders *produced in response to public records request* (8 pages)
- 1244. Redacted Electric chair testing log *produced in response to public records request*
- 1245. Electric chair testing log *produced in response to public records request*
- 1246. Redacted Visitation records *produced in response to public records request* (22 pages)
- 1247. Visitation records *produced in response to public records request* (22 pages)
- 1248. TDOC execution day parking document *produced in response to public records request* (6 pages)
- 1249. TDOC offender info *produced in response to public records request*
- 1250. Inmate inquiry forms and property inventories *produced in response to public records request* (10 pages)
- 1251. Redacted Refusal of medical services and TDOC medical history form *produced in response to public records request* (4 pages)
- 1252. Refusal of medical services and TDOC medical history form *produced in response to public records request* (4 pages)

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- 1253. Redacted Spiritual advisor records *produced in response to public records request* (44 pages)
- 1254. Spiritual advisor records *produced in response to public records request* (44 pages)
- 1255. Last meal request *produced in response to public records request*
- 1256. Redacted Email encl Smith's Method of Execution and notification letter *produced in response to public records request* (3 pages)
- 1257. Email encl Smith's Method of Execution and notification letter *produced in response to public records request* (3 pages)
- 1258. Smith orders and filings *produced in response to public records request* (64 pages)
- 1259. Redacted Sheriff attendance at execution records *produced in response to public records request* (7 pages)
- 1260. Sheriff attendance at execution records *produced in response to public records request* (7 pages)
- 1261. Redacted Attorney general attendance at execution records *produced in response to public records request* (3 pages)
- 1262. Attorney general attendance at execution records *produced in response to public records request* (3 pages)
- 1263. Redacted Email encl letters to be mailed to victims' family members re execution *produced in response to public records request* (44 pages)
- 1264. Email encl letters to be mailed to victims' family members re execution *produced in response to public records request* (44 pages)
- 1265. Redacted Letters to Smith's counsel, Affidavit to Select Defense Counsel Witness to Execution and emails re legal visits *produced in response to public records request* (14 pages)
- 1266. Letters to Smith's counsel, Affidavit to Select Defense Counsel Witness to Execution and emails re legal visits *produced in response to public records request* (14 pages)

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- 1267. Redacted Records re media and communications personnel on execution day *produced in response to public records request* (13 pages)
- 1268. Records re media and communications personnel on execution day *produced in response to public records request* (13 pages)
- 1269. Text messages re chemicals and execution preparation *produced in response to public records request* (3 pages)
- 1270. Delegations of Authority for execution related services, training logs and materials, drug inventory logs, drug invoice, pharmacy records, emails re drugs, media lottery recs for witnessing execution, emails re visits from counsel, victim service records, letters re election to attend execution, Smith orders and filings, Affidavit Concerning Method of Execution, notification letter, last meal inquiry form, spiritual advisor forms and records, Inmate Inquiry forms, personal property log, Tool Inventory, TDOC Offender info, visitation records, TDOC disciplinary records, Inmate Grievances, Death watch logs, Inmate clothing card and record of staff visits *produced in response to public records request* (361 pages)
- 1271. [Pharmacy] Midazolam inventory, 3/7/2018 – 4/5/2022 *produced in response to public records request* (4 pages)
- 1272. Midazolam inventory, 3/7/2018 – 4/5/2022 and Potassium Chloride inventory, 7/8/2019 – 10/11/2021 *produced in response to public records request* (12 pages)
- 1273. Reprieve records and emails, text messages re drugs *produced in response to public records request* (15 pages)
- 1274. 4/21/2022 emails attaching Zagorski order setting execution date and Zagorski reprieve *produced in response to public records request*
- 1275. Sterile compounding records *produced in response to public records request* (18 pages)
- 1276. Spiritual advisor records, NDA for spiritual advisor, letters, inmate inquiry forms, inmate personal property logs, TDOC offender info, visitation records, TDOC disciplinary records, Inmate Grievance records, Death watch logs and Record of staff visits *produced in response to public records request* (96 pages)
- 1277. Training materials and logs, lethal drug inventories, invoice for drugs, Tennessee Pharmacy license, DEA card, emails re drug orders, media lottery drawing records, letter to counsel re execution, emails re legal visits, Victim services records, Smith orders and filings, Affidavits re

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counsel attending execution and method of execution, notification letter and last meal inmate inquiry *produced in response to public records request* (147 pages)

- 1278. Delegations of Authority for execution related services, training logs and materials *produced in response to public records request* (118 pages)
- 1279. Delegations of Authority for execution related services, training logs and materials *produced in response to public records request* (118 pages)
- 1280. 5/13/2022 draft letter from Debra Inglis providing records in response to 5/12/2022 request re Oscar Smith's scheduled execution
- 1281. 5/13/2022 draft letter from Debra Inglis providing records in response to 4/22/2022 request re Oscar Smith's scheduled execution *produced in response to public records request*
- 1282. Finley, Keefe, Kruesi, Loller, Timms and Vaughan responsive docs to TPRA requests for Oscar Smith and executions enclosing redacted May-April 2022 emails re Smith's reprieve, statement on Smith's temporary reprieve, Governor's reprieve, redacted April 2022 emails re Zagorski's order setting execution date and reprieve, redacted Delegated Authority Amendment FY 2019 dtd 2/22/2019, Delegated Authority FY 2019 dtd 2/22/2018, Delegated Authority Amendment FY 2019 dtd 8/20/2018, Delegated Authority Amendment FY 2018 dtd 2/27/2018, Delegated Authority FY 2018 dtd 3/17/2017, Delegated Authority FY 2022 dtd 4/14/2021, Delegated Authority FY 2021 dtd 1/16/2020, Delegated Authority FY 2020 dtd 2/22/2019, redacted 4/20/2022 – 4/21/2022 text messages re lethal chemical preservation, execution, execution preparation, and lab reports for Smith, lethal drug lab results *produced in response to public records request* (161 pages)
- 1283. Finley, Keefe, Kruesi, Loller, Timms and Vaughan responsive docs to TPRA requests for Oscar Smith and executions enclosing redacted May-April 2022 emails re Smith's reprieve, statement on Smith's temporary reprieve, Governor's reprieve, redacted April 2022 emails re Zagorski's order setting execution date and reprieve, redacted Delegated Authority Amendment FY 2019 dtd 2/22/2019, Delegated Authority FY 2019 dtd 2/22/2018, Delegated Authority Amendment FY 2019 dtd 8/20/2018, Delegated Authority Amendment FY 2018 dtd 2/27/2018, Delegated Authority FY 2018 dtd 3/17/2017, Delegated Authority FY 2022 dtd 4/14/2021, Delegated Authority FY 2021 dtd 1/16/2020, Delegated Authority FY 2020 dtd 2/22/2019, redacted 4/20/2022 – 4/21/2022 text messages re lethal chemical preservation, execution, execution preparation, and lab reports for Smith, lethal drug lab results *produced in response to public records request* (161 pages)

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- 1284. 5/13/2022 draft letter from Debra Inglis providing test results re Midazolam and Potassium Chloride for Oscar Smith's execution *produced in response to public records request*
- 1285. 5/13/2022 draft letter from Debra Inglis responding to 5/11/2022 request for records *produced in response to public records request*
- 1286. 5/13/2022 draft letter from Debra Inglis providing records in response to 4/21/2022 request re Oscar Smith's scheduled execution *produced in response to public records request*
- 1287. 5/13/2022 draft letter from Debra Inglis providing records in response to 4/22/2022 request re executions *produced in response to public records request*
- 1288. 5/13/2022 letter from Debra Inglis responding to 4/25/2022 request for records with cost *produced in response to public records request*
- 1289. 5/13/2022 draft letter from Debra Inglis responding to 4/25/2022 request for records with cost *produced in response to public records request*
- 1290. 5/13/2022 draft letter from Debra Inglis providing records in response to 4/25/2022 request for records *produced in response to public records request*
- 1291. Redacted April 2021 - Feb 2022 Electric chair testing logs, redacted Feb 2022 - April 2022 Training rosters re electrocution, lethal injection, protocol, and training materials, April 2022 lethal drug inventory log, 4/12/2022 redacted [Pharmacy] invoice, Tennessee Board of Pharmacy and DEA license, March - April 2022 redacted emails re lethal drugs and supplies procurement, Media selections and Info for Smith's execution, Smith's Affidavit re defense counsel selection at execution, April 2022 emails re Smith attorney visitation, Victim services letters and emails re attendance at Smith's execution *produced in response to public records request* (428 pages)
- 1292. Victim services letters re attendance at Smith's execution, Orders and filings re Oscar Smith, Affidavit re method of execution, letter re method of execution, last meal request, Smith's Spiritual Advisor NDA and records *produced in response to public records request* (75 pages)
- 1293. Redacted letters, inmate inquiries, forms and emails re religious accommodations, visitations and attendance for Smith's execution, inmate inquiries re disposition of Smith's belongings after death, Smith's property and tool inventory, TDOC offender info, Microsoft outlook notification for

visits, TDOC disciplinary records, Smith Grievance docs, Death Watch logs, Smith clothing card, Record of Staff Visits, and USP Pharmaceutical Compounding bulletin *produced in response to public records request* (122 pages)

1294. USP Pharmaceutical Compounding bulletin, Midazolam storage and preparation instructions, Potassium Chloride preparation instructions, emails re Smith's reprieve, statement on Smith's temporary reprieve, Governor's reprieve, redacted 4/20/2022 – 4/21/2022 text messages re lethal chemical preservation, execution, execution preparation, and lab reports for Smith, Inventory and Use for Midazolam and Potassium Chloride, sterile compounding guidelines, 4/21/2022 emails re Zagorski's order setting execution and reprieve *produced in response to public records request* (83 pages)

1295. Records in response to Federal Public Defender's request for records per TPRA for Smith and lethal drug lab results *produced in response to public records request*

1296. Pharmaceutical compounding, Midazolam and Potassium Chloride protocols, emails, Reprieve info, text messages, drug inventories, sterile compounding docs *produced in response to public records request*

1297. Memorandum re religious accommodations, letters re upcoming execution, Inmate inquiry forms, emails, Smith's personal property logs, Tool inventories, TDOC offense info, visitation records, TDOC Disciplinary records, Grievance records, Death watch records, TDOC clothing card, Record of staff visits, pharmaceutical compounding *produced in response to public records request*

1298. Letters re attendance at execution, Orders and filings, emails, Affidavit Concerning Method of Execution, Notification letter, Last meal request, NDA for spiritual advisor *produced in response to public records request*

1299. Electric chair testing logs, training logs and materials, drug inventories and purchase invoice, Tennessee Pharmacy license, DEA card, emails re lethal drugs, media lottery drawing for attendance at execution records, victim records *produced in response to public records request*

1300. 5/13/2022 letter from Debra Inglis enclosing records re scheduled execution of Oscar Smith, emails re Smith's reprieve, statement on Smith's temporary reprieve, Governor's reprieve, redacted 4/20/2022 – 4/21/2022 text messages re lethal chemical preservation, execution, execution preparation, and lab reports for Smith, 4/21/2022 emails re Zagorski's order setting execution and reprieve *produced in response to public records request* (20 pages)

1301. 5/13/2022 letter from Debra Inglis enclosing records re scheduled execution of Oscar Smith, emails re Smith's reprieve, statement on Smith's temporary reprieve, Governor's reprieve, 4/21/2022 emails re Zagorski's order setting execution and reprieve, redacted Delegated Authority Amendment FY 2019 dtd 2/22/2019, Delegated Authority FY 2019 dtd 2/22/2018, Delegated Authority Amendment FY 2019 dtd 8/20/2018, Delegated Authority Amendment FY 2018 dtd 2/27/2018, Delegated Authority FY 2018 dtd 3/17/2017, Delegated Authority FY 2022 dtd 4/14/2021, Delegated Authority FY 2021 dtd 1/16/2020, Delegated Authority FY 2020 dtd 2/22/2019 *produced in response to public records request* (50 pages)

1302. 5/13/2022 letter from Debra Inglis enclosing records re lethal drugs testing results, emails re Smith's reprieve, statement on Smith's temporary reprieve, Governor's reprieve, 4/21/2022 emails re Zagorski's order setting execution and reprieve, 4/20/2022 – 4/21/2022 text messages re lethal chemical preservation, execution, execution preparation, and lab reports for Smith *produced in response to public records request* (20 pages)

1303. 5/13/2022 letter from Debra Inglis responding to 5/11/2022 request for records *produced in response to public records request*

1304. 5/13/2022 letter from Debra Inglis enclosing records re scheduled execution of Oscar Smith, emails re Smith's reprieve, statement on Smith's temporary reprieve, Governor's reprieve, 4/21/2022 emails re Zagorski's order setting execution and reprieve, 4/20/2022 – 4/21/2022 text messages re lethal chemical preservation, execution, execution preparation, and lab reports for Smith *produced in response to public records request* (20 pages)

1305. 5/13/2022 letter from Debra Inglis enclosing records re execution, redacted Delegated Authority Amendment FY 2019 dtd 2/22/2019, Delegated Authority FY 2019 dtd 2/22/2018, Delegated Authority Amendment FY 2019 dtd 8/20/2018, Delegated Authority Amendment FY 2018 dtd 2/27/2018, Delegated Authority FY 2018 dtd 3/17/2017, Delegated Authority FY 2022 dtd 4/14/2021, Delegated Authority FY 2021 dtd 1/16/2020, Delegated Authority FY 2020 dtd 2/22/2019 *produced in response to public records request* (44 pages)

1306. 5/13/2022 letter from Debra Inglis enclosing records re scheduled execution of Oscar Smith, emails re Smith's reprieve, statement on Smith's temporary reprieve, Governor's reprieve, 4/21/2022 emails re Zagorski's order setting execution and reprieve *produced in response to public records request* (7 pages)

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- 1307. Notepad doc *produced in response to public records request*
- 1308. Recs re temperature in the refrigerator storing lethal drugs from 4/13/2022 - 4/21/2022 *produced in response to public records request*
- 1309. Notepad doc *produced in response to public records request*
- 1310. Recs re temperature in the refrigerator storing lethal drugs from 2/25/2022 - 4/21/2022 *produced in response to public records request*
- 1311. 8/24/2018 Letter from Debra Inglis requesting that inadvertently disclosed confidential records through the TPRA be returned pursuant to Rule 4.4(b) of the Rules of Professional Conduct *produced in response to public records request*
- 1312. 9/10/2018 Letter from Debra Inglis in response to 9/4/2018 Letter and requesting return of documents within 7 days *produced in response to public records request*
- 1313. 8/30/2018 Letter from Kelley Henry responding to 8/24/2018 Letter indicating they are not in violation of Rule 4.4(b) and are reviewing the request *produced in response to public records request*
- 1314. Track02 (*Purported audio files, but provided as Notepad doc that cannot be played*) *produced in response to public records request*
- 1315. Track01 (*Purported audio files, but provided as Notepad doc that cannot be played*) *produced in response to public records request*
- 1316. Redacted Jan 2018 - emails re [Pharmacy] Invoices, Provider Agreement, July 2018 - November 2018 Lethal drugs inventory logs, May 9, 2019 Midazolam Inventory, Tennessee Board of Pharmacy license, February 2019 - August 2019 [Pharmacy] Invoices, Vendor records, Pharmacy Services Agreement, TDOC policies and procedures re Procurement, Preparation, Introduction of the lethal Injection Chemical and Procedures of Accountability, rev. 7/5/2018, Midazolam storage and preparation instructions and KCL preparation instructions *produced in response to public records request* (61 pages)
- 1317. 8/26/2019 Letter from Debra Inglis responding to 8/22/2019 request for records *produced in response to public records request*
- 1318. Draft of 8/26/2019 Letter from Debra Inglis responding to 8/22/2019 request for records *produced in response to public records request*

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- 1319. 8/22/2019 Email from Dorinda Carter forwarding 8/22/2019 request for records re lethal injection *produced in response to public records request*
- 1320. Draft of 1/13/2020 Letter from Debra Inglis responding to 1/9/2020 follow up request for records *produced in response to public records request*
- 1321. 11/22/2019 Letter from Debra Inglis providing records in response to 11/1/2019 request, July 2018 - Aug 2019 lethal drug inventory logs, vendor invoices and payments, Feb 2019 - Aug 2019 [Pharmacy] Invoices *produced in response to public records request*
- 1322. Draft of 9/25/2019 letter from Debra Inglis providing records in response to 8/22/2019 request *produced in response to public records request*
- 1323. 11/22/2019 Draft letter from Debra Inglis providing records in response to 11/1/2019 request *produced in response to public records request*
- 1324. 11/15/2019 Letter from Debra Inglis responding to 11/1/2019 request for additional records *produced in response to public records request*
- 1325. 9/17/2019 Letter from Debra Inglis responding to 8/22/2019 request for records with cost *produced in response to public records request*
- 1326. 8/22/2019 Letter requesting records re lethal injection *produced in response to public records request*
- 1327. Delegation Authority Amendments for Execution related services in 2019
- 1328. Delegation Authority Amendments for Execution related services in 2018
- 1329. Delegated Authority for Execution related services in 2022
- 1330. Delegated Authority for Execution related services in 2021
- 1331. Delegated Authority for Execution related services in 2020

Documents from TN AG

- 1. 6/8/2022 Letter from Dianna Baker Shew
- 2. Lethal Injection training documents (1162 pages)
- 3. Testing Reports (69 pages)
- 4. 11/27/2017 Pharmacy Services Agreement (5 pages)

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5. Execution Procedures for Lethal Injection, rev 6/25/2015 (97 pages)
6. Ledger pages (38 pages)
7. Billy Irick and Donnie Johnson Chemical prep records (8 pages)

Handwritten death watch logs for Irick, Johnson, Miller and Zagorski (315 pages)
8. 7/20/2020 Memorandum Opinion in *King v. Parker* case, granting in part, denying in part Plaintiff's motion to compel and Defendants' motion for protective order
9. 7/20/2020 Order in *King v. Parker* case, re Plaintiff's motion to compel and Defendants' motion for protective order
10. 7/19/21 Deposition transcript of [Drug Procurer] in *King v. Parker* case.
11. 11/18/2019 Email, Subject: Update Lab report
12. 5/15/2019 Email, Subject: This is big! DOJ opinion on FDA
13. 7/15/2019 Email, Subject [Pharmacy] True Up
14. 8/8/2019 Email, Subject Suitability Test
15. 11/20/2019 Email, Subject see attached
16. 8/15/2019 Email, Subject Scanned from a Xerox [Pharmacy] Pharmacy.pdf
17. 7/10/2019 Email, Subject RX
18. 8/9/2019 Email, Subject results
19. 12/5/2019 Email, Subject Report
20. 5/9/2019 Email, Subject report
21. 7/24/2019 Email, Subject Report
22. 7/31/2019 Email, Subject Report
23. 5/15/2019 Email, Subject RE: This is big! DOJ Opinion on FDA
24. 5/15/2019 Email, Subject RE: This is big! DOJ Opinion on FDA

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25. 1/29/2019 Email, Subject RE: product
26. 1/29/2019 Email, Subject Re: product
27. 1/29/2019 Email, Subject Re: product
28. 4/29/2019 Email, Subject RE: Potency report
29. 8/8/2019 Email, Subject RE: kcl protocol
30. 7/2/2019 Email, Subject RE: kcl protocol
31. 5/9/2019 Email, Subject RE: Invoices
32. 5/9/2019 Email, Subject Re: Invoices
33. 5/9/2019 Email, Subject Re: Invoices
34. 4/3/2019 Email, Subject RE: follow up
35. 7/29/2019 Email, Subject RE: Declaration
36. 7/26/2019 Email, Subject RE: Declaration
37. 7/29/2019 Email, Subject RE: Declaration
38. 10/30/2019 Email, Subject RE: API
39. 10/30/2019 Email, Subject RE: API
40. 12/20/2019 Email, Subject Re: [EXTERNAL] New invoice
41. 12/20/2019 Email, Subject Re: [EXTERNAL] New invoice
42. 6/26/2019 Email, Subject Proposed Alternative
43. 1/29/2019 Email, Subject product
44. 4/29/2019 Email, Subject Potency report
45. 2/26/2019 Email, Subject New Invoice
46. 11/26/2019 Email, Subject Lab results
47. 8/8/2019 Email, Subject KCI

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- 48. 8/8/2019 Email, Subject kcl protocol
- 49. 6/26/2019 Email, Subject KCI Protocol
- 50. 6/26/2019 Email, Subject kcl protocol
- 51. 6/26/2019 Email, Subject KCI
- 52. 9/19/2019 Email, Subject Invoices
- 53. 5/9/2019 Email, Subject Invoices
- 54. 8/7/2019 Email, Subject Invoices
- 55. 6/26/2019 Email, Subject <http://leucadiapharma.com/anti-capital-punishment-statement/>
- 56. 7/2/2019 Email, Subject Fwd: kcl protocol
- 57. 6/28/2019 Email, Subject Fwd: kcl protocol
- 58. 9/24/2019 Email, Subject Fwd: Invoices
- 59. 5/16/2019 Email, Subject FW: [Pharmacy]
- 60. 10/29/2019 Email, Subject FW: potassium
- 61. 5/13/2019 Email, Subject FW: Midazolam
- 62. 7/2/2019 Email, Subject FW: kcl protocol
- 63. 4/2/2019 Email, Subject follow up
- 64. 12/3/2019 Email, Subject FedEx Shipment 777137874130: Delivery scheduled for tomorrow
- 65. 12/4/2019 Email, Subject FedEx Shipment 777137874130: Delivery scheduled for today
- 66. 12/4/2019 Email, Subject FedEx Shipment 777137874130: Delivered
- 67. 11/26/2019 Email, Subject FedEx Shipment 777076577054: Scheduled delivery update

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- 68. 11/25/2019 Email, Subject FedEx Shipment 777076577054: Delivery scheduled for tomorrow
- 69. 11/26/2019 Email, Subject FedEx Shipment 777076577054: Delivery scheduled for today
- 70. 11/25/2019 Email, Subject FedEx MPS Shipment 777076577054 Notification
- 71. 11/26/2019 Email, Subject FedEx MPS Shipment 777076577054 Delivered
- 72. 7/25/2019 Email, Subject Fed Executions
- 73. 8/12/2019 Email, Subject ETX-190806-0007-LabReport.pdf
- 74. 7/26/2019 Email, Subject Declaration
- 75. 12/20/2019 Email, Subject Automatic reply: New Invoice
- 76. 10/30/2019 Email, Subject API
- 77. 11/21/2019 Email, Subject Alternatives
- 78. 8/12/2019 Email, Subject 2019-18034.pdf
- 79. 12/3/2019 Email, Subject Update
- 80. Text messages on [Drug Procurer] cell phone from 4/6/2017 – 6/27/2018
- 81. Text messages on [Drug Procurer] cell phone from 7/3/2018 – 9/26/2018
- 82. Text messages on [Drug Procurer] cell phone from 10/24/18 – 7/11/19
- 83. Text messages on [Drug Procurer] cell phone from 7/31/19 – 1/6/2020
- 84. Text messages on [Drug Procurer] cell phone from 1/7/2020 – 5/26/2022
- 85. Declaration of Sarah B. Miller in Support of Plaintiff's Motion filed 4/13/2022 in the *King v. Parker* case.
- 86. Affidavit of John Gardiner pursuant to 28 U.S.C. Sec 1746 dated 4/11/2022 in the *King v. Parker* case.
- 87. Declaration of Joel Zivot, MD filed 11/21/2018 in the *King v. Parker* case.

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88. Declaration of TDOC Employee dated 12/19/2019 in the *King v. Parker* case.
89. Sworn Statement of Debra K. Inglis dated 2/14/2022 in the *King v. Parker* case.
90. Declaration of Larry D. Sasich dated 10/2/2018 in the *King v. Parker* case.
91. Declaration of RMSI Officer dated 7/30/2019 in the *King v. Parker* case.
92. Declaration of RMSI Mental Health Professional dated 7/29/2019 in the *King v. Parker* case.
93. Declaration of RMSI Employee dated 12/19/2019 in the *King v. Parker* case.
94. Declaration of the President of Pharmacy Z dated 3/31/2020 in the *King v. Parker* case.
95. Declaration of Tony C. Parker dated 10/5/2021 in the *King v. Parker* case.
96. Declaration of David A. Lubarsky, MD dated 9/2/2018 in the *King v. Parker* case.
97. Sworn Statement of Damon Lawrence dated 3/16/2022 in the *King v. Parker* case.
98. Sworn Statement of Debra K. Inglis dated 12/1/2021 in the *King v. Parker* case.
99. Deposition transcript of Gourang P. Patel, Pharm. D. taken on 2/11/2022 in the *King v. Parker* case.
100. Deposition transcript of Joseph Antognini, M.D. taken on 1/28/2022 in the *King v. Parker* case.
101. Deposition transcript of Feng Li, M.D., J.D., Ph.D. taken on 2/3/2022 in the *King v. Parker* case.
102. Defendants 2nd Interrogatories, Request for Production and Request for Admission dated 9/21/2021 in the *King v. Parker* case. (139 pages)
103. Mays Supplemental Responses to Interrogatories and Request for Production dated 8/19/2020 in the *King v. Parker* case. (226 pages)

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104. Supplemental Responses dated 3/10/22 in the *King v. Parker* case. (77 pages)
105. Supplemental Responses to Request for Production dated 2/14/2022 in the *King v. Parker* case. (259 pages)
106. Defendants Supplemental Responses to Discovery dated 11/17/2021 in the *King v. Parker* case. (7,802 pages)
107. Defendants Supplemental Responses to Discovery dated 11/18/2021 in the *King v. Parker* case. (38 pages)
108. Defendants' Supplemental Responses to Request for Production dated 2/22/2022 in the *King v. Parker* case. (257 pages)
109. Defendants' Supplemental Responses to Request for Production dated 4/5/2022 in the *King v. Parker* case. (31 pages)
110. Initial Disclosures of Defendant in the *King v. Parker* case. (2,189 pages)
111. Defendants' First Supplemental Responses to Request for Production in the *King v. Parker* case. (54 pages)
112. Defendants first response to Request for Production of Documents in the *King v. Parker* case. (1,292 pages)
113. 2013 - 2019 Autopsy Reports from different states of executed offenders in the *King v. Parker* case. (250 pages)
114. Defendants' Supplemental responses to Request for Production dated 12/1/2021 in the *King v. Parker* case. (13 pages)
115. 84 pictures of the death chambers, witness room and lethal injection tubing in the *King v. Parker* case
116. 2/14/2022 Sworn Statement of Debra K. Inglis in the *King v. Parker* case
117. 3/16/2022 Sworn Statement of Damon Lawrence in the *King v. Parker* case
118. 12/1/2021 Sworn Statement of Debra K. Inglis in the *King v. Parker* case
119. 4/13/2022 Declaration of Sarah B. Miller in Support of Plaintiff's Motion in the *King v. Parker* case
120. 11/17/2021 Expert Report of Dr. Michaela Almgren in the *King v. Parker* case

121. 1/14/2022 Supplemental Expert Report of Dr. Michaela Almgren in the *King v. Parker* case
122. 2/4/2022 Full Deposition Transcript of Dr. Michaela Almgren in the *King v. Parker* case
123. Exhibit 1 – 1/14/2021 Notice of Subpoena for Deposition and to Produce Documents to Dr. Almgren Deposition Transcript in the *King v. Parker* case
124. Exhibit 2 – 11/17/2021 Expert Report of Dr. Michaela Almgren to Dr. Almgren Deposition Transcript in the *King v. Parker* case
125. Exhibit 3 – 1/14/2022 Supplemental Expert Report of Dr. Michaela Almgren to Dr. Almgren Deposition Transcript in the *King v. Parker* case
126. Exhibit 4 - Lethal Injection Execution Manual, rev 7/5/2018 to Dr. Almgren Deposition Transcript in the *King v. Parker* case
127. 2/4/2022 Condensed Deposition Transcript of Dr. Michaela Almgren in the *King v. Parker* case
128. 11/17/2021 Expert Report of Dr. Charles David Blanke in the *King v. Parker* case
129. 1/18/2022 Full Deposition Transcript of Dr. Blanke in the *King v. Parker* case
130. Exhibit 1 - 12/4/2021 Notice of Subpoena for Deposition and to Produce Documents to Dr. Blanke's Deposition Transcript in the *King v. Parker* case
131. Exhibit 2 – 11/17/2021 Expert Report of Dr. Charles David Blanke to Dr. Blanke's Deposition Transcript in the *King v. Parker* case
132. Exhibit 3 – 10/2/2020 Death with Dignity: The Oregon Experience and Future Implications PowerPoint slides to Dr. Blanke's Deposition Transcript in the *King v. Parker* case
133. Exhibit 4 - Oregon Death with Dignity Act 2020 Data Summary to Dr. Blanke's Deposition Transcript in the *King v. Parker* case
134. 1/18/2022 Condensed Deposition Transcript of Dr. Blanke in the *King v. Parker* case

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135. 1/18/2022 (Corrected) Full Deposition Transcript of Dr. Blanke in the *King v. Parker* case
136. Exhibit 1 – 12/14/2021 Notice of Subpoena for Deposition and to Produce Documents to Dr. Blanke’s (Corrected) Deposition Transcript in the *King v. Parker* case
137. Exhibit 2 – 11/17/2021 Expert Report of Dr. Charles David Blanke to Dr. Blanke’s (Corrected) Deposition Transcript in the *King v. Parker* case
138. Exhibit 3 – 10/2/2020 Death with Dignity: The Oregon Experience and Future Implications PowerPoint slides to Dr. Blanke’s (Corrected) Deposition Transcript in the *King v. Parker* case
139. Exhibit 4 - Oregon Death with Dignity Act 2020 Data Summary to Dr. Blanke’s (Corrected) Deposition Transcript in the *King v. Parker* case
140. 1/18/2022 (Corrected) Condensed Deposition Transcript of Dr. Blanke in the *King v. Parker* case
141. 1/14/2022 Full Deposition Transcript of Craig W. Stevens, Ph. D. in the *King v. Parker* case
142. 1/14/2022 Condensed Deposition Transcript of Craig W. Stevens, Ph. D. in the *King v. Parker* case
143. 11/17/2021 Expert Opinion: Inappropriate Use of Midazolam in Tennessee’s Triple-Drug Lethal Injection Protocol to Craig W. Stevens, Ph. D. Deposition Transcript in the *King v. Parker* case
144. Exhibit 1 – 12/14/2021 Notice of Subpoena for Deposition and to Produce Documents to Craig W. Stevens, Ph. D. Deposition Transcript in the *King v. Parker* case
145. Exhibit 2 – 11/17/2021 Expert Opinion: Inappropriate Use of Midazolam in Tennessee’s Triple-Drug Lethal Injection Protocol to Craig W. Stevens, Ph. D. Deposition Transcript in the *King v. Parker* case
146. Exhibit 3 – 6/11/2018 deposition transcript of Craig W. Stevens, Ph.D. to Craig W. Stevens, Ph. D. Deposition Transcript in the *King v. Parker* case
147. Exhibit 4 - Transcript of 7/9/2018 proceedings (pages 1 - 150 only) to Craig W. Stevens, Ph. D. Deposition Transcript in the *King v. Parker* case
148. Exhibit 5 - Lethal Injection Execution Manual, rev 7/5/2018 to Craig W. Stevens, Ph. D. Deposition Transcript in the *King v. Parker* case

149. Exhibit 6 - July 2021 Curriculum Vitae of Craig W. Stevens, Ph.D. to Craig W. Stevens, Ph. D. Deposition Transcript in the *King v. Parker* case
150. Exhibit 7 - American Society of Anesthesiologists Continuum of Depth of Sedation: Definition of General Anesthesia and Levels of Sedation/Analgesia to Craig W. Stevens, Ph. D. Deposition Transcript in the *King v. Parker* case
151. Exhibit 8 – 11/1/2019 Expert Declaration of Craig W. Stevens, PH.D. to Craig W. Stevens, Ph. D. Deposition Transcript in the *King v. Parker* case
152. Exhibit 9 - Death Be Not Proud: The pharmacology of lethal drug executions to Craig W. Stevens, Ph. D. Deposition Transcript in the *King v. Parker* case
153. 1/11/2022 Full deposition transcript of Dr. Gail Van Norman in the *King v. Parker* case
154. 11/17/2021 Expert Opinion of Gail A. Van Norman, MD to transcript of Dr. Gail Van Norman in the *King v. Parker* case
155. Exhibit 1 – 12/14/2021 Notice of Subpoena for Deposition and to Produce Documents to transcript of Dr. Gail Van Norman in the *King v. Parker* case
156. Exhibit 2 – 11/17/2021 Expert Opinion of Gail A. Van Norman, MD to transcript of Dr. Gail Van Norman in the *King v. Parker* case
157. 11/10/2021 Report of Dr. James S. Williams: Efficacy and Feasibility of Firing Squad as a Means of Execution for Dr. Williams Transcript in the *King v. Parker* case
158. 1/4/2022 Full deposition transcript of Dr. James Williams in the *King v. Parker* case
159. 1/4/2022 Condensed deposition transcript for Dr. James Williams Transcript in the *King v. Parker* case
160. Exhibit 1 – 12/14/2021 Notice of Subpoena for Deposition and to Produce Documents to Dr. Williams Transcript in the *King v. Parker* case
161. Exhibit 2 – 11/10/2021 Report of Dr. James S. Williams: Efficacy and Feasibility of Firing Squad as a Means of Execution to Dr. Williams Transcript in the *King v. Parker* case

162. Exhibit 3 - Gunshot Wound Review by Martin L. Fackler, MD to Dr. Williams Transcript in the *King v. Parker* case
163. Exhibit 4 - Utah Technical Manual for execution by firing squad, rev 6/10/2010 to Dr. Williams Transcript in the *King v. Parker* case
164. Exhibit 5 - U.S. Army's Procedure for Military Executions to Dr. Williams Transcript in the *King v. Parker* case
165. Exhibit 6 - Diagnosis of brain death by G Bryan Young, MD to Dr. Williams Transcript in the *King v. Parker* case
166. Exhibit 7 - Advanced Trauma Life Support Student Course Manual to Dr. Williams Transcript in the *King v. Parker* case
167. Exhibit 8 - Military Police - U.S. Army Corrections System: Procedures for Military Executions to Dr. Williams Transcript in the *King v. Parker* case
168. Exhibit 9 - Thread of 7/22/2015 comments on forum to Dr. Williams Transcript in the *King v. Parker* case
169. 3/10/2022 Sworn Statement of Jim Biddle for Plaintiff's fact witnesses in the *King v. Parker* case
170. Exhibit 1 - TDOC Lethal Injection Execution Manual, rev 7/5/2018 for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
171. Exhibit 2 - Midazolam storage and preparation instructions for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
172. Exhibit 3 - October 2017 email thread re request for a drug storage protocol and info for a DEA # for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
173. Exhibit 4 - Potassium Chloride preparation instructions for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
174. Exhibit 5 - Creation, quantity, lot # and discard date logs for Potassium Chloride and Midazolam injections for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
175. Exhibit 6 – 9/7/2017 email re preference for procuring Midazolam first for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case

176. Exhibit 7 – 9/7/2017 email thread re availability and sources for lethal injection drugs for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
177. Exhibit 8 – 9/7/2017 email thread re lethal drugs availability and sources and other options for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
178. Exhibit 9 – 9/21/2017 email thread re request to order lethal drugs used in 3 drug protocol for 20 inmates for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
179. Exhibit 10 – 4/6/2017 email inquiring about current inventory of Pentobarbital for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
180. Exhibit 11 – 4/6/2017 email inquiry regarding Pentobarbital bulk order for compounding for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
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182. Exhibit 13 – 7/20/2017 email thread re Pentobarbital update and DEA involvement for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
183. Exhibit 14 - Handwritten notes re importation of drugs from oversea sources for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
184. Exhibit 15 – 4/4/2017 email thread re inquiry to buy bulk order of Pentobarbital for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
185. Exhibit 16 - TDOC PowerPoint slides re efforts to procure chemicals to compound lethal injections, death row inmates and current execution law for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
186. Exhibit 17 – 10/30/2019 email thread discussing importing drugs and DEA for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case

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187. Exhibit 18 – 6/20/2018 email thread inquiring about purchasing Pentobarbital for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
188. Exhibit 19 – 5/3/2019 Memorandum Opinion for the Attorney General: Whether the FDA has Jurisdiction over Articles Intended for Use in Lawful Executions for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
189. Exhibit 20 – 12/4/2017 email thread re Vecuronium requiring reconstitution for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
190. Exhibit 21 – 11/26/2019 email with subject Lab Results for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
191. Exhibit 22 – 8/9/2019 email indicating house sterility report is attached for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
192. Exhibit 23 – 8/8/2019 email indicating suitability/methodology test for KCI that was falling out of solution is attached for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
193. Exhibit 24 – 8/8/2019 email thread re kcl protocol for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
194. Exhibit 25 – 7/31/2019 email re Midazolam complete report for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
195. Exhibit 26 – 7/24/2019 email indicating potency reports for the Midazolam and KCI are attached for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
196. Exhibit 27 – 06/2019 – 07/2019 email thread re KCI protocol for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
197. Exhibit 28 – 5/9/2019 email indicating lab report for Midazolam is attached for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
198. Exhibit 29 – 4/29/2019 email indicating potency report for Midazolam batch is attached for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case

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199. Exhibit 30 – 8/6/2018 email indicating the lab results for sterility testing are attached for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
200. Exhibit 31 – 7/12/2018 email indicating a testing report is attached re compounds for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
201. Exhibit 32 – 11/14/2017 email requesting info on an exam, manufacturer and to discuss contract for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
202. Exhibit 33 – 7/17/2018 email attaching a sample prescription for ordering a compounded preparation for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
203. Exhibit 34 – 12/15/2017 email providing TCA 10-7-504(h) and a case for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
204. Exhibit 35 – 6/26/2019 email providing proposed alternatives Midazolam, Digoxin, Morphine Sulfate and Propranolol for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
205. Exhibit 36 – 12/20/2019 Invoice for bulk shipment of Midazolam and KCI for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
206. Exhibit 37 – 10/26/2017 Invoice for bulk shipment of Midazolam, Vecuronium and KCI for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
207. Exhibit 38 – 8/16/2018 Invoice for bulk shipment of Midazolam and Vecuronium for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
208. Exhibit 39 – 12/28/2017 Invoice for Midazolam, Vecuronium, Sterile water for injection and KCI for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
209. Exhibit 40 – 10/31/2018 Invoice for Midazolam for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
210. Exhibit 41 – 9/2018 handwritten inventories for lethal drugs for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case

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- 211. Exhibit 42 - 2017-2018 handwritten inventories for lethal drugs for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
- 212. Exhibit 43 – 2/2020 – 8/2020 handwritten inventories for lethal drugs for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
- 213. Exhibit 44 – 4/14/2021 Chemical Preparation Time Sheet for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
- 214. Exhibit 45 – 8/13/2020 email re training requirements for compounding and status of KCI and Midazolam remaining for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
- 215. Exhibit 46 – 11/21/2017 Pharmacy Services Agreement for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
- 216. Exhibit 47 – 10/18/2017 email re lethal drugs received from suppliers for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
- 217. Exhibit 48 - Picture of area where lethal drugs are stored for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
- 218. Exhibit 49 - Tony May's Supplemental Response to Plaintiff's First Set of Interrogatories signed 8/19/2020 for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
- 219. Exhibit 50 - Supplement to information in response to Interrogatory 8 for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
- 220. Exhibit 51 – 3/30/2021 In-Service Training Course Roster for Lethal Injection and sample documents used on day of executions for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
- 221. Exhibit 52 – 4/13/2021 dated Day of Execution checklist sample for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
- 222. Exhibit 53 – 4/13/2021 In-Service Training Course Roster for Lethal Injection for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
- 223. Exhibit 54 -4/13/2021 dated Lethal Injection Chemical Administration Record sample for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
- 224. Exhibit 55 - IV Team Inventory Checklist for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case

225. Exhibit 56 - Physician's Inventory Checklist for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
226. Exhibit 57 – 8/9/2018 Day of Execution - Lethal Injection Execution Recorder Checklist for Billy Ray Irick for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
227. Exhibit 58 – 8/9/2018 Lethal Injection Chemical Administration Record and Prep Sheets for Billy Ray Irick for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
228. Exhibit 59 – 8/10/2018 Newspaper article re Billy Ray Irick's execution for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
229. Exhibit 60 – 9/2/2018 Declaration of David A. Lubarsky, MD for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
230. Exhibit 61 – 5/16/2019 Lethal Injection Chemical Administration Record for Donnie Johnson for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
231. Exhibit 62 – 5/16/2019 Chemical Prep sheets for Donnie Johnson for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
232. Exhibit 63 – 5/16/2019 Day of Execution - Lethal Injection Execution Recorder Checklist for Donnie Johnson for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
233. Exhibit 64 - TDOC Administrative Policies and Procedures for Standard Firearms Qualification Training for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
234. Exhibit 65 – 4/14/2021 Chemical Prep Sheets for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
235. Exhibit 66 – 5/16/2018 Sample Day of Execution check list for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
236. Exhibit 67 – 7/17/2018 Chemical Prep sheets for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
237. Exhibit 68 – 2/22/2017 Sample Day of Execution check list for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case

238. Exhibit 69 - Subpoena to Testify at a Deposition to TDOC Designees signed on 9/10/2021 for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
239. Exhibit 70 - Lethal Drug Prescription Orders for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
240. Exhibit 71 - USP Pharmaceutical Compounding - Nonsterile Preparations chapter 795 for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
241. Exhibit 72 - USP Pharmaceutical Compounding - Sterile Preparations chapter 797 for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
242. Exhibit 73 – 11/28/2017 email attaching an executed agreement and revisions to the protocols for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
243. Exhibit 74 - Potassium Chloride preparation instructions for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
244. Exhibit 75 - Potassium Chloride preparation instructions for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
245. Exhibit 76 - Sample Prescription for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
246. Exhibit 77 - Midazolam lab report for sterility for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
247. Exhibit 78 - Midazolam lab report for potency for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
248. Exhibit 79 - Pharmacy Board Order for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
249. Exhibit 81 – 5/9/2019 In-Service Training Course Roster for Spike IV Bag and Establish IV and training material for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
250. Exhibit 82 - Tennessee Emergency Medical Services Protocol Guidelines for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case

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- 251. Exhibit 83 - Declaration of Tony C. Parker dated 10/5/2021 for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
- 252. Exhibit 1 - Lethal Injection Execution Manual rev 7/5/2018 for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
- 253. Exhibit 2 - Midazolam storage and preparation instructions for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
- 254. Exhibit 3 - October 2017 email thread re request for a drug storage protocol and info for a DEA # for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
- 255. Exhibit 4 - Potassium Chloride preparation instructions for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
- 256. Exhibit 5 - Creation, quantity, lot # and discard date logs for Potassium Chloride and Midazolam injections for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
- 257. Exhibit 6 – 9/7/2017 email re preference for procuring Midazolam first for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
- 258. Exhibit 7 – 9/7/2017 email thread re availability and sources for lethal injection drugs for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
- 259. Exhibit 8 – 9/7/2017 email thread re lethal drugs availability and sources and other options for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
- 260. Exhibit 9 – 9/21/2017 email thread re request to order lethal drugs used in 3 drug protocol for 20 inmates for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
- 261. Exhibit 10 – 4/6/2017 email inquiring about current inventory of Pentobarbital for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
- 262. Exhibit 11 – 4/6/2017 email inquiry regarding Pentobarbital bulk order for compounding for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
- 263. Exhibit 12 – 4/6/2017 email request to purchase Pentobarbital for [Drug Procurer] Deposition Transcript in the *King v. Parker* case

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- 264. Exhibit 13 – 7/20/2017 email thread re Pentobarbital update and DEA involvement for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
- 265. Exhibit 14 - Handwritten notes re importation of drugs from overseas sources for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
- 266. Exhibit 15 – 4/4/2017 email thread re inquiry to buy bulk order of Pentobarbital for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
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- 269. Exhibit 18 – 6/20/2018 email thread inquiring about purchasing Pentobarbital for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
- 270. Exhibit 19 – 5/3/2019 Memorandum Opinion for the Attorney General: Whether the FDA for [Drug Procurer] Deposition Transcript has Jurisdiction over Articles Intended for Use in Lawful Executions for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
- 271. Exhibit 20 – 12/4/2017 email thread re Vecuronium requiring reconstitution for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
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- 273. Exhibit 22 – 8/9/2019 email indicating house sterility report is attached for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
- 274. Exhibit 23 – 8/8/2019 email indicating suitability/methodology test for KCI that was falling out of solution is attached for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
- 275. Exhibit 24 – 8/8/2019 email thread re kcl protocol for [Drug Procurer] Deposition Transcript in the *King v. Parker* case

276. Exhibit 25 – 7/31/2019 email re Midazolam complete report for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
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280. Exhibit 29 – 4/29/2019 email indicating potency report for Midazolam batch is attached for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
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283. Exhibit 32 – 11/14/2017 email requesting info on an exam, manufacturer and to discuss contract for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
284. Exhibit 33 – 7/17/2018 email attaching a sample prescription for ordering a compounded preparation for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
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287. Exhibit 36 – 12/20/2019 Invoice for bulk shipment of Midazolam and KCI for [Drug Procurer] Deposition Transcript in the *King v. Parker* case

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- 288. Exhibit 37 – 10/26/2017 Invoice for bulk shipment of Midazolam, Vecuronium and KCI for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
- 289. Exhibit 38 – 8/16/2018 Invoice for bulk shipment of Midazolam and Vecuronium for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
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- 291. Exhibit 40 – 10/31/2018 Invoice for Midazolam for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
- 292. Exhibit 41 – 9/2018 handwritten inventories for lethal drugs for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
- 293. Exhibit 42 - 2017-2018 handwritten inventories for lethal drugs for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
- 294. Exhibit 43 – 2/2020 – 8/2020 handwritten inventories for lethal drugs for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
- 295. Exhibit 44 – 5/16/2019 Chemical Preparation Time Sheet for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
- 296. Exhibit 45 – 8/13/2020 email re training requirements for compounding and status of KCI and Midazolam remaining for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
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- 298. Exhibit 47 – 10/18/2017 email re lethal drugs received from suppliers for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
- 299. Exhibit 48 - Picture of area where lethal drugs are stored for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
- 300. 10/20/2021 Deposition transcript of EMT 1 in the *King v. Parker* case
- 301. Exhibit 81 – 5/9/2019 In-Service Training Course Roster for Spike IV Bag and Establish IV and training material for EMT 1 Deposition Transcript in the *King v. Parker* case

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- 302. Exhibit 82 - Tennessee Emergency Medical Services Protocol Guidelines for EMT 1 Deposition Transcript in the *King v. Parker* case
- 303. 10/22/2021 Deposition transcript of EMT 2 in the *King v. Parker* case
- 304. 10/21/2021 Deposition transcript of EMT 3 in the *King v. Parker* case
- 305. Exhibit 1 - Lethal Injection Execution Manual rev 7/5/2018 for Executioner Deposition in the *King v. Parker* case
- 306. Exhibit 2 - Midazolam storage and preparation instructions for Executioner Deposition in the *King v. Parker* case
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- 308. Exhibit 8 – 9/7/2017 email thread re lethal drugs availability and sources and other options for Executioner Deposition in the *King v. Parker* case
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320. Exhibit 58 – 8/9/2018 Lethal Injection Chemical Administration Record and Prep Sheets for Billy Ray Irick for Executioner Deposition in the *King v. Parker* case
321. Exhibit 59 – 8/10/2018 Newspaper article re Billy Ray Irick's execution for Executioner Deposition in the *King v. Parker* case
322. Exhibit 60 – 9/2/2018 Declaration of David A. Lubarsky, MD for Executioner Deposition in the *King v. Parker* case
323. Exhibit 61 – 5/16/2019 Lethal Injection Chemical Administration Record for Donnie Johnson for Executioner Deposition in the *King v. Parker* case
324. Exhibit 62 – 5/16/2019 Chemical Prep sheets for Donnie Johnson for Executioner Deposition in the *King v. Parker* case
325. Exhibit 63 – 5/16/2019 Day of Execution - Lethal Injection Execution Recorder Checklist for Donnie Johnson for Executioner Deposition in the *King v. Parker* case
326. Exhibit 64 - TDOC Administrative Policies and Procedures for Standard Firearms Qualification Training for Executioner Deposition in the *King v. Parker* case
327. 10/13/2021 Deposition transcript of Debra K. Inglis in the *King v. Parker* case
328. 9/24/2021 Deposition transcript of IV Team Member 1 in the *King v. Parker* case
329. 9/16/2021 Deposition transcript of IV Team Member 2 in the *King v. Parker* case
330. 9/22/2021 Deposition transcript of IV Team Member 3 in the *King v. Parker* case

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- 331. 7/29/2021 Deposition transcript of Associate Warden Ernest Lewis in the *King v. Parker* case
- 332. Exhibit 1- Lethal Injection Execution Manual rev 7/5/2018 for Associate Warden Lewis Deposition in the *King v. Parker* case
- 333. Exhibit 2 - Midazolam storage and preparation instructions for Associate Warden Lewis Deposition in the *King v. Parker* case
- 334. Exhibit 4 - Potassium Chloride preparation instructions for Associate Warden Lewis Deposition in the *King v. Parker* case
- 335. Exhibit 7 – 9/7/2017 email thread re availability and sources for lethal injection drugs for Associate Warden Lewis Deposition in the *King v. Parker* case
- 336. Exhibit 8 – 9/7/2017 email thread re lethal drugs availability and sources and other options for Associate Warden Lewis Deposition in the *King v. Parker* case
- 337. Exhibit 50 - Supplement to information in response to Interrogatory 8 for Associate Warden Lewis Deposition in the *King v. Parker* case
- 338. Exhibit 58 – 8/9/2018 Lethal Injection Chemical Administration Record and Prep Sheets for Billy Ray Irick for Associate Warden Lewis Deposition in the *King v. Parker* case
- 339. Exhibit 59 – 8/10/2018 Newspaper article re Billy Ray Irick's execution for Associate Warden Lewis Deposition in the *King v. Parker* case
- 340. Exhibit 60 – 9/2/2018 Declaration of David A. Lubarsky, MD for Associate Warden Lewis Deposition in the *King v. Parker* case
- 341. Exhibit 62 – 5/16/2019 Chemical Prep sheets for Donnic Johnson for Associate Warden Lewis Deposition in the *King v. Parker* case
- 342. 7/27/2021 Deposition transcript of Warden Tony Mays in the *King v. Parker* case
- 343. Exhibit 1 - Lethal Injection Execution Manual rev 7/5/2018 for Warden Mays Deposition in the *King v. Parker* case
- 344. Exhibit 2 - Midazolam storage and preparation instructions for Warden Mays Deposition in the *King v. Parker* case

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- 345. Exhibit 4 - Potassium Chloride preparation instructions for Warden Mays Deposition in the *King v. Parker* case
- 346. Exhibit 5 - Creation, quantity, lot # and discard date logs for Potassium Chloride and Midazolam injections for Warden Mays Deposition in the *King v. Parker* case
- 347. Exhibit 6 – 9/7/2017 email re preference for procuring Midazolam first for Warden Mays Deposition in the *King v. Parker* case
- 348. Exhibit 7 – 9/7/2017 email thread re availability and sources for lethal injection drugs for Warden Mays Deposition in the *King v. Parker* case
- 349. Exhibit 41 – 9/2018 handwritten inventories for lethal drugs for Warden Mays Deposition in the *King v. Parker* case
- 350. Exhibit 42 - 2017-2018 handwritten inventories for lethal drugs for Warden Mays Deposition in the *King v. Parker* case
- 351. Exhibit 43 – 2/2020 – 8/2020 handwritten inventories for lethal drugs for Warden Mays Deposition in the *King v. Parker* case
- 352. Exhibit 49 - Tony May's Supplemental Response to Plaintiff's First Set of Interrogatories signed 8/19/2020 for Warden Mays Deposition in the *King v. Parker* case
- 353. Exhibit 50 - Supplement to information in response to Interrogatory 8 for Warden Mays Deposition in the *King v. Parker* case
- 354. Exhibit 53 – 4/13/2021 In-Service Training Course Roster for Lethal Injection for Warden Mays Deposition in the *King v. Parker* case
- 355. Exhibit 58 – 8/9/2018 Lethal Injection Chemical Administration Record and Prep Sheets for Billy Ray Irick for Warden Mays Deposition in the *King v. Parker* case
- 356. Exhibit 59 – 8/10/2018 Newspaper article re Billy Ray Irick's execution for Warden Mays Deposition in the *King v. Parker* case
- 357. Exhibit 60 - 9/2/2018 Declaration of David A. Lubarsky, MD for Warden Mays Deposition in the *King v. Parker* case
- 358. Exhibit 62 – 5/16/2019 Chemical Prep sheets for Donnie Johnson for Warden Mays Deposition in the *King v. Parker* case

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- 359. Exhibit 63 – 5/16/2019 Day of Execution - Lethal Injection Execution Recorder Checklist for Donnie Johnson for Warden Mays Deposition in the *King v. Parker* case
- 360. Exhibit 65 – 4/14/2021 Chemical Prep Sheets for Warden Mays Deposition in the *King v. Parker* case
- 361. Exhibit 66 – 5/16/2018 Sample Day of Execution check list for Warden Mays Deposition in the *King v. Parker* case
- 362. Exhibit 68 – 2/22/2017 Sample Day of Execution check list for Warden Mays Deposition in the *King v. Parker* case
- 363. 9/30/201 Deposition transcript of Tony Parker in the *King v. Parker* case
- 364. 11/22/2021 Deposition transcript of Tony Parker in the *King v. Parker* case
- 365. Exhibit 83 Declaration of Tony C. Parker dated 10/5/2021 for Tony Parker Deposition in the *King v. Parker* case
- 366. 9/29/2021 Deposition Transcript of Tony Parker as Corporate Representative for IDOC in the *King v. Parker* case
- 367. 7/30/2021 Deposition Transcript of [Pharmacist] in the *King v. Parker* case
- 368. Exhibit 70 - Lethal Drug Prescription Orders for [Pharmacist] Deposition in the *King v. Parker* case
- 369. Exhibit 71 - USP Pharmaceutical Compounding - Nonsterile Preparations chapter 795 for [Pharmacist] Deposition in the *King v. Parker* case
- 370. Exhibit 72 - USP Pharmaceutical Compounding - Sterile Preparations chapter 797 for [Pharmacist] Deposition in the *King v. Parker* case
- 371. 10/1/2021 Deposition Transcript of Pharmacy Owner in the *King v. Parker* case
- 372. 9/17/2021 Deposition Transcript of Steven Turley as Corporate Representative for Utah Department of Corrections in the *King v. Parker* case
- 373. Exhibit 1 - Amended Notice of Deposition to the Utah Department of Corrections dated 9/10/2021 in the *King v. Parker* case
- 374. Exhibit 2 - Picture of firing squad chair and backing in the *King v. Parker* case

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- 375. Exhibit 3 - Description of the firing squad chair and backing in the *King v. Parker* case
- 376. Exhibit 4 – 9/30/2003 Inter-Office memorandum re estimated cost for upcoming execution by firing-squad in the *King v. Parker* case
- 377. Exhibit 5 - Utah Technical Manual for execution by firing squad, rev 6/10/2010 in the *King v. Parker* case
- 378. Exhibit 6 - Picture of execution chamber in the *King v. Parker* case
- 379. Exhibit 7 – 1/29/2014 email thread re costs of execution methods in the *King v. Parker* case

Documents from Kelley Henry

- 1. Plaintiff prisoners PowerPoint in the *Abu Ali Abdur'Rahman* matter.
- 2. 05/20/2019 Request from Kelley Henry for records re the execution of Johnson, response to request and information advising Johnson's Midazolam was tested for potency and sterility. The sterility passed on 5/9/19 and the potency results were 104%.
- 3. 04/21/2022 Email from Kelley Henry to Debbie Inglis, et al requesting that Inglis preserve all evidence re Oscar Smith's execution that did not go forward.
- 4. 04/21/2022 Email from Kelley Henry to Debbie Inglis, et al requesting a response re 4.20.22 email requesting proof of testing for the lethal injection chemicals intended to be used for Oscar Smith's 04/21/2022 execution.
- 5. 04/20/2022 Email from Kelley Henry to Debbie Inglis, et al requesting proof re testing of the lethal injection chemicals intended to be used for Oscar Smith's 04/21/2022 execution.

Documents from David Esquivel

- 1. 10/3/2022 Letter to Ed Stanton, et al from David Esquivel re suggested Lethal Injection protocol recommendations

Documents from [Former Pharmacy Owner]

- 1. Directions for unpacking and storage
- 2. Revised IV protocol for Midazolam

3. Chemicals Used in Lethal Injection Edited protocol

Documents from Pharmacy

1. [Pharmacy] Pharmacy license expiring 4/30/2022
2. [Pharmacy] Texas Pharmacy License expiring 4/30/2024
3. Sterile Compounding training document
4. Sterile Compounding training document
5. Sterile Compounding training document
6. Sterile Compounding training document
7. Sterile Compounding Aseptic Technique document
8. [Pharmacy] Pharmacy Tennessee license expiring 7/31/2022
9. Formula Worksheet for Sodium Hydroxide 1% Water for injection
10. Midazolam preparation instructions
11. 3/16/2022 Oscar Franklin Smith Prescription Order for Potassium Chloride and Midazolam
12. Formula Worksheet for Midazolam 50 MG/ML Injection Solution
13. Unredacted Midazolam log of prescriptions filled between 1/1/2017 - 8/9/2022
14. Redacted Midazolam log of prescriptions filled between 1/1/2017 - 8/9/2022
15. 5/22/2018 Midazolam suitability test
16. Logged Formula Worksheet for Potassium Chloride 15% injection solution concentrate injectable
17. Potassium Chloride preparation instructions
18. Potassium Chloride log of prescriptions filled between 1/1/2017 - 8/9/2022
19. Potassium Chloride Inventory log between 1/1/2000 - 5/11/2022

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20. IV Protocol
21. 7/26/2021 Hotel Booking Invoice for [Pharmacist]
22. 9/1/2021 [Pharmacy] Invoice to TDOC
23. Formula Worksheet for Hydrochloric Acid 1% water for injection 1%
24. Lab Report for 5/11/2018 Midazolam Potency and Endotoxins and 5/25/2018 Sterility
25. protocols for chemicals used in lethal injection, rev. 7/11/2016
26. Formula Worksheet for Edtate Disodium 1% water for injection
27. [Pharmacy] DEA License expiring 2/28/2023
28. 2/11/2020 [Pharmacy] Invoice to TDOC
29. Midazolam inventory log between 1/1/2000 - 9/17/2021
30. Log of Midazolam made for TDOC between 1/1/2018 - 8/13/2020
31. Log of Potassium Chloride made for TDOC between 1/1/2018 - 8/13/2020
32. Potassium Chloride inventory log between 1/1/2000 - 9/17/2021
33. Potassium Chloride inventory log between 1/1/2000 - 9/17/2021
34. 5/14/2018 Lab report for container closure integrity
35. 9/17/2020 Letter from B. Braun Medical Inc. to [Pharmacy] re potential misuse of its Potassium Chloride drug product
36. Emails from pharmacy from 2020 - 2019 (8 pages)
37. Emails from pharmacy from 2019 (10 pages)
38. Emails from pharmacy from 2021 (14 pages)
39. Emails from pharmacy from 2021 (14 pages)
40. Emails from pharmacy from 2022 - 2021 (16 pages)
41. Emails from pharmacy from 2019 - 2018 (22 pages)

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Exhibit 4



U.S. Department of
JUSTICE

Review of the Federal Execution Protocol Addendum and Manner of Execution Regulations



January 2025

Office of Legal Policy

APP-000257

Introduction

On July 1, 2021, the Attorney General issued a memorandum instituting a moratorium on federal executions pending the Department of Justice's (Department) review of certain policies and procedures.¹ This review consists of three prongs: first, a review of the federal execution protocol addendum; second, a review of the manner of execution regulations;² and third, a review of the relevant Justice Manual provisions. In the memorandum, the Attorney General noted that "the Department of Justice must ensure that everyone in the federal criminal justice system is not only afforded the rights guaranteed by the Constitution and laws of the United States, but is also treated fairly and humanely." The memorandum directed the Office of Legal Policy (OLP), under the supervision of the Deputy Attorney General, to coordinate the first two prongs of the review.³

Regarding the review of the federal execution protocol addendum, which provides that an injection of a single drug – pentobarbital – is the sole manner of federal execution, the memorandum stated in part:

Although some medical experts have concluded that the use of pentobarbital may risk inflicting painful pulmonary edema, the Supreme Court found that this risk was insufficient "to justify last-minute intervention by a Federal Court" shortly before an execution was scheduled to occur. *Barr v. Lee*, 140 S. Ct. 2590, 2591 (2020) (per curiam). A risk need not meet the Court's high threshold for such relief, or violate the Eighth Amendment, to raise important questions about our responsibility to treat individuals humanely and avoid unnecessary pain and suffering.

Regarding the review of the manner of execution regulations, the memorandum noted that they had last been amended on November 27, 2020, to reflect the provisions of the Federal Death Penalty Act, 18 U.S.C. § 3596. This statute expanded the permissible methods of execution to include any manner prescribed by the "law of the State in which the sentence was imposed," and also permitted the federal government to use state facilities and personnel in federal executions. Additionally, the amendments to the manner of execution regulations added procedural provisions regarding the Attorney General's capacity to make exceptions to the regulations, as well as to delegate relevant duties within the Department. The memorandum directed a review to consider modification, rescission, or any other changes to the regulations.

This document summarizes the reviews of the federal execution protocol addendum and the manner of execution regulations in two parts. Part I addresses the review of the federal execution protocol: After an extensive review of available

¹ Memorandum from the Attorney General, *Moratorium on Federal Executions Pending Review of Policies and Procedures* (July 1, 2021), <https://www.justice.gov/opa/file/1557511/dl?inline>.

² See 28 C.F.R. § 26 (2020).

³ On January 30, 2023, the Deputy Attorney General issued a memorandum adopting changes to Title 9, Chapter 10 of the Justice Manual, which addresses capital crimes. See Memorandum from the Deputy Attorney General, *Changes to the Justice Manual's Provisions Regarding Capital Crimes* (January 30, 2023) <https://www.justice.gov/d9/2023-01/2023.01.30%20DAG%20Memo%20re%20JM%20Edits.pdf>.

scientific, medical, and legal research; recent autopsies of individuals who have received lethal injections of pentobarbital; consultation with experts within and outside the Department; and solicitation and consideration of public comments, OLP concludes that there remains significant uncertainty about whether the use of pentobarbital as a single-drug lethal injection causes unnecessary pain and suffering. In the face of such uncertainty, the Department should err on the side of humane treatment and avoidance of unnecessary pain and suffering, and therefore halt the use of pentobarbital unless and until that uncertainty is resolved. Part 2 addresses the review of the manner of execution regulations: Because the amendments made in 2020 largely reflect statutory law, there is no present reason to modify or rescind them. However, if the federal government were required to conduct an execution in a manner other than lethal injection of pentobarbital, the Department should undertake an analysis of that manner like the one engaged in here with regard to pentobarbital before it may be used.

Part 1 – The Federal Execution Protocol

I. Background

a. Capital Punishment and the Eighth Amendment of the Constitution

While the Supreme Court has a robust jurisprudence addressing the “cruel and unusual punishment” clause of the Eighth Amendment,⁴ it has never held that a method of execution adopted by a state or the federal government, and challenged in litigation, violates the Eighth Amendment.⁵ The Court’s caselaw thus does not provide definitive guidance on what is unconstitutionally cruel and unusual in the capital punishment context, although the Court has

⁴ See, e.g., *Wilkerson v. Utah*, 99 U.S. 130, 136 (1878) (finding it “safe to affirm that punishments of torture...and all others in the same line of unnecessary cruelty, are forbidden.”); *In re Kemmler*, 136 U.S. 436, 446 (1890) (stating that “if the punishment prescribed for an offense against the laws of the state were manifestly cruel and unusual, as burning at the stake, crucifixion, breaking on the wheel, or the like, it would be the duty of the courts to adjudge such penalties to be within the constitutional prohibition”); *Weems v. United States*, 217 U.S. 349 (1910) (prohibiting a sentence of 12 years in chains and hard labor); *Trop v. Dulles*, 356 U.S. 86 (1958) (prohibiting expatriation); *Robinson v. California*, 370 U.S. 660 (1962) (prohibiting the imprisonment for narcotics addition); *Estelle v. Gamble*, 429 U.S. 97 (1976) (prohibiting incarceration without medical care); *Atkins v. Virginia*, 536 U.S. 304 (2002) (finding the death penalty is unconstitutional for people with intellectual disabilities); *Roper v. Simmons*, 543 U.S. 551 (2005) (finding the death penalty is unconstitutional for people who were under 18 when they committed a crime); *Kennedy v. Louisiana*, 554 U.S. 407, 447 (2008) (reserving the imposition of the death penalty to “crimes that take the life of the victim”).

⁵ See, e.g., *Wilkerson*, 99 U.S. 130 (regarding the use of a firing squad); *In re Kemmler*, 136 U.S. 436 (regarding the use of the electric chair); *Gary v. Lucas*, 463 U.S. 1237 (1983) (denying certiorari to a challenge to a state’s use of a gas chamber); *Baze v. Rees*, 553 U.S. 35, 48 (2008) (upholding Kentucky’s lethal injection procedure, finding that the plaintiff did not demonstrate that the execution procedure imposed a substantial risk of serious harm or a feasible alternative that reduces the a substantial risk of severe pain); *Barr v. Lee*, 591 U.S. 979 at 981 (2020) (vacating a district court’s preliminary injunction against the federal government and permitting the federal execution to proceed using pentobarbital, finding that plaintiffs “have not made the showing required to justify last-minute intervention by a Federal Court”); see also *United States v. Aquart*, 912 F.3d 1, 62 (2d Cir. 2018) (finding that “the Court has not drawn ‘precise distinctions between cruelty and unusualness’ or clearly indicated that the two words bear qualitatively different meanings” (citing *Trop*, 356 U.S. at 100 n.32)).

said more generally that “wanton and unnecessary infliction of pain” offends the Eighth Amendment.⁶

In 1972, in the landmark case of *Furman v. Georgia*, the Supreme Court held in a one-paragraph per curiam decision that “the imposition and carrying out of the death penalty in these cases constitute cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments.”⁷ The petitioners before the Court had been convicted and sentenced to death by juries in state courts, but the manner of execution was not at issue: the concerns in the case centered on the arbitrary and discriminatory application of the death penalty. The five justices in the majority each filed separate opinions in support of the judgment, providing independent justifications for the decision. Three of those five justices noted their view that the death penalty could be constitutional if greater procedural safeguards were in place, such that the jury would be required to adhere to standards for determining that the death penalty was appropriate. While the case effectively invalidated the prevailing state death penalty statutes at the time, the decision left room for state and federal legislators to rewrite statutes to address the concerns about the arbitrary imposition of the death penalty.⁸

Four years later, after thirty-five states enacted revised death penalty laws, the Court upheld the constitutionality of the death penalty statutes considered in *Gregg v. Georgia* and several companion cases.⁹ The Court ruled that death penalty statutes that included safeguards to guide juror discretion and to require jurors to make special findings or to weigh “aggravating” versus “mitigating” circumstances withstood constitutional scrutiny.¹⁰

Since the 1970s, the Court has largely left questions about the method and implementation of capital punishment to legislative bodies, juries, and executive branch officials, but has placed limits on the instances in which the death penalty may be appropriate.¹¹ In *Kennedy v. Louisiana*, the Court stated that the “evolving standards of decency” principle “requires that use of the death penalty be restrained.”¹² The Court said that “[i]n most cases justice is not better served by terminating the life of the perpetrator,” and it held that use of the death penalty “must be reserved for the worst of crimes and limited in its instances of application.”¹³ Using the “evolving standards of decency” test, the Court has found unconstitutional the execution of certain categories of offenders, including juveniles, individuals

⁶ See *Ingraham v. Wright*, 430 U.S. 651, 670 (1977) (quoting *Estelle*, 429 U.S. at 103).

⁷ *Furman v. Georgia*, 408 U.S. 238, 239-40 (1972).

⁸ Carol S. Steiker & Jordan M. Steiker, *Little Furmans Everywhere: State Court Intervention and the Decline of the American Death Penalty*, 107 Cornell L. Rev. 1621, 1626 (2022).

⁹ *Gregg v. Georgia*, 428 U.S. 153, 875 (1976) (plurality opinion); *Proffitt v. Florida*, 428 U.S. 242 (1976); *Jurek v. Texas*, 428 U.S. 262 (1976); *Woodson v. North Carolina* 428 U.S. 280 (1976); *Roberts v. Louisiana*, 428 U.S. 325 (1976).

¹⁰ *Id.* at 153. On the same day *Gregg* was decided, the Court decided *Woodson v. North Carolina*, 428 U.S. 280, 303 (1976), in which the Court held that the mandatory imposition of the death penalty is unconstitutional and that a “particularized consideration of relevant aspects of the character and record of each convicted defendant” is necessary “before the imposition upon him of a sentence of death.”

¹¹ See James C. Feldman, *Nothing Less than the Dignity of Man: The Eighth Amendment and State Efforts to Reinstitute Traditional Methods of Execution*, 90 Wash. U.L. Rev. 1313 (2015).

¹² *Kennedy*, 554 U.S. at 446.

¹³ *Id.* at 447.

with an intellectual disability, and individuals convicted of offenses other than homicide.¹⁴ While the Court has held that certain forms of corporal punishment violate the Eighth Amendment, such as the use of excessive force in physical restraints,¹⁵ it has never found specific methods of execution to violate the Constitution.¹⁶

In *Baze v. Rees*, the Court considered the constitutionality of Kentucky's lethal injection procedure and held that it did not violate the Eighth Amendment. The plurality opinion begins with the assertion that if capital punishment is constitutional, then it "necessarily follows that there must be a means of carrying it out."¹⁷ Under *Baze*, for a petitioner to succeed on an Eighth Amendment challenge, he or she must demonstrate, first, that an execution procedure imposes a "substantial" or "objectively intolerable" risk of serious harm; and second, that there is a "feasible, readily implemented" alternative that "in fact significantly reduce[s] a substantial risk of severe pain."¹⁸ Later, in *Bucklew v. Precythe*, the Court further articulated that the Eighth Amendment "does not guarantee a prisoner a painless death."¹⁹ The Court held that the Eighth Amendment permits methods of execution, like hanging, that involved a significant risk of pain, while forbidding as cruel only those methods that intensified the death sentence by "'superadding' terror, pain, or disgrace" as compared to a viable alternative method.²⁰

Taken together, the Court's recent decisions require petitioners who are challenging the method of execution to establish that a State's chosen method cruelly "superadds" pain to the death sentence, that there is a feasible and readily implemented alternative method that would significantly reduce a substantial risk of severe pain, and that the State has refused to adopt that method without a legitimate penological reason.²¹ The Court has stated that the Constitution affords a "measure of deference to a State's choice of execution procedures," and does not authorize courts to serve as "boards of inquiry charged with determining 'best practices' for executions."²²

¹⁴ See *Atkins*, 536 U.S. 304; *Roper*, 543 U.S. 551; *Kennedy*, 554 U.S. 407.

¹⁵ In *Hope v. Pelzer*, 536 U.S. 730 (2002), the Supreme Court characterized the gratuitous handcuffing of a shirtless inmate to a hitching post for hours at a time as an "obvious" Eighth Amendment violation.

¹⁶ See *Glossip v. Gross*, 576 U.S. 863 (2015) ("While methods of execution have changed over the years, '[t]his Court has never invalidated a State's chosen procedure for carrying out a sentence of death as the infliction of cruel and unusual punishment.'" (quoting *Baze*, 553 U.S. at 48 (2008))).

¹⁷ *Baze*, 553 U.S. at 47.

¹⁸ *Id.* at 47-52 (noting that the Court's "broad framework of the Eighth Amendment" and its "approval of a particular method in the past has not precluded legislatures from taking the steps they deem appropriate, in light of new developments, to ensure humane capital punishment").

¹⁹ *Bucklew v. Precythe*, 587 U.S. 119, 132 (2019).

²⁰ *Id.* at 138 (citing *Baze*, 553 U.S. at 48; *Glossip*, 576 U.S. 863); see also *Wilkerson*, 99 U.S. at 135 (in which the Court noted cases in England in which "terror, pain, or disgrace were sometimes superadded" to the sentence").

²¹ *Bucklew*, 587 U.S. at 134.

²² *Baze*, 553 U.S. at 51-52.

b. History of Federal Executions

In the last 100 years, the federal government's implementation of capital punishment has been limited: 34 people were executed between 1927 and 1963; 3 were executed between 2001 and 2003, and 13 were executed in 2020 and 2021.²³

Until 1937, federal law prescribed hanging as the method of execution.²⁴ In 1937, Congress mandated that each federal execution be carried out in the manner prescribed by the laws of the State within which the sentence was imposed,²⁵ which at time also included the use of the electric chair and gas chamber. In 1988, Congress passed the Anti-Drug Abuse Act of 1988, which made the death penalty available for certain drug-related offenses but did not specify a method of execution.²⁶ The Justice Department issued regulations providing for lethal injection to be the federal method of execution in 1993.²⁷

Subsequently, through the Violent Crime Control and Law Enforcement Act of 1994, Congress expanded the number of offenses for which the death penalty could be imposed and established general statutory procedures for seeking and imposing capital sentences.²⁸ The statute also included the Federal Death Penalty Act, which requires that federal executions be implemented "in the manner prescribed by the law of the State in which the sentence is imposed" and gives the Attorney General discretion to use "appropriate State or local facilities" and officials to implement a sentence of death in the manner prescribed.²⁹

Between 2001 and 2003, the federal government carried out three executions using a three-drug cocktail, including sodium thiopental (a barbiturate), pancuronium bromide, and potassium chloride.³⁰ In January 2011, the sole American manufacturer of sodium thiopental stopped production after it faced pressure to guarantee that the drug would not be used in capital punishment.³¹ The federal government announced that it did not have any reserves of sodium thiopental for lethal injections,³² and federal courts prevented the importation of sodium thiopental from foreign manufacturers without approval from the Food and Drug Administration

²³ *Capital Punishment*, Federal Bureau of Prisons, https://www.bop.gov/about/history/federal_executions.jsp (last visited Dec. 30, 2024).

²⁴ See Crimes Act of 1790, ch. 9 § 33, 1 Stat. 112, 119.

²⁵ An Act of June 19, 1937, ch. 367, 50 Stat. 304, 304.

²⁶ Anti-Drug Abuse Act of 1988, Pub. L. No. 100-690, 102 Stat. 4181.

²⁷ 28 C.F.R. Part 26.

²⁸ Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, 108 Stat. 1796 (1994).

²⁹ See 18 U.S.C. §§ 3596-3597.

³⁰ *BOP Execution Protocol*, Federal Bureau of Prisons (undated version prior to 2004 update,) (on file).

³¹ *Statement from Hospira regarding its halt of production of Pentothal (sodium thiopental)* (Jan. 21, 2011), <https://dpic-cdn.org/production/legacy/HospiraJan2011.pdf> (last visited Dec. 30, 2024); see also Erik Eckholm & Katie Zezima, *States Face Shortage of Key Lethal Injection Drug*, N.Y. Times (Jan. 21, 2011) <https://www.nytimes.com/2011/01/22/us/22lethal.html>.

³² See *Roane v. Leonhart*, 741 F.3d 147, 149 (2014); see also Letter from Attorney General Eric Holder to the National Association of Attorneys General (Mar. 4, 2011), <https://files.deathpenaltyinfo.org/legacy/documents/2011.03.04.holder.letter.pdf> (last visited Dec. 30, 2024).

(FDA).³³ No federal executions occurred after 2003, until the Department revised the execution protocol to use only a single drug, pentobarbital, and restarted executions in 2020.

c. Medically Approved Use of Pentobarbital

Pentobarbital is a barbiturate drug that the FDA has approved for use in humans as an emergency treatment for status epilepticus (seizures that occur in quick succession or that last longer than five minutes), as a short-term sedative to treat insomnia, or as a pre-anesthetic prior to surgery.³⁴ The therapeutic concentration of pentobarbital depends on the intended therapeutic effect. For example, the sedation dose is 1 to 5 mcg/mL. The standard injectable dose of pentobarbital is between 150 and 200 milligrams. Toxic doses of pentobarbital occur at approximately 1 gram in most adults, with death occurring at 2 to 10 grams.³⁵

The FDA has approved the use of pentobarbital in animal euthanasia.³⁶ Typically, animal euthanasia products contain a combination of pentobarbital sodium and phenytoin sodium: the pentobarbital “produces rapid anesthetic action, unconsciousness, and depression of the respiratory and vasomotor centers,” while the phenytoin “causes cardiovascular collapse and/or central nervous system depression.”³⁷ According to the American Veterinary Medical Association, “[i]ntravenous injection of a barbituric acid derivative (e.g., pentobarbital, pentobarbital combination product) is the preferred method for euthanasia of dogs, cats, and other small companion animals,” and veterinarians may also first use a sedative prior to administering the barbiturate.³⁸ The dosage of the drug is typically determined by the animal’s body weight.

Pentobarbital has also been used in states with lawful medical aid in dying practices. Those states typically have developed a regulatory framework for physicians to prescribe lethal doses specific to the individual, often along with sedatives or other medications.³⁹ These prescriptions are all considered “off-label,” as they are not uses approved by the FDA. Notably,

³³ In *Beatty v. Food & Drug Admin.*, 853 F. Supp.2d 30 (D.D.C. 2012), the district court considered an action brought by inmates on death row and held that the FDA violated the APA by improperly allowing the shipment of drugs from abroad to states to use in capital punishment. The D.C. Circuit affirmed. *Cook v. Food & Drug Admin.*, 733 F.3d 1 (D.C. Cir. 2013).

³⁴ *Orange Book: Approved Drug Products with Therapeutic Equivalence Evaluations*, Food & Drug Admin., https://www.accessdata.fda.gov/scripts/cder/ob/search_product.cfm (last visited Dec. 30, 2024).

³⁵ See Anna B. Johnson & Nazia M. Sadiq, *Pentobarbital*, StatPearls, National Library of Medicine (Feb. 25, 2024), <https://www.ncbi.nlm.nih.gov/books/NBK545288/> (last visited Dec. 30, 2024).

³⁶ *Animal Drugs*, Food & Drug Admin., <https://animaldrugsatfda.fda.gov/adafda/views/#/home/searchResult> (search results for “animal euthanasia”) (last visited Dec. 30, 2024).

³⁷ M. B. Forrester, *Human exposure to pentobarbital-phenytoin combination veterinary drugs*, *Human & Experimental Toxicology* (2017), <https://journals.sagepub.com/doi/10.1177/0960327116661398> (last visited Dec. 30, 2024).

³⁸ *AVMA Guidelines for the Euthanasia of Animals: 2020 Edition*, American Veterinary Medical Association, at 57, <https://www.avma.org/sites/default/files/2020-02/Guidelines-on-Euthanasia-2020.pdf>.

³⁹ See, e.g., *Oregon Death with Dignity Act: 2023 Data Summary*, Oregon Health Authority (2024), <https://www.oregon.gov/oha/ph/providerpartnerresources/evaluationresearch/deathwithdignityact/documents/year26.pdf>.

a 2019 opinion from the Office of Legal Counsel concluded that the FDA did not have jurisdiction to regulate drugs used in executions.⁴⁰

While several states have used pentobarbital in executions as a single-drug injection,⁴¹ the FDA has not reviewed or approved of the use of pentobarbital in high doses or for the purpose of causing death. In addition, the primary manufacturer of injectable pentobarbital that has been approved by the FDA, the Danish company Lundbeck, has restricted the use of the drug in capital punishment.⁴² As a result, states and the federal government have not purchased injectable pentobarbital from drug manufacturers, but instead have found chemical companies that provide powdered active pharmaceutical ingredient (API) pentobarbital in bulk and then used compounding pharmacies to create an injectable solution.⁴³ According to the FDA, “[c]ompounded drugs are not FDA approved, which means the agency does not verify their safety, effectiveness or quality before they are marketed.”⁴⁴ Pharmacies that compound drugs in bulk, such as those typically contracted to produce lethal injection drugs, are required to register as Human Drug Compounding Outsourcing Facilities under Section 503B of the Food, Drug, and Cosmetic Act.⁴⁵ These facilities are advised by the FDA to comply with “current good

⁴⁰ *Whether the Food and Drug Administration Has Jurisdiction over Articles Intended for Use in Lawful Executions*, Office of Legal Counsel, Dept. of Justice, 43 Op. *1 (May 2, 2019). *But see In re Federal Bureau of Prisons’ Execution Protocol*, 980 F.3d 123, 136 (D.C. Cir. 2020) (“There is no dispute that pentobarbital is a drug regulated under the FDCA... . Nor is there any dispute that pentobarbital is the type of drug that the FDCA requires to be dispensed only through a prescription issued by a licensed medical professional... . There likewise is no question that prisoners are generally entitled to the protections of the FDCA’s prescription requirement.” (citations omitted)).

⁴¹ On the state level, 194 individuals in 8 states have been executed using pentobarbital as the sole lethal substance beginning in 2011: Arizona (11 executions between 2/29/12 - 10/23/13 and 5/11/22 - 11/16/22), Georgia (25 executions between 2/21/13 - 3/20/24), Idaho (1 execution on 6/12/12), Missouri (32 executions between 11/20/13 - 9/24/24), Ohio (10 executions between 3/10/11 - 9/25/13), South Carolina (2 executions between 9/20/24 - 11/1/24), South Dakota (4 executions between 10/15/12 - 11/04/19), and Texas (109 executions between 7/18/12 - 10/01/24). In total, 14 states have used pentobarbital in executions. Five other states plan to use pentobarbital: Kentucky, Louisiana, Montana, North Carolina, and Tennessee. *See State-by-State Execution Protocols*, Death Penalty Information Center, <https://deathpenaltyinfo.org/state-lethal-injection> (last visited Dec. 30, 2024).

⁴² David Jolly, *Danish Company Blocks Sale of Drug for U.S. Executions*, N.Y. Times (Jul. 1, 2011), <https://www.nytimes.com/2011/07/02/world/europe/02execute.html>.

⁴³ Recent reporting described the compounding pharmacy working with the Texas Department of Criminal Justice to provide pentobarbital between 2019 and 2023. The reporting found that the pharmacy was “cited more than a dozen times over the past decade” by the Texas State Board of Pharmacy for “fail[ing] to maintain clean and sterile facilities and fail[ing] to keep complete and correctly labeled records and drugs in stock, among other violations.” Chiara Eisner, *Unmarked cards and secret orders: How a pharmacy prepared drugs for Texas’ executions*, NPR (Jul. 10, 2024), <https://www.npr.org/2024/07/10/g-s1-9016/unmarked-cars-and-secret-orders-how-a-pharmacy-prepared-drugs-for-texas-executions>. The report also noted that a pharmacy owned by the same family was sued by the Department of Justice for “dispensing powerful opioids to people without valid prescriptions, falsifying hundreds of prescriptions for controlled substances and ignoring serious red flags that indicated people intended to abuse their medications.” *Id.*; see also Hayley Bedard, *NPR Investigation Reveals Supplier of Texas Execution Drugs Has Multiple Drug Enforcement Agency Violations; Questions Remain Regarding Drug Acquisition in Other States*, Death Penalty Information Center (Jul. 11, 2024), <https://deathpenaltyinfo.org/npr-investigation-reveals-supplier-of-texas-execution-drugs-has-multiple-drug-enforcement-agency-violations-questions-remain-regarding-drug-acquisition-in-other-states>.

⁴⁴ *Human Drug Compounding*, Food & Drug Admin., <https://www.fda.gov/drugs/guidance-compliance-regulatory-information/human-drug-compounding> (last visited Dec. 30, 2024).

⁴⁵ *Facility Definition Under Section 503B of the Federal Food, Drug, and Cosmetic Act: Guidance for Industry*, Food & Drug Admin. (May 2018), <https://www.fda.gov/media/97359/download>.

manufacturing practice,”⁴⁶ and are subject to FDA inspection “according to a risk-based schedule.”⁴⁷ As of the date of this report, there are 88 compounding pharmacies registered as 503B outsourcing facilities, 31 of which have never been inspected by the FDA. In 55 of the 57 facilities that have been inspected, FDA officials have issued a Form 483, officially noting “significant objectional conditions” at the facility.⁴⁸

Some state lethal injection protocols include the administration of a sedative prior to execution, but those states require a physician to prescribe the sedative.⁴⁹ On the federal level, the Bureau of Prisons (BOP) has determined that in order to administer a sedative prior to execution, a prescription would be required, which would in turn require the participation of a medical professional.⁵⁰ It is internal BOP policy that the BOP medical staff do not administer drugs in connection with the execution process.⁵¹ Moreover, states that involve medical professionals in the execution process rely on those professionals doing so at their own risk, and likely rely on extensive state secrecy statutes.⁵² The American Medical Association’s code of ethics prohibits physician participation in a legally authorized execution.⁵³

II. Review of the Federal Execution Protocol Addendum

a. BOP’s Development of the 2019 Addendum to the Federal Execution Protocol

In 2017, in a memorandum to the Attorney General, the Director of BOP requested approval to issue an Addendum to its Federal Execution Protocol that provided only for “the use of a single drug, phenobarbital sodium (pentobarbital), as the lethal agent.”⁵⁴ The proposed addendum also specified procedural details such as dosage, identification of appropriate injection sites, and the number of backup syringes.⁵⁵ The memorandum detailed the development of the

⁴⁶ *Guidance Document: Current Good Manufacturing Practice*, Food & Drug Admin. (Jan. 2020), <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/current-good-manufacturing-practice-guidance-human-drug-compounding-outsourcing-facilities-under>.

⁴⁷ *See Compounding and the FDA: Questions and Answers*, Food & Drug Admin. <https://www.fda.gov/drugs/human-drug-compounding/compounding-and-fda-questions-and-answers> (last visited Dec. 30, 2024).

⁴⁸ *See Registered Outsourcing Facilities*, Food & Drug Admin., <https://www.fda.gov/drugs/human-drug-compounding/registered-outsourcing-facilities> (last visited Dec. 30, 2024) (noting that a Form 483 “does not constitute a final agency determination of whether any condition is in violation of the [Food, Drug, and Cosmetic] Act or any relevant regulations”).

⁴⁹ *See, e.g., Georgia Diagnostic and Classification Prison Lethal Injection Procedures*, Georgia Dept. of Corrections (Jul. 17, 2012), <https://dpic-cdn.org/production/legacy/GeorgiaProtocol07.17.2012.pdf> (last visited Dec. 30, 2024).

⁵⁰ Dep. of Rick Winter, *In re Federal Bureau of Prisons’ Execution Protocol Cases*, No. 19-MC-0145 (D.D.C. Sept. 20, 2020) (on file).

⁵¹ *Id.*

⁵² *See* Nadia N. Sawicki, *Clinicians’ Involvement in Capital Punishment - Constitutional Implication*, 371 N. Engl. J. Med. vol 2. 103-105 (2014); *see also* Nadia N. Sawicki, *Doctors, Discipline, and the Death Penalty*, 27 Yale L. & Pol’y Rev. 107 (2008).

⁵³ *Opinion 9.7.3, Capital Punishment*, American Medical Association, <https://code-medical-ethics.ama-assn.org/sites/amacoedb/files/2022-08/9.7.3.pdf> (last visited Dec. 30, 2024).

⁵⁴ Memorandum from the Federal Bureau of Prisons, *Approval of Bureau of Prisons’ Death Penalty Protocol Addendum* (Nov. 27, 2017) (on file) [hereinafter “2017 BOP Memo”].

⁵⁵ *Id.*

addendum, including a review of state protocols, visits to state execution sites, and consultations with other Department components.⁵⁶ In the course of its review, BOP considered several alternatives to using pentobarbital in a single dose,⁵⁷ but determined that due to “complications inherent in obtaining multiple drugs” a single-drug pentobarbital protocol “was the most suitable method based on its widespread use by the states and its acceptance by many courts.”⁵⁸

In anticipation of future litigation, BOP retained a consulting firm, Elite Medical Experts,⁵⁹ to identify medical experts to review the addendum and prepare to testify about it in court.⁶⁰ The firm identified two medical professionals to review the addendum: Dr. Craig W. Lindsley of the Vanderbilt Center for Neuroscience Drug Discovery, and Dr. Joseph F. Antognini, a clinical professor of anesthesiology and pain medicine at the University of California Davis School of Medicine.

Dr. Lindsley submitted a 550-word report stating that in his expert opinion and “deep knowledge of the pharmacology of pentobarbital,” the protocol would “produce a humane death with limited suffering and pain.”⁶¹ He wrote that, in his view, a person would lose consciousness within 10 to 30 seconds after being administered 5 grams of pentobarbital and would “be unaware of any pain or suffering due to the rapidity of the effect.” Although he stated that he reviewed “the available literature and case studies in the public domain,” his report did not include any citations.⁶²

According to BOP’s memorandum, Dr. Antognini did not submit a separate written evaluation of the protocol, but he “concur[ed] with the Addendum” and was “prepared to submit an expert report in defense of the protocol.”⁶³ Despite later testifying that BOP was aware of experts with conflicting views on pentobarbital, a BOP representative stated that “[a]fter consulting with [Dr. Lindsley and Dr. Antognini], we didn’t feel it was necessary to reach out to more.”⁶⁴

⁵⁶ *Id.*

⁵⁷ Prior to the identification of a domestic pentobarbital supplier, BOP considered the use of fentanyl as the lethal substance. See Memorandum from the Federal Bureau of Prisons, *Use of Fentanyl in Executions* (Mar. 7, 2018) (on file).

⁵⁸ 2017 BOP Memo, *supra* note 54, at 4.

⁵⁹ Today, Elite Medical Experts describes its mission as “align[ing] the top minds in healthcare – Professors of Medicine & Surgery – as experts in complex litigation.” According to its website, “[w]ith nearly 8000 engagements domestically and abroad, Elite solves challenges so that our clients win.” See *History & Mission*, Elite Medical, <https://elitemedicalexperts.com/history-mission/> (last visited Dec. 30, 2024).

⁶⁰ The review was coordinated through, and paid for by, the United States Attorney’s Office in D.C. in anticipation of future litigation.

⁶¹ Lindsley Report, *In re Federal Bureau of Prisons’ Execution Protocol Cases*, No. 19-MC-145 (D.D.C. Sept. 20, 2020) (on file) [hereinafter “Lindsley Report”].

⁶² See *id.*

⁶³ 2017 BOP Memo, *supra* note 54.

⁶⁴ Decl. of Rick Winter, *In re Federal Bureau of Prisons’ Execution Protocol Cases*, No. 19-MC-145 (D.D.C. Sept. 20, 2020) (on file).

Regarding the sourcing of pentobarbital, BOP initially intended to import powdered API pentobarbital from a foreign registered facility.⁶⁵ In a revised version of the memorandum from July 2019, however, BOP indicated it had identified a domestic source willing to provide the base ingredients and a compounding pharmacy to develop and produce the drug for executions.⁶⁶

In July 2019, Attorney General Barr directed BOP to adopt an addendum to the Federal Execution Protocol that provided for the use of pentobarbital.⁶⁷ Four individuals on the federal death row brought suit to prevent BOP's use of the protocol, alleging that the protocol was unlawful and unconstitutional. A district court issued a preliminary injunction to prevent BOP from carrying out executions under the revised protocol, finding that the protocol "exceed[ed] the statutory authority" of the Federal Death Penalty Act insofar as it "create[d] a single implementation procedure" not authorized by the Act.⁶⁸ The U.S. Court of Appeals for the D.C. Circuit, however, vacated that injunction.⁶⁹ In June 2020, the Department announced Attorney General Barr had directed BOP to schedule the execution of four inmates,⁷⁰ the first of whom was executed on July 14, 2020,⁷¹ a few hours after the U.S. Supreme Court vacated a district court order to stay the execution.⁷² In total, 13 people were executed using the BOP's single-drug protocol between July 2020 and January 2021.⁷³

⁶⁵ See 2017 BOP Memo, *supra* note 54, at 1 (stating "BOP also believes it has a viable plan to obtain pentobarbital. BOP intends to import powdered pentobarbital from a foreign FDA-registered facility" and would use a domestic compound pharmacy to create the injectable solution).

⁶⁶ After press reports publicly identified the BOP's source for pentobarbital API, the company announced that it would no longer manufacture pentobarbital. See Lauren Gill & Daniel Moritz-Rabson, *Company Linked to Federal Execution Spree Says it Will no Longer Produce Key Drug*, The Intercept (Jun. 22, 2024), <https://theintercept.com/2024/06/22/pentobarbital-execution-drug-absolute-standards/>.

⁶⁷ See Memorandum from the Federal Bureau of Prisons, *The Federal Bureau of Prisons' Federal Execution Protocol Addendum* (Jul. 24, 2019) (adopted and signed by the Attorney General) (on file) [hereinafter "FBOP Protocol Memorandum"].

⁶⁸ *In re Federal Bureau of Prisons' Execution Protocol Cases*, No. 19-mc-145, 2019 WL 6691814, at *7 (D.D.C. Nov. 20, 2019) ("There is no statute that gives the BOP or DOJ the authority to establish a single implementation procedure for all federal executions.").

⁶⁹ *In re Federal Bureau of Prisons' Execution Protocol Cases*, 955 F.3d 106 (D.C. Cir. 2020).

⁷⁰ See *Executions Scheduled for Four Federal Inmates Convicted of Murdering Children*, U.S. Dep't of Just. (June 15, 2020), <https://www.justice.gov/opa/pr/executions-scheduled-four-federal-inmates-convicted-murdering-children>.

⁷¹ Haley Fuchs, *Government Carries Out First Federal Execution in 17 Years*, N.Y. Times (July 14, 2020), <https://www.nytimes.com/2020/07/14/us/politics/daniel-lewis-lee-execution-crime.html>.

⁷² *Barr*, 591 U.S. at 980 (noting that pentobarbital had been "used to carry out over 100 executions, without incident," and had been "repeatedly invoked by prisoners as a less painful and risky alternative to the lethal injection protocols of other jurisdictions").

⁷³ As previously noted, the Department amended 28 CFR Part 26, "Death Sentence Procedures," in November 2020. A discussion of those changes is below. See *infra*, at 19.

b. OLP's Review

As directed by the Attorney General, OLP undertook a comprehensive review of the federal execution protocol addendum. OLP consulted with experts, including academics, medical professionals, drug safety experts, and advocacy groups. OLP also conducted a literature review, including legal materials and medical and scientific research specifically related to the use of pentobarbital. OLP reviewed all available documentation related to prior executions using pentobarbital, including autopsy reports and witness accounts. OLP reviewed state execution protocols⁷⁴ and consulted with state representatives. OLP also consulted relevant Department components, including BOP, the U.S. Marshals Service, the Criminal Division, the Civil Division, the Office of the Solicitor General, the Drug Enforcement Administration, the Civil Rights Division, the Bureau of Justice Statistics, and the National Institute of Justice. And OLP consulted with other federal agencies, including the Department of Health and Human Services. In addition, in September 2022, OLP published a request for information in the Federal Register.⁷⁵ The request yielded comments from the Federal Capital Habeas Project, experienced capital counsel, and members of Congress.

The primary areas of concern related to the use of pentobarbital include the risk of flash pulmonary edema; pain associated with the injection of a highly alkaline solution into the bloodstream; and the lack of clarity as to whether pentobarbital causes individuals to become unconscious, and therefore incapable of feeling pain, or simply unresponsive. Based on recent medical research evaluating autopsy data from executions that used pentobarbital, information collected from autopsies conducted on two individuals recently executed by the federal government, recent witness accounts from federal and state executions, and a review of medical expert testimony in litigation, OLP concludes that there remains significant uncertainty about whether pentobarbital can be used in a single-drug execution protocol without causing unnecessary pain and suffering.

c. Risk of Flash Pulmonary Edema

A review of available research and consultation with academics indicates that there is a risk of flash (acute) pulmonary edema with the use of pentobarbital in executions.⁷⁶ Pentobarbital is a barbiturate, and flash pulmonary edema is a complication of barbiturate overdose. It occurs through several mechanisms, including direct caustic injury to the lungs, negative pressure pulmonary edema as the individual struggles to breathe against an obstructed airway, and diminished power of contraction by the heart.⁷⁷ As pulmonary edema can cause “a

⁷⁴ See Appendix (State Execution Protocols).

⁷⁵ Request for Information Regarding the Manner of Execution Regulations, 87 Fed. Reg. 58531 (Sept. 27, 2022) <https://www.federalregister.gov/documents/2022/09/27/2022-20889/request-for-information-regarding-the-manner-of-execution-regulations>.

⁷⁶ Although the research into pentobarbital is limited, the available research conforms with findings made in other drugs. See M W Potts & P W Smethurst, *Pleural effusion complicating thiopentone administration. A case report*, 39(1) Br J Anaesth. (1967) (finding pulmonary edema developing after the administration of sodium thiopental).

⁷⁷ Jin Ma et al., *Negative Pressure Pulmonary Edema*, 26(2), Exp Ther Med. (Aug. 4, 2023), doi: 10.3892/etm.2023.12154.

feeling of suffocating or drowning that worsens when lying down,”⁷⁸ experts have likened it to the experience elicited during waterboarding.⁷⁹

A 2022 study by physicians Joel Zivot, Mark Edgar, and David Lubarsky reviewed autopsy reports from eight states (Alabama, Arkansas, Arizona, Florida, Georgia, Ohio, Oklahoma, and Virginia) using pentobarbital as a single drug or using midazolam⁸⁰ in a drug cocktail.⁸¹ The study noted that pentobarbital is a highly alkaline solution (pH between 9.8-11) and that “massive quantities of acidic or basic solution entering the bloodstream during lethal injection may be directly toxic to pulmonary capillary endothelial cells and that the earliest manifestation of this injury is the escape of edema fluid into the lungs.”⁸² In essence, the drug’s pH level is so high that it damages the blood vessels in the lungs and causes them to fill with fluid, leading to the feeling of drowning.

In their review of autopsy findings of 15 individuals executed by a protocol involving pentobarbital, Zivot, Edgar, and Lubarsky found evidence of lung edema in 10 of 15 cases, or 66 percent. This was evidenced by the “presence of froth, frothy fluid or blood-tinged froth located in the in the tracheobronchial tree... or fluid in lung parenchyma or small airways.”⁸³ The authors noted froth in the airways “requires breathing to create froth, so the timing of pulmonary edema must, [by] definition, occur prior to the administration of a paralyzing agency or heart stopping medication.”⁸⁴

Finally, the authors wrote that for people who experience sudden death, which is the intended effect of lethal injection, the weight of a person’s lungs after death should approximate normal lung weight, or an average of 234 grams.⁸⁵ Among the autopsies examined of those executed by lethal injection, however, “lung weights observed in this study were all above 400 grams (average weights for right and left lungs, respectively, in... pentobarbital executions 723 grams and 631 grams), indicating some combination of vascular congestion and parenchymal edema.”⁸⁶

⁷⁸ *Pulmonary edema: Sudden (acute) pulmonary edema signs and symptoms*, Mayo Clinic, <https://www.mayoclinic.org/diseases-conditions/pulmonary-edema/symptoms-causes/syc-20377009> (last visited Jan. 3, 2024).

⁷⁹ Noah Caldwell, Ailsa Chang & Jolie Myers, *Gasping for Air: Autopsies Reveal Troubling Effects of Lethal Injection*, NPR (Sept. 21, 2020), <https://www.npr.org/2020/09/21/793177589/gasping-for-air-autopsies-reveal-troubling-effects-of-lethal-injection> [hereinafter “NPR Report”].

⁸⁰ Midazolam is a benzodiazepine, while pentobarbital is a barbiturate. Both drugs act to depress the central nervous system but affect the functioning of the nervous system in different ways. See Thejasvi N. Lingamchetty, Seyed Alireza Hosseini & Abdolreza Saadabadi, *Midazolam*, StatPearls, National Library of Medicine (June 5, 2023), <https://www.ncbi.nlm.nih.gov/books/NBK537321/> (last visited Jan. 3, 2024).

⁸¹ Joel B. Zivot, Mark A. Edgar & David Lubarsky, *Execution by lethal injection: Autopsy findings of pulmonary edema*, (2022), doi.org/10.1101/2022.08.24.22279183 [hereinafter “Zivot Study”].

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.* (citing Hans Joachim, Ursus Nikolaus Riede & Christian Mittermayer, *The Weight of Human Lungs as a Diagnostic Criterion (Distinction of Normal Lungs from Shock Lungs by Histologic, Morphometric and Biochemical Investigations)*, 162(1) *Pathology - Research and Practice*, 24-40 (May 1978), doi.org/10.1016/S0344-0338(78)80129-0).

⁸⁶ Zivot Study, *supra* note 81.

NPR also recently released a detailed report that reviewed 216 autopsies that involved an internal examination of the lungs, some of which were likely reviewed by Zivot, Edgar, and Lubarsky's study.⁸⁷ In state executions that used pentobarbital as a single drug, 47 out of 58 autopsies were found to have signs of edema determined.⁸⁸

Two autopsies were conducted after recent federal executions with pentobarbital, and both showed signs of pulmonary edema. First, the Associated Press (AP) reported on an autopsy of Corey Johnson's body following his execution in January 2021, and while the autopsy has not been made public, the AP reported that Johnson suffered from pulmonary edema and that "so much fluid rushed up his trachea that some exited his mouth."⁸⁹ Second, the autopsy of Wesley Purkey's body following his federal execution in July 2020, also found "severe bilateral acute pulmonary edema" and evidence of "[f]rothy pulmonary edema" in Purkey's trachea and mainstem bronchi, suggesting that fluid had built up in his lungs.⁹⁰ The physician performing the autopsy weighed Purkey's lungs and found that his right lung weighed 1140 grams and his left lung weighed 1160 grams⁹¹ (as compared to the approximate normal lung weight, an average of 234 grams⁹²).

Given the rare and specific circumstances in which such large amounts of pentobarbital are injected into humans, there are not additional scientific studies that address the risk of flash pulmonary edema in the context of lethal injection. Nonetheless, Zivot, Edgar, and Lubarsky's study of autopsy reports, and the review of autopsies reported by NPR and the AP, suggest that pulmonary edema is a significant risk when pentobarbital is used in executions.

The autopsy data also provide support for the expert statements and declarations that have been used by legislators considering amending state execution protocols and by courts in litigation related to executions using lethal injections.

Dr. Mark Edgar, one of the co-authors of the study discussed above, and an Associate Professor of Pathology at Emory University, submitted a comment to the Montana Legislature as it considered legislation to change its execution protocol in 2021.⁹³ In his comment, Dr. Edgar

⁸⁷ According to NPR, the reporters gathered 305 autopsy reports of inmates executed between 1990 and 2019 through public records requests or through evidence submitted in federal court cases, 216 of which contained an examination of the lungs. The states included Alabama, Arkansas, Arizona, Florida, Georgia, Ohio, Oklahoma, Tennessee and Virginia. Zivot, Edgar, and Lubarsky's study included 43 autopsy reports from Alabama, Arkansas, Arizona, Florida, Georgia, Ohio, Oklahoma, and Virginia. Therefore, while the NPR story includes a broader set of autopsies, it is likely there is overlap with those reviewed by Zivot, Edgar, and Lubarsky. See Zivot Study, *supra* note 81.

⁸⁸ See NPR Report, *supra* note 79.

⁸⁹ Michael Tarm, *Fuller Picture emerges of the 13 federal executions at the end of Trump's presidency*, AP News (Oct. 3, 2023), <https://apnews.com/article/trump-executions-biden-death-penalty-brandon-bernard-c1b26807c5c40b337d14485c3d6df2de>.

⁹⁰ See DeJong Autopsy report, *In re Federal Bureau of Prisons' Execution Protocol Cases*, No. 19-MC-145 (D.D.C. Sept. 20, 2020) (on file).

⁹¹ *Id.*

⁹² Zivot study, *supra* note 81.

⁹³ See Public Comment by Mark Edgar, Montana Senate Judiciary Committee (March 22, 2021), <https://archive.legmt.gov/bills/2021/Minutes/Senate/Exhibits/jus62a02.pdf>; see also Alex Sakariassen, *Revising lethal injection – and reviving a death penalty in legal limbo*, Montana Free Press (Feb. 3, 2021), <https://montanafreepress.org/2021/02/03/revising-lethal-injection-and-reviving-a-death-penalty-in-legal-limbo>.

stated that he had “found evidence of prisoners developing acute and severe pulmonary edema...in both pentobarbital and midazolam executions,” which, he argued, “produces sensations similar to drowning or asphyxiation as fluid occupies a greater volume of the air spaces.”⁹⁴ He also wrote that in his review of autopsies conducted after an execution using pentobarbital, “at least two-thirds...showed findings consistent with development of acute pulmonary edema” during the execution, which he characterized as a “terrifying, horrific and painful condition that causes great suffering as the person struggles to breathe without being able to exchange air because of the compromised lungs.”⁹⁵

Dr. Gail Van Norman, a practicing internist and anesthesiologist and Adjunct Professor of Bioethics at the University of Washington, submitted an expert declaration on the risk of flash pulmonary edema in lethal injection executions involving pentobarbital.⁹⁶ She stated that the single-drug pentobarbital protocol would “subject executed prisoners to severe pain and suffering, when they remain conscious and aware prior to their deaths.”⁹⁷ Dr. Van Norman described flash pulmonary edema as occurring extremely rapidly, stating that the “administration of a large dose of barbiturate causes lung injury, which in turn causes flash pulmonary edema.”⁹⁸ She stated that as pulmonary edema sets in, the person has to “work harder and harder to breathe, and suffers sensations of shortness of breath and excruciating air hunger, similar to the sensations experienced in drowning and near-drowning victims.”⁹⁹ She also noted that the drowning sensation is “one of the most powerful, excruciating feelings known to man,” and is “deliberately elicited in ‘the enhanced interrogation technique’ called waterboarding.”¹⁰⁰

d. Risk of pain associated with the injection of a highly alkaline solution

In addition to concerns related to flash pulmonary edema, experts have warned that the use of high amounts of pentobarbital in a single-drug execution protocol could cause extreme pain upon the initial injection. As Zivot, Edgar, and Lubarsky describe in their study of autopsies pentobarbital is highly alkaline with a pH level between 9.8 and 11, and is like other barbiturates that “have long been known to cause vascular injury if improperly administered.”¹⁰¹

Here again, given the rare circumstances in which such large amounts of pentobarbital are injected into humans, there are not specific scientific studies that evaluate the risk of pain in the context of lethal injection. Nonetheless, studies have noted that barbiturates can damage the veins in the body, causing the drug to leak into the surrounding tissue.¹⁰² In Dr. Van Norman’s opinion, “[p]entobarbital can cause excruciating pain if injected rapidly into veins, particularly if

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ See Declaration of Dr. Van Norman submitted Nov. 1, 2019, at 31, *In re Federal Bureau of Prisons’ Execution Protocol Cases*, 471 F. Supp. 3d 209 (D.D.C. 2020) (*vacated sub nom. Barr*, 591 U.S. 979) (on file) [hereinafter “2019 Van Norman Decl.”].

⁹⁷ Declaration of Dr. Van Norman submitted Sept. 29, 2020, *In re Federal Bureau of Prisons’ Execution Protocol Cases*, 471 F. Supp.3d 209 (D.D.C. 2020)) (on file).

⁹⁸ *Id.*

⁹⁹ 2019 Van Norman Decl. at 31, *supra* note 96.

¹⁰⁰ *Id.* at 34.

¹⁰¹ Zivot Study, *supra* note 81, at 7.

¹⁰² See Shibata Y. et al., *Injury due to extravasation of thiopental and propofol: risks/effects of local cooling/warming in rats*, 8 Biochem Biophys Rep., 207-11 (2016), <https://pubmed.ncbi.nlm.nih.gov/28955958/>.

extravasation [where IV fluid leaks from the veins] or infiltration of the peripheral IV catheter occurs, or if inadvertent intra-arterial injection occurs.”¹⁰³ In these cases, she argues, it would cause “significant, excruciating pain for prisoners undergoing judicial lethal injection with IV barbiturates.”¹⁰⁴

c. Witness accounts

In light of the limited research and unanswered questions about the risks of pulmonary edema and pain associated with lethal injection by pentobarbital, witness accounts take on greater significance and provide important anecdotal evidence. Witness accounts from the 13 federal executions using pentobarbital are particularly relevant.¹⁰⁵ In February 2021, AP News reported that “executioners who put [those] 13 inmates to death in the last months of the Trump administration likened the process of dying by lethal injection to falling asleep...but those tranquil accounts are at odds with reports by The Associated Press and other media witnesses of how prisoners’ stomachs rolled, shook and shuddered as the pentobarbital took effect inside the U.S. penitentiary death chamber in Terre Haute, Indiana.”¹⁰⁶ During the execution of Alfred Bourgeois in 2020, witnesses reported that he “grimaced and furrowed his eyebrows. He began to exhale rhythmically, and his stomach started to quiver uncontrollably.”¹⁰⁷ It was observed during Lezmond Hall’s execution in 2020 that his “chest heaved” and his “stomach area began to throb.”¹⁰⁸ Similarly, in 2020, witnesses reported that William LeCroy’s “midsection quickly began to heave uncontrollably” after the pentobarbital was administered.¹⁰⁹ In addition, in 2020, eyewitnesses observed that as the drug was administered to Orlando Hall, he “appeared to wince briefly and twitched his feet...open[ing] his mouth wide, as if he was yawning...[e]ach time that was followed by short, seemingly labored breaths.”¹¹⁰

f. Consciousness versus responsiveness

It is not clear whether a person who receives 5 grams of pentobarbital can feel and experience the impact the drug has on the body. Throughout litigation related to the use of pentobarbital in lethal injection, experts have debated whether 5 grams of pentobarbital leaves a person in a state of disconnected consciousness, and therefore unable to experience impacts

¹⁰³ 2019 Van Norman Decl. at 8, *supra* note 96.

¹⁰⁴ *Id.*

¹⁰⁵ Witness accounts of non-federal executions have also indicated a risk of pain and suffering. See Declaration of Dr. Edgar submitted October 24, 2019, *In re Federal Bureau of Prisons’ Execution Protocol Cases*, 471 F. Supp.3d 209 (D.D.C. 2020).

¹⁰⁶ See Michael Tarm, *Executioners sanitized accounts of deaths in federal cases*, AP News (Feb. 17, 2021), <https://apnews.com/article/executioners-sanitized-accounts-of-death-25d133f59039150c2e308b1a2a5caef>.

¹⁰⁷ Michale Tarm, *US Executes Louisiana truck driver who killed daughter*, 2, AP News (Dec. 11, 2020), <https://apnews.com/general-news-32f7e296aba11d7d749bb996cffe623b>.

¹⁰⁸ Michael Tarm & Felicia Fonseca, *Only Native American on federal death row executed*, AP News (Aug. 25, 2020), <https://apnews.com/general-news-d10a18eff9cdf43afda8810bf859949d>.

¹⁰⁹ Jennifer Henderson & Steve Almasy, *Federal government executes inmate who blamed murder victim for using witchcraft on him*, CNN (Sept. 22, 2020), <https://www.cnn.com/2020/09/22/us/federal-execution-william-lecroy/index.html>.

¹¹⁰ Jill Salter, *US government executes man convicted of killing Texas teen*, AP News (Nov. 18, 2020), <https://apnews.com/article/kidnapping-coronavirus-pandemic-executions-terre-haute-william-barr-d25b85a78580efbacf899d6919cc1a15>.

including flash pulmonary edema,¹¹¹ or whether the drug leaves a person in a state of connected consciousness, in which they may or may not be physically responsive to pain of pulmonary edema but are experiencing that pain.¹¹²

This question is unanswered by scientific study in the context of capital punishment, and it remains debated even within clinical settings involving anesthesia.¹¹³ Recent studies have sought to distinguish “connected consciousness” from “responsiveness.” While responsiveness can indicate connected consciousness, a lack of responsiveness “does not equate to the absence of internal or external awareness.”¹¹⁴ Indeed, studies argue that while “a state of disconnected consciousness is the optimal level of anesthesia, as it likely avoids both awareness and the possible dangers of oversedation...there are no reliably tested indices that can discriminate between connected consciousness, disconnected consciousness, and complete unconsciousness.”¹¹⁵

III. Conclusion

After an extensive review of available scientific, medical, and legal research; recent autopsies of individuals who have received lethal injections of pentobarbital; consultation with experts within and outside the Department; and solicitation and consideration of public comments, there remains significant uncertainty about whether the use of pentobarbital as a single-drug lethal injection causes unnecessary pain and suffering. In the face of such uncertainty, the Department should err on the side of

¹¹¹ Dr. Lindsley’s report stated that he believed a person would lose consciousness within 10-30 seconds of administering 5g of pentobarbital, and respiratory depression or heart failure would ensue within minutes. He opined that even if edema occurred within one minute of administration, the brain would be so profoundly depressed that the person would not experience it. *See* Lindsley Report, *supra* note 61. BOP’s other retained expert, Dr. Joseph F. Antognini, stated: “It is my opinion, to a reasonable degree of medical and scientific certainty, that 1) the inmate would become unconscious within 20-30 sec after the initiation of the infusion of the pentobarbital, followed by respiratory arrest, cardiovascular collapse and death; 2) injection of massive doses (5 grams) of pentobarbital would not inflict mild, moderate or severe pain; 3) pulmonary edema, if it occurs ante-mortem, would not be perceived by the inmate because of the profound brain suppression caused by pentobarbital.” Declaration of Dr. Antognini submitted June 25, 2020, *In re Federal Bureau of Prisons’ Execution Protocol Cases*, 471 F. Supp.3d 209 (D.D.C. 2020) (on file).

¹¹² *See* 2019 Van Norman Decl., *supra* note 96. Dr. Van Norman argued that “it is extremely likely that prisoners given even high doses of barbiturates retain consciousness long enough to experience pain and suffering during the execution process using single-drug pentobarbital.” She also argued that that Dr. Antognini, “despite decades of evidence to the contrary, appears to believe that unresponsiveness accurately predicts unconsciousness. This is a grave error.”

¹¹³ *See* Javier Montupil et al., *The Nature of Consciousness in Anesthesia*, 8 *British Journal of Anesthesia Open* 100224 (2023), <https://pubmed.ncbi.nlm.nih.gov/37780201/>.

¹¹⁴ *Id.* (citing Robert D. Sanders et al., *Unresponsiveness ≠ unconsciousness*, 116 *Anesthesiology* 946 (2012), <https://pubmed.ncbi.nlm.nih.gov/22314293/>); Charlotte Martial et al., *Near-Death Experience as a Probe to Explore (Disconnected) Consciousness*, 24(3) *National Library of Medicine* 173 (2020), <https://pubmed.ncbi.nlm.nih.gov/31982302/>; Melanie Boly et al., *Consciousness and responsiveness: lessons from anesthesia and the vegetative state*, 26(4) *Current Opinion in Anesthesiology* 444 (2013), <https://pubmed.ncbi.nlm.nih.gov/23743554/>.

¹¹⁵ *See* Jiang Yandong & Jamie Sleight, *Consciousness and General Anesthesia: Challenges for Measuring the Depth of Anesthesia*, 140(2) *Anesthesiology* 313 (2024), <https://pubmed.ncbi.nlm.nih.gov/38193734/>; *see also* Vincent Bonhomme et al., *General Anesthesia: A Probe to Explore Consciousness*, 13 *Frontiers in Systems Neuroscience* 36 (2019), <https://pubmed.ncbi.nlm.nih.gov/31474839/>.

humane treatment and avoidance of unnecessary pain and suffering and cease the use of pentobarbital unless and until that uncertainty is resolved.

Part 2 – Manner of Execution Regulations

I. Background

The manner of execution by state and federal authorities has changed over the course of the nation's history. The Supreme Court canvassed that history in *Baze v. Rees*, and noted that “hanging was the ‘nearly universal form of execution’” by the middle of the 19th century,¹¹⁶ but that widespread concerns about the inhumanity of hanging led to adoption of electrocution on the “well-grounded belief that electrocution is less painful and more humane than hanging.”¹¹⁷ Although hanging, lethal gas, and firing squads were used for executions as well, until the late 20th century, electrocution was the predominant manner of execution. At that time, another round of public pressure to reconsider the optimal way to ensure a humane death by execution led states to turn to lethal injection as a preferred manner, and by the turn into the 21st century, the federal government and all of the state governments that implemented the death penalty adopted lethal injection.¹¹⁸

The federal, and most of the state, lethal injection protocols involved a three-drug “cocktail”: first a barbiturate to sedate the prisoner, second a paralytic to halt respiration, and third a lethal agent to induce cardiac arrest. The Department issued a regulation in 1993 providing for lethal injection to be the sole manner of execution, but that regulation did not specify which substance or substances would be used. By the time of the next three federal executions, which occurred in 2001-2003, an execution protocol had been developed that instructed the use of a “cocktail” of sodium thiopental, pancuronium bromide, and potassium chloride.¹¹⁹ That protocol was refined and revised several times over subsequent years, but the three drugs remained the same.¹²⁰

In 2011, the Department of Justice could no longer procure sodium thiopental. States were similarly unable to purchase that barbiturate for use in executions. Public pressure brought to bear on pharmaceutical companies to refuse to supply lethal execution drugs meant that alternative sources, or alternative drugs, needed to be acquired for executions by lethal injection to continue.¹²¹ The Department addressed that challenge by amending the federal execution

¹¹⁶ *Baze*, 553 U.S. at 41 (citation omitted).

¹¹⁷ *Id.* at 42 (quoting *Malloy v. South Carolina*, 237 U.S. 180, 185 (1915)).

¹¹⁸ See Appendix. While lethal injection is the primary method used, some states have used alternative methods in recent years. As an example, Alabama (in 2002), South Carolina (in 2004 and 2008), and Virginia (in 2009, 2019, and 2013) have used electrocution in capital punishment.

¹¹⁹ See *supra* Part 1, I(b) at 5-6.

¹²⁰ See *In re Federal Bureau of Prisons' Execution Protocol Cases*, No. 12-CV-0782, 2019 WL 6691814, at *2 (D.D.C. Nov. 20, 2019).

¹²¹ See *supra* note 31; see also Rebecca Katz, *Lethal Injection Challenges Continue Across the Country*, Am. Bar Assoc. (Mar. 1, 2012),

https://www.americanbar.org/groups/committees/death_penalty_representation/project_press/2012/spring/li_challenges_continue/; Chris McGreal, *Lethal Injection Drug Production Ends in the US*, *The Guardian* (Jan. 23, 2011), <https://www.theguardian.com/world/2011/jan/23/lethal-injection-sodium-thiopental-hospira>.

protocol to require pentobarbital as the sole drug for lethal injection, and some states also began using pentobarbital, either as a substitute for sodium pentothal in a multi-drug “cocktail” or as a single drug lethal injection. But because the manufacturer of the injectable form of pentobarbital had also announced that it would not be supplying its product for use in executions, the Department needed to acquire the raw ingredient and have the injectable product made by a compounding pharmacy, as did several states.¹²²

While some states still had statutorily authorized methods of execution in addition to lethal injection, they had mostly been using only lethal injections for some years. In addition to seeking alternative suppliers of execution drugs in the face of manufacturers’ refusal to supply them, states began to turn to – or turn back to – other methods of execution. Of the 27 states that currently employ the death penalty, all have lethal injection as a sole or possible manner of execution: 13 have it as the sole manner;¹²³ 4 have it as the default manner, if the prisoner does not select another method;¹²⁴ 6 have it as the default, but if lethal injection is unavailable or deemed unconstitutional, other methods become the default;¹²⁵ and 4 have it as one of several options available to the correctional authority or for the prisoner to choose among.¹²⁶

Thus, when the Department resumed federal executions in 2020, it was in an atmosphere of increasing uncertainty about the consistent availability of drugs for executions, and also of awareness that states were in the same position, and thus could be expected to turn to other methods authorized by their own statutes. These realizations helped spur the amendments to the Manner of Federal Executions regulation, conducted through notice-and-comment rulemaking and finalized on November 27, 2020.¹²⁷

II. Review of the Manner of Execution Regulations

The Federal Death Penalty Act (FDPA) provides that a capital sentence in a federal case is to be implemented “in the manner prescribed by the law of the State in which the sentence is imposed.”¹²⁸ The FDPA further provides that federal authorities “may use appropriate State or local facilities for the purpose [of execution], may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof.”¹²⁹ In other words, a federal execution must be carried out in the manner that the State would, and the federal authorities may make use of State personnel and facilities for that execution.

The most significant revisions made to the manner of execution regulation in 2020, reflecting the Department’s awareness that it might confront a situation in which it was “required

¹²² See *supra* Part I, I(b) at 5-6.

¹²³ See Appendix (states include: Georgia, Indiana, Kansas, Kentucky, Montana, Nebraska, Nevada, North Carolina, Ohio, Oregon, Pennsylvania, South Dakota, and Texas).

¹²⁴ *Id.* (states include Alabama, Arizona, California, and Florida).

¹²⁵ *Id.* (states include Arkansas, Idaho, Oklahoma, Tennessee, Utah and Wyoming).

¹²⁶ *Id.* (states include Louisiana, Missouri, Mississippi, and South Carolina).

¹²⁷ Manner of Federal Executions, Final Rule, 85 Fed. Reg. 75846 (Nov. 27, 2020), <https://www.federalregister.gov/documents/2020/11/27/2020-25867/manner-of-federal-executions>.

¹²⁸ 18 U.S.C. § 3596(a).

¹²⁹ 18 U.S.C. § 3597(a).

to execute a Federal inmate according to the law of a State that uses a method other than lethal injection,”¹³⁰ were to repeat those two statutory provisions in the text of the regulation itself. The expressed motivation for aligning the regulation with the statute was to eliminate possible legal arguments against using a manner other than lethal injection (should the law of the sentencing State require another manner), and the final rule’s explanatory text also made clear that the Department anticipated that, in such a case, “the most expedient means of carrying out the execution may be to arrange for State assistance.”¹³¹

Whatever the motivation for making these changes, however, the fact of the matter is that they simply reiterate what the FDPA already states; were these changes not made, or were they rescinded, the law would remain the same.

Much the same can be said for the 2020 amendments that reiterated the Attorney General’s broad delegation authority: The new regulatory language declares that “[a]ny task or duty assigned to any officer of the Department of Justice by this part may be delegated by the Attorney General to any other officer or employee of the Department of Justice.”¹³² That adds no authority that the Attorney General does not already possess, by virtue of long-standing federal statute, namely that “[a]ll functions of other officers of the Department of Justice and all functions of agencies and employees of the Department of Justice are vested in the Attorney General,” and “[t]he Attorney General may from time to time make such provisions as he considers appropriate authorizing the performance by any other officer, employee, or agency of the Department of Justice of any function of the Attorney General.”¹³³

Finally, that the 2020 amendments gave the Attorney General authority to make exceptions to the regulations, while not simply a repetition of existing statutory authority, ultimately is not a cause for undue concern. The new language introduced through the rulemaking declared that “[w]here applicable law conflicts with any provision of this part, the Attorney General may vary from that provision to the extent necessary to comply with the applicable law.”¹³⁴ It does not allow the Attorney General unfettered license to ignore or depart from the regulations’ requirements. Rather, it acknowledges that there could be otherwise controlling law that might conflict with the regulatory requirements, and that the Attorney General then would have to comply with the law – but only when, and to the extent, it was necessary to meet that law’s requirements.

Although there is nothing necessarily to modify or rescind in the manner of execution regulation, the pentobarbital evaluation described above compels the conclusion that the Attorney General should require such an evaluation of any other manner of execution before it is utilized by the federal government. The 2020 amendments to that regulation were undertaken in light of the changed operational facts about executions: It was increasingly likely that states would adopt alternative methods to lethal injection, it was a simple fact that the federal

¹³⁰ Manner of Federal Executions, Proposed Rule, 85 Fed. Reg. 47324 (proposed Aug. 5, 2020), <https://www.federalregister.gov/documents/2020/08/05/2020-15039/manner-of-federal-executions>.

¹³¹ *Id.*

¹³² See 28 C.F.R. § 26.1(c).

¹³³ See 28 U.S.C. §§ 509–510 (2002).

¹³⁴ See 28 C.F.R. § 26.1(b).

government was only equipped with the apparatus and experience of lethal injection, and so a future execution might well involve the Department's availing itself of a state facility and personnel to conduct a federal execution.

Were that circumstance to come to pass – and the Notice of Proposed Rulemaking for the 2020 amendments¹³⁵ makes clear that the possibility of just such a circumstance motivated the rulemaking – the Department should adhere to its responsibility to treat individuals humanely and avoid unnecessary pain and suffering. If a federal execution is to take place by a manner of execution other than the lethal injection of pentobarbital, the same kind of evaluation of that manner should be done as was done here on pentobarbital, with the same consideration of the risks posed by that method. And if the Attorney General in that case is not confident that the manner of execution does not risk inhumane treatment or unnecessary pain and suffering, then the Bureau of Prisons should be ordered not to proceed.

If the Attorney General determines that the manner of execution itself does not risk inhumane treatment or unnecessary pain and suffering, but that the Federal Bureau of Prisons does not have the capability, experience, and expertise to implement an execution in that manner, the Attorney General should determine before proceeding that the implementation of the execution in those facilities and by those personnel will not create a risk of inhumane treatment or unnecessary pain and suffering.

III. Conclusion

Because the amendments made in 2020 largely reflect statutory law, there is no present reason to modify or rescind them. However, if the federal government were required to conduct an execution by a manner other than lethal injection of pentobarbital, the Department should undertake an analysis of that manner like the one engaged in here with regard to pentobarbital before that other manner may be implemented.

¹³⁵ See Manner of Federal Executions, Proposed Rule, 85 Fed. Reg. 47324 (proposed Aug. 5, 2020), <https://www.federalregister.gov/documents/2020/08/05/2020-15039/manner-of-federal-executions..>

Appendix: State by State Execution Protocol (as of January 8, 2025)

State	Current Protocol/Statute	Determination	Most Recently Used
Alabama	Lethal injection, nitrogen hypoxia, electrocution. (Protocol issued August 25, 2023) (Ala. Code § 15-18-82.1.c)	Person must affirmatively choose nitrogen hypoxia or electrocution.	Nitrogen Hypoxia (November 22, 2024)
Arizona	Lethal injection or lethal gas; lethal injection is the default. (Protocol issued April 20, 2022) (Ariz. Rev. Stat. § 13-757)	If person was sentenced before November 23, 1992, they may select lethal gas.	1-drug pentobarbital (November 16, 2022)
Arkansas	Lethal injection; if needed, electrocution. <i>Protocol not publicly available.</i> (Ark. Code Ann. § 5-4-617)	If lethal injection is deemed “invalidated by a final and unappealable court order” then electrocution.	3-drug lethal injection, beginning with midazolam (April 27, 2017)
California	Lethal injection or lethal gas; lethal injection is the default. <i>No current protocol in place.</i> (Cal. Penal Code § 3604)	Person may request lethal gas.	Lethal injection (January 17, 2006) <i>Gubernatorial moratorium</i>
Florida	Lethal injection or electrocution. (Protocol issued March 10, 2023) (Fla. Stat. Ann. § 922.105)	Person must affirmatively choose electrocution.	3-drug lethal injection, beginning with etomidate (August 29, 2024)
Georgia	Lethal injection of pentobarbital. (Protocol issued July 17, 2012) (Ga. Code Ann. § 17 – 10-38)		1-drug lethal injection, pentobarbital (March 20, 2024)
Idaho	Lethal injection or firing squad. (Protocol issued October 11, 2024) (Idaho Code Ann. § 19 – 2716)	The Director of the IDOC must determine if lethal injection is available.	1-drug lethal injection, pentobarbital (attempted February 28, 2024)
Indiana	Lethal injection. <i>Protocol not publicly available.</i> (Ind. Code Ann. § 35-38-6-1)		Lethal Injection (December 18, 2024)
Kansas	Lethal injection. <i>No current protocol in place.</i> (Kan. Stat. Ann. § 22-4001)		Hanging (June 22, 1965)

State	Current Protocol/Statute	Determination	Most Recently Used
Kentucky	Lethal injection of pentobarbital. (Protocol issued July 6, 2018)		3-drug lethal injection, beginning with sodium thiopental (November 21, 2008)
Louisiana	Lethal injection, nitrogen hypoxia, or electrocution. (Protocol Issued March 12, 2014) (La. Stat. Ann. § 15:569)	The method used is at the discretion of the secretary of the Department of Public Safety and Corrections.	3-drug lethal injection, beginning with sodium thiopental (January 7, 2010)
Mississippi	Lethal injection is the default option. Authorizes use of nitrogen hypoxia if either lethal injection is held unconstitutional or “otherwise unavailable”; then authorizes electrocution if nitrogen hypoxia and lethal injection are held unconstitutional or “otherwise unavailable”; finally authorizes firing squad if nitrogen hypoxia, lethal injection, and electrocution are held unconstitutional or “otherwise unavailable.” <i>Protocol not publicly available.</i> (Miss. Code Ann. § 99-19-51)	The Commissioner of Corrections has the authority and discretion to select and obtain the substances and the means necessary to carry out an execution.	3-drug lethal injection starting with midazolam (December 14, 2022)
Missouri	Lethal injection or lethal gas. (Protocol issued October 22, 2013) (Mo. Ann. Stat. § 546.720)	Unclear if person or the Director of the Missouri Department of Corrections selects method.	1-drug lethal injection, pentobarbital (December 3, 2024)
Montana	Lethal injection. (Protocol issued January 16, 2013)		3-drug lethal injection, beginning with sodium thiopental (August 11, 2006)
Nebraska	Lethal injection: by 4-drug protocol, including fentanyl citrate. (Protocol issued November 9, 2017)		4-drug lethal injection: diazepam, fentanyl citrate, cisatracurium besylate, potassium chloride (August 14, 2018)
Nevada	Lethal injection by 3-drug protocol, beginning with an opioid (fentanyl or alfentanil). (Protocol issued June 9, 2021)		Lethal Injection (April 26, 2006)

State	Current Protocol/Statute	Determination	Most Recently Used
North Carolina	Lethal injection by 3-drug protocol of pentobarbital. (Protocol issued October 24, 2013)		3-drug lethal injection, beginning with sodium thiopental (August 18, 2006)
Ohio	Lethal injection. <i>Protocol not publicly available.</i> (Ohio Rev. Code Ann. § 2949.22)		3-drug lethal injection, beginning with midazolam (July 18, 2018) <i>Gubernatorial moratorium</i>
Oklahoma	Lethal injection is the default; authorizes use of nitrogen hypoxia if either lethal injection is held unconstitutional or “otherwise unavailable”; then authorizes electrocution if nitrogen hypoxia and lethal injection are held unconstitutional or “otherwise unavailable”; finally authorizes firing squad if nitrogen hypoxia, lethal injection, and electrocution are held unconstitutional or “otherwise unavailable.” (Protocol issued February 2020) (Okla. Stat. Ann. tit. 22 § 1014)	“An appellate court of competent jurisdiction” decides method.	3-drug lethal injection, beginning with midazolam (December 19, 2024)
Oregon	3-drug lethal injection protocol <i>Protocol not publicly available.</i> (Or. Rev. Stat. Ann. § 137.473)		3-drug lethal injection, beginning with sodium thiopental (May 16, 1997) <i>Gubernatorial moratorium</i>
Pennsylvania	Lethal injection. <i>Protocol not publicly available.</i> (61 Pa. Stat. and Cons. Stat. Ann. § 4304)		3-drug lethal injection, beginning with sodium thiopental (July 6, 1999) <i>Gubernatorial moratorium</i>
South Carolina	Electrocution, firing squad or lethal injection. <i>Protocol not publicly available.</i> (S.C. Code Ann. § 24-3-530)	Person must select firing squad or lethal injection “under the direction of the Director of the Department of Corrections.” If person fails to select a method, then the	1-drug lethal injection, pentobarbital (November 1, 2024)

State	Current Protocol/Statute	Determination	Most Recently Used
		penalty must be administered by electrocution.	
South Dakota	1-drug lethal injection: pentobarbital. (Protocol issued July 23, 2020) (S.D. Codified Laws § 23A-27A-32.1)		1-drug lethal injection, pentobarbital (November 4, 2019)
Tennessee	Lethal injection of pentobarbital or electrocution. (Tenn. Code Ann. § 40-23-114) <i>Protocol not publicly available.</i>	If crime committed before December 31, 1998, person may select electrocution. If lethal injection is deemed unconstitutional or unavailable, then electrocution will be used.	Electrocution (February 20, 2020)
Texas	Lethal injection. (Protocol issued April 2021)		1-drug lethal injection of pentobarbital (October 1, 2024)
Utah	Lethal injection or firing squad. <i>Protocol not publicly available.</i> (Utah Code Ann. § 77-18-5.5)	Authorizes firing squad if lethal injection is unavailable or held to be unconstitutional. Also, if person committed crime before May 3, 2004, they may select firing squad.	3-drug lethal injection including pentobarbital (August 8, 2024)
Wyoming	Lethal injection or lethal gas <i>Protocol not publicly available.</i> (Wyo. Stat. Ann. § 7-13-904)	Authorizes lethal gas if lethal injection is held to be unconstitutional.	3-drug lethal injection, beginning with sodium thiopental (January 22, 1992)

Exhibit 5

September 11, 2025

*Sue Ogrocki / AP Photo (File)*

This 2014 file photo shows the gurney in the the execution chamber at the Oklahoma State Penitentiary. Lethal injections in several states, including Tennessee and Oklahoma, have caused pulmonary edemas.

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For the first time since Tennessee adopted a new lethal injection protocol, a post-execution autopsy has been released<<https://wpln.org/wp-content/uploads/sites/7/2025/09/Byron-Black-autopsy-report.pdf>>.

It shows that Byron Black, who was put to death Aug. 5, developed pulmonary edema — a form of lung damage that can cause a drowning sensation.

The lung damage could explain why Black showed distress as he died <https://wpln.org/post/tennessee-executes-byron-black-despite-worries-about-his-heart-implant/>. He groaned for several minutes, and told his bedside spiritual adviser he was in pain. However, his attorneys have raised concerns that the report failed to address other potential causes, such as a poorly administered injection.

Black was the second man to be executed using Tennessee's pentobarbital-only lethal injection method. Autopsies are standard procedure after an execution. The first man to die under the new protocol, Oscar Franklin Smith <https://wpln.org/post/tennessee-executes-oscar-smith-ending-pause-on-lethal-injections/>, refused an autopsy on religious grounds.

This autopsy revealed that Byron Black developed pulmonary edema during the execution. That's a form of lung damage that can cause a painful drowning sensation. An NPR investigation published in 2020 <https://www.npr.org/2020/09/21/793177589/gasping-for-air-autopsies-reveal-troubling-effects-of-lethal-injection> found that this damage is incredibly common. Researchers reviewed dozens of post-execution autopsy reports, and they found pulmonary edema mentioned in about 80% of them.

That can happen with any kind of lethal injection method — including the three-drug protocol that Tennessee previously used. But it's especially likely with pentobarbital. That medication is highly caustic — like Drain-o.

For weeks before he died, Black's attorneys argued that this form of execution violated his rights in several ways <https://wpln.org/post/a-heart-implant-could-make-tennessees-next-execution-painful-and-prolonged-prison-officials-argue-they-dont-have-to-disable-the-device/> — one being the risk of this lung damage.

The state's medical witness argued that it was unlikely Black would experience any pain during his execution, whether he developed pulmonary edema.

Dr. Joseph Antognini is an anesthesiologist who has served as a medical expert on behalf of several red state governments updating their death penalty methods. This year, he has performed his services in Louisiana <https://www.wwno.org/law/2025-03-17/the-doctor-defending-louisianas-controversial-execution-method>, where officials are implementing nitrogen gassing, and Tennessee, as it goes through a legal challenge to its new lethal injection protocol.

In Davidson County court records<<https://wpln.org/wp-content/uploads/sites/7/2025/09/Antognini-declaration-re-pentobarbital.pdf>>, he testified that such high dose of pentobarbital would cause Black and any other inmate to lose consciousness within 20 seconds of administration, and that they would be unlikely to experience any pain associated with the injection.

Under Tennessee's lethal injection protocol, the drugs are stored and administered in a room adjacent to the execution chamber. This is to obscure the identity of any prison workers involved in the process.

There is a hole in the wall between the two rooms, and the IV lines are routed through the hole. Then, workers place an IV in each arm. Media witnesses are in the viewing gallery as this happens, but curtains cover those windows until the IVs are established. Once the workers finish the job and leave the room, the curtains open, and the pentobarbital begins flowing into the prisoner being executed.

The curtains opened at 10:31 a.m., and Black showed signs of alertness until about 10:36<<https://www.youtube.com/watch?v=98EihpmH9v4>>. It was during this time he groaned, panted, and said, "It's hurting so bad."

Black's legal team told the Nashville Banner<<https://nashvillebanner.com/2025/09/10/byron-black-glen-casada-mnps/>> the autopsy failed to address other concerns.

For example, his attorneys noted it took several attempts to find a vein, and it was possible the caustic medication was shot into the muscle instead. But the report did not discuss whether there was any damage at the injection site.



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U.S. NEWS

Attorney says electrocardiogram at Tennessee execution was active after inmate was pronounced dead



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BY [TRAVIS LOLLER](#)

Updated 1:43 PM EDT, October 24, 2025

NASHVILLE, Tenn. (AP) — An electrocardiogram monitoring the heart of a Tennessee inmate executed by lethal injection in August showed "sustained cardiac activity" nearly two minutes after Byron Black was pronounced dead, his attorney told a judge on Friday.

The comments by Kelley Henry came during a hearing over whether attorneys for Black and several current death row inmates will be allowed to depose the key people who carry out Tennessee executions. It is part of a lawsuit in Chancery Court in Nashville that challenges the state's latest lethal injection protocol, claiming it violates both federal and state constitutional bans on cruel and unusual punishment.

In the hearing, state Deputy Attorney General Cody Brandon argued that requiring members of the execution team to testify risks exposing their identities, even if their faces are hidden and their voices are disguised.

Instead, he proposed that Tennessee Department of Correction officials could testify. If the inmates' attorneys designate the appropriate topics, the agency is required to provide witnesses with knowledge of those topics, he said.

APP-000286

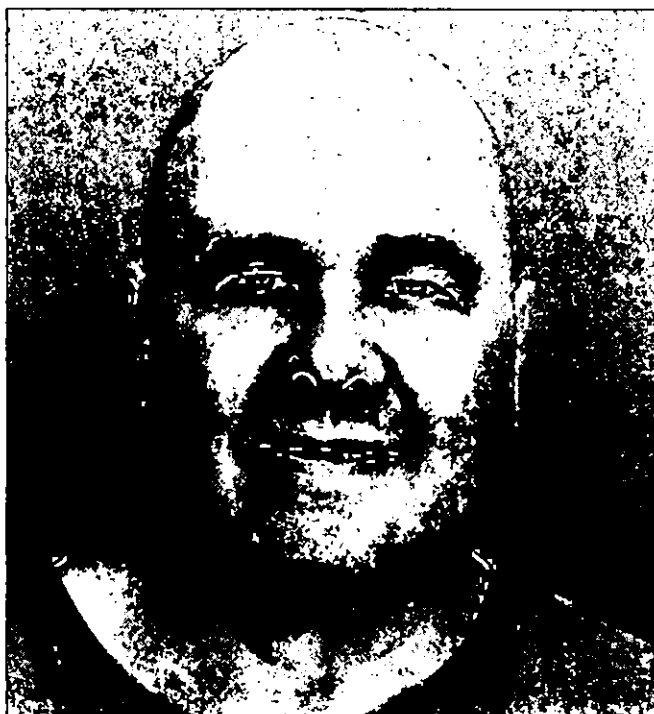
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Henry, who leads a group of federal public defenders representing indigent death row inmates in Middle Tennessee, said only the people who were actually there will be able to answer the question of what went wrong during Black's Aug. 5 execution.

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"At one point, the blanket was pulled down to expose the IV," she told Davidson County Chancery Court Judge Russell Perkins. "Why? Did the IV come out? Is that the reason that Mr. Black exclaimed, 'It's hurting so bad'? Is the EKG correct?"

Black was convicted of shooting and killing his girlfriend Angela Clay, 29, and her two daughters, Latoya Clay, 9, and Lakeisha Clay, 6, in 1988.

Henry also noted an issue during the May 22 execution of Oscar Smith. Attorneys don't know what Smith's cardiac activity looked like because there was no paper was loaded into the EKG machine.

"Since we filed this lawsuit, there have been two executions that have not gone to plan," she said. "They are batting a thousand with regard to not following the protocol."

Brandon interjected that Tennessee's lethal injection protocol doesn't specifically say paper should be loaded into the EKG machine.

Perkins told the attorneys he will take their arguments under advisement and rule later.

Smith was convicted of fatally stabbing and shooting Judith Smith, 13-year-old Jason Burnett and 16-year-old Chad Burnett in 1989.

Smith had earlier come within minutes of execution before a surprise reprieve from Republican Gov. Bill Lee in April 2022. It later turned out the lethal drugs for that planned execution had not been properly tested. A yearlong investigation revealed numerous other problems with Tennessee executions that led to the new lethal injection protocol put in place last December.

The lawsuit filed in March claims the corrections department failed to make the changes to its protocol that were recommended by the governor and an independent investigator. Rather, the lawsuit claims, department officials wrote a new protocol with fewer specifics, making it hard to hold them accountable. A trial in the case is currently set for April.

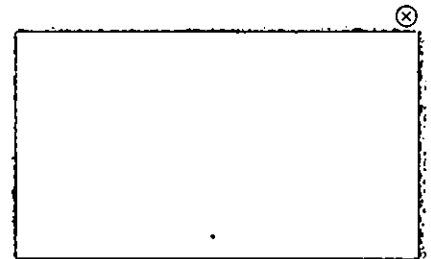
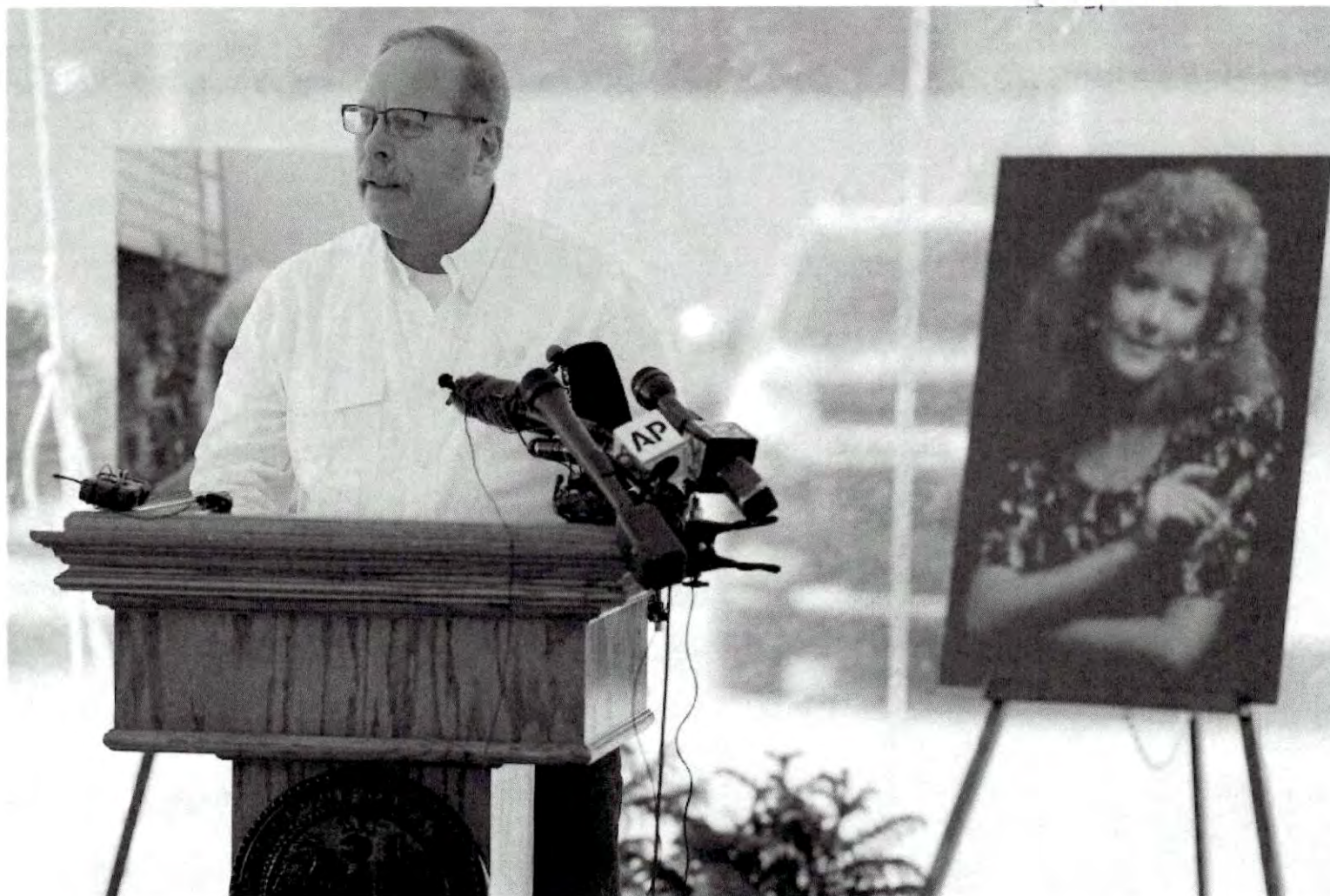


Exhibit 6

Tennessee executes Harold Wayne Nichols in third lethal injection of the year

By Catherine Sweeney

December 11, 2025



Jeff Monroe, brother-in-law to murder victim Karen Pulley, speaks during a news conference outside Riverbend Maximum Security Institution after the execution of her killer Harold Wayne Nichols, Thursday, Dec. 11, 2025, in Nashville, Tenn. (AP Photo/George Walker IV)

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The Tennessee Department of Correction executed Harold Wayne Nichols Thursday morning, injecting him with a massive dose of the sedative pentobarbital.

Nichols was put to death for the rape and murder of a 20-year-old college student, Karen Pulley, in 1988. After he was arrested, he confessed to raping four other Chattanooga women before her.

The agency put Nichols to death about an hour after the Tennessee Supreme Court denied a stay. A lawsuit filed on his behalf, seeking records about the drugs used in this year's executions, is ongoing.

Execution day

Media witnesses watch executions from a small viewing gallery. There's a curtain over a window that obscures the execution chamber until the IV team and other workers are finished setting up.

From the time the curtain opened, the process took about 14 minutes. Nichols and his spiritual adviser, J.R. Davis, went over several scriptures and recited the Lord's Prayer together. Each cried.

For one minute during the execution, Nichols sighed, groaned and breathed heavily. It's unclear whether this would have been because of the crying or another source of distress. Unlike the last man to undergo the lethal injection in Tennessee, Byron Black, Nichols didn't say he was in pain.

Pulley's brother-in-law, Jeff Monroe, represented the family in remarks after the execution. He said his wife, Pulley's sister, <https://wpln.org/post/lisette-monroe-lost-her-beloved-sister-to-murder-she-hopes-an-execution-will-bring-some-peace/> couldn't bear to attend.

At the time of the murder, the couple had just moved back to the U.S. after being stationed at an Air Force base in the Philippines for three years. After learning Pulley had been hospitalized, they attempted to go see her.

"Karen died before we could get to Chattanooga," he said.

He said nothing could atone for Pulley's brutal murder or her lost life, but that the execution was a start.

"We are relieved that the nightmare is over, and take comfort knowing that he never again will be able to hurt anyone else," he said. "Moving forward, our family is going to concentrate on the happy memories of Karen ... She was bubbly, happy, selfless."



(<https://wpln.org/post/tennessee-executes-harold-wayne-nichols-in-third-lethal-injection-of-the-year/death-penalty-tennessee-11/>)

Spiritual advisor J.R. Davis, left, and attorney Deborah Drew, right, for Harold Wayne Nichols leave the administration building Riverbend Maximum Security Institution after the execution of Nichols, Thursday, Dec. 11, 2025, in Nashville, Tenn. (AP Photo/George Walker IV)

Deborah Drew was among the attorneys for the Federal Defender Services of Eastern Tennessee who represented Nichols. She said he spent years confronting the pain he caused Pulley and the women he victimized before her, coming to terms with his own trauma and the pain he caused others.

"Our state sent the message that no one can rise beyond the crimes they committed decades earlier, and that redemption deserves no mercy," she said. "Executing Wayne served but one goal: retribution."

Recent legal battles

The sentence was carried out about an hour after the state's supreme court denied to delay the execution.

The request was part of a lawsuit that started in October.

The legal team for Nichols filed several formal records requests with TDOC this year, seeking a clearer picture of how the state's new lethal injection protocol will be carried out. That included requests for the expiration dates on the doses of pentobarbital intended for him, as well as on the doses for the two men who were put to death earlier this year. These three are the first to die under the state's latest method, using only pentobarbital instead of a combination of different drugs.

When TDOC refused to fulfill the requests, attorneys sued the agency in Knox County Chancery Court. The county sided with Nichols' team twice<<https://wpln.org/post/judge-orders-release-of-tennessee-execution-records/>>, and the state appealed the decision to the court of appeals, which sided with the state.

In the middle of the filing flurry, the state submitted testimony that it could confirm the dose for Nichols was not expired. It didn't mention the doses used in Smith's or Black's execution. Interest is high for Black's dose because he groaned and said he was in pain as he died, and there still isn't a solid explanation for that reaction.

Nichols' team asked the state supreme court Thursday morning to delay the execution while it considers the case. Justices said they wouldn't delay the execution, but they are still considering the records issue.

Catherine Sweeney

 (<https://twitter.com/CathJSweeney>)  (<mailto:csweeney@wpln.org>)



Catherine Sweeney is WPLN's health reporter. Before joining the station, she covered health for Oklahoma's NPR member stations. That was her first job in public radio. Until then, she wrote about state and local government for newspapers in Oklahoma and Colorado. In her free time, she likes to cycle through hobbies, which include crochet, embroidery, baking, cooking and weightlifting.

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Exhibit 7

RE: The proposed execution of Christa Gail Pike

Joel B. Zivot, M.D., FRCP(C), MA, JM

January 6, 2026

FILED

2026 JAN -8 PM 4: 33

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LW

1. I am an associate professor and senior member of the Departments of Anesthesiology and Surgery, Emory University School of Medicine, in Atlanta, Georgia. I am the former Medical Director of the Cardiothoracic Intensive Care Unit at Emory University Hospital. I am also the former fellowship director for training in Critical Care Medicine. I hold board certification in Anesthesiology from the Royal College of Physicians and Surgeons of Canada and the American Board of Anesthesiology. I am board-certified in Critical Care Medicine from the American Board of Anesthesiology. I have an MA in bioethics and a Master of Law (JM).
2. I have been in continuous practice of anesthesiology and critical care medicine for the last 31 years, during which time I have personally performed or supervised the care of over 50,000 patients. I have been retained as a medical expert in death penalty cases. In this capacity, I have been to death row to examine prisoners in 8 states, including Tennessee, Georgia, Florida, Ohio, Arkansas, Missouri, Nevada, and Arizona. I have also consulted on death penalty cases in South Carolina, Texas, California, and executions carried out by the Federal Government. I have extensively studied autopsies on the aftermath of death by use of lethal injection and nitrogen gas. I have witnessed an execution in Georgia that used a chemical technique identical to that used in Tennessee.

3. I hold a medical license in Georgia and have held unrestricted medical licenses in Ohio, the District of Columbia, Michigan, and the Canadian provinces of Ontario and Manitoba. I also have a license to prescribe narcotics and other controlled substances from the US Drug Enforcement Administration (DEA).
4. I have been consulting with attorneys for Tennessee death row prisoner Christa Gail Pike, DOB: 03/10/1976, regarding Ms. Pike's medical conditions and the risks attendant to executing her by the Tennessee Department of Correction Lethal Injection Execution Protocol.
5. I became involved in Ms. Pike's case at the request of her attorneys. I agreed to do a review of her medical records so that I could provide a declaration that would allow the attorneys to understand the risks posed to Ms. Pike if executed according to Tennessee's lethal injection protocol.
6. My opinion is based on a review of three documents provided to me by the attorneys for Ms. Pike. The documents are entitled "Dec 2024-July 2025 TDOC Medical.pdf," "2025.01.08 TN LI – redacted.pdf," and "June 2023 – December 2024 TDOC Medical and Psych Rcd.pdf."
7. From the documents I reviewed, I observed that Ms. Christa Pike is a 49-year-old woman who suffers from several medical problems, including:
 - Allergic rhinitis
 - Bipolar disorder
 - Hyperlipidemia (HLD)
 - Migraine disorder (with N/V)
 - Post Traumatic Stress Disorder (PTSD)

- Thrombocytopenia/Thrombocytosis

8. Notable among this list is thrombocytosis. This is a blood condition characterized by a marked elevation in platelet levels. A platelet is a small, colorless, disk-shaped cell fragment from a large cell known as a megakaryocyte. Platelets play a critical role in the natural formation of blood clots. When the platelet count is below a specific value, the capacity to form clots is impaired. When blood fails to clot normally, the consequences can be catastrophic, including death by exsanguination. A very high platelet count can also, paradoxically, lead to dangerous bleeding as the excess circulating platelets consume another critical blood-clotting component known as von Willebrand Factor.

9. A review of the supplied medical records documents a visit with a hematologist on 03/21/2025. In this account, thrombocytosis was first diagnosed in 2017 with a platelet count of approximately 1 million. This is a significantly elevated amount – more than twice the upper limit of normal. The letter further states that thrombocytosis had been present for several years but had not been addressed. Treatment for this condition consisted of daily aspirin to reduce the risk of clotting in the setting of an elevated platelet count, and follow-up. In Ms. Pike's case, thrombocytosis is likely due to a myeloproliferative disorder, which is a rare form of blood cancer. Her platelet count continues to fluctuate over time.

10. Lethal injection execution, as utilized by the TDOC, will very commonly produce bloody frothy fluid within the lungs. Such bleeding occurs in people with a normal clotting mechanism. In the case of Ms. Pike, her predisposition to possible abnormal clotting

would very likely produce an even more severe pattern of bloody froth in the lungs. This is death by drowning in one's own blood.

11. TDOC is bound to provide all the necessary medical care for Ms. Pike. Indeed, it was recommended to Ms. Pike that she undergo a cancer screening evaluation via a colonoscopy. Such actions suggest that TDOC considers it very likely that Ms. Pike will be alive for many years and should expect a normal life expectancy. TDOC recognizes that it cannot allow Ms. Pike to fall ill by withholding medical care at any time during her incarceration. Ms. Pike is always entitled to medical care, including the period of time during any attempt by TDOC to execute her.
12. If a prisoner survives an attempt at execution but suffers sub-lethal injuries that, without treatment, will or may lead to death or disability, that prisoner must receive medical care, and the warden is under a duty to provide it. No prisoner facing execution can be designated as DNR (do not resuscitate), as a refusal to receive medical treatment to sustain life is a demand subject to continuous reconsideration. Once a person designated DNR loses agency, a proxy must be in place to make medical decisions. A prisoner has no liberty, and the warden is the *de facto* proxy. The warden is not an agent on the prisoners' behalf.
13. Apoptosis, or programmed cell death, may occur after cellular exposure to noxious stimuli. Injury, once initiated, may tip towards recovery or apoptosis, depending on its nature. Specific noxious injuries are fundamentally time-based. That is, the cellular response between recovery and apoptosis will favor one or the other, based on the duration of the noxious stimuli alone. In the brain, a sudden and complete arrest of

circulation will deplete all brain oxygen within 10-15 seconds and brain glucose and adenosine triphosphate (ATP) within 5 minutes. ATP is the body's fuel and is critical for energy transport within all cells. After five minutes of circulatory arrest, brain cell apoptosis occurs and is not reversible under any circumstances.

14. If the execution fails, the prisoner must be substantially free of risk of disabling injuries due to the failed execution, or medical intervention must be immediately available to reduce that risk. If a prisoner survives an execution attempt, the duty requiring the delivery of necessary health care is revived, if it was ever set aside. To guard against the significant risk of execution failure and subsequent brain injury, TDOC must have in place the capacity to resuscitate a prisoner. The ability to immediately provide resuscitative measures to a prisoner when an execution method fails also applies to other TDOC execution methods, including the electric chair.
15. A resuscitation team should be led by a physician, not in the employ of TDOC, and empowered absolutely to call off an execution anticipated to fail. This physician must have unrestricted access to the technique of execution to plan all the necessary countermeasures for the best chance at reviving the prisoner. Execution is in no way a medical act but aspires to impersonate one. This impersonation is no accident. It is designed to present itself as having received endorsement from the legitimate medical community.
16. On the other hand, rescue resuscitation is a medical act. The performance of quality state-of-the-art resuscitation will need the tools of the medical trade, access to the prisoner on demand, and once declared, the prisoner is immediately transformed into a patient.

Skilled, trained providers must staff this resuscitation effort. An ICU ambulance must be on hand to deliver the full measure of necessary resuscitative measures.

17. The TDOC lethal injection protocol describes a two-step injection technique. In each attempt, 2500 mg of pentobarbital will be injected. We understand that if the first 2500 mg of pentobarbital fails to cause death, a second 2500 mg of pentobarbital will be injected. What is absent in this reasoning is any attempt to understand the reason for failure. Indeed, simply repeating the precise technique a second time may logically produce the same outcome: no death. TDOC has no procedure to consider why the first injection failed to cause death. The protocol has no mechanism to evaluate itself as a technical act. Without a particular understanding of why failure occurred, no new attempt can reasonably take place. As a physician, I might encounter procedural failure. This failure provides the basis for my following action, which must use a different technique, not the same one that failed.

18. The use of pentobarbital as the single chemical agent requires commentary. The stability of compounded Pentobarbital depends on the preparation and storage conditions. Small microprecipitates may be present and not easily visualized by casual observation of the compounded solution. Pentobarbital must be fully suspended in solution to be utilized. If the preparation or storage of the compounded solution has resulted in drug degradation, the effectiveness is no longer guaranteed.

19. Pentobarbital is a chemical within a class of chemicals known as barbiturates. Chemical agents in this class work primarily by causing sedation but provide no pain relief at any dose. Barbiturates are never used for pain relief. Death by pentobarbital lethal injection is

highly noxious and extremely painful. The pain of dying by this method of execution remains unaddressed by TDOC. Any claim that the pain is inconsequential because of brevity might consider the experience of placing a hand in a burning flame and counting 60 seconds. Humans have an extraordinary ability to detect pain, and this detection occurs in a fraction of a second. Death by pentobarbital lethal injection may be akin to being burned alive from the inside for as long as 10 to 15 minutes.

20. Ms. Pike is plagued by serious mental health challenges, including bipolar disorder and PTSD (post-traumatic stress disorder). The threat of execution will not doubt be a profound trigger in the mental state of Ms. Pike, particularly as the TDOC lethal injection protocol will likely result in severe pain and suffering. It is conceivable that in anticipation of an execution, Ms. Pike's mental health would deteriorate to the point of a loss of agency and be unable to undergo an execution on that basis. Treating the mental health crisis to make her fit for execution is a gross ethical violation of the practice of medicine and cannot take place.

21. Upon review of TDOC's redacted lethal injection protocol, many false claims are made regarding the qualifications of the execution team, including comments that members must be licensed. A medical license is a license to practice medicine, and participation in execution is a violation of the practice of medicine and a gross act of moral turpitude. No medical board would sanction such participation by medical license holders and would very likely seek to revoke that license should it be held up for this purpose. A nursing licensing authority would similarly discipline a nurse if they participated in a lethal injection execution. Ms. Pike is aware of this, and it further degrades her mental health.

22. Based on my review of Ms. Pike's medical records, her known platelet disorder leading to abnormal bleeding risks and the TDOC lethal injection protocol, it is my opinion that a substantial risk exists that, if TDOC attempts to execute Ms. Pike, the result will be death associated with emotional terror and trauma in anticipation of this death. The circumstance of this lethal injection event will be an even more exaggerated, cruel death caused by drowning in one's own blood.

23. I hold the opinions in this affidavit to a reasonable degree of medical certainty. Should additional information become available later, I reserve the opportunity to update or add to the opinions stated in this letter.

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a horizontal line and a loop.

Joel B. Zivot, MD, FRCP(C), MA, JM

Exhibit 8

CHAPTER: 700

Operational Security

DEPARTMENT ORDER:

710 – Execution Procedures

OFFICE OF PRIMARY
RESPONSIBILITY:

OGC
OPS
OIG
M&C
EPCR
VS
HS

Effective Date:

May 20, 2025

Amendment:

N/A

Supersedes:

DO 710 (10/23/24)

Scheduled Review Date:

N/A

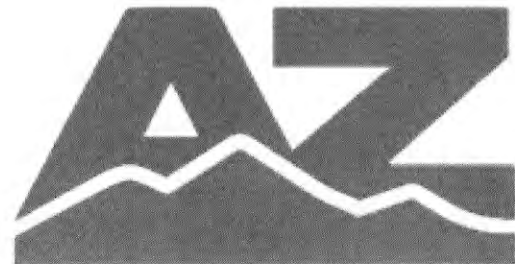
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**Department Order
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DEPARTMENT OF
CORRECTIONS,
REHABILITATION & REENTRY

Ryan Thornell, Director

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PURPOSE

This Department Order (DO) establishes procedures for planning and carrying out the execution of a person convicted of a capital offense and sentenced to death, in accordance with state law. These procedures shall be followed as written, except that the Director of the Arizona Department of Corrections, Rehabilitation and Reentry (Director) may make limited deviations from or adjustments to these procedures when required to address certain unexpected or otherwise unforeseen contingencies, subject to the limitations on the Director's discretion as set forth herein. Except as expressly permitted herein, the Director shall not have any authority to deviate from or make adjustments to any material aspects of the execution process, including, but not limited to, the execution chemicals or dosages, consciousness checks, the access of the media and the inmate's counsel to the execution, and the timeframes established by this DO.

RESPONSIBILITY

The Department ensures the execution of a person sentenced to death under State law by a court of competent authority and jurisdiction is carried out in keeping with statute, case law, and professional practices.

The Department shall make every effort in the planning and preparation of an execution to ensure the execution process:

- Faithfully adheres to constitutional mandates against cruel and unusual punishment.
- Minimizes its impact on the safety, security, and operational integrity of the prison and the community in which it occurs.
- Accommodates the public's right to obtain certain information concerning the execution.
- Reasonably addresses the privacy interests of persons as provided by law.
- Provides contingency planning to identify and address unforeseen problems.
- Allows for stays of execution, commutations, and other exigencies until the time that the sentence is imposed.
- Provides opportunity for citizens to exercise their First Amendment rights to demonstrate for or against capital punishment in a lawful manner.
- Ensures there is an appropriate response to unlawful civil disobedience, trespass, and other violations of the law by any person attempting to interfere with the execution or the operation of the prison.

The Department shall detain, seek the arrest and encourage prosecution of persons whose conduct includes:

- Violating prohibitions against filming, taping, broadcasting or otherwise electronically documenting the execution of the inmate.
- Trespassing and/or otherwise entering upon Department property without authorization.
- Participating in unlawful demonstrations or unlawfully attempting to disrupt, prevent, and otherwise interfere with the execution.
- Unlawfully threatening, intimidating, and otherwise attempting to influence authorized persons involved in the execution process.
- These prohibitions apply to the inmate population as well as Department personnel and members of the general public engaging or attempting to engage in disruptive and other prohibited behaviors.

Participating staff shall adhere to the Department's Code of Ethics and Guided Principles, evidencing:

- Appropriate levels of professionalism, restraint, and courtesy when interacting with witnesses, demonstrators, attorneys, media, state and local law enforcement, and any other member of the public directly and indirectly involved with the imposition of the sentence of death.
- All assigned duties are performed proficiently and professionally.
- Their ability to exercise the option to withdraw from the process by the prescribed means at any time.
- Conduct that appropriately reflects the solemnity of the activities in which they elect to engage and the duties they choose to perform.
- Reserving public comment on any and all facets of the execution except as expressly provided in DO #201, Legal Services - Records Release.
- Any Department employee who learns of identifying information regarding any person who participates in or performs any function of an execution must keep that information confidential.

IMPORTANT GUIDELINES REGARDING CONFIDENTIALITY AND VOLUNTARINESS OF PARTICIPATION IN AN EXECUTION:

- The anonymity of any person, as defined in A.R.S. §§ 1-215(29) and 13-105(30), who participates in or performs any ancillary function(s) in the execution, including the source of the execution chemicals, and any information contained in records that would identify those persons are, as required by statute, to remain confidential and are not subject to disclosure. A.R.S. § 13-757(C).
- All team members serve on a strictly voluntary basis. At any point before, during or after an execution any team member may decline to participate or participate further without additional notice and explanation or repercussion.
- The Administrative Team Leader shall ensure all team members understand and comply with the provisions contained herein.
- Any of the duties that are to be performed under this policy by a specifically identified Department position may be substituted out and performed by a designee named by the Director.

PROCEDURES

1.0 DIRECTOR'S OFFICE RESPONSIBILITIES UPON NOTICE THAT THE STATE HAS FILED A MOTION FOR WARRANT OF EXECUTION

1.1 Upon notice from the Attorney General's Office that it has filed a Motion for Warrant of Execution in the Arizona Supreme Court:

1.1.1 General Counsel shall:

1.1.1.1 Notify the Director, Administrative Team Leader, the Warden of the prison complex where the inmate is housed, and the Media Relations Office.

1.1.1.2 Notify the Victim Services Administrator, who shall contact the victim(s) and inform them that the State is seeking a Warrant of Execution.

1.1.2 The Director shall notify the inmate and the inmate's counsel in writing of the drug/lethal gas protocol that will be used in the event a Warrant of Execution is issued and the method of execution.

2.0 COMPLEX AND DIRECTOR'S OFFICE RESPONSIBILITIES UPON RECEIPT OF WARRANT OF EXECUTION

2.1 Upon receipt of the Warrant of Execution:

2.1.1 General Counsel shall:

- 2.1.1.1 Notify the Director, Administrative Team Leader, the Warden of the prison complex where the inmate is housed, and the Media Relations Office.
- 2.1.1.2 Forward copies of the Warrant of Execution to the Warden of ASPC-Eyman and the Warden the prison complex where the inmate is housed.
- 2.1.1.3 Notify the Victim Services Administrator, who shall contact the victim(s) and inform them of the court's issuance of the Warrant of Execution.

2.1.2 The Director shall:

- 2.1.2.1 Select the time of execution and provide notice to the Arizona Supreme Court and the parties at least 20 calendar days prior to the execution date. (Arizona Rules of Criminal Procedure, Rule 31.23(c)(3))
- 2.1.2.2 Notify the inmate that if the offense was committed prior to November 23, 1992, the inmate shall choose in writing using the Method of Execution, Form 710-1, either lethal injection or lethal gas at least 21 days prior to the execution. If the inmate fails to choose either lethal injection or lethal gas, the penalty of death shall be inflicted by lethal injection (A.R.S. § 13-757(B)).
- 2.1.2.3 Have the authority to change the timeframes established in this DO in order to address certain unexpected or otherwise unforeseen contingencies only with regard to minor or routine contingencies not central to the execution process.

2.1.3 The Warden of the prison complex where the inmate is housed shall provide a copy of this DO and all forms to the inmate and shall:

- 2.1.3.1 Direct the inmate to submit the Inmate Witness Information, Form 710-2, to the Warden no later than 14 days prior to the scheduled execution date.
 - 2.1.3.1.1 Inform the inmate that two clergy/spiritual advisors and five other persons may be invited to be present at the execution. The inmate may designate one of the clergy/spiritual advisors to accompany the inmate into the lethal injection execution chamber for audible prayer and faith-based touch, consistent with the United States Supreme Court's Opinion in *Ramirez v. Collier* (March 24, 2022).
 - 2.1.3.1.1.1 The Department reserves the right to enforce as necessary any or all reasonable restrictions on the audible prayer and faith-based touch as set forth in the United States Supreme Court's Opinion.
 - 2.1.3.1.2 Notify the inmate that minors are prohibited from witnessing the execution pursuant to A.R.S. § 13-758.

- 2.1.3.1.3 Notify the inmate that requests for Department or contract staff to attend the execution shall be denied.
- 2.1.3.1.4 Notify the inmate that requests for other inmates to attend the execution shall be denied.
- 2.1.3.2 Direct the inmate to review and update as necessary the Notification in Case of Accident, Serious Illness or Death and Disposition of Property, Form 711-1. The Warden shall direct the inmate to provide any changes no later than 14 days prior to the execution. If the inmate provides no instruction, the property and accounts shall be disposed per DO #711, Notification of Inmate Hospitalization or Death.
- 2.1.3.3 Advise the inmate that his/her body shall not be used for organ donation.
- 2.1.3.4 Summarize the options available with the inmate for release and disposition of their body after the autopsy is performed. The Warden shall direct the inmate to review the previously completed Disposition of Remains, Form 710-3, and update as necessary no later than 14 days prior to the execution. If the inmate provides no information or the information is insufficient or incorrect the deceased shall be disposed per DO #711, Notification of Inmate Hospitalization or Death.
 - 2.1.3.4.1 The Inspector General shall provide a copy of the Disposition of Remains, Form 710-3, to the Office of the Medical Examiner prior to the execution.
- 2.1.3.5 Advise the inmate they may request a last meal by completing the Last Meal Request, Form 710-5, and returning it no later than 14 days prior to the execution. Reasonable effort shall be made to accommodate the request.
- 2.1.3.6 Ensure that copies of all forms filled out by the inmate are provided to the Deputy Warden at the Browning Unit or the Lumley Unit at or before the time the inmate is transferred to Death Row at Browning Unit or Lumley Unit.

3.0 EXECUTION TEAM MEMBERS

- 3.1 The Administrative Team consists of the Administrative Team Leader and two additional Department Administrators appointed by the Director.
 - 3.1.1 The Administrative Team will consult with the General Counsel as needed for legal advice and the Healthcare Services Division designee in carrying out their responsibilities.
 - 3.1.2 The Administrative Team is responsible for:
 - 3.1.2.1 Providing, planning, directing, and implementing all pre-execution and post-execution activities.

- 3.1.2.2 Coordinating all processes associated with specialty team personnel selection (excluding the IV/Medical Team), equipment, supply acquisition, training, rehearsal, and performance.
 - 3.1.2.3 Conducting preparatory steps in order to ensure that the execution process is conducted in accordance with this DO.
 - 3.1.2.4 Ensuring that an annual training schedule is established and scheduling dates for periodic on-site rehearsal sessions are established.
 - 3.1.2.5 Ensuring that the Emergency Operations Center (EOC) creates, oversees, and distributes all training and day-of check-in lists.
- 3.2 The Administrative Team shall:
- 3.2.1 Establish a training schedule and identify dates for periodic on-site practice by the Housing Unit 9 Section Teams, to include 10 training scenarios within the 12 months preceding the scheduled execution.
 - 3.2.2 Conduct a minimum of two training sessions with multiple scenarios two days prior to the scheduled execution. The IV/Medical Team members shall participate in quarterly training sessions and at least one training session with multiple scenarios within one day prior to the scheduled execution.
 - 3.2.2.1 All training sessions shall be documented and be included as part of a permanent record created by the Administrative Team to be submitted to the Department's General Counsel for archive, post execution.
 - 3.2.3 Ensure periodic testing of all of the equipment in Housing Unit 9 occurs, affirming electrical, plumbing, heating and air conditioning units are in working order and the gas chamber is maintained.
- 3.3 The Administrative Team provides for the planning and overall direction of all pre-execution, execution and post-execution activities (excluding the IV/Medical Team). The Administrative Team activates the following teams and oversees their activities, specifically:
- 3.3.1 Others as necessary
 - 3.3.2 Team members, including the team leader, are selected by the Administrative Team with the documented approval of the Director.
 - 3.3.3 Housing Unit 9 Section
 - 3.3.3.1 Consists of a section leader, recorder, and one team:
 - 3.3.3.1.1 Restraint Team
 - 3.3.3.2 Team leaders are selected by the Administrative Team with the documented approval of the Director.
 - 3.3.3.3 The section leader is a Warden selected by the Administrative Team Leader with the documented approval of the Director.

- 3.3.3.4 The primary function of the section leader is the overall coordination of activities of the Restraint Team to ensure compliance with conditions of confinement and application of approved procedures.

3.3.4 Restraint Team

- 3.3.4.1 Consists of a minimum of five team members, including one team leader.
- 3.3.4.2 Restraint Team members and the team leader are selected by the Administrative Team with the documented approval of the Director.
- 3.3.4.3 The primary function of the Restraint Team is to provide continuous observation of the inmate on the day of the execution and apply appropriate restraint procedures and inmate management prior to, during and after the execution.

3.3.5 Maintenance Response Team (MRT)

- 3.3.5.1 Consists of three team members, including the team leader, and reports to the Administrative Team.
- 3.3.5.2 Team members are selected by the Administrative Team with the documented approval of the Director.
- 3.3.5.3 The primary function of MRT is to test all Housing Unit 9 equipment utilized to impose the sentence of death and to ensure electrical, plumbing, heating and air conditioning units are in working order.

3.3.6 Employee Support Unit (ESU)

- 3.3.6.1 Consists of four team members, including the team leader, an Occupational Health Nurse (OHN), and reports to the Administrative Team.
- 3.3.6.2 The leader is the ESU Statewide Coordinator or designee.
- 3.3.6.3 Team members are ESU responders and selected by the ESU Statewide Coordinator with the documented approval of the Director.
- 3.3.6.4 The primary function of ESU is to educate staff regarding possible psychological responses and effective coping mechanisms to affected staff at all levels in the Department prior to, during and after the execution. ESU shall provide ongoing follow-up contact to staff.

3.3.7 Traffic Control Team

- 3.3.7.1 Consists of up to 18 team members and a team leader, and reports to the EOC.
- 3.3.7.2 Team members and the team leader are selected, in consultation with the Administrative Team, by the Office of Inspector General with the documented approval of the Director.

- 3.3.7.3 The primary function is to confer with state and local law enforcement agencies, establish check points and parameters for traffic control and formulate inter-agency emergency response strategies. The team also coordinates the ingress/egress for Department and contract staff and other persons whose attendance is necessary at ASPC-Eyman. The Team's focus is the period of time starting 24 hours prior to the execution and concluding when normal activities resume after the execution.

3.3.8 Witness Escort Team

- 3.3.8.1 Consists of up to 14 team members and reports to the Administrative Team.
- 3.3.8.2 Team members are selected by the Administrative Team with the documented approval of the Director.
- 3.3.8.3 The primary function is to coordinate the movement of all pre-approved witnesses on and off prison grounds and within its perimeter. Escort team members always remain with witnesses within the established perimeter.

3.3.9 Victim Services Team

- 3.3.9.1 Consists of two team members and reports to the Administrative Team.
- 3.3.9.2 The team leader is the Victim Services Administrator.
- 3.3.9.3 Team members are selected by the Victim Services Administrator with the documented approval of the Director.
- 3.3.9.4 The primary function is to ensure victims of the crime that resulted in the imposition of death are informed of the execution date and their opportunity to witness the execution. The team explains the execution process. If the victim is interested in attending, the team submits the victim's name(s) for consideration.
- 3.3.9.5 Day of the Execution – The team leader meets with the victim(s) in a predetermined staging area and accompanies them throughout the process, including a briefing by the Director or the Director's designee. The team provides support and advocacy as appropriate.
- 3.3.9.6 If the victim(s) is interested in speaking with the media after the execution, the victim(s) is escorted to the media room for brief media availability.
- 3.3.9.7 Post-Execution - The team leader ensures the victim(s) receives follow-up phone calls and support.

3.3.10 Population Assessment

- 3.3.10.1 The affected Warden where the inmate is housed:
 - 3.3.10.1.1 Is responsible for the coordination of monitoring and evaluation of inmate activity, to be reported to the Administration Team.

3.3.10.1.2 Continuously monitors and assesses the inmate population for any activity related to the execution or its impact on the prison's operation.

3.4 Intravenous/Medical Team Members (IV/Medical Team)

3.4.1 The IV/Medical Team will consist of any two or more of the following: physician(s), physician assistant(s), nurse(s), emergency medical technician(s) (EMTs), paramedic(s), military corpsman or other certified or licensed personnel including those trained in the United States Military. All team members shall be currently certified or licensed within the United States to place IV lines.

3.4.1.1 One member of the IV/Medical Team will serve as the IV/Medical Team Recorder.

3.4.2 The IV/Medical Team members shall be approved by the Director. Selection of any team member shall include a review of the proposed team member's qualifications, training, experience, and/or any professional license(s) and certification(s) they may hold. Licensing and criminal history reviews shall be conducted by the Inspector General's Office prior to assigning or retaining any IV/Medical Team member and upon the issuance of a Warrant of Execution.

3.4.3 The Director shall designate the IV/Medical Team Leader. The Director or designee shall ensure all team members thoroughly understand all provisions contained herein as written and by practice.

3.4.4 The IV/Medical Team shall be responsible for inserting peripheral IV catheters as determined by the Director acting upon the recommendation of the IV/Medical Team Leader. The IV/Medical Team Leader shall ensure all lines are functioning properly throughout the procedure, perform the mixing of the chemicals, preparing the syringes, and monitoring the inmate (including the level of consciousness and establishing the time of death). The IV/Medical Team shall administer the chemicals.

3.4.5 IV/Medical Team members shall be required to participate in quarterly training sessions, in addition to training sessions scheduled one day prior to the actual execution. IV/Medical Team members may be required to participate in additional training sessions.

3.4.6 Documentation of IV/Medical Team members' qualifications, including training of the team members, shall be maintained by the Director, or designee.

3.5 Media Relations Office

3.5.1 The Media Relations Office shall coordinate the release of information to news media outlets. All Department and contract staff are expressly prohibited from providing information not readily available in the public domain.

3.5.2 The Media Relations Office shall be responsible for:

3.5.2.1 Providing all press releases, media briefings, and any news or noteworthy information related to the execution to the media.

- 3.5.2.2 Organizing and directing a media room on the day of execution wherein members of the media may gather and have access to internet on the day of execution.
- 3.5.2.3 Organizing and directing a media briefing, to be held in the identified media room.
- 3.5.2.4 Providing all necessary paperwork to members of the media chosen as Media Witnesses.
- 3.5.2.5 Providing all necessary paperwork to members of the media chosen as a member of the Media Corps.

3.6 Designation of ADCRR Staff and Others Selected to Assist with the Execution

- 3.6.1 The Administrative Team shall review the current teams' rosters and recommend retention or replacement of staff and alternates.
- 3.6.2 The Administrative Team shall forward final recommendations to the Director for approval.
- 3.6.3 In the selection and retention of section leaders and Housing Unit 9 Team members, the Administrative Team shall consider:
 - 3.6.3.1 Professionalism and employee conduct. No employee who was suspended or demoted, including voluntary demotion, in the past 12 months shall be considered. Any staff currently under investigation is also ineligible.
 - 3.6.3.2 Special consideration may be given to staff with pertinent specialized training and qualifications.
 - 3.6.3.3 Staff with less than two years employment with the Department shall not be considered.
 - 3.6.3.4 No staff serving on any team shall be related to the inmate by blood or marriage or have any other legal relationship with the inmate, their family or the crime victim(s).
- 3.6.4 Staff participation in the execution process is strictly voluntary. No Department employee is required to attend or participate in an execution. Any staff volunteers may withdraw from performing their assigned duties specific to the execution at any time by advising their team leader, advising a team member or advising their immediate chain of command. All staff participating in the execution shall be required to sign a Notice of Execution Involvement, Form 710-8.

4.0 COMMUTATION HEARING PROCEEDINGS

- 4.1 The Arizona Board of Executive Clemency (ABOEC) shall advise the Department of its plans to convene a Commutation Hearing and its date and time. Upon receipt of the notice, the Warden of the prison complex where the inmate is housed shall arrange for a location in which the Commutation Hearing will be held.
 - 4.1.1 If the ABOEC Commutation Hearing is held at the prison, the Department shall:

- 4.1.1.1 Require those in attendance to adhere to dress code as outlined in DO #911, Inmate Visitation.
- 4.1.1.2 Comply with the open meeting laws as it applies to ABOEC hearings pursuant to A.R.S. § 38-431.08.

5.0 DESIGNATION OF WITNESSES BY DIRECTOR

5.1 The Director or designee shall be present during the execution.

5.1.1 The Director shall invite:

- 5.1.1.1 The Arizona Attorney General. A.R.S. § 13-758.
- 5.1.1.2 Twelve or more reputable citizens, including up to five members of the media.
- 5.1.1.3 Up to five Media Witnesses selected as representatives, from print/digital, television/streaming, radio/digital audio, and the local market where the crime occurred. These Media Witnesses shall agree to speak to the members of the Media Corps as part of the media briefing.
 - 5.1.1.3.1 All Media Witnesses shall be held to the same standard as all other witnesses.
- 5.1.1.4 Law Enforcement and prosecutors from the jurisdiction where the crime occurred.
- 5.1.1.5 Any crime victims and survivors of the crime for which the sentence of death will be imposed, once the Victim Services Team identifies those persons and provides to the Director a list of victim witnesses within 14 days prior to the scheduled execution.
- 5.1.1.6 In the event that the inmate wishes to designate one or more of their attorneys or other members of their legal team (not to exceed a cumulative three persons) to witness the execution, then the inmate shall identify these witnesses 21 days prior to the execution, and these witnesses shall sign and timely submit a Witness Agreement, Form 710-6, whereupon the Director shall invite these legal witnesses to attend the execution in accordance with Section 11.0, subsection 11.2.1.1.

5.1.2 Minors shall not be permitted to witness an execution. A.R.S. § 13-758.

5.1.3 All witnesses are subject to a background check. Selection to participate is contingent upon security clearance and Witness Agreement to adhere to the provisions stipulated in the Witness Agreement and Media Witness Agreement, Forms 710-6 and 710-7. The Director shall retain full discretion as to the selection of and any changes in the witnesses selected for each scheduled execution.

6.0 STATE AND LOCAL LAW ENFORCEMENT BRIEFING; SITE CHECKS

6.1 The Office of the Inspector General shall ensure state and local law enforcement is periodically briefed and adequately prepared for the execution.

6.2 All of the equipment necessary to the administration of the execution shall be available on site and in good working order including:

6.2.1 Transportation vehicles

6.2.2 Communication devices with inter-operability capability and restricted frequencies

6.2.3 Climate control

6.2.4 Tool control

6.2.5 Safety equipment

6.2.6 Audio/visual equipment

6.2.7 Utility infrastructure

6.2.8 Key control/locking devices

6.2.9 Medical emergency response capability

6.3 The Administrative Team shall take all necessary steps to timely rectify deficiencies.

7.0 THIRTY-FIVE DAYS PRIOR TO THE DAY OF EXECUTION – COMPLEX

7.1 The Warden of the prison complex where the inmate is housed shall confirm in writing the following steps were completed:

7.1.1 Read the Warrant to the inmate and provide a copy of any forms the inmate will need to fill out.

7.1.2 Outline for the inmate how conditions of confinement will be modified over the next 35 days and briefly describe the relevant aspects of the execution process.

7.1.3 Offer the inmate the opportunity to contact their Attorney of Record by phone and to speak with a facility chaplain.

7.1.4 Obtain the inmate's current height and weight and provide that information to the Administrative Team.

7.1.4.1 The Administrative Team shall provide the current height and weight to the Director or designee.

8.0 THIRTY-FIVE DAYS PRIOR TO THE DAY OF EXECUTION – CENTRAL OFFICE

8.1 The Administrative Team:

8.1.1 Identifies and assigns team leaders and members, with documented approval by the Director, and upon approval shall activate the teams.

8.1.2 Confirms preventive maintenance in Housing Unit 9 occurs and that an equipment inventory is completed, and appropriate and timely action is taken.

8.1.3 Activates the training schedule ensuring staff participating in the execution receives adequate training, written instruction and practice, all of which is documented.

8.2 The Healthcare Services Division designee:

- 8.2.1 Directs ADCRR's Healthcare Services staff or Contracted Healthcare Provider (CHP) to conduct a medical records file review to identify any prescribed medication(s) and dosages the inmate is currently or was recently taking. Healthcare Services staff or ADCRR's CHP shall modify prescribed medications as may be necessary.
- 8.2.2 Directs Healthcare Services staff or CHP to dispense all inmate medications in unit doses and when available in liquid form. No medication including over-the-counter medications shall be provided or maintained by the inmate as Keep-on-Person.
- 8.2.3 Ensures Healthcare Services staff or CHP continuously monitors for significant changes in the inmate's medical or mental health and reports findings immediately to the Department's Director and General Counsel.

8.3 The Media Relations Office:

- 8.3.1 Issues a press release announcing the date of the execution.
- 8.3.2 Facilitates up to one non-contact interview with the inmate by phone, per day, with media from the day the Warrant is issued until the day before the sentence of death is imposed excluding weekends and state and federal holidays. No interviews will be permitted within 24 hours of the actual execution. The inmate and Attorney of Record may select among these requests that are submitted to the Media Relations Office and recommend the order in which they occur. The inmate may refuse any or all media requests for interviews.

8.4 The Office of Victim Services:

- 8.4.1 Identifies and advises victims of the crime for which the inmate has been sentenced to death of the issuance of the Warrant of Execution and the scheduled date and time of the execution.

9.0 TWENTY-EIGHT DAYS PRIOR TO THE DAY OF EXECUTION - CENTRAL OFFICE

9.1 The Media Relations Office:

- 9.1.1 Media representatives requesting to witness an execution must submit written requests to the Media Relations Office no later than 28 days prior to the execution. Each request must include their full name, name of their news organization, phone number and email. Only those news organizations that have submitted written requests within the stated time frame shall be considered.

10.0 TWENTY-ONE DAYS PRIOR TO THE DAY OF EXECUTION – CENTRAL OFFICE

10.1 The Media Relations Office:

- 10.1.1 Forwards selected Media Witness requests to the Inspector General for background investigation. The Inspector General shall advise the Director of any issues arising from such investigations.

- 10.1.2 Sends Media Witness Agreement forms (Witness Agreement, Form 710-6, and as applicable, Media Witness Agreement, Form 710-7) to selected Media Witnesses who have passed the background investigation and establishes a deadline for the return of all such forms.
- 10.1.3 All selected Media Witnesses shall sign and timely submit a Witness Agreement, Form 710-6, prior to being cleared and added to the witness list.

11.0 FOURTEEN DAYS PRIOR TO THE DAY OF EXECUTION – CENTRAL OFFICE

- 11.1 The Inspector General or designee:
 - 11.1.1 Finalizes arrangements with the Medical Examiner Office for the disposition of the body, security for the Medical Examiner's vehicle and the custodial transfer of the body.
 - 11.1.2 Obtain a body bag and tag from the Medical Examiner's Office.
- 11.2 The Director's Office:
 - 11.2.1 Finalizes a list of all witnesses including legal witnesses, victim witnesses, inmate witnesses, Media Witnesses, and any other witnesses through coordination with the Office of Victim Services and Media Relations Office, for the Director's review and documented approval.
 - 11.2.1.1 Upon documented approval the Director or designee shall prepare a written invitation to each chosen witness. (See Attachment A)
- 11.3 The Media Relations Office:
 - 11.3.1 Issues a press release announcing the date and time of the execution.

12.0 SEVEN DAYS PRIOR TO THE DAY OF EXECUTION – COMPLEX

- 12.1 Transfer the inmate to the single-person cell on Death Row at Browning Unit or the Lumley Unit that has been retrofitted expressly for the purpose of holding the inmate.
 - 12.1.1 Before transferring the inmate into the cell, the inmate shall be strip searched, screened on the body scanner and then issued a new set of clothes and shoes to wear.
 - 12.1.2 The single-person cell shall be thoroughly searched prior to placing the inmate in the cell.
- 12.2 Place the inmate on 24-hour Continuous Observation and post staff to the inmate's cell on an on-going basis to maintain visual contact with the inmate until such time as the inmate is transferred to Housing Unit 9 at ASPC-Eyman.
- 12.3 Establish an Observation Record to chronicle staff's observations of the inmate's activities and behavior until the sentence of death is imposed.
- 12.4 Conditions of Confinement – The ASPC-Eyman or ASPC-Perryville Warden shall:

- 12.4.1 Ensure none of the inmate's personal property is transferred with the inmate, except as provided in this section.
- 12.4.2 Have the inmate's personal property inventoried in their presence before the transfer of cells occurs and then have it boxed, sealed, and removed from the cell. Store the inmate's property pending receipt of written instruction by the inmate regarding disposition of property or otherwise dispose of the property as outlined in Section 2.0.
- 12.4.3 Ensure all remaining property possessed by the inmate in the cell comply with indigent status items; any exceptions must be pre-approved in writing by the Administrative Team. The inmate may retain limited consumable commissary items until the time of the last meal.
- 12.4.4 Allow the inmate to keep in the cell one box each of legal and faith-based materials, a pencil and paper, and a book or periodical.
- 12.4.5 Issue the inmate a new mattress, pillow, and bedding.
- 12.4.6 Provide the inmate necessary hygiene supplies, including a towel and washcloth, and exchange these items on a daily basis.
- 12.4.7 Issue the inmate a clean set of clothing and bedding daily.
- 12.4.8 Ensure all inmate medications are unit-dosed and, when available issued in liquid form, and none of the inmate's medication including over-the-counter medications be dispensed or maintained by the inmate as Keep-on-Person.
 - 12.4.8.1 CHP staff shall deliver the inmate's medication to the single-person cell on Death Row at Browning Unit or the Lumley Unit.
- 12.4.9 Ensure the inmate has access to a Department television set and does not have access to any other appliances.
- 12.4.10 Ensure the inmate has access to their Department-issued tablet, if applicable.
- 12.4.11 Continue to provide outdoor exercise and showers, non-contact visits and phone calls per the current schedule for other Death Row inmates in Browning Unit or the Lumley Unit.
- 12.4.12 Allow other items, if recommended by the Administrative Team and approved by the Director.
- 12.5 Upon a showing of a valid safety or security concern the inmate may be transferred to a single-person cell on Death Row at Browning Unit or the Lumley Unit any time from receipt of a warrant of execution up and until seven days prior to the execution. Sections 12.1 through 12.4.12 remain applicable.
 - 12.5.1 Any request to transfer the inmate prior to seven days before the execution must be made in writing and approved by the Director.

13.0 SEVEN DAYS PRIOR TO THE DAY OF EXECUTION – CENTRAL OFFICE

- 13.1 The Administrative Team:

- 13.1.1 Directs the initiation of the Continuous Observation Log commencing on the seventh day prior to the day of the execution. The log shall follow the inmate from ASPC-Eyman or ASPC-Perryville to Housing Unit 9 and be maintained until the execution occurs or a stay of execution is issued.

14.0 TWO DAYS PRIOR TO THE DAY OF EXECUTION

14.1 The Administrative Team:

- 14.1.1 Schedules and conducts on-site scenario training sessions.
- 14.1.2 Confirms adequate staffing and vehicles are in place for regular operations and the execution.
- 14.1.3 Confirms staff assigned to the Maintenance Response Team (MRT) are scheduled and will be on-site or on call at least eight hours prior to the time scheduled for the imposition of sentence.
- 14.1.4 Restricts access to Housing Unit 9 to those with expressly assigned duties.
- 14.1.5 Readies Housing Unit 9 for the transfer of the inmate.
- 14.1.6 Verifies execution inventory, including the chemicals to be used, and equipment checks are completed and open issues resolved.

15.0 TWENTY-FOUR HOURS PRIOR TO THE DAY OF EXECUTION

15.1 The Administrative Team will ensure:

- 15.1.1 On-site training exercises continue.
- 15.1.2 Final preparation of Housing Unit 9 is completed. Each room receives final evaluation specific to its functions including security, climate control, lighting, sound, sanitation, and that separation screens and appropriate restraints are at the ready.
- 15.1.3 Detailed staff briefings are provided.
- 15.1.4 The ASPC-Eyman or ASPC-Perryville Warden provides the inmate their last meal by 1900 hours. Every reasonable effort to accommodate the last meal request will have been made. All eating utensils and remaining food and beverage shall be removed upon completion of the meal, no later than 2100 hours.
- 15.1.5 The ASPC-Eyman or ASPC-Perryville Warden allows non-contact visits and phone calls until 2100 hours, at which time they are to be concluded.
 - 15.1.5.1 The inmate's communication privileges shall be terminated at 2100 hours the day prior to the execution, excluding calls from the inmate's Attorney of Record and others as approved by the Administrative Team.
 - 15.1.5.2 The inmate's visitation privileges shall be terminated at 2100 hours the day prior to the execution. The inmate will be permitted two hours of in-person visitation with no more than two Attorneys of Record, concluding one hour prior to the scheduled execution.

15.1.6 The inmate may be offered a mild sedative.

15.1.7 The inmate is prepared for transfer to Housing Unit 9 by the prescribed means.

16.0 TWELVE HOURS PRIOR TO AND THROUGH THE EXECUTION

16.1 Restricting Access to Institution Property – During the final 12 hours prior to the execution, access to ASPC-Eyman or ASPC-Perryville is limited to:

16.1.1 On-duty personnel.

16.1.2 On-duty contract workers.

16.1.3 Volunteers deemed necessary by the Wardens.

16.1.4 Approved delivery vehicles.

16.1.5 Law enforcement personnel on business-related matters.

16.1.6 Restrictions to these facilities shall remain in effect until normal operations resume, at the direction of the Administrative Team, after the execution or a stay of execution is issued.

16.2 Transfer of the inmate from Browning Unit or Lumley Unit to Housing Unit 9

16.2.1 At the direction of the Administrative Team:

16.2.1.1 The inmate shall be secured and transferred by the Restraint Team per the prescribed means at least five hours prior to the execution.

16.2.1.2 The Restraint Team shall take custody of the inmate and the Observation Log. Staff shall assume maintenance of the log until the execution is completed or a stay of execution is issued.

16.2.1.3 Upon the inmate's arrival, the inmate may be offered a mild sedative.

16.2.1.4 No later than five hours prior to the execution, the inmate shall be offered a light meal. All eating utensils and remaining food shall be removed upon completion of the meal.

16.2.2 These time frames may be adjusted, with the approval of the Administrative Team, as necessary in the event of a stay of execution or other exigencies.

16.3 Housing Unit 9 Conditions of Confinement

16.3.1 The inmate shall remain on Continuous Watch upon transfer to Housing Unit 9. Staff shall record observations and make entries in the Observation Record during the final five hours in hours and minutes.

16.3.2 The inmate shall be issued one pair each of pants, undergarments and socks, and a shirt on the morning of the execution.

16.3.3 The cell shall be furnished with a mattress, pillow and pillowcase, one each top and bottom sheet, a blanket, a washcloth and towel, and toilet paper.

- 16.3.4 The inmate may have a pencil and paper, faith-based items, a book or periodical and necessary hygiene supplies (liquid soap, toothpaste) and a toothbrush and comb. Female inmates shall be provided feminine hygiene, as necessary. These items may be made available only for the duration of the use and shall be removed immediately thereafter. Any other requested property shall require approval by the Administrative Team, and shall be documented.

16.4 Additional Operations Requirements

- 16.4.1 Witness Escort Teams shall process, transport, and remain with pre-approved witnesses, including inmate witnesses, legal witnesses, Media Witnesses, and victim(s) witnesses through the conclusion of the execution and their return to designated staging areas per prescribed means.

- 16.4.1.1 Other than inmate witnesses and legal witnesses, which may be combined, teams shall ensure each witness group is separated from the other witness groups at all times, to the greatest extent possible.

- 16.4.2 Witness Escort Teams shall provide a brief overview of the execution for all witnesses. Witness Escort Teams shall advise witnesses that the curtains in the execution chamber may be drawn prior to the conclusion of the execution in the event of a legitimate penological objective which would merit such closure and then reopened when the execution resumes, and that an IV/Medical Team member will enter into the chamber and physically manipulate the inmate to check consciousness. The brief overview shall also include information on what a particular witness group may or may not bring into Housing Unit 9 along with pertinent safety information about Housing Unit 9.

- 16.4.2.1 In the event the inmate has designated an attorney to witness the execution, temporary office space will be provided for the inmate's counsel in a designated location during the scheduled day of execution. One attorney and two additional members of the legal team may be permitted to remain in the office space during the execution. The inmate's legal team will be permitted to bring into the temporary office space one mobile phone, one tablet, and one laptop. While the attorney witness is in the witness room, a member of the Witness Escort Team shall hold one Department-issued mobile phone, to be made available to the attorney in exigent circumstances. The mobile phone may not be used inside the witness room.

- 16.4.3 Upon the direction of the Director to proceed:

- 16.4.3.1 The IV/Medical Team shall enter the holding cell to medically assess the inmate.

- 16.4.3.2 Once the IV/Medical Team has completed their medical assessment of the inmate, the Administrative Team Leader shall direct the Housing Unit 9 Section Leader to prepare the inmate for escort into the execution chamber.

- 16.4.3.3 Prior to moving the inmate from the holding cell to the execution table, the Director shall confer with the Attorney General or designee and the Governor or designee to confirm there is no legal impediment to proceeding with the lawful execution.
- 16.4.3.4 When the inmate is secured on the execution table by the team and readied by the IV/Medical Team, the Administrative Team Leader shall advise the Director.
- 16.4.3.5 The Director shall reconfirm with the Attorney General or designee and the Governor or designee that there is no legal impediment to proceeding. Upon oral confirmation that there is no legal impediment to proceeding with the execution, the Director may order the Administrative Team Leader to proceed with the execution.
 - 16.4.3.5.1 If there is a legal impediment the Director shall instruct the Administrative Team Leader to stop, and to notify the inmate and witnesses that the execution has been stayed or delayed. The Administrative Team shall also notify the Witness Coordination Team Leader to notify the Media Relations staff who shall advise the media in the media room.
- 16.4.3.6 The Housing Unit 9 Section Leader shall read aloud a summary of the Warrant of Execution. The Housing Unit 9 Section Leader shall ask the inmate if they wish to make a last statement. The microphone will remain on during the last statement. It will be turned off in the event the inmate uses vulgarity or makes intentionally offensive statements. If the microphone is turned off, it will be turned back on immediately after the completion of the last statement.
- 16.4.3.7 The Director shall instruct the IV/Medical Team to initiate disbursement of chemicals by the prescribed means.
- 16.4.4 Pronouncement and Documentation of Death
 - 16.4.4.1 Upon completion of the execution process, the IV/Medical Team will confirm death and notify the Director. The Housing Unit 9 Section Leader shall announce that the sentence of death has been carried out as ordered by the court and the execution has been completed.
 - 16.4.4.2 Pursuant to A.R.S. § 13-759(B), upon the execution of a sentence of death, the Director or designee shall return the death warrant to the court which pronounced the sentence and the Arizona Supreme Court, showing the time, mode, and manner in which it was executed. (See Attachments B and C)
 - 16.4.4.3 In coordination with the Office of the Inspector General, the Medical Examiner or their designee shall take custody of the body and issue a Certificate of Death.

- 16.5 Stay of Execution – Upon receipt of notification that a court has issued a Stay of Execution; the Director shall consult with the Attorney General’s Office and advise the Administrative Team.
- 16.5.1 Upon receipt of notification, the Housing Unit 9 Section Leader shall:
 - 16.5.1.1 Advise the witnesses a Stay of Execution has been issued.
 - 16.5.1.2 Following consultation with the Director, direct that the IV lines be removed by the IV/Medical Team, if applicable, and direct the Restraint Team to return the inmate to the holding cell.
- 16.5.2 The Administrative Team shall inform the following teams of the Stay of Execution:
 - 16.5.2.1 Traffic Control Team Leader
 - 16.5.2.2 Population Assessment
 - 16.5.2.3 ESU Team Leader
 - 16.5.2.4 Media Relations Director
 - 16.5.2.5 Victim Services Team Leader
 - 16.5.2.6 Witness Escort Team Leader
- 16.5.3 The Traffic Control Team Leader shall notify the Protest Team of the issuance of the Stay of Execution.
- 16.5.4 The Witness Escort Team shall commence escorting witness groups from Housing Unit 9 as set forth herein.
- 16.5.5 Upon the Administrative Team’s instruction, the inmate shall be transported from Housing Unit 9 back to Death Row at Browning Unit or Lumley Unit and their personal possessions returned. Following the transport, the inmate will be permitted to consult with the inmate’s attorney(s) upon request.

17.0 POST-EXECUTION

- 17.1 Post-Execution Procedures
 - 17.1.1 Upon the pronouncement of death, the Director shall notify the Governor or designee and the Attorney General or designee via telephone that the sentence has been carried out and the time of death.
 - 17.1.2 A Criminal Investigations Unit Investigator and the Medical Examiner or their designee(s) will take photos of the inmate’s body.
 - 17.1.2.1 While in restraints prior to being placed in the body bag,
 - 17.1.2.2 Without restraints prior to being placed in the body bag,
 - 17.1.2.3 Sealed in the body bag, and
 - 17.1.2.4 A photo of the seal in place on the bag.

- 17.1.3 The inmate's body will be placed on a Medical Examiner's gurney and released into the custody of a Medical Examiner's Office.
- 17.1.4 Once the inmate's body is placed in a Medical Examiner's transport vehicle, it will be escorted off the premises. The Medical Examiner's transport vehicle will take the inmate's body to the Medical Examiner's Office designated by the county.
- 17.2 Removing Witnesses from Housing Unit 9
 - 17.2.1 After the pronouncement of death, witnesses shall be escorted in the prescribed order from the facility by the Witness Escort Team.
 - 17.2.1.1 Each group of witnesses will continue to be kept separate from the other groups at all times.
 - 17.2.1.2 Media Witnesses will return to the media staging area, prior to returning to the media room to participate in the media briefing.
 - 17.2.1.3 Victim witnesses planning to attend the media briefing will return to their staging area, prior to returning to the media room to participate in the media briefing.
 - 17.2.2 Media may remain on site in a designated location outside the secure perimeter for a limited time to complete live broadcasts.
- 17.3 Debriefing
 - 17.3.1 Immediately following the execution, the Administrative Team will conduct a debriefing with the team members involved in the execution.
- 17.4 Site Clean Up
 - 17.4.1 At the direction of the Administrative Team, the Maintenance Response Team will ensure Housing Unit 9 is cleaned and secured.
 - 17.4.2 Institutional staff trained in infectious diseases preventive practices will utilize appropriate precautions in cleaning Housing Unit 9.
- 17.5 Normal Operations
 - 17.5.1 Department personnel shall be deactivated at the direction of the Administrative Team.
- 17.6 Post-Execution Review
 - 17.6.1 Within 14 days of the execution, a full review of the execution will be initiated. This includes a review of training and preparation activities, day-of execution procedures and documentation, and necessary process revisions. The Post-Execution Review must be documented in a report, and will include, at a minimum, the following:
 - 17.6.1.1 Director
 - 17.6.1.2 General Counsel
 - 17.6.1.3 Inspector General

17.6.1.4 Administrative Team

17.6.1.5 Housing Unit 9 Section Leader

17.7 Execution Documentation

- 17.7.1** The Administrative Team shall be responsible for gathering all documents pertaining to the execution and forwarding to the Department's General Counsel for archive. The General Counsel shall maintain the official record of the execution.

18.0 PROCEDURES FOR NEWS MEDIA

- 18.1** Reasonable efforts will be made to accommodate representatives of the news media before, during, and after a scheduled execution. However, the Department reserves the right to regulate media access to ensure the orderly and safe operations of its prisons.
- 18.2** The Media Relations Office shall provide the news media with regular briefings or updates if new or noteworthy events transpire.
- 18.3 News Media Attendance**
- 18.3.1** Members of the media may be invited as either Media Witnesses or Media Corps reporters.
- 18.3.1.1** Media Witnesses refers to the individual(s) who have requested and been selected to witness an execution and following the execution they shall agree to speak to the Media Corps as part of the media briefing to share their remarks, observations and answer questions in front of the Media Corps prior to the filing or reporting their story.
- 18.3.1.2** Media Corps reporters refers to a group of journalist, reporters, and media representatives who are collectively working on reporting on a specific subject, location or person.
- 18.3.2** Media Witnesses invited to witness the execution are expected to provide an accounting of the execution to the Media Corps reporters gathered in the media room for the media briefing.
- 18.3.3** Approved members of the Media Corps will be invited to the media room prior to and during the execution, in order to report out the statements made by Media Witnesses and other appropriate witnesses during the media briefing.
- 18.4 Media Orientation and Releases** – The Media Relations Office shall provide and work with members of the media (those identified as Media Witnesses and those identified as Media Corps) with all necessary forms to ensure approval and general information regarding date, time, and location of the media room and media briefing to check in for reporting on the execution.
- 18.4.1** The Media Relations Office will inform the media if they have been selected as Media Witnesses and will advise those chosen of the witness procedures.
- 18.4.2** Those selected as Media Witnesses shall be required to complete and sign a Media Witness Agreement, Form 710-7, in addition to the Witness Agreement, Form 710-6, prior to the execution.

18.5 Media Room Operations

- 18.5.1** All members of the media who have been approved to be onsite on the day of the execution, either as a Media Witness or as a member of the Media Corps will report to the media room.
- 18.5.2** When it is time for Media Witnesses to move from the media room to the execution viewing area, they will be escorted. The movement process may include a short stay in a Media Witness staging area. When the execution is over, the Media Witnesses will be escorted back to the media room, and the movement process after the execution may include a short stay in the Media Witness staging area.
- 18.5.3** Members of the Media Corps will stay in the media room throughout the execution.
- 18.5.4** The Media Relations Office will commence the media briefing after the execution. The start time will be dependent on witnesses, including any from the families of the victims.
- 18.5.5** Media Witnesses will provide their remarks, observations, and answer questions in front of and to the Media Corps prior to filing or reporting their story.

18.6 Briefing Packets and Updates

- 18.6.1** The Media Relations Office shall provide media briefing packets.
- 18.6.2** A brief summary of the inmate's activities during the final 24 hours, activities related to the execution and sequence of events, may be provided.

18.7 Media Witness Selection

- 18.7.1** No more than five members of the media may be selected to witness the execution as witnesses. Media Witnesses will be selected from among any of the following mediums. Selected Media Witnesses shall agree to speak to the Media Corps as part of the media briefing:
 - 18.7.1.1** Print/Digital Print
 - 18.7.1.2** Radio/Digital Audio
 - 18.7.1.3** Television/Streaming
 - 18.7.1.4** Local media representative in the market where the crime was committed
- 18.7.2** Media is held to the same standards for conduct as are all other witnesses.
- 18.7.3** The Administrative Team may exclude any Media Witness at any time if the Media Witness fails to abide by the provisions of the Witness Agreement and Media Witness Agreement (Forms 710-6 and 710-7).
- 18.7.4** Media Witnesses are not permitted to bring unauthorized items into Housing Unit 9. Unauthorized items include:
 - 18.7.4.1** Electronic or mechanical recording devices

18.7.4.2 Still, moving picture or video tape cameras

18.7.4.3 Smart devices or cell phones

18.7.4.4 Broadcasting or streaming devices

18.7.5 Each Media Witness shall be provided a tablet of paper and a pencil or pen to take notes from the time they complete security screening until they are returned to the media room after the conclusion of the execution.

IMPLEMENTATION

The ASPC-Eyman and ASPC-Perryville Wardens shall maintain Post Order #10, Execution Watch Security Officer, delineating post-specific responsibilities.

ATTACHMENTS

Attachment A - Letter of Invitation to Witness an Execution

Attachment B - Return of Warrant Notification - Supreme Court

Attachment C - Return of Warrant Notification - Superior Court

Attachment D - Preparation and Administration of Chemicals

Attachment E – Lethal Gas

FORMS LIST

105-6, Correctional Service Log

710-1, Method of Execution

710-2, Inmate Witness Information

710-3, Disposition of Remains

710-4, Authorized Witnesses for Execution Log (A, B and C)

710-5, Last Meal Request

710-6, Witness Agreement

710-7, Media Witness Agreement

710-8, Notice of Execution Involvement

711-1, Notification in Case of Accident, Serious Illness or Death and Disposition of Property

RELATED POLICIES

DO #201, Legal Services - Records Release

DO #711, Notification of Inmate Hospitalization or Death

DO #911, Inmate Visitation

AUTHORITY

A.R.S. § 1-215(29), Definitions

A.R.S. § 13-105(30), Definitions

A.R.S. § 13-757(B), Methods of Infliction of Sentence of Death

A.R.S. § 13-757(C), Identity of Executioners

A.R.S. § 13-758, Persons Present at Execution of Sentence of Death; Limitations

A.R.S. § 13-759(B), Return Upon Death Warrant

A.R.S. § 13-4021 through 13-4026, Insanity or Pregnancy of Persons under Death Sentence
Arizona Rules of Criminal Procedure, Rule 31.23(c)(3), Date and Time of Execution; Notification to Supreme Court

ATTACHMENT A

SAMPLE - LETTER OF INVITATION TO WITNESS AN EXECUTION

Date _____

Name _____

Mailing address _____

Mailing address _____

Dear _____

Thank you for expressing interest in serving as a witness.

Please be advised that you are selected to witness the execution of _____
[name] _____ [number], on _____ [date] at _____ [time] subject to the conditions stipulated
in this correspondence.

All witnesses are required to complete the *Witness Agreement* form and return it to the Media Relations Office
of the Arizona Department of Corrections, Rehabilitation and Reentry no later than _____ [date] by fax,
mail, hand delivery, or as an email attachment.

Please promptly respond to this letter for any requested ADA accommodations.

Failure to fully complete and return on time the required forms with receipt by the Department before 5:00
P.M. on _____ [date], will result in your removal from the list of approved witnesses.

For additional information and to confirm receipt of your materials, you are welcome to contact the Media
Relations Office by phone at (602) 542-3133, by fax at (602) 542-2859 or e-mail at MEDIA@azadc.gov.

Sincerely,

Communications Director

Applicable Attachments:

___ *Witness Agreement form*

___ *Media Witness Agreement form*

ATTACHMENT B

SAMPLE - RETURN OF WARRANT NOTIFICATION

Supreme Court

DATE:

The Honorable
Chief Justice of the Supreme Court of Arizona
402 Arizona State Courts Building
1501 West Washington Street
Phoenix, Arizona 85007-3329

RE: Return of Warrant of Execution

State vs.

Supreme Court Number:

County Number:

Chief Justice:

This is to advise you that in accordance with the Warrant of Execution, Supreme Court Number, and pursuant to A.R.S. § 13-759(B), the imposition of the sentence of death of _____ was carried out at the Arizona State Prison Complex-Florence on _____ [date], at _____ A.M./P.M.

The mode and manner of the death was by lethal _____.

Sincerely,

Ryan Thornell, Ph.D
Director
Arizona Department of Corrections, Rehabilitation and Reentry

ATTACHMENT C

SAMPLE - RETURN OF WARRANT NOTIFICATION

Superior Court

DATE:

The Honorable
Presiding Judge
Superior Court of Arizona
In County _____, Arizona

RE: Return of Warrant of Execution

State vs.

Supreme Court Number:

County Number:

Judge _____:

This is to advise you that in accordance with the Warrant of Execution, Supreme Court Number, and pursuant to A.R.S. § 13-759(B), the imposition of the sentence of death of _____ was carried out at the Arizona State Prison Complex-Florence on _____ [date], at _____ A.M./P.M.

The mode and manner of the death was by lethal _____.

Sincerely,

Ryan Thornell, Ph.D
Director
Arizona Department of Corrections, Rehabilitation and Reentry

ATTACHMENT D

PREPARATION AND ADMINISTRATION OF CHEMICALS

A. Obtaining Chemicals and Equipment

1. Upon receipt of the Warrant of Execution, the Administrative Team shall:
 - I. Confirm the equipment for the procedure and ensure all equipment necessary to properly conduct the procedure is on site, immediately available for use and functioning properly.
 - II. In consultation with appropriate personnel, ensure all medical equipment, including an ultrasound machine for assistance with venous access and a backup electrocardiograph is on site, immediately available for use and functioning/calibrated properly.
 - III. In consultation with appropriate personnel, ensure that complete sets of chemicals are on site, not expired, and immediately available for use. ADCRR will only use chemicals in an execution that have an expiration or beyond-use date that is after the date that an execution is carried out. If the chemical's expiration or beyond-use date states only a month and year (e.g., "June 2027"), then ADCRR will not use that chemical after the last day of the month specified.
2. Upon receipt of the Warrant of Execution, the Director's Office shall ensure the chemicals are ordered, arrive as scheduled and are properly stored. The chemicals shall be stored in a secured, locked area that is temperature regulated and monitored to ensure compliance with manufacturer specifications, under the direct control of the Housing Unit 9 Section Leader.

B. Preparation of Chemicals

1. Prior to the preparation of the chemicals, the Director shall verify the chemicals to be used, the quantity and the expiration date.
2. At the appropriate time, the Director's Office shall transfer custody of the chemicals to the IV/Medical Team to begin the chemical(s) and syringe preparation in the chemical room, under the direct supervision by the IV/Medical Team Leader.
3. The IV/Medical Team Leader will assign a team member(s) to assist preparing each chemical and the corresponding syringe. The IV/Medical Team Leader will supervise the process. The IV/Medical Team Leader shall prepare the designated chemical(s) and syringes as follows:
 - One-drug protocol - One full set of syringes is used in the implementation of the death sentence (Bank "A") and an additional complete set of the necessary chemicals shall be obtained and kept available in the chemical room, but need not be drawn into syringes unless the primary dosages prove to be insufficient for successful completion of the execution.
4. The IV/Medical Team Leader shall be responsible for preparing and labeling the assigned sterile syringes in a distinctive manner identifying the specific chemical contained in each syringe by i) assigned number, ii) chemical name, iii) chemical amount and iv) the designated color, as set forth in the chemical charts below. This information shall be preprinted on a label, with one label affixed to each syringe to ensure the label remains visible.

C. Chemical Charts; Choice of Protocol

1. Charts for all chemical protocols follow. The Director shall have the sole discretion as to which drug protocol will be used for the scheduled execution. This decision will be provided to the inmate and their counsel of record in writing at the time the state files a request for Warrant of Execution in the Arizona Supreme Court. If the Department is able to obtain the chemical pentobarbital in sufficient quantity and quality to successfully implement the one-drug protocol with pentobarbital set forth in Chart A, then the Director shall use the one-drug protocol with pentobarbital set forth in Chart A as the drug protocol for execution. If the Department is unable to obtain such pentobarbital, but is able to obtain the chemical sodium pentothal in sufficient quantity and quality to successfully implement the one-drug protocol with sodium pentothal set forth in Chart B, then the Director shall use the one-drug protocol with sodium pentothal set forth in Chart B as the drug protocol for execution.
2. A quantitative analysis of any compounded or non-compounded chemical to be used in the execution shall be provided upon request within 10 calendar days after the state seeks a Warrant of Execution. The decision to use a compounded or non-compounded chemical will be provided to the inmate and their counsel of record in writing at the time the state files a request for Warrant of Execution in the Arizona Supreme Court.

CHART A: ONE-DRUG PROTOCOL WITH PENTOBARBITAL

CHEMICAL CHART	
Syringe No.	Label
1A	20mL Sterile Saline Solution, BLACK
2A	2.5gm Pentobarbital, GREEN
3A	2.5gm Pentobarbital, GREEN
4A	20mL Sterile Saline Solution, BLACK

- Syringes 2A, and 3A, will have a dose of 2.5 grams (gm) of Pentobarbital for a total of 5 grams. Each syringe containing Pentobarbital shall have a **GREEN** label which contains the name of chemical, chemical amount and the designated syringe number.
- Syringes 1A, and 4A, each contain 20 milliliters (mL) of a sterile saline solution, and shall have a **BLACK** label which contains the name of the chemical, chemical amount and the designated syringe number.

CHART B: ONE-DRUG PROTOCOL WITH SODIUM PENTOTHAL

Syringe No.	Label
1A	20mL Sterile Saline Solution, BLACK
2A	1.25gm Sodium Pentothal, GREEN
3A	1.25gm Sodium Pentothal, GREEN
4A	1.25gm Sodium Pentothal, GREEN
5A	1.25gm Sodium Pentothal, GREEN
6A	20mL Sterile Saline Solution, BLACK

- Syringes 2A, 3A, 4A, 5A, each contain 1.25gm/50mL of Sodium Pentothal / 1 in 50mL of sterile water in four 50mL syringes for a total dose of 5 grams of Sodium Pentothal. Each syringe containing Sodium Pentothal shall have a **GREEN** label which contains the name of chemical, chemical amount and the designated syringe number.
 - Syringes 1A, and 6A, each contain 20mL of a sterile saline solution, and shall have a **BLACK** label which contains the name of the chemical, chemical amount and the designated syringe number.
3. After the IV/Medical Team prepares all required syringes with the proper chemicals and labels as provided in the Chemical Chart, the IV/Medical Team shall attach one complete set of the prepared and labeled syringes to the 2-Gang, 2-Way Manifold in the order in which the chemical(s) are to be administered. The syringes will be attached to the 2-Gang, 2-Way Manifold in a manner to ensure there is no crowding, with each syringe resting in its corresponding place in the shadow board which is labeled with the name of the chemical, color, chemical amount and the designated syringe number.
 4. The syringes shall be affixed in such a manner to ensure the syringe labels are clearly visible. Prior to attaching the syringes to the 2-Gang, 2-Way Manifold, the flow of each gauge on the manifold shall be checked by the IV/Medical Team Leader running the sterile saline solution through the line to confirm there is no obstruction.
 5. After all syringes are prepared and affixed to the 2-Gang, 2-Way Manifold in proper order, the IV/Medical Team Leader shall confirm that all syringes are properly labeled and attached to the manifold in the order in which the chemicals are to be administered as designated by the Chemical Chart. Each chemical shall be administered in the predetermined order in which the syringes are affixed to the manifold.
 6. The quantities and types of chemicals prepared and administered as set forth in this DO may not be changed in any manner without prior documented approval of the Director and publication of an amended DO. The Director's discretion with regard to the quantities and types of chemicals is otherwise limited to what is expressly set forth in this DO. If, after a Warrant of Execution has been issued, the Director determines that it is necessary to change the quantities or types of chemicals to be used in the impending execution, then the Director shall immediately notify the inmate and the inmate's counsel in writing, shall withdraw the existing Warrant of Execution, and shall apply for a new Warrant of Execution.
 7. All prepared chemicals shall be utilized or properly disposed of in a timely manner after the time designated for the execution to occur.
 8. The chemical amounts as set forth in the Chemical Chart are designated for the execution of persons weighing 500 pounds or less. The chemical amounts will be reviewed and may be revised as necessary for an inmate exceeding this body weight.
 9. The Recorder is responsible for completing the Correctional Service Log, Form 105-6. The Recorder shall document on the form the amount of each chemical administered and confirm that it was administered in the order set forth in the Chemical Chart. Any deviation from the written procedure shall be noted and explained on the form.

D. Movement and Monitoring of Inmate

1. Prior to moving the inmate from the holding cell to the execution table, the Director will confer with the Attorney General or designee and the Governor or designee to confirm there is no legal impediment to proceeding with the lawful execution and there are no motions pending before a court which may stay further proceedings.

2. The inmate may be offered a mild sedative through the Contracted Healthcare Provider (CHP) based on the inmate's need. The sedative shall be provided to the inmate no later than four hours prior to the execution, unless it is determined medically necessary. The offer of the mild sedative, the inmate's decision, and the administration of the sedative, if chosen, shall be documented in the watch log.
 - a. Time and dosage of the sedative shall be provided to the IV/Medical Team through the Director or designee.
3. At the designated time, the overhead microphone will be turned on and shall be left on until the completion of the execution, and the inmate will be brought into the execution room and secured on the table by the prescribed means with the inmate's arms positioned at an angle away from the inmate's side. Existing closed-circuit monitors will allow witnesses in the designated witness room to observe this process.
4. The inmate will be positioned to enable the IV/Medical Team Leader and the Housing Unit 9 Section Leader to directly observe the inmate and to monitor the inmate's face with the aid of a high-resolution color camera and a high-resolution color monitor.
5. After the inmate has been secured to the execution table, the Restraint Team Leader shall personally check the restraints which secure the inmate to the table to ensure they are not so restrictive as to impede the inmate's circulation, yet sufficient to prevent the inmate from manipulating the catheter and IV lines.
6. A microphone is outfitted in the execution room. The Administrative Team Leader will confirm that the microphone is functioning properly, and that the inmate can be heard in the chemical room and in the witness room. In the event the microphone in the execution room is not functioning as intended, a microphone will be affixed to the inmate's shirt and shall be left on until the completion of the execution, to enable the persons in the witness room and the IV/Medical Team to hear any utterances or noises made by the inmate throughout the procedure. The Administrative Team Leader will confirm the microphone is functioning properly, and that the inmate can be heard in the chemical room and in the witness room.
7. The IV/Medical Team members will attach the leads from the electrocardiograph to the inmate's chest once the inmate is secured. The IV/Medical Team Leader shall confirm that the electrocardiograph is functioning properly and that the proper graph paper is used. A backup electrocardiograph shall be on site and readily available if necessary. Prior to the day of, and on the day of the execution both electrocardiograph instruments shall be checked to confirm they are functioning properly and calibrated.
8. An IV/Medical Team member shall be assigned to monitor the EKG and mark the EKG graph paper at the commencement and completion of the administration of the lethal chemical(s).
9. Throughout the procedure, the IV/Medical Team Leader shall monitor the inmate's level of consciousness and electrocardiograph readings utilizing direct observation, audio equipment, camera and monitor as well as any other medically approved method(s) deemed necessary by the IV/Medical Team Leader. The IV/Medical Team Leader shall be responsible for monitoring the inmate's level of consciousness.
10. Existing closed-circuit monitors will allow witnesses in the designated witness room to observe the IV/Medical Team's vein assessment and placement of IV catheters in the inmate. In addition, the audio feed from the overhead microphone and from the microphone affixed to the inmate's shirt shall remain on until the completion of the execution.

11. A camera will be focused on the area in the chemical room in which syringes are injected into the IV line, and existing closed-circuit monitors will allow witnesses in the designated witness room to observe the administration of the lethal injection drug(s), including the administration of additional or subsequent doses of the drug(s). All cameras and monitors shall be placed in such a manner so as to ensure and preserve at all times the anonymity of all personnel involved in the execution process.

E. Intravenous Lines

1. The IV/Medical Team Leader will determine the best sites to insert a primary IV catheter and a backup IV catheter in two separate locations in the peripheral veins utilizing appropriate medical procedures and will present that information to the Director. The Director acting upon the advice of the IV/Medical Team Leader shall determine the catheter sites.
2. The IV/Medical Team members shall insert a primary IV catheter and a backup IV catheter. To ensure proper insertion in the vein, the assigned IV/Medical Team members should watch for the flashback of blood at the catheter hub in compliance with medical procedures.
3. The IV/Medical Team Leader shall ensure the catheters are properly secured and properly connected to the IV lines and out of reach of the inmate's hands. A flow of sterile saline solution shall be started in each line and administered at a slow rate to keep the lines open.
4. The primary IV catheter will be used to administer the lethal chemical(s) and the backup catheter will be reserved in the event of the failure of the first line. Any failure of a venous access line shall be immediately reported to the Director.
5. The IV catheter in use shall remain visible to the Housing Unit 9 Section Leader throughout the procedure.
6. The Housing Unit 9 Section Leader shall physically remain in the room with the inmate throughout the administration of the lethal chemical(s) in a position sufficient to clearly observe the inmate and the primary and backup IV sites for any potential problems and shall immediately notify the IV/Medical Team Leader and Director should any issue occur. Upon receipt of such notification, the Director may stop the proceedings and take all steps necessary in consultation with the IV/Medical Team Leader prior to proceeding further with the execution.
7. Should the use of the backup IV catheter be determined to be necessary, a set of backup chemicals should be administered in the backup IV.

F. Administration of Chemicals – One-Drug Protocol

1. At the time the execution is to commence and prior to administering the lethal chemical, the Director will reconfirm with the Attorney General or designee and the Governor or designee that there is no legal impediment to proceeding with the execution. Upon receipt of oral confirmation that there is no legal impediment, the Director will order the administration of the chemical to begin.
2. Upon receipt of the Director's order and under observation of the IV/Medical Team Leader, the IV/Medical Team Leader will instruct the assigned IV/Medical Team member(s) to begin dispensing the chemicals under the chosen drug protocol.
 - a. Pentobarbital - Upon direction from the IV/Medical Team Leader, the assigned IV/Medical Team member will visually and orally confirm the chemical name on the syringe and then administer the first syringe of the sterile saline solution (syringe 1A), followed by the full dose of the lethal chemical (syringes 2A and 3A) immediately followed by the sterile saline solution flush (syringe 4A).

- b. Sodium Pentothal - Upon direction from the IV/Medical Team Leader, the assigned IV/Medical Team member will visually and orally confirm the chemical name on the syringe and then administer the first syringe of the sterile saline solution (syringe 1A), followed by the full dose of the lethal chemical (syringes 2A, 3A, 4A, 5A) immediately followed by the sterile saline solution flush (syringe 6A).
3. Upon direction from the IV/Medical Team Leader, the assigned IV/Medical Team member will visually and orally confirm the chemical name on the syringe and then administer the first syringe of the sterile saline solution, followed by the full dose of the lethal chemical immediately followed by the sterile saline solution flush.
4. When three minutes has elapsed since completing the administration of the lethal chemical, the IV/Medical Team Leader, dressed in a manner to preserve their anonymity, will enter into the room where the Housing Unit 9 Section Leader and inmate are located to physically confirm the inmate is unconscious by using all necessary medically appropriate methods, and verbally advise the Director of the same. The IV/Medical Team Leader will also confirm that the IV line remains affixed and functioning properly.
5. If, after three minutes, the inmate remains conscious, the IV/Medical Team shall communicate this information to the Director, along with all IV/Medical Team input. The Director will determine how to proceed or, if necessary, to start the procedure over at a later time or stand down. The Director may direct the curtains to the witness viewing room be closed, and, if necessary, for witnesses to be removed from the facility, only in the event of a legitimate penological objective which would merit such closure and/or removal.
6. If deemed appropriate, the Director may instruct the IV/Medical Team to administer an additional dose of the lethal chemical followed by the sterile saline solution flush. This may be administered via the primary or backup IV catheter, as determined following consultation with the IV/Medical Team.
7. Upon administering the lethal chemical and sterile saline solution from a backup set, the IV/Medical Team shall determine whether the inmate is unconscious by sight and sound, utilizing the audio equipment, camera and monitor. The IV/Medical Team Leader will again physically determine whether the inmate is unconscious using proper medical procedures and verbally advise the Director of the same.
8. When all electrical activity of the heart has ceased as shown by the electrocardiograph, the IV/Medical Team Leader will confirm the inmate is deceased and the inmate's death shall be announced by the Director.
9. The Recorder shall document on the Correctional Services Log the start and end times of the administration of the lethal chemical.
10. Throughout the entire procedure, the IV/Medical Team members and the Housing Unit 9 Section Leader shall continually monitor the inmate using all available means to ensure that the inmate remains unconscious and that there are no complications.
11. The curtains to the witness room will be closed and the closed-circuit monitors will be turned off following the pronouncement of death.

G. Contingency Procedure

1. An Automated External Defibrillator (AED) will be readily available on site in the event that the inmate goes into cardiac arrest at any time prior to dispensing the chemicals; trained medical staff shall make every effort to revive the inmate should this occur.

2. Trained medical personnel and emergency transportation, neither of which is involved in the execution process, shall be available in proximity to respond to the inmate should any medical emergency arise at any time before the order to proceed with the execution is issued by the Director.
3. If at any point any team member determines that any part of the execution process is not going according to procedure, they shall advise the IV/Medical Team Leader who shall immediately notify the Director. The Director may consult with persons deemed appropriate and will determine to go forward with the procedure, limited to the option provided in Attachment D, §F(6), or to stand down. If the Director determines to stand down, then trained medical staff shall make every reasonable effort to revive the inmate.
4. There shall be no deviation from the procedures as set forth herein, except as expressly allowed herein. There shall be no deviation from the procedures as set forth herein without prior consent from the Director. Although such consent may be verbal or in writing, the Director must memorialize and maintain a written record of having granted any deviations, which record must include a detailed description of the deviation, the basis for the deviation, and the basis for the Director's consent thereto.

H. Post Execution Procedures

1. Upon the pronouncement of death, the Director shall notify the Governor or designee and the Attorney General or designee via telephone that the sentence has been carried out and the time that death occurred.
2. An IV/Medical Team member will clamp any utilized IV lines leaving them connected to the inmate for examination by a Medical Examiner.
3. A Criminal Investigations Unit Investigator and a Medical Examiner will take photos of the inmate's body:
 - While in restraints prior to being placed in the body bag,
 - Without restraints prior to being placed in the body bag,
 - Sealed in the body bag, and
 - A photo of the seal in place on the bag.
4. The inmate's body will be placed on a Medical Examiner's gurney and released into the custody of a Medical Examiner's Office.
5. Once the inmate's body is placed in a Medical Examiner's transport vehicle, it will be escorted off the premises. The Medical Examiner's transport vehicle will take the inmate's body to the Medical Examiner's Office designated by the county.

I. Documentation of Chemicals and Stay

1. In the event that a pending stay results in more than a two-hour delay, the catheters shall be removed, if applicable, and the inmate shall be returned to the holding cell until further notice.
2. The Correctional Service Logs, the list of identifiers and the EKG tape shall be submitted to the Department's General Counsel, upon completion of the execution, for review and storage.

J. Debrief and Policy Review

1. The Administrative, Restraint, and IV/Medical Teams will participate in an informal debriefing immediately upon completion of the event.

2. Upon an assignment to a Team, team members shall review DO #710, Execution Procedures.
3. Periodically, and in the discretion of the Director, a review of DO #710, Execution Procedures along with this attachment may be reviewed to confirm it remains consistent with the law. General Counsel shall advise the Director immediately upon any change that may impact these procedures.

ATTACHMENT E

LETHAL GAS

1. Approximately 10 minutes before the execution, Chemical Operators #1 and #2 shall sequentially pour 6 QUARTS OF DISTILLED WATER and 5 PINTS OF SULPHURIC ACID into the mixing pot (9). THE WATER SHOULD BE POURED FIRST. UPON COMPLETION OF POURING THE WATER, 5 PINTS OF SULFURIC ACID SHOULD BE POURED NEXT. RUBBER GLOVES AND GLASS FUNNEL SHALL BE USED. THE ACID MUST BE POURED SLOWLY TO PREVENT SPLATTERING. This mixture should remain in the mixing pot (9) for approximately 10 minutes so as to attain an adequate mix and maximum temperature. Keep away from acid fumes and possible splatter caused by boiling. This mixture will yield a 41.5% concentration.
 - Chemical Operator #1 shall ensure that the mixture shall not pass to the chair receptacle until after the Chamber door is closed and instructions received from the Chamber Operator.
 - The Caustic Soda Neutralizing solution shall be prepared by Chemical Operator #2 immediately after the completion of the acid mixture.
 - Chemical Operator #2 shall put on rubber gloves and dissolve 1 pound of CAUSTIC SODA into 2½ gallons of water already in a pour-spout can. Once the mixing process is complete, this solution should be kept near the mixing on the floor in close proximity to the mixing pot (9).
 - Chemical Operator #2 shall dissolve 30 grains of Phenolphthalein Solution in 4 ounces of alcohol. If the solution is pre-mixed, then skip this step.
 - Chemical Operator #2 shall relay to the Housing Unit 9 Team Leader that the chemical mixing process is complete.
 - The Housing Unit 9 Team Leader will notify the Director that the chemical mixing is complete and the chamber is ready.
 - The Director will instruct the Housing Unit 9 Team Leader to move the inmate to the chamber.
2. The inmate shall be brought into the execution room and placed in the Chamber and strapped in the chair by the Restraint Team. The internal Chamber microphone will be turned on and a microphone will be affixed to the inmate's shirt and also turned on; both microphones shall remain on until the completion of the execution (the microphones will remain on during any last statement by the inmate, but will be turned off in the event the inmate uses vulgarity or makes intentionally offensive statements; if the microphones are turned off, they will be turned back on immediately after the completion of the last statement) to enable the persons in the witness room and the Housing Unit 9 Team Leader to hear any utterances or noises made by the inmate throughout the procedure. The Housing Unit 9 Team Leader will confirm that the microphones are functioning properly and that the inmate can be heard in the operations room and in the witness room.

- a. Closed-circuit monitor(s) will allow witnesses in the designated witness room to observe this process and shall remain on until the completion of the execution. All cameras and monitors shall be placed in such a manner so as to ensure and preserve at all times the anonymity of all personnel involved in the execution process.
3. Chemical Operator #2 shall place 4 petri dishes containing the Phenolphthalein Solution inside the chamber so as to be clearly visible to the Chamber Operator. (Location should be at each designated corner of the chamber.)
4. After the inmate is strapped in the chair, Chemical Operator #2 shall verify that the petri dishes containing Phenolphthalein are still in their proper place.
5. Chemical Operator #2 shall inspect the GAS VALVE LEVER (1) and GAS VALVE POT (10) to ensure that it is dry and in the Closed position. Once this is confirmed, Chemical Operator #2 shall place the sodium cyanide packets in the GAS VALVE POT (10) under the chair.
6. Chemical Operator #2 and the Chamber Operator shall close the Chamber door and ensure that it is properly sealed.
7. The Chamber Operator shall ensure that the fan damper is in the closed position. Once this is confirmed, the chamber fan shall be activated and left on.
 - The manometer H pressure gauge readings on the chamber shall be monitored to determine air tightness of Chamber.
 - The Chamber will be considered air-tight if the manometer gauge to the right has a higher reading than the left.
 - If the readings on both the manometer H gauges remain equal, the Chamber Operator shall notify the Housing Unit 9 Team Leader immediately.
8. The Chamber Operator shall position themselves at the GAS VALVE LEVER (1).
9. The Chamber Operator shall ensure that the Outlet Valve (4) is closed. This Outlet Valve (4) shall remain closed until the chamber is cleared.
10. Chemical Operator #2 shall proceed back to the Chemical preparation room.
11. The Housing Unit 9 Team Leader shall notify the Director that the chamber is ready.
12. Chemical Operator #1 and the Chamber Operator shall release the mixed acid and water from the mixing pot (9) into the Gas Generator by opening the Acid Mixing Pot Valve (Red lever) and Inlet Valve (3). Chemical Operator #1 shall visually observe the liquid drain from the mixing pot. Once fully drained, Chemical Operator #1 shall close the Acid Mixing Pot Valve and place it in the Closed Position.
13. Chemical Operator #1 shall notify the Chamber Operator that the acid mixture is fully drained.
14. The Chamber Operator shall close the inlet valve (3) and advise the Chemical Operators when complete.
15. Chemical Operator #2 shall fill the mixing pot (9) with the Caustic Soda solution.

16. The Chamber Operator shall then advise the Housing Unit 9 Team Leader that the Chamber is ready for use.
17. The Housing Unit 9 Team Leader shall notify the Director that everything is ready to proceed. The Director shall make the final notifications to the Attorney General.
18. The Director shall instruct the Chamber Operator to remove the locking pin of the GAS VALVE LEVER (1) (Sodium Cyanide immersion lever) and open the immersion valve, to drop the pellets into the acid in the gas generator. The Gas Valve Lever (1) shall remain open until the clearing process of the chamber is initiated.
19. With the Chamber in operation, the Housing Unit 9 Team Leader will observe and inform the Recorder as necessary. A member of the IV/Medical Team shall monitor the Inmate and EKG and shall advise the Director when the inmate has expired, providing the corresponding time of death.
20. The Director will announce that the execution has been completed. The Housing Unit 9 Team Leader will instruct the Operators to "Clear the Chamber".
 - NOTE: The length of time required shall be determined by a member of the IV/Medical Team and the Housing Unit 9 Team Leader. It is recommended that this period should be no less than 10 minutes.
21. When the Housing Unit 9 Team Leader announces "Clear the Chamber", the Chamber Operator shall move the exhaust fan damper lever (5) into the open position.
22. The Chamber Operator shall close the GAS VALVE LEVER (1) into the closed position for clearing.
23. Chemical Operator #1 and the Chamber Operator shall drain the Caustic Soda Solution into the gas generator. Chemical Operator #1 shall open the Acid Mixing Pot Valve (9). The Chamber Operator shall open the Inlet Valve (3) and allow caustic soda to fully drain into the gas generator.
24. Chemical Operator #1 shall monitor the CAUSTIC SODA SOLUTION until the Acid Mixing Pot is fully drained and empty.
25. Once the Acid Mixing Pot (9) is empty, Chemical Operator #1 shall close the mixing pot valve (Red Valve) and instruct the Chamber Operator to close the Inlet Valve (3).
26. The Chamber Operator shall inform the Chemical Operators once the Inlet Valve (3) is closed.
27. The Chemical Operator shall fill the mixing pot with water.
28. The Chamber Operator shall open the air manifold intake lever (2), which may be opened with graduated steps.
29. The Chamber Operator shall open the Outlet Valve (4), opening the gas generator drain valve first, and then opening the Inlet Valve (3).
30. Once the Inlet and Outlet Valves are fully open, the Chamber Operator shall inform the Chemical Operators to begin flushing.
31. The Chemical Operators shall open the water faucet, allowing additional water to flow into the mixing pot (9).

- The Chemical Operators shall observe the drainage of water from the mixing pot to ensure that the flushing is proceeding properly. During this period, the Chamber Operator shall perform the following functions:
 - a. The Chamber Operator and Chemical Operator #1 shall fully open the anhydrous ammonia tank valve, then open ammonia control valves (7) and (8) (on the regulators) gradually to reach the saturation to allow the effective neutralization of the residual chemicals in the chamber, gas generator and plumbing. After 30 seconds, both Operators shall close the ammonia tanks in the following sequence: The tank valves shall be closed first, and, after approximately 30 seconds, the regulator valves (7) and (8) shall be closed. This will allow the ammonia to drain from the piping. Anhydrous ammonia valves should be CLOSED OUT AT LEAST THREE MINUTES BEFORE OPENING THE CHAMBER DOOR.
 - b. After the Chamber is completely evacuated of gas and purged of the ammonia fumes, the Phenolphthalein in the petri dishes should turn red (pinkish) in color. This color change is an indication that the Chamber door may be safely opened. A member of the IV/Medical Team and Restraint Team now may enter, using masks for protection from any residual ammonia fumes. The Chamber Operator shall close the air valve lever (2).
 - CAUTION: Although smoke tests suggest that the Chamber is purged in approximately 3 to 5 minutes, it is recommended that the period between opening the exhaust and air inlet valves and opening the Chamber door be about 15 minutes. As a precautionary measure, it is recommended that the Physician and the Restraint Team removing the body wear hydrocyanic acid gas masks or approved respirators and rubber gloves and that the hair of the deceased inmate be ruffled in order to allow any residually trapped gas to escape. Close the Chamber door, but not tightened more than contact with the gasket, and aerate for one hour as necessary to clear any residual ammonia.
32. The Restraint Team shall hose down all the surfaces and the deceased inmate prior to removal from the chair.

Exhibit 9

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE

DAVIDSON CO. CHANCERY CT

Defendants.

[illegible]

JUDGE CAMPBELL

Defendants.

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)
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)
)

JUDGE CAMPBELL

THIS AGREEMENT, which shall take effect when Defendants' Motion to Stay is granted in the two above-captioned cases brought by Plaintiffs King and Middlebrooks, is entered into by, between, and among the STATE OF TENNESSEE, LISA HELTON (in her official capacity as Interim Commissioner of the Tennessee Department of Correction), TONY MAYS (in his official capacity as Warden of Riverbend Maximum Security Institution) (collectively the "Defendants"), represented by the Tennessee Attorney General's Office, and TERRY LYNN KING, the Plaintiff in the above-captioned case ("King"), represented by Bass, Berry & Sims PLC, and DONALD MIDDLEBROOKS ("Middlebrooks"), the Plaintiff in Case No. 3:19-cv-01139 (M.D. Tenn.), represented by the Federal Public Defender's Office. Each party to this Agreement may be referred to herein as a "Party" or collectively as the "Parties." The Parties enter into this Agreement intending to be legally bound by its terms. The consideration for this Agreement consists of the mutual promises and obligations set forth herein.

Recitals

A. Whereas, on April 20, 2022, the District Court consolidated the cases of King and Middlebrooks for trial, set for October 4, 2022 (Case No. 3:18-cv-01234, DN 206);

B. Whereas, following complications during the planned execution of Oscar Smith, the parties have reached an agreement in principle regarding the immediate future of these cases;

C. Whereas, the Governor of Tennessee has engaged Ed Stanton III to review the State's lethal injection protocols (the "independent investigation");

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Execution Dates for King and Middlebrooks. A motion to set King's execution date will not be filed pursuant to Tenn. Sup. Ct. R. 12(4)(A) until a judgment is entered by the district court in case number 3:18-cv-01234 (M.D. Tenn.) or, in the event of an appeal from that judgment, until an opinion is issued by a panel of the United States Court of Appeals for the Sixth Circuit. In the event Middlebrooks's execution date is reset before the conclusion of a trial or other disposition of his complaint in case number 3:19-cv-01139 (M.D. Tenn.), Defendants will not oppose a motion for stay of execution for Middlebrooks filed in that district court case until a judgment is entered by the district court in that case or, in the event of an appeal, a motion for stay of execution filed under the relevant case number in the Sixth Circuit until an opinion is issued by a panel of the Sixth Circuit. If such a motion for stay is denied, Defendants also agree to advocate for another reprieve from the Governor until a judgment is entered by the district court or, in the event of an appeal, an opinion has been issued by a panel of the Sixth Circuit. If Defendants revise the July 5, 2018 protocol or adopt a new protocol before the district court enters a judgment in case number 3:18-cv-01234 or case number 3:19-cv-01139, Defendants will not object to that Plaintiff—i.e., King or Middlebrooks—amending his complaint one time within ninety (90) days of such revision or adoption to address such a revision or adoption in one count asserting a facial challenge to the revised or new protocol. Nothing in this agreement applies to other litigation outside of the district court case numbers 3:18-cv-01234 and 3:19-cv-01139 (M.D. Tenn.) and any appeal as of right to the Sixth Circuit from a judgment entered in those specific cases.

2. No Expedited Pre-Trial or Trial Following Independent Investigation. Defendants will not seek an expedited pretrial or trial schedule in the pending *King* and *Middlebrooks* federal litigation referenced above, following conclusion of the independent investigation. This should not be understood to waive opposition to any potential motions for an extension of time, motions to reopen discovery, and the like, or any protracted efforts at delay.

3. Independent Investigation. Defendants take no position on whether counsel for King and Middlebrooks should meet with independent counsel Ed Stanton III.

4. Discovery. All discovery will be stayed pending the conclusion of the independent investigation and the timely completion of related corrective action.

5. Summary Judgment & Stay Motions. Plaintiffs will not oppose Defendants' withdrawal of their summary judgment motion in the *King* litigation, and Plaintiffs will not oppose Defendants' motion for a stay in both the *King* and the *Middlebrooks* litigation.

6. Miscellaneous.

(a) This Agreement constitutes the entire agreement, understanding, negotiation, and discussion, whether written or oral, between the Parties. There are no covenants, conditions, agreements, representations, warranties or any other terms or provisions, express or implied, collateral, statutory or otherwise, relating to the subject matter hereof, except as herein provided.

(b) This Agreement is to be governed, interpreted, and enforced in accordance with the laws of the state of Tennessee. Exclusive venue for any disputes shall be in the United States District Court for the Middle District of Tennessee.

(c) No amendments or modifications of this Agreement shall be deemed effective unless made in writing and signed by the parties hereto.

(d) This Agreement may be executed in any number of counterparts, and such counterparts executed and delivered, each as an original, shall constitute but one and the same instrument. A photocopy, facsimile or other electronic signature of a party hereto has the same force and effect as an original signature of such party.

(e) Each Party has carefully read this Agreement and fully understands the scope and effect of its terms and has had an opportunity to consult with an attorney. No Party has relied on any representations or statements made by the other Party that are not specifically set forth in this Agreement. Each Party enters into and signs this Agreement knowingly and voluntarily, without duress or coercion of any kind whatsoever and with the intent of being bound by this Agreement and agree that the terms of this Agreement are reasonable.

(f) Each Party to this Agreement shall execute and deliver such documents and shall take such actions as may be reasonably necessary or desirable to effect the transactions described in this Agreement as mutually approved by their respective counsels.

(g) Each Party warrants that the persons executing this Agreement have the necessary and appropriate authority and capacity to execute this Agreement and to make this Agreement fully binding upon and enforceable against himself/herself or the entity he/she represents.

Executed to be effective on the same date Defendants' motion to stay is granted.

/s/ David R. Esquivel

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IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE
TWENTIETH JUDICIAL DISTRICT, PART III
AT NASHVILLE

CHRISTA GAIL PIKE,	)	
	)	CAPITAL CASE
Plaintiff,	)	
	)	EXECUTION: September 30, 2026
v.	)	
	)	CASE NO. 26-0027-III
JONATHAN SKRMETTI <i>et al.</i> ,	)	
	)	CHANCELLOR MYLES
Defendants.	)	

CHANCELLOR'S ORDER TRANSFERRING CASE
TO THE TENNESSEE SUPREME COURT

This Cause came to be heard by this Honorable Court on April 17, 2026 pursuant to Defendant's *Motion to Dismiss*, asserting that this Court lacks the requisite subject matter jurisdiction to preside over this case and that Plaintiff Christa Pike (hereinafter known as "Ms. Pike" or "Plaintiff") has failed to plead any facts to support her claims for injunctive or declaratory relief. The Parties filed their briefs, and this Court heard oral argument on April 17, 2026. This application for extraordinary appeal was filed on January 8, 2026, eight (8) months before the scheduled execution of Ms. Pike, who has been on Tennessee's death row for over thirty-one (31) years.

Ms. Pike's Complaint collaterally challenges the constitutionality of Tennessee's single-drug lethal injection protocol (herein after known as "LIC") generally and an as-applied challenge to the protocol based on her individualized medical conditions called "Thrombocytopenia/Thrombocytosis, Bipolar disorder, Post Traumatic Stress Disorder, hyperlipidemia, and small veins." *Complaint* at ¶ 51.

FACTS & PROCEDURAL HISTORY

Ms. Pike was convicted by a jury of her peers in Knox County for the first-degree murder and conspiracy to commit first-degree murder of Colleen Slemmer. *State v. Pike*, 978 S.W.2d 904, 907 (Tenn. 1998). Following a sentencing hearing on the conviction for first degree murder, the jury found two aggravating circumstances: (1) “[t]he murder was especially heinous, atrocious or cruel in that it involved torture or serious physical abuse beyond that necessary to produce death;” and (2) “[t]he murder was committed for the purpose of avoiding, interfering with or preventing a lawful arrest or prosecution of the defendant or another.” *Id.* Finding that the two aggravating circumstances outweighed the mitigating circumstances beyond a reasonable doubt, the jury sentenced the defendant to death by electrocution. *Id.* With respect to Ms. Pike’s conviction of conspiracy to commit first-degree murder, the trial judge imposed a consecutive twenty-five-year sentence. *Id.* Ms. Pike is only the second woman to receive a death sentence in Tennessee. *Id.* at 919. The Tennessee Supreme Court affirmed Ms. Pike’s conviction and death sentence on direct appeal. *Id.* Her conviction and death sentence also survived state post-conviction and federal habeas review. *Pike v. State*, No. E2009-00016-CCA-R3-PD, 2011WL1544207 (Tenn. Crim. App. Apr. 25, 2011), *perm. app. denied* (Tenn. Nov. 15, 2011); *Pike v. Gross*, 936 F.3d 372 (6th Cir. 2019), *cert. denied* 590 U.S. 978 (2020).

By order, the Tennessee Supreme Court set Ms. Pike’s execution date for September 30, 2026. *State v. Pike*, No. M2020-01156-SC-DPE-DD (Tenn. Sept. 20, 2025). Prior to penning Ms. Pike’s execution order, the Tennessee Supreme Court ruled in the case of *Black v. Strada, et al.* on July 31, 2025, and then in December of 2025, amended Rule 12.4(E), the procedure governing executions in the state of Tennessee. *See Black v. Strada*, 721 S.W.3d 223 (Tenn. 2025); Tenn. Sup. Ct. R. 12(4)(E) (December 2025).

On January 8, 2026, Ms. Pike filed a Complaint asserting that the Lethal Injection Protocols are unconstitutional under the United States and the Tennessee Constitutions as applied to her, given her specific medical challenges. This is the first capital case litigation since the promulgation of the amended Tenn. Sup. Ct. R. 12(4)(E).

STANDARD OF REVIEW

Whether a court has subject matter jurisdiction is a question of law. *Johnson v. Hopkins*, 432 S.W.3d 840, 844 (Tenn. 2013) (citing *In re Estate of Trigg*, 368 S.W.3d 483, 489 (Tenn. 2012)). Subject matter jurisdiction concerns a court’s authority to adjudicate the matter before it. *Northland Ins. v. State*, 33 S.W.3d 727, 729 (Tenn. 2000). Tennessee courts derive their subject matter jurisdiction either from the constitution or from statute. *Meighan v. U.S. Sprint Commc’ns Co.*, 924 S.W.2d 632, 639 (Tenn. 1996); *see also New v. Dumitrache*, 604 S.W.3d 1, 14–15 (Tenn. 2020) (“Statutes or constitutional provisions confer and define a court’s subject matter jurisdiction, and parties to litigation cannot confer or expand subject matter jurisdiction by consent or waiver.”). Because a court may not adjudicate a matter over which it has no subject matter jurisdiction, subject matter jurisdiction is a threshold issue that may be raised at any time and is not subject to waiver. *Houghton v. Malibu Boats, LLC*, No. E2023-00324-SC-R11-CV, 2025 WL 2971436, at *6 n. 12 (Tenn. Oct. 22, 2025). Therefore, before this Court may reach the merits of Defendants’ *Motion to Dismiss*, it must first ascertain if it may hear the matter from inception.

ANALYSIS

Our Tennessee Supreme Court recently addressed the question of a trial court’s authority to grant mandatory injunctive relief to the moving party, which would have effectively modified the Supreme Court’s unconditional order in an impending execution. *See Black v. Strada*. Mr. Black’s execution was set by unconditional order of the Supreme Court when he filed a request

for injunctive relief two weeks prior to his execution date. *Id.* at 225. The Supreme Court held that the Trial Court lacked authority to interfere, as the Court's rules specifically recognize that only it has the authority to grant a stay pending resolution of collateral litigation in state court. Tenn. Sup. Ct. R. 12(4)(E). *Id.* at 229. Therefore, when Mr. Black filed his request in the state court, it lacked the authority to grant injunctive relief.

The case at bar is distinguishable from *Black v. Strada*, as all of Ms. Pike's claims are constitutional in nature and Ms. Pike has not sought injunctive relief. Instead, she challenges the LIC protocols as applied to her. She has further claimed through her Complaint that the LIC protocol is unconstitutional because it fails to provide for medical care or resuscitation in the event of a failed execution. She also claims that the fourteen (14) day isolation period used for execution methods other than the electric chair is arbitrary and capricious and unconstitutional, and lastly, her execution violates the Equal Protection Clause of the Fourteenth Amendment and Article I of the Tennessee Constitution.

In December of 2025, the Supreme Court amended Rule 12.4(E) from its original version, which states in pertinent part:

“...After a date of execution is set, the Court will not grant a stay or delay of an execution date pending resolution of collateral litigation in federal court. Likewise, the Court will not grant a stay or delay of an execution date pending resolution of collateral litigation in state court unless the prisoner can prove a likelihood of success on the merits in that litigation...”

to add:

“...After a date of execution is set, any state court collateral litigation that would potentially affect the method or timing of execution must commence with the filing of a motion in this Court. Any response to the motion must be filed within five (5) days of the motion, unless a different response time is ordered by the Court. If the collateral litigation may involve fact-finding, the moving party must request the appointment of a special master, consistent with the procedures outlined in Tennessee Rule of Civil Procedure 53. Any

response in opposition to the motion for a special master must be filed within five (5) days of the motion, unless a different response time is ordered by the Court. If the Court grants the motion for a special master, the Court may appoint a special master, consistent with the procedures outlined in Rule 53. Any objection to the findings of the special master shall be by motion filed in this Court not later than five (5) days after being served with notice of the filing of the report, unless a different response time is ordered by the Court...”

Tenn. Sup. Ct. R. 12.4(E).

Ms. Pike’s Complaint and current claims may have the potential to affect the method and timing of her execution. The Tennessee Supreme Court’s amended Rule 12.4(E) – promulgated right before this case was filed in January 2026 – removes state collateral litigation from this Court’s jurisdiction. Therefore, this Court lacks subject matter jurisdiction over Ms. Pike’s Complaint.

While the Defendants have sought dismissal, this Court is mindful that this litigation was filed shortly after the new rule took effect. In the interest of judicial economy and in reliance on its equitable powers, this Court finds that dismissing the case would be a harsh sanction, given the amendment’s recent adoption. For these reasons, this Court hereby **ORDERS** the Clerk and Master of the Chancery Court of Davidson County to **TRANSFER** this case immediately to the Tennessee Supreme Court pursuant to Tenn. Sup. Ct. R. 12.4(E).

IT IS SO ORDERED.

/s/ I’Ashea L. Myles
I’ASHEA L. MYLES, CHANCELLOR
CHANCERY COURT, PART III

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IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED

05/12/2026

Clerk of the
Appellate Courts

CHRISTA GAIL PIKE v. JONATHAN SKRMETTI ET AL.

**Chancery Court for Davidson County
No. 26-0027-III**

No. M2026-00667-SC-UNK-CV

ORDER

On May 7, 2026, the Davidson County Chancery Court transferred to this Court a complaint filed by Christa Gail Pike on January 8, 2026, raising an as-applied challenge to the lethal injection protocol. In its order, the chancery court concluded that it lacked subject matter jurisdiction over Ms. Pike's complaint, and it ordered the transfer to this Court "in the interest of judicial economy." Upon review, we dismiss the transferred case for the reasons set out below.

By order dated September 30, 2025, this Court set the execution date of Christa Gail Pike for September 30, 2026. In December 2025, the Court amended Rule 12(4)(E) in pertinent part as follows:

After a date of execution is set, any state court collateral litigation that would potentially affect the method or timing of execution must commence with the filing of a motion in this Court. Any response to the motion must be filed within five (5) days of the motion, unless a different response time is ordered by the Court. If the collateral litigation may involve fact-finding, the moving party must request the appointment of a special master, consistent with the procedures outlined in Tennessee Rule of Civil Procedure 53. Any response in opposition to the motion for a special master must be filed within five (5) days of the motion, unless a different response time is ordered by the Court. If the Court grants the motion for a special master, the Court may appoint a special master, consistent with the procedures outlined in Rule 53. Any objection to the findings of the special master shall be by motion filed in this Court not later than five (5) days after being served with notice of the filing of the report, unless a different response time is ordered by the Court.

Tenn. R. Sup. Ct. 12(4)(E) (amended December 5, 2025). Thus, as the chancery court correctly acknowledged, any as-applied protocol challenge by Ms. Pike may only be filed in compliance with the provisions of Rule 12(4)(E).

Additionally, Rule 12(4)(E) contains no provision for the transfer of such cases to this Court. Moreover, the transferred civil complaint is not the equivalent of a Rule 12(4)(E) motion because it does not incorporate the requisite motion for a stay of execution or a motion for the appointment of a special master (if necessary). Once the chancery court concluded that it lacked subject matter jurisdiction, the case should have been dismissed.

Accordingly, it is ORDERED that the transferred case is DISMISSED without prejudice to filing a motion that comports with Tennessee Supreme Court Rule 12(4)(E).

PER CURIAM

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

Christa Gail Pike,

Movant,

v.

**CAPITAL CASE
No. M2026-00667-SC-UNK-CV**

State of Tennessee,

Respondent.

Christa Gail Pike v. Jonathan Skrmetti et al.
Chancery Court for Davidson County
No. 26-0027-III

**Motion and Request to Appoint a Special Master
Pursuant to Tenn. Sup. Ct. R. 12(4)(E)**

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Introduction

The absence of transparency . . . is endemic in the application of the death penalty . . . the black hood that covered the head of the person carrying out the execution has grown to a cement silo that shields nearly all aspects of execution procedures. It is this siloed environment that breeds the errors and flawed practices that hobble lethal injections.

- Hon. David Duncan (ret.), Commissioner
Arizona Independent Death Penalty Review

Tony Carruthers' botched execution shed light on what was already known to counsel for the death-sentenced prisoners in Tennessee: despite their protestations and bald assertions, the Respondents do not know how to carry out an execution that comports with either the United States Constitution or the Tennessee Constitution; they do not have the qualified and trained medical personnel to ensure that prisoners do not experience superadded pain, terror, disgrace, or lingering death; and they refuse to admit it. The Respondents must be made to answer to the members of this Court, and to the citizens of Tennessee from whom they derive their authority. And they must be able to credibly say it will not happen again. They cannot do so.

The current protocol is flawed in many ways. It is deliberately vague and void of detail. The identity and background of the execution team is secret, as is the training required to be a member. They will not tell us where the drugs come from. They will not tell us if the drugs are expired. Secrecy breeds suspicion, erodes public trust, and allows error to creep in. It is past time to confront the harsh reality: the State of

Tennessee is not equipped to constitutionally carry-out executions. They cannot be permitted to do so here.

The Movant, Christa Gail Pike^{1,2} submits this motion pursuant to Tennessee Supreme Court Rule 12(4)(E) following the Court's dismissal without prejudice of *Pike v. Skrmetti, et al.*, Davidson County Chancery,

¹ Three decades ago, Christa Pike, a mentally ill eighteen-year-old girl, participated in the murder of Colleen Slemmer. The gruesome facts are well known and have absolutely no bearing on the relief requested here by Pike. Pike's two accomplices, seventeen-year-old Tadaryl Shipp and nineteen-year-old Shadolla Peterson, were charged with Slemmer's murder but only Pike received the death penalty for her role. In 1996, the execution of those 16 years or older at the time of the offense was permitted under the federal constitution. *Stanford v. Kentucky*, 492 U.S. 361 (1989). But in 2005, the United States Supreme Court ruled that the execution of offenders younger than eighteen violated the Eighth Amendment to the United States Constitution. *See Roper v. Simmons*, 543 U.S. 551 (2005). Since then, scientific advances in adolescent brain development definitively show that individuals between 18 and (*at least*) 21 exhibit a lack of maturity and underdeveloped sense of responsibility and are more susceptible to negative influences. *See, e.g. Miller v. Alabama*, 567 U.S. 460 (2012); *Montgomery v. Louisiana*, 577 U.S. 190 (2016). This Court should reconsider its denial of Pike's certificate of commutation given this new scientific evidence.

² The Respondent State of Tennessee includes, but is not limited to: Frank Strada, Commissioner of the Tennessee Department of Correction (TDOC). Strada will oversee Pike's execution. Kenneth Nelsen, Warden of Riverbend Maximum Security Institution (RMSI), where the execution of Pike will occur. Jordan Clark, Warden of the Debra K. Johnson Rehabilitation Center in Nashville, Tennessee, where Pike is held in custody under sentence of death and where she will be isolated prior to her execution. Each are state actors acting under color of state law in violation of Pike's constitutional rights.

Case No. 26-0027-III.³ This motion has two parts: **Part I** raises challenges to Tennessee’s current lethal injection protocol both generally and as applied to Pike; **Part II** raises challenges to Tennessee Supreme Court Rule 12(4)(E) and invites this Court to reconsider or amend the rule. In addition to the relief requested herein, Pike requests the appointment of a Special Master pursuant to Rule 12(4)(E) and Tennessee Rule of Civil Procedure 53.

PART I

Background

On December 27, 2024, the TDOC announced a new lethal injection protocol. The current protocol came following a review ordered by Governor Lee after discovering that TDOC had, for years, not complied with its prior protocol. The Report and Findings ordered by Governor Lee acknowledged those errors and identified others, including:

- The State of Tennessee never provided the pharmacy tasked with testing its lethal injection chemicals with a copy of the lethal injection protocol.
- No employee of the TDOC informed the pharmacy tasked with testing the lethal injection chemicals that it should conduct an endotoxin test until the eve of Oscar Smith’s scheduled

³ The statute of limitations does not apply to, or is not contemplated in, or is not clear under a Rule 12(4)(E) motion. In any event, Pike timely filed her Chancery Court lawsuit. To the extent the Respondents raise the statute of limitations as it may apply to this motion, Pike avails herself of the Savings Statute at Tennessee Code Annotated § 28-1-105.

execution.

- The pharmacy that tested Tennessee’s lethal injection chemicals only tested the chemicals for potency and sterility, not endotoxins, because the pharmacy followed United States Pharmacopeia testing guidelines, not Tennessee’s lethal injection protocol.
- The chemicals used in the execution of Billy Ray Irick in August 2018 were not tested for endotoxins, and the Midazolam used during Irick’s execution was not tested for potency.
- The chemicals to be used if Edmund Zagorski opted for lethal injection in November 2018 were not tested for endotoxins and failed potency testing.
- The chemicals used in the May 2019 execution of Donnie Edward Johnson were not tested for endotoxins.
- The chemicals to be used if Stephen West opted for lethal injection in August 2019 were not tested for endotoxins.
- The chemicals to be used if Lee Hall opted for lethal injection in December 2019 were not tested for endotoxins.
- The chemicals to be used if Nicholas Sutton opted for lethal injection in February 2020 were not tested for endotoxins.

The Independent Review concluded that there was an “absence of adequate expertise, guidance, and counsel either enlisted by or provided to TDOC in connection with Tennessee’s lethal injection process. Instead, TDOC operated in a task-oriented, tunnel-vision manner that failed to

appreciate the interwoven nature of the lethal injection process as a whole.”⁴

The current protocol calls for a single drug pentobarbital 100 ml of a 50 mg/ml solution (a total of 5 grams). Pentobarbital is known to cause flash (acute) pulmonary edema causing a drowning sensation akin to waterboarding. The drowning sensation is “one of the most powerful, excruciating feelings known to man.”⁵ Pentobarbital injection is akin to “severe chemical burn to the esophagus if one were to drink bleach. . . made worse by injecting large quantities of pentobarbital.”⁶ “Death from pentobarbital injection is not instantaneous. Pulmonary edema will begin rapidly and be present even with some level of awareness on the part of the prisoner. It is false to claim that brief pain is not material.”⁷

Instead of addressing these serious concerns, TDOC has doubled down, concealing even more detail about the protocol and the drugs being used. The results have been predictable. Byron Black was executed on August 5, 2025. According to media witnesses, Black groaned for “several minutes” and told his spiritual adviser that he was “in pain.” Black’s

⁴ See App’x., Ex. 1, Tennessee Lethal Injection Protocol Investigation Report and Findings at p. 051A.

⁵ See App’x., Ex. 2, DOJ Review of Fed. Execution Protocol, at p. 193A (Jan. 2025).

⁶ See App’x., Ex. 3, Addendum Report of Joel B. Zivot, M.D. at p. 204A ¶ 5.

⁷ *Id.* at p. 205A ¶ 7.

autopsy showed that he developed pulmonary edema.⁸ Black’s heart also “showed sustained cardiac activity nearly two minutes after [he] was pronounced dead.”⁹ According to Dr. Zivot, “pulmonary edema requires a beating heart and could not have occurred simply as a post-mortem finding.”¹⁰

Harold Wayne Nichols was executed on December 11, 2025. According to witnesses at his execution: Nichols “took a very heavy breath and his whole torso rose up. He then took a series of short, huffing breaths that witnesses said sounded like snorting or snoring. Nichols’ face turned red and he groaned. His breathing then appeared to slow, then stop, and his face became purple before he was pronounced dead.”¹¹ Nichols’ autopsy also showed the presence of pulmonary edema: “The cut surfaces of his lungs revealed the presence of extensive pulmonary edema. This could not have been present prior to execution.”¹² And, as

⁸ App’x., Collective, Ex. 4A, Catherine Sweeney, *Autopsy sheds light on Byron Black’s painful execution*, WPLN News (Sept. 11, 2025).

⁹ Ex. 4B, Travis Loller, *Attorneys say electrocardiogram at Tennessee execution was active after inmate was pronounced dead*, Associated Press (Oct. 24, 2025).

¹⁰ Ex. 3 at p. 204A ¶ 3.

¹¹ Ex. 4C, Travis Loller, *Tennessee executes Harold Wayne Nichols by lethal injection for killing college student in 1988*, Associated Press (Dec. 11, 2025).

¹² Ex. 3 at p. 204A ¶ 4.

relevant here, witnesses noted bleeding near Nichols' injection site, indicating that issues securing IV access are not isolated, or flukes.¹³

On May 21, 2026, the State of Tennessee attempted to locate a vein on Tony Carruthers for more than an hour. The Respondents could not establish a backup line as required by the current protocol and attempts to insert a central line failed because the doctor hired by the Respondents was not qualified to do so. According to witnesses, Carruthers winced and groaned as members of the execution team repeatedly stabbed him. "There was a lot of blood."¹⁴

Relevant Facts

Pike suffers from unique, individual physical, medical, and psychological conditions that the current protocol and execution team are not equipped to address, including thrombocytosis, bipolar disorder, Post Traumatic Stress Disorder, hyperlipidemia, and small, compromised veins.¹⁵ Pike's medical conditions pose a specific challenge for the Respondents as they attempt to execute her. None are remedied by the current protocol. The current protocol fails to account for any of Pike's

¹³ Ex. 4C, Travis Loller, *Tennessee executes Harold Wayne Nichols by lethal injection for killing college student in 1988*, Associated Press (Dec. 11, 2025).

¹⁴ Ex. 4D, Travis Loller, *Tennessee fails to execute Tony Carruthers after IV difficulties. State won't try again for a year*, Associated Press (May 21, 2026).

¹⁵ App'x, Ex. 5, Report of Joel B. Zivot, M.D. at p. 218A ¶ 7.

unique physical characteristics that may affect the efficacy or risk of harm caused by the protocol. The protocol also fails to account for any of Pike's unique psychological or mental characteristics that may affect the efficacy or risk of harm caused by the current protocol.

I. Pike's thrombocytosis makes it sure or very likely that she will drown on her own blood during execution.

Pike's thrombocytosis makes it sure or very likely that there is a substantial risk that she will experience unnecessary and superadded pain and suffering, terror, and disgrace. Thrombocytosis is a blood condition "characterized by a marked elevation in platelet levels."¹⁶ This medical condition poses two problems as the Respondents attempt to execute Pike. First, blood clotting is likely to occur at injection sites. This will not only make it more difficult to achieve and maintain peripheral access on Pike, but it could delay or prevent the delivery of pentobarbital into Pike's bloodstream, requiring higher or multiple doses of pentobarbital.

Second, a high platelet count can "lead to dangerous bleeding as the excess circulating platelets consume another critical blood-clotting component known as the von Willebrand Factor."¹⁷ Pike's thrombocytosis is due to a rare form of blood cancer called myeloproliferative disorder.¹⁸

¹⁶ Ex. 5 at p. 219A ¶ 8.

¹⁷ *Id.*

¹⁸ *Id.* at ¶ 9.

Because of this severe medical condition, executing Pike by pentobarbital will “very likely produce an even more severe patter of bloody froth in the lungs. In other words, this is death by drowning in one’s own blood.”¹⁹

II. Pike’s psychological conditions, including her complex PTSD make it sure or very likely that she will be tortured and disgraced, or decompensate prior to her execution.

Pike was raped on multiple occasions by multiple men from the time she was a toddler to age 17. One man, Ernest, raped her repeatedly as a toddler by forcing his penis into her mouth.²⁰ When she was 11, Pike was held to the ground, raped, and vaginally penetrated with sticks by Claude Davis. At 17, she was thrown to the ground and raped by a stranger while walking in Carrboro, North Carolina. She was able to escape her attacker and ran to a friend’s house, who took her to the hospital. A rape kit was collected but the perpetrator was never identified. Medical records from the hospital describe a tearful and upset Pike as she recounted the rape. In addition to her sexual assaults, Pike was serially physically assaulted by her mother, father, a boyfriend of her mother’s, and her maternal grandmother throughout her lifetime. Due to her history of sexual and physical assault, Pike developed complex PTSD. Pike’s PTSD and other severe mental illness make it sure or very likely that she will decompensate “to the point of a loss of agency and be unable

¹⁹ *Id.* at ¶ 10.

²⁰ App’x, Ex. 6, Addendum Report of Bethany Brand, Ph.D. at p. 226A. *See also* Report of Bethany Brand, Ph.D. Ex. 10 p. 324A.

to undergo an execution on that basis.”²¹ She also suffers from bipolar disorder.²² TDOC records confirm both diagnoses.

Pike’s execution, and the events leading up to it, will profoundly trigger Pike’s mental state.²³ Specifically, Pike will be isolated and observed by men for nearly two weeks at the women’s prison; she will be forcibly removed to the men’s prison; then, she will be observed by men during her death watch; she will be forcibly restrained prior to her execution; she will be forcibly stabbed all over her body as the execution team struggles to locate a vein or install a central line; and she will be executed by men. Placing Pike, as the lone female in a vulnerable position surrounded by male corrections officers during the last days of her life will trigger her PTSD and result in a tortuous execution or mental decompensation to the point she will be incompetent to be executed.

The psychological torture Pike will experience in the days leading up to her execution rises to the level of cruel and unusual punishment and violates her rights to humane treatment and to not be treated with unnecessary rigor. *See Grayson v. Comm’r, Ala. Dep’t of Corr.*, 121 F.4th 894, 900 n. 3 (11th Cir. 2024) (there “may exist a form of execution that induced psychological terror or pain that is severe enough to support an Eighth Amendment claim.”).

²¹ Ex. 5 at p. 223A ¶ 20.

²² *Id.*

²³ *Id.*

III. Pike's small and compromised veins make it sure or very likely that she will experience unnecessary and superadded pain and suffering, terror, and disgrace.

Pike has a historical difficulty with blood draws due to her small, compromised veins. Pike's medical condition makes it significantly more difficult to achieve and/or maintain the peripheral IV access needed to ensure proper delivery of the pentobarbital as she is executed. Attempts to place an IV line on Pike will be unsuccessful and will result in her torture as she is repeatedly stabbed.

In fact, qualified and trained medical staff—qualifications not carried by members of the execution team—use a 23-gauge butterfly needle to perform blood draws on Pike. A 23-gauge needle is commonly used on small children and infants because their veins are small and difficult to access.²⁴ The current protocol does not allow deviation or accommodation for Pike's medical condition. Without proper training on the use of a 23-gauge butterfly needle, the execution team will be unable to achieve peripheral IV access on Pike to ensure proper delivery of the pentobarbital.

Attempts to locate suitable veins in Pike's extremities will also have deleterious effects. For one, the farther the extremity from Pike's heart, the less likely the pentobarbital is to render Pike unconscious immediately and the longer it takes the pentobarbital to have its

²⁴ For reference, 21-gauge needles are the most common needles used for routine blood draws. During a recent blood draw, one nurse remarked "I don't know how they are going to be able to do this," when Pike questioned her about her veins.

intended effect. It is likely that Pike will require multiple doses, or that the time for death contemplated in the protocol (5 minutes), will be grossly underestimated and result in a lingering death. *See In re Kimmner*, 136 U.S. 436, 447 (1890). For another, attempts to achieve vein access in Pike's hands or feet will trigger the PTSD from her rapes and cause her to decompensate prior to her execution. *See Ford v. Wainwright*, 477 U.S. 399 (1986); *Panetti v. Quarterman*, 551 U.S. 930, 932 (2007). Treating Pike's mental health condition "to make her fit for execution is a gross ethical violation of the practice of medicine and cannot take place."²⁵

Even if the execution team can achieve peripheral IV access on Pike, her small and compromised veins will make it nearly impossible to maintain IV access for the duration of the execution. Additionally, Pike's thrombocytosis is likely to lead to clotting around the IV sites. Pike's veins are also likely to be compromised as the pentobarbital is injected into her body, causing the drugs to leak into Pike's tissue and muscles. Pike will not be rendered unconscious as the drugs pulsate through her body until she suffocates to death or, the Respondents will be required to administer multiple doses. The result will cause excruciating pain, suffering, and prolonged or lingering death that Pike will consciously experience.

Pike's individual physical characteristics make it sure or very likely that there is a substantial risk that she will be subjected to unnecessary and serious pain as the Respondents attempt to achieve peripheral IV

²⁵ Ex. 5 at p. 223A ¶ 20.

access on her prior to her execution. The results will be worse than the recent botched execution of Carruthers, who had no prior reported history of difficult blood draws. If the Respondents can achieve peripheral IV access on her, Pike's individual physical characteristics make it sure or very likely that there is improper delivery of pentobarbital including but not limited to compromised veins and leakage. Improper delivery of pentobarbital presents a risk that is sure or very likely to cause serious illness, needless suffering, and/or prolonged or lingering death in violation of the United States and Tennessee constitutions.

Argument

The current protocol as applied to Pike and her unique medical and psychological conditions is unconstitutional under the United States Constitution and the Tennessee Constitution and is sure or very likely to result in unnecessary and superadded pain and suffering, terror, and disgrace. Tennessee's execution protocol further violates the Eighth Amendment because it fails to provide a contingency plan for emergency medical services on-site in the event of a botch. This violation applies to electrocution as well as lethal injection. Finally, the protocol violates Pike's rights under the First, Fifth, and Fourteenth Amendments to the United States Constitution and Article I of the Tennessee Constitution, §§ 8, 13, 16, 19, and 32, including her rights to humane treatment and to not be treated with "unnecessary rigor."

I. The requirement to plead an alternative method of execution.

Because a motion under Rule 12(4)(E) is not a “pleading” as contemplated by Tennessee Rule of Civil Procedure 3, and because this Court does not have original jurisdiction over civil actions, Pike is not required to plead an alternative method of execution. *See* Tenn. Const., art. VI, § 2 (jurisdiction of the Tennessee Supreme Court is “appellate only”). Furthermore, Tennessee’s adoption of the execution secrecy provisions in Tennessee Code Annotated § 10-7-504(h) and the Respondent’s unlawful and unconstitutional application of the law impairs Pike’s ability to allege and prove alternate execution methods and procedures.

Pike also asserts that any requirement that she plead an alternative method of execution violates the Eighth Amendment because there was no such requirement when the Eighth Amendment was ratified in 1791 nor when the Fourteenth Amendment was ratified in 1868, and thus no such requirement can, or does, exist now. Additionally, Pike asserts that any alternative method pleading requirement violates the Due Process clauses of the Fifth and Fourteenth Amendments to the United States Constitution and Article I of the Tennessee Constitution, §§ 8 and 17 because imposition of such a requirement in a free nation shocks the conscience and offends principles of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental, where no such requirement existed at common law or at the founding of the Nation.

Furthermore, Pike asserts that the alternative method pleading requirement violates her rights to conscience and/or to the free exercise of religion under the First Amendment of the United States Constitution, Article I, § 19 of the Tennessee Constitution, the Religious Freedom Restoration Act of 1993 (RFRA), the Tennessee Preservation of Religious Freedom Act codified at Tennessee Code Annotated § 4-1-407, and the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), because she is Buddhist and the requirement that she plead an alternative method violates her sincerely held religious beliefs against participating in any process leading to her own death. The requirement to plead an alternative method of execution does not further a compelling governmental interest and is not the least restrictive means for the government to accomplish its stated interest.

Nor is Pike able or qualified to constitutionally allege an alternative method or manner of execution because she is insufficiently competent to be able to knowingly and willingly instruct the Respondents on how to kill her or, in the alternative, is insufficiently competent to assist her attorneys in identifying an alternative method or manner of execution because she has insufficient medical training and knowledge to be able to identify such an alternative or because her mental health impairments or cognitive deficiencies or intellectual disabilities render her unable to do so.

Nevertheless, in *Glossip v. Gross*, the United States Supreme Court held that to show a likelihood of success on the merits of an Eighth Amendment challenge, a plaintiff must show (1) that the protocol “creates a demonstrated risk of severe pain,” and (2) “that the risk is

substantial when compared to the known and available alternatives.” 576 U.S. 863, 878 (2015). *See West v. Schofield*, 519 S.W.3d 550, 563–64 (Tenn. 2017). In *Bucklew v. Precythe*, 587 U.S. 119, 139–40 (2019), the Court held that an alternative does not need to be codified into state law for a prisoner to allege it as an alternative. Pike alleges that the following alternatives are feasible, readily implemented, and in fact significantly reduce a substantial risk of severe pain as compared to the current protocol.

A. Alternative 1: Use of 23-gauge butterfly needle or central line.

Because of Pike’s small and compromised veins and documented difficulty with blood draws and needle insertion, trained and qualified medical staff must be employed to achieve peripheral IV access on Pike using a 23-gauge butterfly needle and to monitor Pike to maintain peripheral IV access. The current protocol does not provide for the use of a 23-gauge butterfly needle to achieve and/or maintain peripheral IV access nor the trained and qualified medical staff capable of achieving and/or maintaining peripheral IV access using the same.

Pike’s physical characteristics will make it significantly more difficult to achieve and/or maintain the peripheral IV access needed to ensure proper delivery of the pentobarbital. Use of a 23-gauge butterfly needle, inserted by qualified and trained medical staff, is a feasible and readily implemented alternative that significantly reduces the substantial risk of unnecessary pain and suffering posed by the current protocol.

The Respondents possess or have within their control, or could readily obtain, the medical equipment and trained and qualified medical personnel necessary to achieve and/or maintain peripheral IV access with a 23-gauge butterfly needle because the medical staff currently use a 23-gauge butterfly needle on Pike. Use of a 23-gauge butterfly needle will significantly reduce a substantial risk of unnecessary and severe or superadded pain, terror, and disgrace when compared to the current protocol.

Alternatively, even though pentobarbital causes pulmonary edema and placement of a central line does not mitigate that outcome, placement of a central line for the direct delivery of pentobarbital makes it less likely that Pike's execution will be a prolonged botch as happened in Carruthers' attempted execution. The central line must be placed by a qualified, trained, and certified medical doctor who has placed a central line this decade.

B. Alternative 2: Hanging.

Tennessee historically executed "by hanging." *Shipp v. State*, 172 S.W. 317, 318 (Tenn. 1914). In fact, the last woman killed by the State of Tennessee was a Black woman executed by hanging.²⁶ Tennessee can

²⁶ See <https://www.acrosswalls.org/datasets/executions-us> (database drawn primarily from Espy reflecting only four executions of women: 1) March 20, 1807, hanging of Molly Holcomb, a Black female; 2) 1808 hanging of an unnamed Black female; 3) 1819 hanging of an unnamed Black female, and 4) 1820 hanging of Eve Martin, race unknown for accessory to murder. However, the Espy database appears to have incorrectly included Eve Martin, who was the victim of a homicide, not an accessory. See David V. Baker, *Women and Capital Punishment in the United States: An Analytical History*, 132 (McFarland, 2015).

execute the first woman in more than 200 years in the same way it hanged enslaved women before the Civil War. Hanging was the predominant method of execution at the Founding and for decades after. *Glossip*, 576 U.S. at 867. Neither this Court nor the United States Supreme Court have ever declared hanging unconstitutional. See *Bucklew*, 587 U.S. at 134 (listing hanging as a “traditionally accepted” method of execution). The United States Supreme Court has observed that the risk of pain involved in hanging is “unfortunate but inevitable.” *Id.* at 131. Hanging significantly reduces a substantial risk of unnecessary and severe or superadded pain, terror, and disgrace when compared to the current protocol.

The degree of risk of pain and suffering to which Pike will be subjected by the current lethal injection protocol is unconstitutionally severe or serious and excessive when compared to the degree of risk of pain and suffering posed by the alleged alternatives. The level of pain and suffering to which Pike will be sure or very likely subjected by the current protocol is particularly unconstitutionally severe or serious and excessive when compared to the level of pain and suffering posed by each of the alleged alternatives. Pike, by alleging these alternatives, alleges only that the alternatives in question are available in all relevant respects and would subject her to substantially less risk of experiencing severe or serious pain and needless suffering than the risk posed by the current lethal injection protocol. The reduction in risk of severe or serious pain and suffering created by each alternative is clear and considerable in comparison to the level of risk of severe pain and suffering created by the current lethal injection protocol. Similarly, the reduction in level of

severity of pain and suffering created by each alternative is clear and considerable in comparison to the level of severity of pain and suffering created by the current lethal injection protocol. The pain and suffering inflicted by the current lethal injection protocol is more than necessary to carry out a death sentence and is therefore “superadded” pain and suffering that the United States Constitution and Tennessee Constitution forbid.

Pike requests the appointment of a Special Master consistent with this Rule to further develop these alternatives.

II. Tennessee’s current protocol is unconstitutional as applied to Pike given her serious medical conditions in violation of the Eighth Amendment to the United States Constitution and Article I of the Tennessee Constitution, §§ 8, 13, 16, and 32.

The current protocol is unconstitutional in the way that it will be applied to Pike because of her serious medical conditions including, but not limited to, thrombocytosis, bipolar disorder, PTSD, hyperlipidemia, and small and compromised veins. Each condition, on its own and together, makes it sure or very likely that Pike will experience unnecessary and superadded pain and suffering, terror, and disgrace.

Pike suffers from thrombocytosis, a blood condition “characterized by a marked elevation in platelet levels.”²⁷ A high platelet count can “lead to dangerous bleeding as the excess circulating platelets consume another critical blood-clotting component known as the von Willebrand

²⁷ Ex. 5 at p. 219A ¶ 8.

Factor.”²⁸ Pike’s thrombocytosis is likely due to a rare form of blood cancer called myeloproliferative disorder.²⁹ Because of this severe medical condition, executing Pike by pentobarbital will “very likely produce an even more severe patter of bloody froth in the lungs. In other words, this is death by drowning in one’s own blood.”³⁰ Pike’s individual medical and physical characteristic of thrombocytosis makes it sure or very likely that there is a substantial risk that she will experience unnecessary and superadded pain and suffering, terror, and disgrace as she is repeatedly stabbed because the execution team cannot achieve peripheral IV access due to clotting or as she consciously drowns on her own blood.

Pike’s complex PTSD and bipolar disorder will be triggered by the current protocol in several ways. First, approximately 48 hours before her execution, Pike will be transferred from the Debra K. Johnson Rehabilitation Center to RMSI, a men’s prison where she will be observed constantly until she is executed. Placing Pike in a vulnerable position where she is isolated and observed constantly by male guards at the women’s prison, removed from the women’s prison and the only place she has lived in for the last thirty years, taken to the men’s prison, and again isolated and observed by male guards will trigger her PTSD and torture

²⁸ *Id.*

²⁹ *Id.* at ¶ 9.

³⁰ *Id.* at ¶ 10.

her in the two weeks before her execution. It is cruel and unusual punishment, and unnecessarily harsh, degrading, and dehumanizing:

She will spend the final days of her life as a stranger in a strange place, surrounded by men, cut off from every source of human familiarity she has. For a woman with [Pike]’s history, this is not administrative procedure. It is added and severe punishment, one nowhere reflected in her sentence.³¹

See Grayson, 121 F.4th at 900 n. 3 (there “may exist a form of execution that induced psychological terror or pain that is severe enough to support an Eighth Amendment claim.”). It is also likely to lead to her mental decompensation and incompetency to withstand execution. *See Ford v. Wainwright*, 477 U.S. 399 (1986); *Panetti v. Quarterman*, 551 U.S. 930, 932 (2007).

Second, the current protocol’s twelve-hour blackout period will cut Pike off from contact with family, friends, her spiritual advisor, or anyone else who may provide comfort. In other words, she will be completely alone and psychologically tortured. *See Grayson*, 121 F.4th at 900 n. 3. “For a woman who was abandoned, repeatedly sexually and physically violated, and unprotected throughout her childhood, who spent years in a system that failed to recognize how broken she was when she arrived, the deliberate withdrawal of human connection in her final hours is not neutral. It replicates, with harsh precision, the abandonment she has known her entire life.”³²

³¹ Ex. 6 at p. 229A.

³² *Id.*

Third, on the morning of her execution, a team of male corrections officers will forcibly enter Pike's cell, forcibly remove her, forcibly pin her on a gurney, and forcibly strap her down so she cannot move. She will be completely immobilized and triggered by the physical and sensory experiences that mirror her rapes.³³ "[T]raumatic memory is not recalled, it is *relived*."³⁴ What the State deems a routine procedure will, for Pike, be physical and psychological torture:

[Pike] was repeatedly held down by men and raped throughout her childhood and adolescence. She was unable to move. She was pinned. She was powerless. What the protocol describe as a routine restraint procedure will, for her, be experienced as a precise replication of the worst moments of her life. . . . Being physically restrained by a group of men, immobilized and unable to move, will not simply frighten her. It will return her, in full sensory and neurobiological force, to every violation she ever survived. She will die in the grip of her trauma, as she lived.³⁵

Fourth, the imminent threat of execution and the tortuous two weeks of solitary confinement is likely to cause Pike's mental health to deteriorate to the point of loss of agency and incompetency to withstand execution. *See Ford v. Wainwright*, 477 U.S. 399 (1986); *Panetti v.*

³³ Even the seemingly innocuous act of placing a sheet over Pike will simulate the helplessness she faced as she was being repeatedly raped and subconsciously remind her that whatever abuses she experiences will be concealed and make her vulnerable once more.

³⁴ Ex. 6 at p. 229A.

³⁵ *Id.*

Quarterman, 551 U.S. 930, 932 (2007). Treating Pike’s mental health condition “to make her fit for execution is a gross ethical violation of the practice of medicine and cannot take place.”³⁶

Finally, Pike’s small, compromised veins make it sure or very likely that her execution will result in unnecessary and superadded pain and suffering, terror, or disgrace as the execution team struggles to find or maintain peripheral IV access. This is not an isolated issue. Finding a vein has been a persistent problem for executioners ever since the adoption of lethal injection as an execution method in 1982. In 2014, Oklahoma prisoner Clayton Lockett was subjected to a torturous hour of executioners trying to find a vein, until they eventually used a vein in his groin area. After that, it took 43 minutes after the injection of chemicals for Lockett to die of a heart attack.³⁷ In 2016, Georgia officials struggled to locate a vein for 45 minutes during the execution of Brandon Jones. In 2022, during Alabama’s gruesome execution of Joe Nathan James, it took executioners approximately 3 hours to set an IV, before attempting a “cut-down” procedure. An autopsy revealed injuries on his hands and wrists. A doctor who attended James’ autopsy said the execution team “was unqualified for the task in a most dramatic way.”³⁸ That same year,

³⁶ Ex. 5 at p. 223A ¶ 20.

³⁷ App’x. Collective, Ex. 7A, Eric Eckholm, *One Execution Botched, Oklahoma Delays the Next*, N.Y. Times (Apr. 29, 2014).

³⁸ Ex. 7B, Elizabeth Bruenig, *Dead to Rights*, The Atlantic (Aug. 14, 2022); Ex. 7C Amy Yurkanin & Joe Nathan, *James ‘Suffered a Long Death’ in Botched Alabama Execution, Magazine Alleges*, AL.com (Aug. 14, 2022).

Arizona prison staff struggled for 25 minutes to insert the IV into Clarence Dixon's arms, eventually resorting to a cut-down procedure in the groin. A media witness observed the staff had to "wipe up a fair amount of blood."³⁹ Arizona prison staff also had to insert a catheter into Murray Hooper's femoral artery (in the groin area) after trying for 20 minutes to locate a vein in both of his arms.⁴⁰ In 2024, after 58 minutes of executioners' failed attempts at IV insertion, Idaho prisoner Thomas Creech was returned to his cell and the execution was called off.⁴¹

Last year, witnesses noted bleeding near Nichols' injection site,⁴² and Carruthers' execution was called off after the execution team could not locate a suitable vein after approximately 1.5 hours. Members of the execution team "quickly established a primary IV line; however, the team was unable to immediately establish a backup line pursuant to the lethal

³⁹ Ex. 7D, Equal Justice Initiative, *Arizona Executes a Blind, Disabled Man Previously Found Legally Insane* (May 11, 2022) (available at <https://eji.org/news/clarence-dixon-execution-arizona/>).

⁴⁰ Ex. 7E, Bob Christy & Jaques Billeaud, *Arizona executes man for 1980 killings of 2 people* (Assoc. Press, Nov. 16, 2022) (available at <https://apnews.com/article/arizona-executions-f999919f50df1158b8dc2f4c03915842>).

⁴¹ Ex. 7F, Death Penalty Information Center, *Botched Executions* (last updated Oct. 26, 2025) (available at <https://deathpenaltyinfo.org/executions/botched-executions>).

⁴² Ex. 4C, Travis Loller, *Tennessee executes Harold Wayne Nichols by lethal injection for killing college student in 1988*, Associated Press (Dec. 11, 2025).

injection protocol. . . [and] could not find another suitable vein.”⁴³ The team also unsuccessfully attempted to insert a central line.⁴⁴ Carruthers, unlike Pike, does not have a reported history of small veins or difficulty with blood draws. Unless stopped, Pike’s execution will result in a prolonged gruesome spectacle.

Pike’s severe medical conditions make it sure or very likely that her execution will result in unnecessary and superadded pain and suffering, terror, and disgrace. The current protocol makes no provision for Pike’s serious medical conditions in violation of the United States Constitution and the Tennessee Constitution.

III. Tennessee’s current protocol is unconstitutional because it does not provide for the provision of medical care, or the resuscitation of a prisoner in the event of a failed execution in violation of the Eighth Amendment to the United States Constitution and Article I of the Tennessee Constitution, §§ 8, 13, 16, and 32.

All prisoners have the constitutional right to comprehensive medical care during their incarceration. *Estelle v. Gamble*, 429 U.S. 97, 102 (1976). That constitutional right continues to apply during any attempt to execute a prisoner. “If a prisoner survives an attempt at execution but suffers sub-lethal injuries that, without treatment, will or may lead to death or disability, that prisoner must receive medical care,

⁴³ Ex. 4D, Travis Loller, *Tennessee fails to execute Tony Carruthers after IV difficulties. State won’t try again for a year*, Associated Press (May 21, 2026).

⁴⁴ *Id.*

and the warden is under a duty to provide it.”⁴⁵ “If a prisoner survives an execution attempt, the duty requiring the delivery of necessary health care is revived, if it was ever set aside.”⁴⁶ This also applies to other execution methods, including the electric chair, that may involve a lingering death. *See In re Kimmner*, 136 U.S. 436, 447 (1890).

Accordingly, the United States Constitution and Tennessee Constitution require the Respondents to have in place the capacity to resuscitate a prisoner. A resuscitation team should include a physician “not in the employ of TDOC” with “unrestricted access to the technique of execution to plan all the necessary countermeasures for the best chance at reviving the prisoner.”⁴⁷ Additionally, an “ICU ambulance must be on hand to deliver the full measure of necessary resuscitative measures.”⁴⁸

The current lethal injection protocol does not provide for the provision of medical care or resuscitation in the event of a failed execution, whether it is by electrocution or lethal injection. Rather, the current protocol requires that the steps initiating the execution be repeated. The Respondents have no procedure to evaluate the cause of the failure of the first attempt. Nor does the protocol have a procedure to do so. Rather, in the event the first attempt fails to execute the prisoner,

⁴⁵ Ex. 5 at p. 220A ¶ 12.

⁴⁶ *Id.* at p. 221A ¶ 14.

⁴⁷ *Id.* at p. 221A ¶ 15.

⁴⁸ *Id.* at p. 221A ¶ 16.

the current protocol requires the preceding steps to be repeated. There is precedent for a contingency procedure in the execution protocol in the State of Arizona.⁴⁹

Considering the Respondents botched Carruthers' execution and that Black showed cardiac activity after he was pronounced dead, the implementation of medical care provisions are a necessity. Carruthers' execution could have gone far differently. Attempting to execute Pike without a procedure or mechanism to provide medical care or resuscitation makes it sure or very likely that her execution will result in unnecessary and superadded pain and suffering, terror, and disgrace or lingering death of the kind suffered by Black and Carruthers.

IV. The imposition of a fourteen-day isolation period is arbitrary and capricious and violates the First, Eighth, and Fourteenth Amendments to the United States Constitution and Article I of the Tennessee Constitution, §§ 8, 13, 16, 17, 19, and 32.

Requiring Pike to select a method of execution violates her rights under the First, Eighth, and Fourteenth Amendments to the United States Constitution and Article I of the Tennessee Constitution, §§ 8, 13, 16, 17, 19, and 32. That violation is twofold here. The selection of electrocution results in an isolation or "death watch" period of three days. The selection of lethal injection results in an isolation period of fourteen days. If Pike refuses to choose a method of execution for any reason, the default method is lethal injection. The Supreme Court has held it is

⁴⁹ See App'x., Ex. 8, Ariz. Dep't of Corrs., Rehab. & Reentry, Dep't Ord. Manual, 710 Execution Procs. (May 20, 2025).

“intolerable that one constitutional right should have been surrendered in order to assert another.” *Simmons v. United States*, 390 U.S. 377, 394 (1968). But that is exactly what the current lethal injection protocol requires. Pike must select a method of execution in violation of some of her constitutional rights (First, Eighth, and Fourteenth Amendments) to assert her constitutional right not to be forced into isolation for fourteen days (Eighth Amendment).

The distinction itself is arbitrary and capricious, serves no legitimate purpose, has no rational relation to any government purpose, and violates her rights under the First, Eighth, and Fourteenth Amendments to the United States Constitution and Article I of the Tennessee Constitution, §§ 8, 13, 16, 17, 19, and 32. It is “patently unconstitutional” for the government to take an action that has “no purpose or effect than to chill the assertion of constitutional rights by penalizing those who exercise them.” *United States v. Jackson*, 390 U.S. 570, 582 (1968).

The isolation of Pike for fourteen days is also cruel and unusual punishment given her unique medical conditions. Specifically, Pike’s bipolar disorder and PTSD make it sure or very likely that her isolation will result in unnecessary and superadded pain and suffering, terror, and disgrace. The protocol requires Pike to be placed in the vulnerable position of being isolated and observed constantly by male guards, removed from the women’s prison, taken to the men’s prison, and again isolated and observed by male guards. This forced and arbitrary isolation will trigger Pike’s PTSD and torture her in the two weeks before her execution and/or lead to mental decompensation. *See Grayson*, 121 F.4th at 900 n. 3 (there “may exist a form of execution that induced

psychological terror or pain that is severe enough to support an Eighth Amendment claim.”).

The two-week isolation period will traumatize Pike in another meaningful way: Pike spent nearly 30 years in solitary confinement.⁵⁰ A return to that form of isolation “goes far beyond what any sentence requires. She will not simply be put to death. [Pike] will be returned, in her final hours, to the terror that defined her life. What awaits her is not only death. It is, for [Pike], a form of dying that is uniquely and needlessly cruel. And it is avoidable.”⁵¹ It also makes it sure or very likely that her mental health will deteriorate to the point of loss of agency and incompetency to withstand execution. *See Ford v. Wainwright*, 477 U.S. 399 (1986); *Panetti v. Quarterman*, 551 U.S. 930, 932 (2007).

V. Tennessee’s current protocol discriminates against Pike based on her sincerely held religious beliefs in violation of the First and Fourteenth Amendments to the United States Constitution and Article I of the Tennessee Constitution, § 19.

States “have no license to declare . . . whether an adherent has correctly perceived the commands of his religion.” *Hoffman v. Wescott*, 145 S. Ct. 797 (Mar. 18, 2025) (Gorsuch, J., dissenting). The current protocol also discriminates against Pike based on her sincerely held

⁵⁰ See App’x., Ex. 9, Steven Hale, *Court Settlement Ends Isolation for the Only Woman on Tennessee’s Death Row*, Nashville Banner (Sept. 17, 2024).

⁵¹ Ex. 6 at p. 230A.

religious belief of Buddhism. Specifically, the current protocol prohibits clergy from being in the execution chamber during Pike's execution.⁵² The prohibition does not further any compelling governmental interest, nor is it the least restrictive means of furthering a compelling governmental interest should one exist.

The prohibition on clergy in the execution chamber places a substantial burden on Pike's religious exercise, discriminates against her exercise of religion and sincerely held religious beliefs, and creates an unreasonable limitation on her exercise of religion in violation of Pike's rights under the First Amendment of the United States Constitution, Article I of the Tennessee Constitution, the Religious Freedom Restoration Act of 1993 (RFRA), the Tennessee Preservation of Religious Freedom Act codified at Tennessee Code Annotated § 4-1-407, and the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), and treats her unequally compared to other death-sentenced prisoners in violation of the Fourteenth Amendment.

VI. Tennessee's current protocol violates Pike's right to petition for redress under the First, Fifth, Eighth and Fourteenth Amendments to the United States Constitution and Article I of the Tennessee Constitution, §§ 8, 13, 17, 19, and 32.

As the Respondents were botching Carruthers' execution by repeatedly stabbing him in an attempt to place a second IV line, counsel

⁵² Spiritual advisors and clergy have been permitted to attend executions pursuant to the current protocol; however, no such offer has been made to Pike at any point during this litigation.

for Carruthers sought telephone access to alert co-counsel and the courts. According to first-hand reporting, counsel was not permitted to access the telephone in the execution chamber, nor the telephone in the media room. And neither the Warden nor counsel for the State permitted her to use the cellphones they were allowed to carry. Rather, the Respondents in a rushed and haphazard manner required counsel for Carruthers to access a phone hooked up in the midst of his botch. Fortunately, counsel for Carruthers wrote telephone numbers on her arm because she was not allowed to bring in any papers or a cellphone with her during the execution.

The right of access to the courts flows from the First, Eighth, and Fourteenth Amendments to the United States Constitution and Article I of the Tennessee Constitution, § 8, 13, 17, 19, and 32. Pike has a constitutional right to seek redress by asserting rights that she believes violate the Eighth Amendment up to, and during her execution. The violation of Pike's right against cruel and unusual punishment may not arise until the actual day, hour, or time of execution. Counsel must be able to gain immediate access to a telephone before and during Pike's execution so that they may contact the courts to protect her right against cruel and unusual punishment of the kind experienced by Carruthers. Counsel must also have access to the appropriate telephone numbers she will need to call. The current protocol makes no provision for immediate access to a telephone or use of a cellphone by the prisoner's counsel. As events in the Carruthers attempted execution show, assurances by the Respondents that counsel will have access are not enough. The restriction substantially burdens Pike's constitutional rights and serves no

legitimate government interest. Nor is the restriction narrowly tailored to serve a government interest, should one exist.

Conclusion

Accordingly, Pike requests that this Court:

1. Appoint a Special Master pursuant to Rule 12(4)(E) and Tennessee Rule of Civil Procedure 53 to develop the facts to support these claims.
2. Declare that the current protocol, as applied to Pike, is unconstitutional under the Tennessee Constitution and the First, Eighth, and Fourteenth Amendments to the United States Constitution and issue a permanent injunction against use of the current lethal injection protocol against Pike.
3. Declare that the Respondents must implement a contingency plan in the case that an execution is botched, and that life-saving medical procedures be administered if death does not result within five minutes of the beginning of the execution. This should apply to any form of execution, including electrocution and lethal injection.
4. Declare that the current lethal injection protocol, as applied to Pike, is cruel and unusual punishment under the Eighth Amendment and issue a permanent injunction against use of the current lethal injection protocol against Pike.
5. Declare that the fourteen-day isolation period is unconstitutional on its face and as applied to Pike under the

First, Fourteenth, and Eighth Amendments and issue a permanent injunction preventing the Respondents from imposing the same.

6. Declare that counsel for Pike be able to gain immediate access to a phone and all telephone numbers in the execution chamber or media room before, during, and after Pike's execution or, in the alternative, be able to bring a cellphone into the prison like the Warden and Assistant Attorney General.
7. Reconsider this Court's denial of Pike's request for a certificate of commutation and grant the request in light of the evidence presented in support of this motion.
8. Any other relief warranted in this Court's discretion.

PART II

Introduction

There is no dispute that this Court has the “inherent power to promulgate rules governing the practice and procedure of the courts of this state.” *State v. Mallard*, 40 S.W.3d 473, 481 (Tenn. 2001). Typically, the Court goes through the normal rulemaking process because “it provides for a broader discussion and examination of the policies at issue and allows for input from the advisory commission . . . and members of the bench, bar, and general public.” *Borngne ex rel. Hyter v. Chattanooga-Hamilton Cnty. Hosp. Auth.*, 671 S.W.3d 476, 502 (Tenn. 2023) (Campbell, J., concurring). Indeed, promulgating rules by “judicial fiat’

rather than the ordinary rulemaking process deprives the Court of meaningful input from all relevant stakeholders.” *Id.*

Tennessee Supreme Court Rule 12(4)(E) was promulgated without notice, without comment, and without feedback from stakeholders, including the many capital certified lawyers in Tennessee, nor the three government-funded organizations that exclusively represent capital prisoners. The rule has led to confusion: uncertainty about when it applies and when it does not; what effect it has on the statute of limitations, if any, for challenging a method of execution; whether it only applies to claims that may affect the timing and method of execution, or whether it applies to all claims a petitioner may raise when challenging a method of execution; whether the motion initiates a civil action; whether it can be filed at any point prior to an execution; or whether this Court can deny the motion outright even though it raises colorable claims of constitutional violations.

At best, the rule is arbitrary or improvident. *See Barger v. Brock*, 535 S.W.2d 337, 342 (Tenn. 1976). At worst it is unlawful and unconstitutional. “When any individual deems any Rule of Court to be objectionable from any standpoint, it is his privilege to petition the Court for its elimination or modification. Indeed, it is the duty of the solicitors at the Bar of this Court to make suggestions and recommendations on the orderly administration of the appellate judicial process.” *Id.* This Court should reconsider or amend Rule 12(4)(E).

Argument

Rule 12(4)(E) restricts the fundamental right of prisoners to challenge the State's method of execution. It provides, in relevant part:

After a date of execution is set, any state court collateral litigation that would potentially affect the method or timing of execution must commence with the filing of a motion in this Court. Any response to the motion must be filed within five (5) days of the motion, unless a different response time is ordered by the Court. If the collateral litigation may involve fact-finding, the moving party must request the appointment of a special master, consistent with the procedures outlined in Tennessee Rule of Civil Procedure 53. Any response in opposition to the motion for a special master must be filed within five (5) days of the motion, unless a different response time is ordered by the Court. If the Court grants the motion for a special master, the Court may appoint a special master, consistent with the procedures outlined in Rule 53. Any objection to the findings of the special master shall be by motion filed in this Court not later than five (5) days after being served with notice of the filing of the report, unless a different response time is ordered by the Court.

This Court regularly seeks comments on substantial changes to the way in which lawyers practice law in Tennessee. *See Borngne*, 671 S.W.3d at 502 (Campbell, J., concurring). A rule that restricts a death-sentenced prisoner's fundamental right of access to the courts under the Tennessee and United States Constitutions should be subject to the "broad discussions and examination" and "meaningful input" from all relevant stakeholders. *Id.*

I. Rule 12(4)(E) is unlawful and unconstitutional in violation of the United States and Tennessee Constitutions.

Rule 12(4)(E) violates the Tennessee Constitution. Specifically, Article VI, section 2 expressly provides that the jurisdiction of this Court is “appellate only.” Tenn. Const., art. VI, § 2. *See Ruckart v. Schubert*, 443 S.W.2d 466 (Tenn. 1969) (jurisdiction can only be exercised upon questions and issues tried and adjudged by inferior courts); *State v. Bank of East Tenn.*, 37 Tenn. 573 (Tenn. 1858); *State ex rel. Conner v. Herbert*, 154 S.W. 957 (Tenn. 1912) (Tennessee Constitution deprives supreme court of all original jurisdiction, and the General Assembly has no power to confer such jurisdiction upon it); *Moore v. Love*, 107 S.W.2d 982, 987 (Tenn. 1936).

Article VI, section 2 provides two exceptions to the “appellate jurisdiction” limitation, but neither applies here. First, “restrictions and regulations . . . prescribed by law,”— i.e., passed through the General Assembly. But Rule 12(4)(E) expressly violates the statutory authority conveyed on the Court by the General Assembly. Second, the phrase “other jurisdiction as is now conferred by law on the present Supreme Court” refers to the powers of the court at the time of the 1870 adoption of Article VI, section 2.

Additionally, rules adopted by this Court must be presented to and approved by the Tennessee General Assembly. Tenn. Code Ann. § 16-3-404. *See also Borngne*, 671 S.W.3d at 502. Rule 12(4)(E) has not and is not effective until so.

Furthermore, Rule 12(4)(E) alters the substantive rights of death row prisoners seeking to challenge a method of execution. Specifically, Tennessee Code Annotated § 16-3-403 provides that a rule prescribed by this Court “shall not abridge, enlarge or modify any substantive right, and shall be consistent with the constitutions of the United States and Tennessee.” Rule 12(4)(E) does the opposite: it eliminates a prisoner’s substantive right to challenge a method of execution in the courts of this state. Both Article I of the Tennessee Constitution and the Fourteenth Amendment to the United States Constitution protect the fundamental right of access to the courts. The Tennessee Constitution provides that “all courts shall be open,” and that “every man . . . shall have remedy by due course of law.” Tenn. Const., art. I, § 17. That section also provides that suits against the State of Tennessee “may be brought . . . in such manner and in such courts as the Legislature may by law direct.” *Id.* The General Assembly has not conferred power on this Court to grant itself original jurisdiction nor to promulgate any rules portending to do so.

The Fourteenth Amendment similarly provides a fundamental right of access to the courts. A right is fundamental when it is “explicitly or implicitly guaranteed by the Constitution.” *San Antonio Ind. School Dist. v. Rodriguez*, 411 U.S. 1, 33–34 (1973). An infringement of a fundamental right need not be direct. Mere interference is enough if it “substantially deters the exercise of the right or makes the exercise of the right materially more difficult.” *Att’y Gen. of New York v. Soto-Lopez*, 476 U.S. 898, 903 (1986). The United States Supreme Court has endorsed this fundamental right. *See Griffin v. Illinois*, 351 U.S. 12, (1956); *Douglas v.*

California, 372 U.S. 353 (1963); *Ross v. Moffitt*, 417 U.S. 600 (1974); *Ake v. Oklahoma*, 470 U.S. 68 (1986); *Boddie v. Connecticut*, 401 U.S. 371 (1971).

The rule is also unclear on whether prisoners must bring claims, like Pike does here, alleging violations of constitutional rights that do not affect the method or timing of an execution in a Rule 12(4)(E) motion, or if those claims may still be brought by filing a civil action. Methods of execution challenges impact more than just the method or timing of execution and may include claims of: First Amendment rights to the free exercise of religion or right of redress; Eighth Amendment rights to be free from a tortuous execution or the procedures (like isolation) surrounding it; Fourteenth Amendment rights of access to the courts, due process, and equal protection. A rule that strips a prisoner from vindicating a substantive right under the Constitution is unlawful and unconstitutional.

II. Rule 12(4)(E) is an unlawful amendment to Tennessee Rule of Civil Procedure 3.

The Rule also unlawfully amends Tennessee Rule of Civil Procedure 3. That rule provides that civil actions “are commenced by filing a complaint with the clerk of court,” “within the meaning of any statute of limitations.” Tenn. R. Civ. P. 3. Amendments to the Rules of Civil Procedure, like this Court’s rules themselves, must be presented to and approved by the Tennessee General Assembly. Tenn. Code Ann. § 16-3-404. Tennessee Supreme Court Rule 12(4)(E) circumscribed this process and constitutes an unlawful amendment to the Tennessee Rules

of Civil Procedure because it creates a new and exclusive mechanism to “commence an action.” In other words, Rule 12(4)(E) effectively repeals Tennessee Rule of Civil Procedure 3 or, at best, creates an exception for one type of case.

The unlawful amendment to the Tennessee Rules of Civil Procedure seeks to strip Pike of her constitutional rights. It is unconstitutional based on the authority prescribed to this Court by the Tennessee and United States Constitutions and the express statutory authority granted to this Court by the General Assembly.

III. Rule 12(4)(E) violates due process because it is unconstitutionally vague.

The Rule also violates Article I of the Tennessee Constitution, §§ 8 and 17, and the Due Process Clause of the Fifth and Fourteenth Amendments to the United States Constitution because it is unconstitutionally vague. *See Pike v. State of N.J.*, 306 U.S. 451, 452 (1939) (vague statutes are “repugnant to the due process clause of the Fourteenth Amendment”). A law is unconstitutionally vague when it “(1) ‘fails to provide people of ordinary intelligence a reasonable opportunity to understand what conduct it prohibits’ or (2) ‘authorizes or even encourages arbitrary and discriminatory enforcement.’” *Platt v. Bd. of Commr’s on Grievances and Discipline*, 894 F.3d 235, 246 (6th Cir. 2018) (citing *Hill v. Colorado*, 530 U.S. 703, 732 (2000)). The standard must be strictly applied where, as here, certain fundamental rights are imperiled by the vague statute. *See Vill. of Hoffman Ests. v. Flipside, Hoffman Ests., Inc.*, 455 U.S. 489, 498–99 (1982).

The Tennessee General Assembly and the Tennessee Rules of Civil Procedure expressly provide for the process by which citizens of Tennessee can bring lawsuits. This Court's end-around of the express process provided by the legislature is unconstitutional.

Rule 12(4)(E) is vague as to when it applies and when it does not; what effect it has on the statute of limitations, if any, for challenging a method of execution; whether it only applies to claims that may affect the timing and method of execution, or whether it applies to all claims a petitioner may raise when challenging a method of execution; whether the motion initiates a civil action; whether it can be filed at any point prior to an execution; or whether this Court can deny the motion outright even though it raises colorable claims of constitutional violations.

Rule 12(4)(E) is also vague as to the specific sequence a challenge must take. It provides no standard of review, no process for how the case should proceed, no allocation of burden of proof, or what factors a petitioner must satisfy to have the motion granted or a Special Master appointed. That type of arbitrariness is unconstitutional. *See Dambrot v. Cent. Michigan Univ.*, 55 F.3d 1177, 1184 (6th Cir. 1995) (Such an “unrestricted delegation of power . . . invites arbitrary, discriminatory and overzealous enforcement.”).

Furthermore, in *Hill v. McDonough*, 547 U.S. 573 (2006), the United States Supreme Court held that methods of execution challenges fell exclusively under § 1983. And in *Heck v. Humphrey*, 512 U.S. 477 (1994), the Court held that § 1983 could not be used to challenge the validity of a prior conviction or sentence to seek release or monetary

damages because such a lawsuit would be a *collateral attack* on the conviction. Recently, in *Olivier v. City of Brandon*, 146 S. Ct. 916 (Mar. 20, 2026) the Court held that where the relief sought is prospective, the litigation is not collateral.

Rule 12(4)(E) upends three decades of Supreme Court precedent by making this Court the court of sole jurisdiction for methods of execution challenges. Those types of challenges properly sound in § 1983 and require the initiation of a civil action. Pike does not challenge the validity of her conviction or sentence. The relief she requests is prospective and, thus, *not* collateral. *See Olivier*, 146 S. Ct. 916 (Mar. 20, 2026). Additionally, Carruthers filed two motions with this Court under Rule 12(4)(E). Each would not only have affected the method or timing of his execution, a requirement under Rule 12(4)(E), but would have challenged the validity of his conviction—this is textbook collateral litigation. However, this Court denied both motions as improper.

This Court should reconsider or modify Rule 12(4)(E) to provide clarification on these issues.

IV. Rule 12(4)(E) is an unconstitutional taking and violates due process because it extinguishes an already vested cause of action.

Rule 12(4)(E) is also an unconstitutional “taking” in violation of Article I of the Tennessee Constitution, §§ 8 and 17, the Due Process Clause of the Fourteenth Amendment, and the Takings Clause of the Fifth Amendment to the United States Constitution. *See Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 428 (1982) (construing a taking to

reach abstract rights). Rule 12(4)(E) extinguishes an already-vested cause of action expressly provided by state and federal statute, the Tennessee Rules of Civil Procedure, and the Tennessee and United States Constitutions by forcing Pike to comply with an opaque and vague process to vindicate her fundamental rights.

As such, the rule is unlawful and unconstitutional, and this Court must reconsider or amend it.

Respectfully submitted,

FEDERAL DEFENDER SERVICES
OF EASTERN TENNESSEE, INC.

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CERTIFICATE OF COMPLIANCE

In accordance with Tenn. R. App. P. 30(e) of Tenn. Sup. Ct. R. 46 § 3.02, the total number of words in this brief, exclusive of the Title/Cover page, Table of Contents, Table of Authorities, Attorney Signature Block, and this Certificate of Compliance is 10,387. This word count is based upon the word processing system used to prepare this brief.

/s/ Luke P. Ihnen
Luke P. Ihnen
Assistant Federal Defender

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document was filed and served via the Court's electronic filing system on the 12th day of June 2026.

/s/ Luke P. Ihnen
Luke P. Ihnen
Assistant Federal Defender

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TENNESSEE LETHAL INJECTION PROTOCOL INVESTIGATION

REPORT AND FINDINGS

*Confidential Attorney-Client Communication
And Attorney Work Product*

DECEMBER 13, 2022

INVESTIGATIVE REPORT

*Confidential Attorney-Client Communication
And Attorney Work Product*

To: Governor Bill Lee

From: Butler Snow LLP

Date: December 13, 2022

Subject: Tennessee Lethal Injection Protocol Investigation – Report
and Findings

Preamble

On or about May 2, 2022, Governor Bill Lee (“Governor Lee”) announced plans to conduct a third-party review into the circumstances that led him to issue a reprieve in connection with the April 21, 2022, scheduled execution of Oscar Franklin Smith (“Mr. Smith”). Subsequently, Butler Snow LLP (“Butler Snow”), led by Edward L. Stanton III, was retained to conduct an independent investigation.¹ Specifically, Governor Lee asked Butler Snow to conduct an independent review of the following:

- Circumstances that led to testing the lethal injection chemicals for only potency and sterility but not endotoxins [in connection with] preparing for the April 21 execution;
- Clarity of the lethal injection process manual that was last updated in 2018, and adherence to testing policies since the update; and
- TDOC staffing considerations.²

This report contains an analysis of Butler Snow’s review into the foregoing areas outlined by Governor Lee. While some interviewees expressed opinions regarding the propriety of the death penalty or necessity of endotoxin testing in future protocols, Butler Snow was not asked to examine these issues and did not do so.

Throughout Butler Snow’s investigation, the State of Tennessee has demonstrated an unwavering commitment to transparency and accuracy. The Tennessee Department of Correction (“TDOC”) and the Office of the Tennessee Attorney General (the “Tennessee Attorney General’s Office”) consistently provided the investigative team with the information/documents they sought and gave them prompt access to all relevant employees requested to be interviewed in connection with the instant investigation.

¹ In addition to Edward L. Stanton III, the investigative team included S. Keenan Carter, Jennifer Svilar, and Alexa Ortiz Hadley.

² See **Exhibit 1**, Governor Lee’s May 2, 2022 Press Release.

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WITNESS INTERVIEW LIST

Tennessee Attorney General's Office

- 1 Herbert Slatery — Former Attorney General
- 2 Andrée Blumstein — Solicitor General
- 3 Rob Mitchell — Senior Assistant Attorney General
- 4 Scott Sutherland — Deputy Attorney General
- 5 Dianna Shew — Chief Deputy Attorney General

Tennessee Department of Corrections

- 6 Lisa Helton — Interim Commissioner
- 7 Debbie Inglis — Deputy Commissioner/General Counsel
- 8 Tony Mays — Riverbend Maximum Security Institution Warden
- 9 Kelly Young — Inspector General
- 10 Executioner
- 11 Drug Procurer
- 12 Richard Muckle — Special Assistant to the Commissioner
- 13 Tony Parker — Former Commissioner

Pharmacy

- 14 Former Pharmacy Owner
- 15 Pharmacist
- 16 Current Pharmacy Owner

Reprieve Organization

- 17 Maya Foa — Joint Executive Director
- 18 Blaire Andres — Head of death penalty projects (United States)

Federal Community Defender Office for the Eastern District of Pennsylvania

- 19 Alex Kursman —Assistant Federal Defender (Capital Habeas Corpus Unit)
- 20 Hayden Nelson-Major — Research/Writing Attorney (Capital Habeas Corpus Unit)

Federal Public Defender for the Middle District of Tennessee

- 21 Kelley Henry — Supervisory Assistant Federal Public Defender
- 22 Ben Leonard — Investigator

Bass, Berry & Sims PLC

- 23 David Esquivel
- 24 Jeremy Gunn
- 25 Sarah Miller

Brooklyn Law School

- 26 Alexis J. Hoag-Fordjour – Assistant Professor & Co-Director of the Center for
Criminal Justice

EXECUTIVE SUMMARY

As independent investigators, Butler Snow conducted an impartial and comprehensive review of all relevant evidence concerning the three areas referenced in Governor Lee’s May 2, 2022, press release. This report addresses all relevant policies/protocols, describes related investigative findings, and recommends specific steps to remedy and/or mitigate the likelihood of any issues recurring in the future. The investigative findings are premised on the following: witness interviews; in-depth historical research; an extensive and thorough review of thousands of pages of relevant documents; and an analysis of lethal injection chemical testing data.

Based on the evidence obtained in the investigation, Butler Snow made the following findings:

A. Circumstances that led to testing the lethal injection chemicals for only potency and sterility but not endotoxins [in connection with] preparing for the April 21 execution

- There is no evidence that any failure to test the lethal injection chemicals for endotoxins in connection with Mr. Smith’s scheduled execution on April 21 was intentional.
- There is no evidence that, when the State of Tennessee revised its lethal injection protocol in 2018, it ever provided the pharmacy tasked with testing Tennessee’s lethal injection chemicals with a copy of Tennessee’s lethal injection protocol.
- There is no evidence that, when the State of Tennessee revised its lethal injection protocol in 2018, any employee ever informed the pharmacy tasked with testing Tennessee’s lethal injection chemicals that it should conduct an endotoxin test on all lethal injection chemicals – until the eve of Mr. Smith’s scheduled execution on April 21.
- The evidence shows that the pharmacy tasked with testing Tennessee’s lethal injection chemicals only tested these chemicals for *potency and sterility*, because the pharmacy followed the United States Pharmacopeia testing guidelines, not Tennessee’s lethal injection protocol (which was never provided).

B. Clarity of the lethal injection process manual that was last updated in 2018, and adherence to testing policies since the update

- The evidence shows that the lethal injection chemicals used in the August 9, 2018, execution of Mr. Billy Ray Irick (“Mr. Irick”) were not tested for endotoxins. The evidence

further shows that the Midazolam used during Mr. Irick's execution was not tested for potency.

- The evidence shows that, although Edmund Zagorski ("Mr. Zagorski") was executed via electrocution on November 1, 2018, the lethal injection chemicals prepared in the event Mr. Zagorski changed his mind and opted to be executed by lethal injection were not tested in accordance with Tennessee's lethal injection protocol. The lethal injection chemicals were not tested for endotoxins and failed the potency testing.
- The evidence shows that, although David Earl Miller ("Mr. Miller") was executed via electrocution on December 6, 2018, the lethal injection chemicals prepared in the event Mr. Miller changed his mind and opted to be executed by lethal injection were not tested in accordance with Tennessee's lethal injection protocol. The lethal injection chemicals were not tested for endotoxins.
- The evidence shows that the lethal injection chemicals used in the May 16, 2019, execution of Mr. Donnie Edward Johnson ("Mr. Johnson") were not tested for endotoxins.
- The evidence shows that, although Stephen West ("Mr. West") was executed via electrocution on August 15, 2019, the lethal injection chemicals prepared in the event Mr. West changed his mind and opted to be executed by lethal injection were not tested in accordance with Tennessee's lethal injection protocol. The lethal injection chemicals were not tested for endotoxins.
- The evidence shows that, although Lee Hall ("Mr. Hall") was executed via electrocution on December 5, 2019, the lethal injection chemicals prepared in the event Mr. Hall changed his mind and opted to be executed by lethal injection were not tested in accordance with Tennessee's lethal injection protocol. The lethal injection chemicals were not tested for endotoxins.
- The evidence shows that, although Nicholas Sutton ("Mr. Sutton") was executed via electrocution on February 20, 2020, the lethal injection chemicals prepared in the event Mr. Sutton changed his mind and opted to be executed by lethal injection were not tested in accordance with Tennessee's lethal injection protocol. The lethal injection chemicals were not tested for endotoxins.

C. TDOC staffing considerations

- The evidence shows that TDOC leadership placed an inordinate amount of responsibility on the Drug Procurer without providing much, if any, professional guidance; resources; or assistance. Instead, TDOC leadership viewed the lethal injection process through a tunnel-vision, result-oriented lens rather than provide TDOC with the necessary guidance and counsel needed to ensure that Tennessee's lethal injection protocol was thorough, consistent, and followed.

I. METHODOLOGY AND SCOPE OF INDEPENDENT INVESTIGATION

Butler Snow's review of the issues referenced in Governor Lee's May 2, 2022, press release involved the following steps:

- (1) Coordinating with the Tennessee Attorney General's Office to obtain relevant documents and interviewing various attorneys with pertinent information.
- (2) Coordinating with TDOC to obtain relevant documents and interviewing various members of the department with pertinent information.
- (3) Coordinating with the Pharmacy used to supply Tennessee's lethal injection chemicals to obtain relevant documents and interviewing Pharmacy personnel with relevant knowledge.
- (4) Collecting, organizing, reviewing, and analyzing relevant documents and data obtained from the Tennessee Attorney General's Office, TDOC, and the Pharmacy.
- (5) Conducting in excess of 25 interviews including, but not limited to, members of the Tennessee Attorney General's Office, TDOC, and the Pharmacy.

This report is organized in the following sections:

- Section II provides background history and information relating to the events that triggered the instant investigation, the adoption of Tennessee's lethal injection protocol, and TDOC's execution training.
- Section III provides an analysis of the three investigative areas: (1) circumstances surrounding the scheduled execution of Mr. Smith, (2) clarity of and adherence to the lethal injection protocol's testing policy since it was finalized in July 2018, and (3) TDOC staffing considerations.
- Section IV provides a summary of investigative findings and recommendations to address/correct the Tennessee lethal injection protocol shortcomings discussed herein.

II. RELEVANT FACTS AND BACKGROUND

This Section provides an overview of the facts surrounding Governor Lee's granting of a temporary reprieve to Mr. Smith.³ Additionally, this Section provides information on Tennessee's efforts to revise its Lethal Injection Protocols (hereinafter, the "Protocol") and to conduct

³ At age 40, Mr. Smith was convicted of murder in the October 1, 1989, killings of his estranged wife, Judy Robird Smith and her minor sons, Chad Burnett and Jason Burnett.

execution training at TDOC. This Section is intended for background purposes, and additional facts and analysis will follow in the subsequent portions of this Report.

A. Events Triggering Independent Investigation

On April 21, 2022, Mr. Smith was scheduled to be executed by lethal injection. The day before the execution, Mr. Smith's attorneys contacted TDOC's Deputy Commissioner of Administration and General Counsel, Debbie Inglis ("Ms. Inglis" or "Deputy Commissioner/General Counsel"), to confirm whether the lethal injection chemicals ("LIC") that would be used during Mr. Smith's execution had been properly tested in accordance with TDOC's LIC Protocol. TDOC determined that the LIC had not been tested for endotoxins⁴ as required by Tennessee's Lethal Injection Protocol (as revised, July 2018) ("July 2018 Protocol" or "current Protocol"). As a result, Governor Lee issued a temporary reprieve to Mr. Smith on April 21, and on May 2, Governor Lee called for an independent investigation, to be led by Edward L. Stanton, III of Butler Snow. Governor Lee outlined three areas of review:

1. Circumstances that led to testing the LIC for only potency and sterility but not endotoxins preparing for the April 21 execution;
2. Clarity of the lethal injection process manual (the Protocol) that was last updated in 2018, and adherence to testing policies since the update; and
3. TDOC staffing considerations.

B. Adoption of Tennessee's Lethal Injection Protocol

Over the years, the Protocol has been revised multiple times. These revisions include, but are not limited to, title changes, drug changes, format changes, testing requirements, and the addition of consciousness checks. This Section covers the changes pertaining to the LIC used for executions.

⁴ Bacterial endotoxin testing measures the presence and quantity of endotoxins in a particular sample. The "endo" in endotoxins refers to something that is within. The "toxin" component relates to something poisonous. Endotoxins come from the cell walls of gram-negative bacteria.

1. One-Drug Protocol and the Search for Pentobarbital

The Drug Procurer is responsible for obtaining the LIC that will be used in an execution by lethal injection.⁵ This position is not defined in any iteration of the Protocol, nor are the responsibilities of the role discussed in the Protocol. Based on instructions from former TDOC Commissioner Tony Parker (“Commissioner Parker”),⁶ TDOC’s Deputy Commissioner/General Counsel selected the current Drug Procurer in the summer of 2016. The same individual has served as Drug Procurer for all LIC executions following the enactment of the current Protocol in July 2018. The current Drug Procurer described it as an “off the books” role, as procuring LIC is not their⁷ sole responsibility with TDOC.⁸

Prior to the Drug Procurer assuming this role, TDOC carried out executions through a one-drug Protocol using a lethal dose of Pentobarbital. In creating this Protocol, TDOC consulted experts who recommended the one-drug Protocol. Accordingly, the Drug Procurer was specifically instructed, by Commissioner Parker, to locate a new source for Pentobarbital, because the compounding pharmacist TDOC previously used could no longer obtain it.

Because TDOC did not have any policies in place for procuring LIC,⁹ the Drug Procurer began conducting Google searches and making cold calls to active pharmaceutical ingredient (“API”) suppliers located in the United States. They were provided with no direction, just the directive to find a Pentobarbital source. In making calls, the Drug Procurer struggled to find a source to supply Pentobarbital, as pharmacies/manufacturers did not have the chemical; did not

⁵ Although the Drug Procurer is an essential role, its position and corresponding duties are noticeably absent from the current Protocol.

⁶ Commissioner Parker retired from his position as TDOC Commissioner effective on or about November 30, 2021.

⁷ With limited exceptions, this Report uses the pronoun “they” for all individuals referred to herein to preserve anonymity.

⁸ Drug Procurement is neither the job title nor primary role of any TDOC employee.

⁹ Another individual served in this role prior to the current appointee, but that individual is no longer employed with TDOC. The two did not exchange information about the responsibilities of the role.

have the quantity requested by TDOC;¹⁰ or did not want to be associated with lethal injection executions.¹¹ TDOC determined that other states were also facing difficulty when trying to locate a source for Pentobarbital. The Drug Procurer contacted at least one state to get information regarding locating a source for Pentobarbital, but that state did not provide any beneficial information.

In late 2016 to early 2017, the Drug Procurer cold-called a compounding pharmacy that was willing to help look for Pentobarbital and agreed to compound the drug if found. This is the same compounding pharmacy that currently supplies TDOC with compounded LIC based on the Pharmacy Services Agreement entered into with TDOC in 2017 (hereinafter, the “Pharmacy”).¹² The Drug Procurer’s primary point of contact was the Pharmacy’s owner.¹³ Before getting involved with TDOC, the Pharmacy’s owners and Pharmacist met to ensure that all individuals were willing to provide LIC (once found) to TDOC for use in executions. None of the individuals voiced any concern or indicated that the Pharmacy should not work with TDOC. As a result, the Pharmacy and Pharmacist undertook efforts to become licensed in Tennessee.

Efforts to find Pentobarbital continued even while the Pharmacy was awaiting licensure in Tennessee. The Pharmacy Owner reached out to various suppliers,¹⁴ but Pentobarbital was either only available in a small quantity, for limited purchasing only, or not available. The Pharmacy Owner found a potential source, but that source would have required the Pharmacy to sign an acknowledgment indicating the chemical would not be used for executions. As a result, the

¹⁰ Text messages between Drug Procurer and Pharmacy Owner, attached hereto as **Exhibit 2** at 2-3; Emails between Drug Procurer and potential suppliers, dated Apr. 4, 6, 2017 and June 20, 2018, attached hereto as **Exhibit 3**.

¹¹ See, e.g., Letter from Alvogen, Inc., dated Apr. 20, 2018, attached hereto as **Exhibit 4**; Letter from Hikma Pharmaceuticals USA Inc., dated Feb. 26, 2020, attached hereto as **Exhibit 5**; Letters from Sandoz, Inc., dated Aug. 15, 2019 and Aug. 2, 2018, attached hereto as **Exhibit 6**.

¹² Pharmacy Services Agreement, attached hereto as **Exhibit 21**.

¹³ The Pharmacy Owner left the Pharmacy in early 2020, and from that point forward, the Drug Procurer communicated with the Pharmacist directly.

¹⁴ Text messages between Drug Procurer and Pharmacy Owner, attached hereto as **Exhibit 2** at 3 (listing the following suppliers: Cardinal Health, McKesson, Medisca, PCCA, ANDA, Amerisource Bergen, Sigma Aldrich).

Pharmacy could not use the source. The Pharmacy Owner and Drug Procurer also considered the possibility of obtaining Pentobarbital from a veterinarian because “[t]hey sometimes have better access to it since it’s widely used for euthanasia in animals.”¹⁵ That effort never came to fruition.

It became clear to TDOC that it was extremely difficult finding a U.S.-based source that would provide Pentobarbital in the amount needed for use in lethal injection executions. The Drug Procurer and Pharmacy Owner also investigated whether the drug could be obtained from an international source and imported.¹⁶ It was ultimately determined that the United States Drug Enforcement Administration (“DEA”) would not allow Pentobarbital to be imported because it is a schedule II drug that was considered “readily available” in the United States.¹⁷

Even if considered “readily available” by the DEA, TDOC was unable to obtain Pentobarbital. Because Pentobarbital was unavailable, TDOC made the decision to adopt a three-drug Protocol. The Drug Procurer’s efforts to locate Pentobarbital continued into at least 2020,¹⁸ even after TDOC adopted its new three-drug Protocol and removed the Pentobarbital Protocol (identified as Protocol A) from TDOC’s current Protocol. Even today, TDOC officials prefer a one-drug protocol to the three-drug protocol.¹⁹ With a one-drug protocol, TDOC representatives told investigators there is a lower risk of mistake in carrying out an execution. Further, according to at least one TDOC official, the potential for mistakes also increases when more compounded LIC are used.

2. First Iteration of Three-Drug Protocol (January 2018)

Having been unable to obtain Pentobarbital for its then one-drug Protocol, in the Fall of 2017, TDOC began inquiring about developing a new three-drug Protocol. Commissioner Parker

¹⁵ Text messages between Drug Procurer and Pharmacy Owner, dated Apr. 6, 2017, attached hereto as **Exhibit 2** at 1.

¹⁶ Emails between Drug Procurer and Pharmacy Owner, dated May 15, 2019, attached hereto as **Exhibit 7**; Emails between Drug Procurer and Pharmacy Owner, dated July 20, 2017, attached hereto as **Exhibit 8**.

¹⁷ Emails between Drug Procurer and Pharmacy Owner, dated Oct. 30, 2019, attached hereto as **Exhibit 9**.

¹⁸ Handwritten Notes of Drug Procurer, dated Feb. 25, 2020, attached hereto as **Exhibit 10**.

¹⁹ Dep. Tr. of Debbie Inglis at 37-39, attached hereto as **Exhibit 11**.

did some research on his own but relied on his Deputy Commissioner/General Counsel, the Drug Procurer, and the Tennessee Attorney General's Office to establish the new, three-drug Protocol. Commissioner Parker reviewed the written Protocol but did not have any involvement in drafting it, including the portions that address testing of LIC, which he assumed were drafted in consultation with the Pharmacist.²⁰

In early September of 2017, the Drug Procurer informed the Pharmacy Owner that TDOC wanted "to try to find Midazolam and then go from there" if Midazolam was unavailable.²¹ The Pharmacy Owner responded that both Midazolam and Potassium Chloride were "readily available" and that they had "reviewed several protocols from states" with three-drug protocols that use those drugs along with a paralytic.²² The Pharmacy Owner voiced "concern with Midazolam," stating that "[b]eing a benzodiazepine, it does not elicit strong analgesic effects," meaning "[t]he subjects may be able to feel pain from the administration of the second and third drugs." The Drug Procurer agreed to "pass this info on to the higher ups."²³

Nevertheless, TDOC chose to proceed with a three-drug Protocol that included Midazolam, Vecuronium Bromide, and Potassium Chloride. The Drug Procurer notified the Pharmacy Owner of this decision on September 21, 2017 and asked various questions about the dosage for each, available quantity, cost, shelf life and storage conditions.²⁴ In response, the Pharmacy Owner explained that the Vecuronium Bromide was available in a powder which would require reconstituting, noted the "typical dosing" for Potassium Chloride, and advised on the quantity required for both.²⁵ The Pharmacy Owner further explained that "there would be no need to

²⁰ Commissioner Parker never spoke to the Pharmacist, as he was advised against such contact by TDOC's attorneys.

²¹ Emails between Drug Procurer and Pharmacy Owner, dated Sept. 7, 2017, attached hereto as **Exhibit 12**. (RE: Update)

²² *Id.*

²³ *Id.*

²⁴ Emails between Drug Procurer and Pharmacy Owner, dated Sept. 21, 2017, attached hereto as **Exhibit 13**.

²⁵ *Id.*

compound” at that point and that the commercially available drugs could be maintained at room temperature and would have a shelf life of one to two years.²⁶ The Drug Procurer communicated this information back to their TDOC superiors.

The Pharmacy began obtaining commercially-manufactured LIC in October 2017. According to the Pharmacy Owner, by October 18, 2017, the Pharmacy had received Midazolam that would expire in June 2018, Vecuronium Bromide that would expire in December 2018, and Potassium Chloride that would expire in May 2018.²⁷ On October 26, 2017, the Drug Procurer again asked the Pharmacy Owner for information on how the LIC needed to be stored as well as how to prepare them for injection.²⁸ The Pharmacy Owner replied that the LIC should be “stored in a secured location at room temperature (between 15 and 30 degrees [Celsius]),” and that they would instruct the Pharmacist to draft a protocol on how to prepare them.²⁹ The Pharmacy Owner also attached a proposed Pharmacy Services Agreement, which contained terms related to the Pharmacy’s provision of prescription medication and compounded preparations. The Pharmacy Owner and Drug Procurer discussed and made various changes to the terms of this Agreement, but the Pharmacy requirements related to compounding (including compliance with pharmaceutical standards, the United States Pharmacopoeia guidelines and accreditation departments) remained the same.

Around that same time, the Drug Procurer and Pharmacy Owner exchanged a draft of certain pages of the Protocol in development. In particular, the Drug Procurer provided the Pharmacy Owner with copies of six pages of the Protocol, including full sections entitled “Chemicals Used in Lethal Injection” and “Protocol B: Lethal Injection Chemical Set-Up and Preparation,” as well as one page of the section ultimately entitled “Chemical Administration and IV Monitoring.”³⁰ The Pharmacy Owner made one revision to these pages, changing the size of

²⁶ *Id.*

²⁷ Emails between Drug Procurer and Pharmacy Owner, dated Oct. 18, 2017, attached hereto as **Exhibit 14**.

²⁸ Emails between Drug Procurer and Pharmacy Owner, dated Oct. 26, 2017, attached hereto as **Exhibit 15**.

²⁹ *Id.*

³⁰ Edited Excerpt of Protocol, attached hereto as **Exhibit 16**.

the syringe used for administration of Potassium Chloride to reduce the number of syringes used in an execution from three to two. The Pharmacy Owner sent these revisions to the Drug Procurer on November 28, 2017, along with a signed copy of the finalized Pharmacy Services Agreement.³¹

As of December 2017, the Protocol had not yet been updated. In preparation for the transition to the new three-drug Protocol, by the end of 2017, TDOC had acquired a bulk order of commercially manufactured Midazolam, Vecuronium Bromide, and Potassium Chloride from the Pharmacy. This order kickstarted the first revision of the Protocol to add the three-drug protocol. The January 2018 version of the Protocol included both protocol alternatives using commercially-manufactured drugs: (A) lethal injection by Pentobarbital and (B) lethal injection by Midazolam, Vecuronium Bromide, and Potassium Chloride.

CHEMICALS USED IN LETHAL INJECTION	
The Department will use one of the following protocols as determined by the Commissioner:	
<u>Protocol A:</u>	
Pentobarbital	100 ml of a 50 mg/mL solution (a total of 5 grams)
<u>Protocol B:</u>	
Midazolam	100 ml of a 5mg/ml solution (a total of 500 mg)
Vecuronium Bromide	100 ml of a 1mg/ml solution (a total of 100 mg)
Potassium Chloride	120 ml of a 2 mEq/ml solution (a total of 240 mEq)

Protocol A was kept because TDOC's search for Pentobarbital was ongoing. Because the January 2018 Protocol does not provide for the use of compounded LIC, there is no discussion of testing in this version of the Protocol.

³¹ Emails between Drug Procurer and Pharmacy Owner, dated Nov. 28, 2017 through Dec. 4, 2017, attached hereto as **Exhibit 17**.

3. Revisions Ahead of July 2018 Protocol

Executions resumed under Tennessee’s current Protocol in mid-2018, beginning with the execution of Billy Ray Irick (“Mr. Irick”) on August 9, 2018. By this point, TDOC had Potassium Chloride and Vecuronium Bromide that would not expire until July 2019 and June 2020, respectively; however, the Midazolam it had previously acquired was scheduled to expire in June 2018, meaning TDOC would need to procure additional Midazolam for executions.³²

By the time TDOC began efforts to acquire additional Midazolam in 2018, the Pharmacy was no longer able to obtain it in a commercially manufactured form due to suppliers requesting assurances that the drug would not be used for executions. As a result, TDOC began ordering Midazolam in its API form to be compounded by the Pharmacy. Based upon information conveyed to investigators, compounded drugs—in contrast to their commercially manufactured counterparts—should undergo certain testing under pharmaceutical guidelines, have different storage and preparation requirements, and have a much shorter shelf life.

In July 2018, TDOC, in coordination with the Tennessee’s Attorney General’s Office, revised the initial three-drug Lethal Injection Protocol to include reference to these additional requirements where the LIC are compounded. TDOC also removed alternative “A” – the Pentobarbital protocol – given TDOC’s continued inability to obtain it.³³

³² LIC Inventory Page, dated Dec. 30, 2017, attached hereto as **Exhibit 18**.

³³ Edited Protocol, attached hereto as **Exhibit 19**.

CHEMICALS USED IN LETHAL INJECTION

The Department will use the following protocol for carrying out executions by lethal injection:

Midazolam	100 ml of a 5mg/ml solution (a total of 500 mg)
Vecuronium Bromide	100 ml of a 1mg/ml solution (a total of 100 mg)
Potassium Chloride	120 ml of a 2 mEq/ml solution (a total of 240 mEq)

Chemicals used in lethal injection executions will either be FDA-approved commercially manufactured drugs; or, shall be compounded preparations prepared in compliance with pharmaceutical standards consistent with the United States Pharmacopeia guidelines and accreditation Departments, and in accordance with applicable licensing regulations.

According to the Drug Procurer, they consulted the Pharmacy Owner in the course of TDOC's revision of the Protocol, particularly with respect to testing and storage requirements and compliance with the United States Pharmacopoeia ("USP") guidelines. The Drug Procurer told investigators that, the Pharmacy Owner recommended testing for sterility,³⁴ potency³⁵ and endotoxins for compounded LIC. Interestingly, both the Pharmacy Owner and Drug Procurer expressed the belief to investigators that sterility testing included endotoxin testing,³⁶ but according to the Pharmacist, there are separate tests for sterility and endotoxins. Further, the Pharmacist noted that USP Chapter 797 only requires testing for endotoxins when compounding more than 25 doses at a time. When compounding single-dose vials—as the Pharmacist does for TDOC—the Pharmacist understands that USP Chapter 797 does not require endotoxin testing and

³⁴ Sterility testing is used to confirm sterile products do not contain viable microorganisms before release and patient administration.

³⁵ Potency testing measures the concentration of the API. It is necessary to ensure the quality, safety, and efficiency of biopharmaceutical products.

³⁶ The Pharmacy Owner, like the Drug Procurer, is not a pharmacist and has had no pharmaceutical training. The Pharmacy Owner's medical training consists of on-the-job training as an orthopedic scrub technician.

only requires “skip lot” testing (i.e. testing approximately every other batch) for sterility and potency. Regardless, there is no dispute that TDOC’s current Protocol requires endotoxin testing.

4. July 2018 Protocol and Extra-Protocol Instructions

The resulting, revised Protocol requires a physician’s order for compounded drugs and requires the Pharmacist to compound the drugs “in a clean sterile environment in compliance with pharmaceutical standards for identity, strength, quality, and purity of the compounded drug that are consistent with the United States Pharmacopoeia guidelines and accreditation Departments and in accordance with applicable licensing regulations pertaining to pharmacies compounding sterile preparations.”³⁷ The current Protocol then references the Pharmacy Services Agreement, which contains nearly identical language.³⁸ The current Protocol further requires the Pharmacist to arrange for independent testing of compounded drugs for potency, sterility and endotoxins.³⁹ Finally, it defers to the Pharmacy’s directions, pharmaceutical standards, and the USP guidelines with respect to the transfer, storage and maintenance of compounded LIC,⁴⁰ as well as Pharmacy directions for preparing the syringes for use in an execution.⁴¹

Specific directions related to the preparation of syringes for compounded LIC were not included in the current Protocol itself. Instead, the Pharmacy provided the Drug Procurer with separate preparation instructions for Midazolam—the only compounded LIC in use at the time—in July 2018.⁴² Similarly, because compounded drugs must be transported and stored at below-

³⁷ July 2018 Protocol, attached hereto as **Exhibit 20** at 35.

³⁸ *Id.*

³⁹ *Id.* The testing requirements also appeared in a 2015 version of a Pharmacy Services Agreement that TDOC may have had with its previous compounding pharmacy. See Agreement, dated June 25, 2015, attached hereto as **Exhibit 21**. This language does not appear in the current Agreement between TDOC and the Pharmacy.

⁴⁰ July 2018 Protocol, **Exhibit 20** at 35.

⁴¹ *Id.* at 39.

⁴² Email from Pharmacy Owner to Drug Procurer, dated July 16, 2018, including Revised IV Protocol, attached hereto as collective **Exhibit 22**.

freezing temperatures, the Pharmacy also provided Directions for Unpacking and Storage⁴³ with each shipment of compounded LIC, which were packed with dry ice. The Midazolam Preparation Instructions require transfer of the compounded Midazolam from the freezer to the refrigerator 24 hours prior to use and explain how to prepare the syringe, which includes adding both Midazolam and saline solution to the syringe.⁴⁴ Neither the current Protocol nor these instructions explain how far in advance of an execution compounded LIC should be removed from the refrigerator and prepared in a syringe.⁴⁵

In advance of Mr. Irick's scheduled execution, on or about August 7, 2018,⁴⁶ the Pharmacy Owner and Pharmacist participated in a phone call with the Executioner and at least one intravenous ("IV") Team Member for the purpose of (1) explaining how to prepare the Midazolam, (2) explaining how to reconstitute the Vecuronium Bromide, and (3) answering questions from the Execution Team.

C. Execution Training

In order to carry out safe and effective executions, Riverbend Maximum Security Institution ("RMSI") conducts monthly practice drills.⁴⁷ Under the Protocol, members of the Execution Team simulate Day 3 (day of execution) of the death watch procedures for at least one hour per month.⁴⁸ The training may last longer if needed. Additional training is held within two

⁴³ Directions for Unpacking and Storage, attached hereto as **Exhibit 23**.

⁴⁴ Revised IV Protocol, **Exhibit 22** at 2-4.

⁴⁵ Drug Procurer asked Pharmacy Owner about this via text message on July 5, 2018, to which Pharmacy Owner responded "My assumption is that it would need to be used within an hour. I'll confirm with the pharmacist." Text Message between Drug Procurer and Pharmacy Owner, dated July 5, 2018, attached hereto as **Exhibit 24**.

⁴⁶ Emails between Pharmacy Owner and Pharmacist, dated Aug. 7, 2018, attached hereto as **Exhibit 25**; Text messages between Drug Procurer and Pharmacy Owner, dated Aug. 7, 2018, attached hereto as **Exhibit 26**

⁴⁷ As part of the investigation, Butler Snow's investigative team attended one of the monthly training sessions in person.

⁴⁸ Protocol, **Exhibit 20** at 32.

weeks before a scheduled execution, at which point RMSI conducts rehearsals at least twice per week.⁴⁹

As lethal injection is the primary method of execution in Tennessee, the monthly training focuses on the procedures for carrying out executions by lethal injection. Every quarter, RMSI also practices its procedures for carrying out executions by electrocution. If an execution by electrocution is scheduled, then the Execution Team will focus more on those procedures during the monthly training sessions. The Warden oversees all such training, and the TDOC Commissioner also attends many of the practices. All individuals who undergo the training are required to sign training rosters, which are maintained by TDOC.

During the lethal injection training, all steps of an execution are practiced with the following exceptions, as outlined in the Protocol:

- A. [TDOC staff] volunteers play the roles of the condemned inmate and the physician.
- B. Saline solution is substituted for the lethal chemicals.
- C. A body is not placed in the body bag.⁵⁰

Beyond monthly training, the Executioner receives initial and periodic instruction from a qualified medical professional.⁵¹ For instance, the Executioner and other members of the IV Team have received training on how to start an IV in case the emergency medical technicians (“EMTs”) are not available. During training, the IV Team practices pushing three syringes of saline, and because they cannot push the actual LIC, nor can they compound any LIC on hand, they simulate the remaining syringes.

⁴⁹ Protocol, **Exhibit 20** at 32.

⁵⁰ Protocol, **Exhibit 20** at 32.

⁵¹ Protocol, **Exhibit 20** at 32.

III. INVESTIGATIVE ANALYSIS

This section provides Butler Snow’s analysis of the facts learned through document review and investigative interviews based on the three areas of investigation provided by Governor Lee.

A. Circumstances Surrounding the Scheduled Execution of Oscar Franklin Smith

Oscar Franklin Smith was originally scheduled to be executed on June 4, 2020.⁵² Mr. Smith filed a motion to stay his execution due to the COVID-19 pandemic, and a stay was granted on April 17, 2020.⁵³ His execution was initially reset for February 4, 2021.⁵⁴ The COVID-19 stay was lifted, and Mr. Smith’s execution was reset for April 21, 2022.⁵⁵ On March 21, 2022, TDOC informed Mr. Smith that his execution would be carried out by lethal injection “according to the protocol and procedures in TDOC’s Lethal Injection Manual, as amended on July 5, 2018, using a three-drug combination consisting of Midazolam, Vecuronium Bromide, and Potassium Chloride.”⁵⁶

A physician’s prescription for Midazolam and Potassium Chloride was issued for Mr. Smith on March 16, 2022.⁵⁷ The Pharmacy compounded the Midazolam and Potassium Chloride and sent samples to the independent testing laboratory⁵⁸ (the “Lab”) for sterility and potency testing on or about March 18 (Potassium Chloride) and April 6 (Midazolam) of 2022. The Potassium Chloride sample passed sterility testing on March 21, and the Midazolam sample passed

⁵² Order, *Smith v. State of Tennessee*, Case No. M2016-01869-SC-R11-PD, attached hereto as **Exhibit 27**.

⁵³ Notice – Order – Stay Execution (Death) Granted, *Smith v. State of Tennessee*, Case No. M2016-01869-SC-R11-PD, attached hereto as **Exhibit 28**.

⁵⁴ *Id.*

⁵⁵ Notice – Order (Other) – Miscellaneous (Sua Sponte), *Smith v. State of Tennessee*, Case No. M2016-01869-SC-R11-PD, attached hereto as **Exhibit 29**.

⁵⁶ Smith Notification Letter, dated Mar. 21, 2022, attached hereto as **Exhibit 30**.

⁵⁷ Smith Prescription, dated Mar. 16, 2022, attached hereto as **Exhibit 31**.

⁵⁸ The Pharmacy has used the same independent testing laboratory since it began working with TDOC.

sterility testing on April 20.⁵⁹ The Potassium Chloride sample yielded a within-range potency of 103% on March 31, and the Midazolam sample yielded a within-range potency of 102% on April 8. The Pharmacist subsequently provided the test results to the Drug Procurer.⁶⁰ The samples were not tested for endotoxins.

The LIC arrived at RMSI on or about April 12. On April 12, 14 and 18, lethal injection training was conducted at the prison.⁶¹ On April 20, the LIC were moved to the refrigerator for thawing prior to the execution. Also, on April 20, Mr. Smith’s attorney, Kelley Henry (“Ms. Henry”), sent an email to TDOC’s Deputy Commissioner/General Counsel (1) inquiring about whether the LIC to be used in Mr. Smith’s execution had been tested for “strength, sterility, stability, potency, and presence of endotoxins” and (2) requesting a copy of the test results.⁶² The Deputy Commissioner/General Counsel informed TDOC Interim Commissioner Lisa Helton (“Interim Commissioner Helton”) about Ms. Henry’s request.

The Deputy Commissioner/General Counsel forwarded the email to the Drug Procurer⁶³ to determine the status of the LIC testing. The Drug Procurer, in turn, contacted the Pharmacist on April 20 to determine if an endotoxin test had been conducted or if the endotoxin test was the same as sterility testing.⁶⁴ According to a text exchange between the Drug Procurer and the Pharmacist: “No endotoxin test, it’s a different test but based on USP 797 the amount we make isn’t required.

⁵⁹ Based on this date, the Pharmacist would have had to send the LIC to the Drug Procurer before the test results came back because the execution was scheduled for the following day (April 21), and the LIC must thaw for 24 hours before they can be used. Butler Snow did not find any evidence of when the LIC were sent for Mr. Smith’s execution.

⁶⁰ Testing Reports, dated Mar. 21, 31, and Apr. 8, 20, 2022, attached hereto as **Exhibit 32**.

⁶¹ *See supra* for a discussion of TDOC’s execution training protocols.

⁶² Email from K. Henry to D. Inglis, dated April 20, 2022, attached hereto as **Exhibit 33**. Ms. Henry also sent a follow-up email on April 21, 2022, at 5:50:42 PM, again requesting the testing results. A copy of this email is attached hereto as **Exhibit 34**. Later that same day, Ms. Henry sent an email asking TDOC to preserve all records, documents, drugs, and drug paraphernalia that were to be used in Mr. Smith’s execution. A copy of this email is attached hereto as **Exhibit 35**.

⁶³ Other individuals with TDOC and the Tennessee Attorney General’s office received the email, either by virtue of being cc’d or via forward.

⁶⁴ Text messages between Drug Procurer and Pharmacist, dated Apr. 20-21, 2022, attached hereto as **Exhibit 36**.

Is the endotoxin test requested? Sorry I didn't have it tested.”⁶⁵ The Drug Procurer indicated a belief that endotoxin testing had been done on prior occasions and that they would contact the Pharmacist on the following day to discuss the USP 797 guidelines.⁶⁶ Therefore, at least one TDOC employee was aware that no endotoxin testing had been conducted on the LIC during the evening of the day before Mr. Smith's scheduled execution.

1. Day of Execution: TDOC

On the morning of April 21, 2022, the Drug Procurer asked the Pharmacist whether the Lab still had samples and would be able to do the endotoxin testing that day.⁶⁷ The Pharmacist responded that the testing could not be done because they would have had to send extra samples for the Lab to do endotoxin testing.⁶⁸ Around lunchtime on April 21, TDOC employees who were to be involved in the execution gathered at Interim Commissioner Helton's residence for a final walk-through – which is customary on the scheduled day of an execution. During this time, there were also ongoing conversations between TDOC, the Tennessee Attorney General's Office, and Governor Lee's office. TDOC advised that if the LIC were not tested for endotoxins, then TDOC would need to ask Governor Lee for a reprieve. At that point, the Drug Procurer indicated that the testing was not required by USP guidelines. Even so, it was required by the current Protocol, and as such, TDOC would seek a reprieve because the Protocol was not followed. The Tennessee Attorney General's Office also recommended a reprieve.

During the afternoon of Mr. Smith's execution day, while the reprieve request was still being considered, the Execution Team needed to proceed as though the execution would go as scheduled. For instance, Execution Team members needed to take their stations, and the victims' family needed to be moved to their locations. Media representatives also were scheduled to be at RMSI for the execution. For this reason, Interim Commissioner Helton chose to move forward and

⁶⁵ *Id.*

⁶⁶ *Id.* The Pharmacist also testified in a deposition to having tested for endotoxins before, but as explained above, they only did endotoxin testing on the initial batch of Midazolam when they were testing the methodology.

⁶⁷ *Id.*

⁶⁸ *Id.*

continue preparing for the execution until the reprieve was issued. Around 4:30 PM CT, the Drug Procurer met the Executioner to get the LIC out of the refrigerator and transport the LIC to the Execution Chamber.⁶⁹ About 5:30 PM CT, the Execution Team began preparing the syringes to be used during the execution.

TDOC learned that the reprieve would be issued at 5:45 PM CT. Interim Commissioner Helton advised Warden Tony Mays, who told Mr. Smith about the reprieve. Mr. Smith's attorney and spiritual advisor were also present when the news was delivered. Interim Commissioner Helton also spoke with members of TDOC to assure them that they had done a good job preparing for the execution. Once the execution was called off, TDOC stopped setup of the LIC at approximately 5:51 PM CT.⁷⁰ The Execution Team had partially prepared the first (red) set of LIC (saline and Vecuronium Bromide) but had not yet mixed the compounded LIC. TDOC then undertook efforts to preserve the LIC and all documentation in the event of an investigation.⁷¹

2. Day of Execution: Tennessee's Attorney General's Office

Around 1:30 PM CT on April 21, 2022, members of the Tennessee Attorney General's Office met to review documents, review the Protocol, and discuss next steps. The Tennessee Attorney General's Office team concluded that they could not state that TDOC followed the Protocol in preparing for Mr. Smith's execution. Accordingly, the attorneys turned their focus to how best to respond to Mr. Smith's attorney's inquiry. They also spoke with the Pharmacist, who indicated that they had done endotoxin testing in the past but not for the LIC to be used in Mr. Smith's execution. At this point, the Pharmacist purportedly indicated that the lack of endotoxin testing was an "oversight."⁷² The group also spoke with the Drug Procurer, and one member of the Tennessee Attorney General's Office spoke with an expert, who was also a pharmacist and

⁶⁹ Text messages between Drug Procurer and Executioner, dated Apr. 21, 2022, attached hereto as **Exhibit 37**.

⁷⁰ Drug Procurer text messages, dated Apr. 20-22, 2022, attached hereto as **Exhibit 38**.

⁷¹ Inventory of Items Preserved from Apr. 21, 2022 Execution Prep, attached hereto as **Exhibit 39**.

⁷² The Pharmacist was clear when speaking to Butler Snow that only one endotoxin test had ever been performed because it was not required under the USP guidelines based on the amount of drugs compounded. The purpose of the one endotoxin test, performed in May 2018, was to test the Pharmacy's compounding methodology.

explained why endotoxin testing was important. After the reprieve was issued, members of the Tennessee Attorney General's Office were invited to the executive residence for a meeting with Governor Lee regarding the execution events.

3. Days Following Cancelled Execution

After issuing the reprieve in connection with Mr. Smith's execution, Governor Lee's office asked for a copy of the current Protocol and other documents that would aid in determining why the LIC were not tested for endotoxins. TDOC compiled the requested documents and provided them to Governor Lee's office. At some point between April 21 and 27, the question was raised regarding whether endotoxin testing had been conducted in connection with the lethal injection executions TDOC conducted as scheduled subsequent to adopting the July 2018 Protocol. The Pharmacist apparently had informed the Drug Procurer that they had not done endotoxin testing for any of the prior executions because the test was not required under USP guidelines. The Pharmacist indicated to Butler Snow that they were surprised when the Drug Procurer asked if endotoxin testing had been performed for the LIC for Mr. Smith's execution because they had never been asked to do endotoxin testing before. The Pharmacist was also unaware that endotoxin testing was part of the Protocol. In fact, Butler Snow has found no evidence that the current Protocol was ever provided to the Pharmacy. It appears that the Pharmacist was following the USP guidelines to determine what tests to conduct on the LIC, because TDOC never sent them the Protocol. The Pharmacist had no way of knowing TDOC finalized and implemented the Protocol. The Tennessee Attorney General's Office requested documents, including all LIC testing records. On April 22, 2022, the Tennessee Attorney General's Office received 31 pages of testing results dating back to 2018, although only 17 of those had been produced previously in litigation.

On April 24, in response to an inquiry from the Governor's office, the Drug Procurer provided the following information regarding TDOC's policies for lethal injection: (1) the Protocol does not require any additional testing of the LIC beyond the tests conducted by the Lab after the Pharmacy compounds the LIC; (2) there is no policy or procedure in place to address how the LIC test results are to be maintained following TDOC's receipt; (3) there is no log book to track periodic testing, since it is not required, but all third-party test results are received and maintained

by the Drug Procurer; and (4) there are no documents evidencing TDOC's review (yearly or otherwise) of the Protocol.⁷³

By April 27, it became clear that none of the LIC used and/or prepared for post-2018 executions had been tested for endotoxins. Further, TDOC learned that there were additional problems with the testing of the LIC used in Mr. Irick's execution in 2018 because there was also no potency testing completed.⁷⁴ The explanation provided by the Pharmacy Owner at the time was that the potency test conducted for the batch in May 2018 was good for the LIC provided for the scheduled execution of Mr. Irick in August 2018. Through the course of their post Mr. Smith reprieve dialogue with the Pharmacist, TDOC learned that this was in fact not true.

As stated earlier in this Report, there is no indication that TDOC provided the Pharmacy with a copy of the July 2018 Protocol, under which all of the executions covered in this Report were carried out. The Pharmacist did not conduct endotoxin testing unless it was requested, and TDOC did not specifically request endotoxin testing results until the day of Mr. Smith's execution. However, TDOC consistently only requested sterility and potency testing results from the Pharmacy in connection with each scheduled lethal injection execution.⁷⁵

B. Adherence to Protocol's Testing Policies Since Update in July 2018

Since the Protocol was updated in July 2018, there have been a total of seven executions, two of which were by lethal injection, and five of which were by electrocution.⁷⁶ Butler Snow's review of TDOC's adherence to the Protocol necessitated a review of each execution carried out by TDOC since adoption of the July 2018 Protocol. Butler Snow discovered that only one sample of Midazolam was ever tested for endotoxins, and no samples of Potassium Chloride were tested

⁷³ Emails between Gov. Lee's office and TDOC, dated Apr. 21-24, 2022, attached hereto as **Exhibit 40**.

⁷⁴ See *infra* for more information.

⁷⁵ TDOC likely did not request endotoxin testing because the Drug Procurer was operating under the mistaken belief that endotoxin testing was incorporated in the sterility testing.

⁷⁶ Executions by electrocution are covered under TDOC's Electrocution Protocol (updated March 13, 2017). These executions are only discussed here because, as explained above, TDOC decided to have LIC available for all executions, regardless of the method chosen by the condemned.

for endotoxins. The only endotoxin test was conducted in May 2018, a few months before Mr. Irick's execution. The following is an illustration of the LIC testing results during the relevant timeframe:

LIC Testing Results Spreadsheet

Test Date	Drug	Test	Results	Date Received	Inmate
5/22/2018	Midazolam	Suitability	Pass	5/10/2018	Irick
5/14/2018	Midazolam	Container Closure Integrity	Pass	5/10/2018	Irick
5/11/2018	Midazolam	Potency	97.00%	5/10/2018	Irick
5/11/2018	Midazolam	Bacterial Endotoxins	Pass	5/10/2018	Irick
5/25/2018	Midazolam	Sterility	Pass	5/10/2018	Irick
8/6/2018	Midazolam	Sterility	Pass	7/21/2018	Irick
9/24/2018	Midazolam	Potency	94.20%	9/22/2018	Zagorski
10/8/2018	Midazolam	Sterility	Pass	9/22/2018	Zagorski
11/7/2018	Midazolam	Potency	54.20%	10/27/2018	Zagorski
12/4/2018	Midazolam	Potency	89.40%	11/21/2018	Miller
12/5/2018	Midazolam	Sterility	Pass	11/21/2018	Miller
4/26/2019	Midazolam	Potency	104.00%	4/25/2019	Johnson
5/9/2019	Midazolam	Sterility	Pass	4/25/2019	Johnson
7/17/2019	Potassium Chloride	Potency	112.00%	7/16/2019	West
7/30/2019	Potassium Chloride	Sterility	Pass	7/16/2019	West
7/18/2019	Midazolam	Potency	92.40%	7/16/2019	West
7/30/2019	Midazolam	Sterility	Pass	7/16/2019	West
7/31/2019	Potassium Chloride	Suitability	Pass	7/26/2019	West
8/12/2019	Potassium Chloride	Potency	94.00%	8/6/2019	West
8/7/2019	Potassium Chloride	Potency	94.00%	8/6/2019	West
8/9/2019	Potassium Chloride	Sterility	Pass	8/6/2019	West
11/18/2019	Midazolam	Potency	114.00%	11/13/2019	Hall
11/22/2019	Midazolam	Potency	98.60%	11/21/2019	Hall
12/5/2019	Potassium Chloride	Potency	94.70%	12/2/2019	Hall
12/5/2019	Midazolam	Sterility	Pass	11/21/2019	Hall
12/16/2019	Potassium Chloride	Sterility	Pass	12/2/2019	Hall
1/17/2020	Potassium Chloride	Potency	104.00%	1/14/2020	Sutton
1/28/2020	Potassium Chloride	Sterility	Pass	1/14/2020	Sutton
1/27/2020	Midazolam	Potency	100.00%	1/14/2020	Sutton
1/28/2020	Midazolam	Sterility	Pass	1/14/2020	Sutton
7/21/2020	Potassium Chloride	Potency	99.50%	7/17/2020	Nichols

Test Date	Drug	Test	Results	Date Received	Inmate
7/21/2020	Midazolam	Potency	98.40%	7/17/2020	Nichols
7/31/2020	Midazolam	Sterility	Pass	7/17/2020	Nichols
7/31/2020	Potassium Chloride	Sterility	Pass	7/17/2020	Nichols
4/8/2022	Midazolam	Potency	102.00%	4/6/2022	Smith
4/20/2022	Midazolam	Sterility	Pass	4/6/2022	Smith
3/21/2022	Potassium Chloride	Sterility	Pass	3/18/2022	Smith
3/31/2022	Potassium Chloride	Potency	103.00%	3/22/2022	Smith

1. Billy Ray Irick

In May 2018, the Pharmacy sent a sample of its first compounded batch of Midazolam to the external Lab for testing. That sample was tested for method suitability,⁷⁷ container closure integrity,⁷⁸ potency, bacterial endotoxins, and sterility.⁷⁹ Although not all tests are required under the USP, the Pharmacist explained that they requested these tests for their first compounded batch to ensure their compounding process was sound. The sample passed each of the tests and yielded a within-range potency of 97%. It appears that this lot was essentially a “test run,” given that this was the first time the Pharmacy would be compounding Midazolam rather than ordering it in commercially manufactured form. According to the Pharmacy Owner—in text messages⁸⁰ with the Drug Procurer—passing the method suitability test indicates that the Pharmacy’s method for compounding the drug is sound and translates across multiple batches. However, passing results on one batch for potency, sterility, and endotoxins does not necessarily indicate that a subsequent batch will yield the same test results. Based on the 45-day shelf life of compounded Midazolam, the batch tested in May 2018 would have surpassed its beyond-use date prior to Mr. Irick’s execution date in August 2018.

⁷⁷ Method suitability testing is performed to determine whether any inhibitory or antimicrobial properties in a drug product will prevent the sterility test from detecting the presence of viable microorganisms.

⁷⁸ Container closure integrity testing is performed to evaluate the adequacy of a closure in maintaining a sterile barrier.

⁷⁹ Testing Reports, attached hereto as **Exhibit 41**.

⁸⁰ Text messages between Drug Procurer and Pharmacy Owner, dated Aug. 8, 2019, attached hereto as **Exhibit 42**.

A physician's prescription for Midazolam was issued for Mr. Irick on July 18, 2018,⁸¹ and the Pharmacy compounded the Midazolam on July 20.⁸² A sample of that lot was sent for testing on or about July 21, 2018.⁸³ This lot was tested for sterility on August 6, 2018 and passed,⁸⁴ and the Pharmacy Owner sent those test results to the Drug Procurer via email the same day.⁸⁵ Text messages between the Drug Procurer and the Pharmacy Owner indicate that, at TDOC's urging, the Pharmacy Owner shipped the Midazolam to TDOC before receiving those test results.⁸⁶

This lot of Midazolam was not tested for potency or endotoxins. When the sterility test came back, the Drug Procurer asked the Pharmacy Owner via text message about the potency results.⁸⁷ The Pharmacy Owner replied that the pharmacist did not request a potency verification given that our methodology and suitability passed in May with the same midazolam lot.⁸⁸ The Drug Procurer asked whether this indicated that "the potency portion is good for that whole 50-gram batch."⁸⁹ The Pharmacy Owner responded:

"Our methodology is good for any batch of midazolam. It just verifies that how we process the compound yields the intended dosing within an acceptable range. Potency testing isn't required for every lot, however, given the sensitive nature of

⁸¹ Irick Prescription, dated July 18, 2018, attached hereto as **Exhibit 43**.

⁸² Email from Pharmacy Owner to Drug Procurer, dated Aug. 8, 2018, including copy of Logged Formula Worksheet, dated July 20, 2018, attached hereto as **Exhibit 44**.

⁸³ Testing Report, dated Aug. 6, 2018, attached hereto as **Exhibit 45**.

⁸⁴ *Id.* (25)

⁸⁵ Email from Pharmacy Owner to Drug Procurer, dated Aug. 6, 2018, including copy of Testing Report, dated Aug. 6, 2018, attached hereto as **Exhibit 46**.

⁸⁶ Text messages between Drug Procurer and Pharmacy Owner, dated July 25-26, 2018, attached hereto as **Exhibit 47**.

⁸⁷ Text messages between Drug Procurer and Pharmacy Owner, attached hereto as **Exhibit 48**.

⁸⁸ *Id.*

⁸⁹ Text messages between Drug Procurer and Pharmacy Owner, dated Aug. 7, 2018, attached hereto as **Exhibit 49**.

its intended use, I have instructed [the Pharmacist] to request it every time moving forward.”⁹⁰

The Drug Procurer accepted this explanation and did not inform the Pharmacy Owner that a potency test was nevertheless required under the Protocol. It appears that this batch of Midazolam was used in the execution of Mr. Irick on August 9, 2018.

2. Edmund Zagorski

Edmund Zagorski (“Mr. Zagorski”) was initially scheduled to be executed on October 11, 2018 by lethal injection.⁹¹ A physician’s prescription for Midazolam was issued for Mr. Zagorski on September 21, 2018.⁹² Upon compounding the Midazolam, the Pharmacy sent a sample of that lot to the Lab for testing on or about September 22, which was tested for both sterility and potency.⁹³ While this testing was pending, the Drug Procurer asked the Pharmacy Owner “to go ahead and ship the latest batch” on September 25, which the Pharmacy Owner did.⁹⁴ The sample ultimately passed the sterility test and yielded a within-range potency of 94.2%.⁹⁵ The Pharmacy Owner sent these results to the Drug Procurer via email on October 10, 2018.⁹⁶ The sample was not tested for endotoxins.

On October 8, Mr. Zagorski apparently submitted an Affidavit Concerning Method of Execution purporting to waive his right to execution by lethal injection and electing to be executed

⁹⁰ *Id.*

⁹¹ Zagorski Notification Letter, dated Sept. 27, 2018, attached hereto as **Exhibit 50**.

⁹² Zagorski Prescription, dated Sept. 21, 2018, attached hereto as **Exhibit 51**.

⁹³ Testing Reports, dated Sept. 24 and Oct. 8, 2018, attached hereto as **Exhibit 52**.

⁹⁴ Text messages between Drug Procurer and Pharmacy Owner, dated Sept. 25, 2018, attached hereto as **Exhibit 53**.

⁹⁵ Testing Reports, dated Sept. 24 and Oct. 8, 2018, attached hereto as **Exhibit 54**.

⁹⁶ Email from Pharmacy Owner to Drug Procurer, dated Oct. 10, 2018, including Testing Report, attached hereto as **Exhibit 55**.

by electrocution instead.⁹⁷ Given this late change, then Tennessee Governor Bill Haslam issued a reprieve on October 11, which remained in effect until October 21.⁹⁸ Mr. Zagorski ultimately confirmed his decision to be executed by electrocution, to which TDOC agreed, and his execution was rescheduled for November 1. Nevertheless, although not explicitly required by the Protocol, TDOC made the decision from that point forward to obtain LIC for each execution in the event of a last-minute method change. Accordingly, a second physician's prescription for Midazolam was issued for Mr. Zagorski on October 24,⁹⁹ the Pharmacy compounded the Midazolam, and sent a sample to the Lab for sterility and potency testing on or about October 27.¹⁰⁰ The sample was not tested for endotoxins. By the time the potency test was completed on November 7—yielding a below-range result of 54.2%—Mr. Zagorski had already been executed by electrocution on November 1.

3. David Earl Miller

David Earl Miller (“Mr. Miller”) was scheduled to be executed on December 6, 2018, and TDOC notified Mr. Miller by letter dated November 21 that it planned to carry out this execution by lethal injection.¹⁰¹ A physician's prescription for Midazolam was issued for Mr. Miller on November 16,¹⁰² and the Pharmacy compounded the Midazolam and sent a sample to the Lab for sterility and potency testing on or about November 21.¹⁰³ Mr. Miller elected to be executed by electrocution on November 23.¹⁰⁴ The sample later passed sterility testing but yielded a below-

⁹⁷ Letter from D. Inglis to K. Henry re: *State of Tennessee v. Edmund Zagorski*, M1996-00110-SC-DPE-DD, dated Oct. 9, 2018, attached hereto as **Exhibit 56**.

⁹⁸ Zagorski Reprieve, dated Oct. 11, 2018, attached hereto as **Exhibit 57**.

⁹⁹ Second Zagorski Prescription, attached hereto as **Exhibit 58**.

¹⁰⁰ Testing Report, dated Nov. 7, 2018, attached hereto as **Exhibit 59**.

¹⁰¹ Miller Notification Letter, dated Nov. 21, 2018, attached hereto as **Exhibit 60**.

¹⁰² Miller Prescription, dated Nov. 16, 2018, attached hereto as **Exhibit 61**.

¹⁰³ Testing Reports, dated Dec. 4, 5, 2018, attached hereto as **Exhibit 62**.

¹⁰⁴ Miller Notification Letter signed by Miller, dated Nov. 23, 2018, attached hereto as **Exhibit 63**.

range potency of 89.4%.¹⁰⁵ The sample was not tested for endotoxins. The Midazolam was not used, as Mr. Miller was executed by electrocution on December 6 as scheduled.

4. Donnie Edward Johnson

Donnie Edward Johnson (“Mr. Johnson”) was scheduled to be executed on May 16, 2019 by lethal injection.¹⁰⁶ A physician’s prescription for Midazolam was issued for Mr. Johnson on April 17, 2019,¹⁰⁷ the Pharmacy compounded the Midazolam, and sent a sample to the Lab for sterility and potency testing on or about April 25.¹⁰⁸ The potency test came back first, on April 26, with a within-range result of 104%. The Pharmacy Owner sent this result to the Drug Procurer on April 29.¹⁰⁹ While the sterility test was still pending, the Drug Procurer asked the Pharmacy Owner via text message if they could send the Midazolam to TDOC early, stating “[It would] be good to go ahead and get it stored since next week will be execution week and a little hectic.”¹¹⁰ The Pharmacy Owner agreed and shipped the Midazolam on May 8 via priority overnight.¹¹¹ The package arrived and the sterility test came back the next day—May 9—with a passing result, which the Pharmacy Owner sent to the Drug Procurer.¹¹² The sample was not tested for endotoxins. Mr. Johnson was executed by lethal injection on May 16 as scheduled with the compounded Midazolam received from the Pharmacy and the unexpired, commercially-manufactured

¹⁰⁵ Testing Reports, **Exhibit 64**.

¹⁰⁶ Johnson Notification Letter, dated Apr. 16, 2019, attached hereto as **Exhibit 65**.

¹⁰⁷ Johnson Prescription, dated Apr. 17, 2019, attached hereto as **Exhibit 66**.

¹⁰⁸ Testing Reports, dated Apr. 26 and May 9, 2019, attached hereto as **Exhibit 67**.

¹⁰⁹ Email from Pharmacy Owner to Drug Procurer, dated Apr. 29, 2019, including Testing Report, attached hereto as **Exhibit 68**.

¹¹⁰ Text messages between Pharmacy Owner and Drug Procurer, dated May 8, 2019, attached hereto as **Exhibit 69**.

¹¹¹ Text messages between Pharmacy Owner and Drug Procurer, dated May 8, 2019, attached hereto as **Exhibit 70**.

¹¹² Text messages between Pharmacy Owner and Drug Procurer, dated May 9, 2019, attached hereto as **Exhibit 71**; Email from Pharmacy Owner to Drug Procurer, dated May 9, 2019, including Testing Report, attached hereto as **Exhibit 72**.

Vecuronium Bromide and Potassium Chloride that TDOC still had in its inventory. Following Mr. Johnson's execution, on May 20, 2019, Ms. Henry requested "all data regarding the lethal injection chemicals used in the execution including the results of the sterility testing of the chemicals[.]"¹¹³

5. Stephen West

Stephen West ("Mr. West") was scheduled to be executed on August 15, 2019 by lethal injection.¹¹⁴ Because the Potassium Chloride in TDOC's inventory would expire in July 2019, TDOC needed to acquire both Midazolam and Potassium Chloride in advance of Mr. West's planned execution. As with the Midazolam in early 2018, the Pharmacy was no longer able to obtain commercially-manufactured Potassium Chloride, necessitating it to compound the drug instead. In preparation for this switch, the Pharmacist drafted separate Preparation Instructions for Potassium Chloride at the Drug Procurer's request.¹¹⁵ The Pharmacy Owner and Drug Procurer exchanged drafts of these instructions on June 26, 2019, with the Drug Procurer making edits to the quantity of saline, number of syringes, and certain outlined steps.¹¹⁶ The Pharmacy Owner forwarded the Drug Procurer's revised draft to the Pharmacist, who approved the same on July 2.¹¹⁷ Like the Midazolam Preparation Instructions, these instructions require transfer of the compounded Potassium Chloride from the freezer to the refrigerator 24 hours prior to use and explain how to prepare the syringe, but they do not instruct on how far in advance of an execution to prepare that syringe.

¹¹³ Email from K. Henry to D. Inglis, dated May 20, 2019, attached hereto as **Exhibit 73**.

¹¹⁴ West Notification Letter, attached hereto as **Exhibit 74**.

¹¹⁵ Text messages between Drug Procurer and Pharmacy Owner, dated June 17, 21 and 24, 2019, attached hereto as **Exhibit 75**.

¹¹⁶ Emails between Drug Procurer and Pharmacy Owner, dated June 26, 2019, including Potassium Chloride Preparation Instructions, attached hereto as **Exhibit 76**.

¹¹⁷ Emails between Drug Procurer, Pharmacy Owner and Pharmacist, dated June 26 and July 2, 2019, attached hereto as **Exhibit 77**.

A physician's prescription for Midazolam and Potassium Chloride was issued for Mr. West on July 12, 2019.¹¹⁸ The Pharmacy compounded the Midazolam and Potassium Chloride and sent samples to the Lab for sterility and potency testing on or about July 16.¹¹⁹

The Midazolam sample yielded a within-range potency of 92.4% on July 18, but the Potassium Chloride sample yielded an above-range potency of 112% on July 17.¹²⁰ The Pharmacy Owner sent both results to the Drug Procurer on July 24.¹²¹ By separate text message, the Pharmacy Owner instructed the Drug Procurer to "scratch that batch" of Potassium Chloride in light of the above-range potency result and informed the Drug Procurer that the Pharmacy had prepared and sent another batch for testing.¹²² The Midazolam sample passed sterility testing on July 30, and the Pharmacy Owner sent those results to the Drug Procurer via email the next day.¹²³

On August 1, the Pharmacy Owner informed the Drug Procurer via text message that the Pharmacy was "having issues with the potassium chloride" and that they "can't use it" because it was "falling out of solution."¹²⁴ According to investigative interviews, when a drug is falling out of solution, it means the API is not fully dissolving into the intended liquid form during the compounding process. The Pharmacy ultimately compounded several batches and sent a successful sample of one of those batches to the Lab for sterility and potency testing on or about

¹¹⁸ West Prescription, dated July 12, 2019, attached hereto as **Exhibit 78**.

¹¹⁹ Testing Reports, dated July 17, 30, 2019, attached hereto as **Exhibit 79**.

¹²⁰ *Id.*

¹²¹ Email from Pharmacy Owner to Drug Procurer, dated July 24, 2019, including Testing Reports, attached hereto as **Exhibit 80**.

¹²² Text messages between Pharmacy Owner and Drug Procurer, dated July 29-31, 2019, attached hereto as **Exhibit 81**.

¹²³ Email from Pharmacy Owner to Drug Procurer, dated July 31, 2019, including Testing Report, attached hereto as **Exhibit 82**.

¹²⁴ Text messages between Pharmacy Owner and Drug Procurer, dated Aug. 1, 2019, attached hereto as **Exhibit 83**.

August 6, 2019.¹²⁵ It appears a separate sample was also sent for Suitability testing and passed.¹²⁶ On August 8, while this testing was pending, the Drug Procurer asked the Pharmacy Owner via text message if they could send the LIC the following day, explaining “[the] higher ups [don’t] wanna [sic] wait till [sic] Tuesday.”¹²⁷ The Pharmacy Owner agreed. The Drug Procurer also asked if they could rely on the sterility testing from a prior batch of Potassium Chloride for sterility on the new batch.¹²⁸ Initially, the Pharmacy Owner replied “Absolutely.” However, in response to further questioning by the Drug Procurer regarding USP guidelines for relying on testing from a prior batch, the Pharmacy Owner explained “You could rely on that as proof that our methodology is valid. You cannot apply one lot’s sterility to another lot.”¹²⁹

The Drug Procurer and Pharmacy Owner made further edits to the Pharmacy’s instructions for Potassium Chloride on August 8.¹³⁰ On August 9, the Pharmacy Owner also sent the Drug Procurer an “in-house sterility report” for the Potassium Chloride batch, which showed a passing result.¹³¹ The Drug Procurer continued to follow up with the Pharmacy Owner via text message in the subsequent days regarding test results.¹³² On August 12, the Pharmacy Owner emailed the potency test report for the Potassium Chloride, which showed a within-range potency of 94%.¹³³

¹²⁵ Testing Reports, dated Aug. 7, 12, 2019, attached hereto as **Exhibit 84**.

¹²⁶ Testing Reports, dated July 31, 2019, attached hereto as **Exhibit 85**.

¹²⁷ Text messages between Drug Procurer and Pharmacy Owner, dated Aug. 8, 2019, attached hereto as **Exhibit 86**.

¹²⁸ Text messages between Drug Procurer and Pharmacy Owner, attached hereto as **Exhibit 87**.

¹²⁹ Text messages between Drug Procurer and Pharmacy Owner, dated Aug. 8, 2019, attached hereto as **Exhibit 88**.

¹³⁰ Emails between Drug Procurer and Pharmacy Owner, dated Aug. 8, 2019, including Potassium Chloride Preparation Instructions, attached hereto as **Exhibit 89**.

¹³¹ Email from Pharmacy Owner to Drug Procurer, dated Aug. 9, 2019, including In-House Sterility Report, dated Aug. 6, 2019, attached hereto as **Exhibit 90**. Note that the Protocol requires the Pharmacist to arrange **independent** testing of the LIC. See Protocol, **Exhibit 20** at 35.

¹³² Text messages between Drug Procurer and Pharmacy Owner, dated Aug. 8-12, 2019, attached hereto as **Exhibit 91**.

¹³³ Emails from Pharmacy Owner to Drug Procurer, dated Aug. 12, 2019, including Testing Reports dated Aug. 7, 12, 2019, attached hereto as **Exhibit 92**.

The sample was not tested for endotoxins. Ultimately, Mr. West elected to be executed by electrocution, which proceeded as scheduled on August 15.

6. Lee Hall

Lee Hall (“Mr. Hall”) was scheduled to be executed on December 5, 2019 by lethal injection.¹³⁴ A physician’s prescription for Midazolam and Potassium Chloride was issued for Mr. Hall on November 1, 2019.¹³⁵ Shortly thereafter, Mr. Hall elected to be executed by electrocution; however, consistent with its practice, TDOC proceeded to obtain back-up LIC. The Pharmacy compounded a batch of Midazolam and sent a sample to the Lab for sterility and potency testing on or about November 13.¹³⁶ The potency test came back on November 18 with an above-range potency of 114%. The Pharmacy Owner sent this result to the Drug Procurer via email on November 20.¹³⁷

The Pharmacy compounded a second batch of Midazolam and sent a sample to the Lab for sterility and potency testing on or about November 21.¹³⁸ The potency test on that sample came back on November 22 with a within-range potency of 98.6%. On November 25, the Pharmacy Owner shipped two packages to the Drug Procurer—presumably the Midazolam and Potassium Chloride—and sent shipping information via text message.¹³⁹ The Pharmacy Owner then sent the Midazolam potency result to the Drug Procurer via email on November 26.¹⁴⁰

¹³⁴ Hall Notification Letter, dated Nov. 5, 2019, attached hereto as **Exhibit 93**.

¹³⁵ Hall Prescription, dated Nov. 1, 2019, attached hereto as **Exhibit 94**.

¹³⁶ Testing Reports, dated Nov. 18, 2019, attached hereto as **Exhibit 95**.

¹³⁷ Email from Pharmacy Owner to Drug Procurer, dated Nov. 20, 2019, including Testing Report dated Nov. 18, 2019, attached hereto as **Exhibit 96**.

¹³⁸ Testing Report, dated Nov. 22, 2019, attached hereto as **Exhibit 97**.

¹³⁹ Text messages between Drug Procurer and Pharmacy Owner, dated Nov. 25, 2019, attached hereto as **Exhibit 98**.

¹⁴⁰ Email from Pharmacy Owner to Drug Procurer, dated Nov. 26, 2019, attached hereto as **Exhibit 99**.

At some point, the Pharmacy also compounded a batch of Potassium Chloride and sent it to the Lab for sterility and potency testing; however, on December 2, the Pharmacy Owner texted the Drug Procurer to inform him that they had “missed the mark by 2% points” on the Potassium Chloride and were sending a new batch.¹⁴¹ The Pharmacy sent a sample of that new batch to the Lab for potency and sterility testing on or about December 2.¹⁴² The Pharmacy Owner then mailed the new Potassium Chloride to TDOC on December 3.¹⁴³ On December 5, the second batch of Midazolam passed sterility testing and the second batch of Potassium Chloride yielded a within-range potency of 94.7%.¹⁴⁴ The Pharmacy Owner sent both results to the Drug Procurer the same day.¹⁴⁵ Mr. Hall was executed via electrocution as scheduled that evening. The Pharmacy did not receive a passing sterility result on the Potassium Chloride until December 16.¹⁴⁶ None of the samples were tested for endotoxins.

7. Nicholas Sutton

Nicholas Sutton (“Mr. Sutton”) was scheduled to be executed on February 20, 2020. A physician’s prescription for Midazolam and Potassium Chloride was issued for Mr. Sutton on December 19, 2019.¹⁴⁷ Around that time, the Pharmacy Owner—TDOC’s only contact at the Pharmacy—began transitioning out of the Pharmacy as a result of a buyout of their ownership share, with their last day scheduled for January 15, 2020.¹⁴⁸ The Drug Procurer and the New

¹⁴¹ Text messages between Drug Procurer and Pharmacy Owner, dated Nov. 25 and Dec. 2, 2019, attached hereto as **Exhibit 100**.

¹⁴² Testing Reports, dated Dec. 5, 16, 2019, attached hereto as **Exhibit 101**.

¹⁴³ Text messages between Drug Procurer and Pharmacy Owner, dated Dec. 3, 2019, attached hereto as **Exhibit 102**.

¹⁴⁴ Testing Reports, dated Nov. 22, Dec. 5, 16, 2019, attached hereto as **Exhibit 103**.

¹⁴⁵ Email from Pharmacy Owner to Drug Procurer, dated Dec. 5, 2019, including Testing Reports dated Nov. 22 and Dec. 5, 2019, attached hereto as **Exhibit 104**.

¹⁴⁶ Testing Reports, dated Dec. 5, 16, 2019, attached hereto as **Exhibit 105**.

¹⁴⁷ Sutton Prescription, dated Dec. 19, 2019, attached hereto as **Exhibit 106**.

¹⁴⁸ Text messages between Drug Procurer and Pharmacy Owner, dated Dec. 25, 2019 and Jan. 2, 2020, attached hereto as **Exhibit 107**.

Pharmacy Owner discussed TDOC's desire to continue working with the Pharmacy. Thereafter, the Drug Procurer began communicating directly with the Pharmacist, not the Pharmacy Owner.

The Pharmacy compounded the Midazolam and Potassium Chloride and sent samples to the Lab for sterility and potency testing on or about January 14, 2020.¹⁴⁹ The Potassium Chloride yielded a within-range potency of 104% on January 17.¹⁵⁰ On January 21, Mr. Sutton elected to be executed by electrocution.¹⁵¹ The Midazolam ultimately yielded a within-range potency of 100% on January 27, and both the Midazolam and Potassium Chloride passed their sterility tests on January 28.¹⁵² The samples were not tested for endotoxins. Butler Snow has not seen any record to indicate that the Pharmacist sent these results to TDOC prior to Mr. Sutton's execution. Mr. Sutton was executed by electrocution as scheduled on February 20, 2020.

C. Clarity of and Adherence to the July 2018 Protocol

1. Inconsistencies in the Protocol

Many individuals interviewed by Butler Snow indicated that there are inconsistencies contained with the July 2018 Protocol. The interviewees attributed any inconsistencies to revisions being made to one section or an addition of a new section without reviewing the entire document to determine if other areas have been impacted. Beyond the LIC testing failures that are the primary focus of this investigation, gaps and inconsistencies have been noted, particularly by TDOC employees, but changes have yet to be made. For instance, as noted above, one of the most significant gaps is the absence of any reference to the Drug Procurer or their responsibilities in the Protocol. It is Butler Snow's understanding that although the term "Drug Procurer" came about through litigation, the Drug Procurer responsibilities preexisted any litigation referencing the role. The current Protocol does not have any discussion of steps to be taken by the Drug Procurer when

¹⁴⁹ Testing Reports, dated Jan. 17, 27, 28, 2020, attached hereto as **Exhibit 108**.

¹⁵⁰ Testing Reports, dated Jan. 17, 28, 2020, attached hereto as **Exhibit 109**.

¹⁵¹ Sutton Affidavit Concerning Method of Execution, attached hereto as **Exhibit 110**.

¹⁵² Testing Reports, dated Jan. 17, 27, 28, 2020, attached hereto as **Exhibit 111**.

acquiring LIC. Furthermore, there is no discussion of how the Drug Procurer (or any other individual) should go about confirming that the required independent testing has been conducted.

Another issue with the current Protocol raised during the investigative interviews addressed the storage and accountability of the compounded LIC. For example, the Protocol states that the compounded LIC are to be stored in “an unmovable heavy gauge steel container with security grade locks.”¹⁵³ The Investigative Team observed that the LIC are stored securely but not in an “unmovable heavy gauge steel container” as mandated. As a result, the Protocol should be revised to reflect the true nature in which the LIC are stored. There are also no LIC temperature requirements referenced in the Protocol, no LIC storage guidelines, or instructions regarding when the LIC should be removed to allow for thawing. Accordingly, TDOC relies exclusively on the instructions from the Pharmacy with regard to how the compounded LIC are to be stored.¹⁵⁴

Finally, another unanswered question exists regarding how far in advance of an execution a compounded LIC should be removed from the refrigerator and prepared in a syringe. Neither the Protocol nor the Pharmacy’s instructions address this issue. The compounded LIC have a very short shelf-life, and this information is seemingly essential to ensuring an execution is carried out with only viable LIC.

2. Following the Protocol

Inconsistencies in the Protocol preclude TDOC’s ability to follow the Protocol to the letter in practice, and there is no formal process for determining if and when TDOC should deviate from the Protocol. The most egregious deviation seen by Butler Snow is the failure to test the LIC for endotoxins (and potency in Mr. Irick’s case). The Drug Procurer indicated that they consulted the Pharmacy Owner when drafting the July 2018 Protocol. The similarities in language used in the revised January 2018 Protocol and the Pharmacy Services Agreement relating to same corroborate the Drug Procurer’s recollection; however, Butler Snow has not uncovered any written

¹⁵³ July 2018 Protocol, **Exhibit 20** at 35.

¹⁵⁴ Directions for Unpacking and Storage, **Exhibit 23**.

communications between the Drug Procurer and the Pharmacy Owner regarding changes to the Protocol between January and July 2018. Similarly, Butler Snow has found no evidence that the current Protocol was ever sent to the Pharmacy. Instead, it appears that the Drug Procurer only sent the six-page drafts of sections regarding the chemicals used, their set-up and preparation, and the sequence and administration of the chemicals during the process of preparing the initial January 2018 iteration of the Protocol.

Both the Pharmacy Owner and Drug Procurer shared a misunderstanding of endotoxin testing, specifically whether such testing is included in sterility testing, and based on this misunderstanding, it appears neither consulted the Pharmacist on this topic in the course of discussing the July 2018 Protocol. Crucially, the Pharmacy never received a copy of these revisions or a complete copy of the July 2018 Protocol from TDOC, and the Pharmacist was never informed that the Protocol requires testing for potency, sterility, and endotoxins.

Other examples include the storage of the LIC, as well as TDOC's efforts to have LIC on hand even if the condemned has chosen electrocution as the method of execution. This practice began after the execution of Mr. Zagorski, but at least one TDOC employee indicated that the decision to have LIC on hand as a backup method is not required by the Protocol. Another example is in the disposal of expired LIC. Under the Protocol, the LIC is to be *disposed of upon expiration by hazardous waste pick-up*. However, inspections are only required to be done on a semi-annual basis, and on at least one occasion, LIC were disposed of that had been expired for several months.¹⁵⁵ With only semi-annual inspections, it is possible that expired LIC may be sitting for months before being disposed of in accordance with the Protocol, which increases the possibility of expired LIC being used inadvertently during an execution.

At least one TDOC employee indicated that when reviewed by a person familiar with the actual process followed during an execution, the Protocol is not strictly followed because it is inaccurate. Timing of events during execution was specifically noted as an area of the Protocol that needed to be examined and revised.

¹⁵⁵ Dep. Tr. of Warden Tony Mays at 193:25-196:25, attached hereto as **Exhibit 112**.

3. No Checks and Balances

There are no internal policies to ensure the Protocol is followed. Deviations occur, and although such deviations may ensure compliance with USP guidelines in the context of compounded LIC, this does not change the fact that the Protocol is not being followed. Commissioners Parker and Helton both indicated that it is ultimately their responsibility to ensure the Protocol is being followed, but to do so, a more rigorous review system must be put in place to ensure accountability. Several individuals referenced TDOC's general preference to have limited documentation and a hesitance to make changes to the Protocol, but the overall sense is that the Protocol needs to be reviewed to ensure that it is consistent in all aspects.

Furthermore, there is no structured review process. Members of the Execution Team¹⁵⁶ are required to review the Protocol annually once they become members of the Execution Team, but there is no verification process. According to the Protocol, the Warden or his designee holds an annual class to review the Protocol, but this training was not mentioned during Butler Snow's interviews with TDOC employees. Some RMSI training records identify the topic of training as "Protocol" via "lethal injection" or "electrocution," which may be a reference to the above-referenced class. When asked, some individuals stated they review the entire Protocol multiple times a year, and many indicated that they review portions of the Protocol when needed. It is imperative that all individuals involved understand what is required under the Protocol and how to meet those requirements. See recommendations below for how to improve this process.

¹⁵⁶ Under the Protocol, the Execution Team consists of the Warden, Associate Warden of Security, Executioner, IV Team, Extraction Team, Death Watch Team, Lethal Injection Recorder, Facility Maintenance Supervisor, ITS Security Systems Technician(s), and Escort Officers. July 2018 Protocol at 32.

D. TDOC Staffing Considerations

Butler Snow also attended one of the monthly lethal injection training sessions to observe the TDOC staff's involvement in the execution process. This allowed the investigative team to assess (1) the staff's expertise in carrying out lethal injection executions and (2) their ability to comply with the current Protocol. Butler Snow notes that all TDOC training participants appeared to be extremely professional, serious, dedicated and committed.

As far as the failure to test the LIC for endotoxins, there were no checks and balances in place to ensure testing occurred. Butler Snow's investigation revealed that neither the Pharmacy nor the Pharmacist ever received a full copy of the July 2018 Protocol, or even a partial copy that spoke to the testing requirements. Only one TDOC employee—the Drug Procurer—received the testing reports from the Pharmacy, and as a result, no one else had any insight into whether the LIC were prepared and tested in accordance with the Protocol. It should be noted that the Drug Procurer does not have a medical or pharmaceutical background, and as a result, they do not have any formal training that would aid them in understanding testing reports or assessing which tests are necessary for compounded LIC. It should be further noted that there is no Drug Procurer job description or list of duties stating that they are responsible for ensuring the LIC are properly tested in accordance with the current Protocol. Even so, a plain reading of the third-party lab reports indicates that only one endotoxin test occurred, and that was in May 2018. The fact of the matter is not one TDOC employee made it their duty to understand the current Protocol's testing requirements and ensure compliance with same. And, based upon information provided during investigative interviews, the Former Commissioner; Interim Commissioner; Deputy Commissioner/General Counsel; and Drug Procurer were in the best positions to ensure compliance with the Protocol.

While medical training may not be strictly necessary to perform the roles required for executions, it is certainly beneficial. Members of the Execution Team receive some medical training on how to start IVs, but other instruction on preparing and delivering the LIC during an execution came via instructions and a phone call with the Pharmacy. The Pharmacy Owner recalled that their impression from that phone call was that the members of the Execution Team they spoke

with were inexperienced in preparing syringes for injection. Neither the Executioner nor the IV Team Member recalled this phone call at the time of this Investigation. Even though the Executioner¹⁵⁷ has no formal healthcare training, they have participated in 13 executions for the state of Tennessee and have observed an execution in at least 1 other state. They learned how to fulfill their role primarily through on-the-job training and are very experienced at this point in time. It would be difficult to find another individual, however, with this experience and/or medical training to perform executions, because of the Hippocratic oath. Accordingly, in the event that this individual leaves TDOC, there does not appear to be anyone in place prepared or qualified to assume this role.

Additionally, placing the onus of finding LIC and verifying that the LIC are fit for use per the Protocol and USP guidelines is an enormous task to place on one individual, especially when they have other roles to fill and particularly when they are given zero guidance on how to carry out these tasks. Moreover, this method does not allow for any checks and balances whatsoever. Putting all of this responsibility on one person seems like an abdication of responsibility by TDOC leadership and the reason for the failures to comply with the current Protocol cited in this Report. See the recommendations below for how to remedy this issue.

IV. Investigative Findings and Recommendations

As independent investigators, Butler Snow conducted a comprehensive review of the available and relevant evidence concerning the circumstances which led Governor Lee to issue a reprieve in connection with the April 21, 2022, scheduled execution of Mr. Smith. In addition to this issue, the investigative team also (1) examined Tennessee's Lethal Injection Protocol and any deviations from same prior to April 21 and (2) determined the extent of TDOC's staff's responsibility relating to these issues. As previously stated, the investigative findings are primarily based upon the information gleaned through witness interviews as well as an extensive review of thousands of pages of documents and/or data. While the interviews were very insightful, they

¹⁵⁷ The Executioner is not involved in the testing of the LIC but is aware of the requirement by virtue of the Protocol.

further showed the absence of adequate expertise, guidance, and counsel either enlisted by or provided to TDOC in connection with Tennessee’s lethal injection process. Instead, TDOC operated in a task-oriented, tunnel-vision manner that failed to appreciate the interwoven nature of the lethal injection process as a whole.

A. Investigative Findings

Based on the evidence obtained in the investigation, Butler Snow has made the following findings:

1. Circumstances that led to testing the lethal injection chemicals for only potency and sterility but not endotoxins [in connection with] preparing for the April 21 execution

- There is no evidence that any failure to test the lethal injection chemicals for endotoxins in connection with Mr. Smith’s scheduled execution on April 21 was intentional.
- There is no evidence that, when the State of Tennessee revised its lethal injection protocol in 2018, it ever provided the pharmacy tasked with testing Tennessee’s lethal injection chemicals with a copy of Tennessee’s lethal injection protocol.
- There is no evidence that, when the State of Tennessee revised its lethal injection protocol in 2018, any employee ever informed the pharmacy tasked with testing Tennessee’s lethal injection chemicals that it should conduct an endotoxin test on all lethal injection chemicals—until the eve of Mr. Smith’s scheduled execution on April 21.
- The evidence shows that the pharmacy tasked with testing Tennessee’s lethal injection chemicals only tested these chemicals for *potency and sterility*, because the pharmacy followed the United States Pharmacopeia testing guidelines, not Tennessee’s lethal injection protocol.

2. Clarity of the lethal injection process manual that was last updated in 2018, and adherence to testing policies since the update

- There evidence shows that the lethal injection chemicals used in the August 9, 2018, execution of Mr. Billy Ray Irick (“Mr. Irick”) were not tested for endotoxins. The evidence further shows that the Midazolam used during Mr. Irick’s execution was not tested for potency.
- The evidence shows that, although Edmund Zagorski (“Mr. Zagorski”) was executed via electrocution on November 1, 2018, the lethal injection chemicals prepared in the event

Mr. Zagorski changed his mind and opted to be executed by lethal injection were not tested in accordance with Tennessee’s lethal injection protocol. The lethal injection chemicals were not tested for endotoxins and failed the potency testing.

- The evidence shows that, although David Earl Miller (“Mr. Miller”) was executed via electrocution on December 6, 2018, the lethal injection chemicals prepared in the event Mr. Miller changed his mind and opted to be executed by lethal injection were not tested in accordance with Tennessee’s lethal injection protocol. The lethal injection chemicals were not tested for endotoxins.
- The evidence shows that the lethal injection chemicals used in the May 16, 2019, execution of Mr. Donnie Edward Johnson (“Mr. Johnson”) were not tested for endotoxins.
- The evidence shows that, although Stephen West (“Mr. West”) was executed via electrocution on August 15, 2019, the lethal injection chemicals prepared in the event Mr. West changed his mind and opted to be executed by lethal injection were not tested in accordance with Tennessee’s lethal injection protocol. The lethal injection chemicals were not tested for endotoxins.
- The evidence shows that, although Lee Hall (“Mr. Hall”) was executed via electrocution on December 5, 2019, the lethal injection chemicals prepared in the event Mr. Hall changed his mind and opted to be executed by lethal injection were not tested in accordance with Tennessee’s lethal injection protocol. The lethal injection chemicals were not tested for endotoxins.
- The evidence shows that, although Nicholas Sutton (“Mr. Sutton”) was executed via electrocution on February 20, 2020, the lethal injection chemicals prepared in the event Mr. Sutton changed his mind and opted to be executed by lethal injection were not tested in accordance with Tennessee’s lethal injection protocol. The lethal injection chemicals were not tested for endotoxins.

3. TDOC staffing considerations

- The evidence shows that TDOC leadership placed an inordinate amount of responsibility on the Drug Procurer without providing much, if any, guidance; help; or assistance. Instead, TDOC leadership viewed the lethal injection process through a tunnel-vision, result-oriented lens rather than provide the necessary guidance and counsel to ensure that Tennessee’s lethal injection protocol was thorough, consistent, and followed.

B. Recommendations

The instant investigation has helped bring to light issues that have impacted TDOC’s ability to comply with Tennessee’s Lethal Injection Protocol since it was put in place in 2018. As a result,

Butler Snow makes the following recommendations for corrective action, further investigation, or training:

- Consider hiring a full-time employee or retaining a consultant with a pharmaceutical background to provide guidance in connection with the lethal injection process.
 - Conduct an exhaustive review of the current Protocol.
 - Review the current Protocol's testing requirements.
 - Establish testing guidelines for any compounded LIC with procedures for confirming that the appropriate tests are being performed.
 - Establish a procedure for storing and maintaining test results.
 - Establish a procedure for storing and maintaining LIC, including recommendations regarding suitable equipment for storage.
 - Assist with locating LIC sources and communicating pertinent information to same.
- Ensure that a copy of any current or future version of the TDOC Protocol is provided to the LIC provider.
- Evaluate the roles and outline the duties of all TDOC employees, as well as any third parties, tasked with participating in the lethal injection process.
- Consider hiring a full-time employee or retaining a consultant with a healthcare background to provide scheduled guidance and training to the Execution Team.
 - Determine whether any Execution Team members should be required to obtain any certifications and/or licenses.
- Establish a team/committee to review all relevant testing data prior to each scheduled execution to ensure that there are no deviations from the Protocol.
 - Consider incorporating deadlines to obtain testing results in sufficient time to ensure that failing LIC are not made available or used during a scheduled execution.
 - Consider annual audits to ensure compliance and to evaluate Protocol efficiencies and best practices.

Appendix

ADDITIONAL DOCUMENTS PROVIDED/REVIEWED

Documents from TDOC

1. Prescription orders for lethal drugs
2. 2017-2018 Handwritten inventory for lethal drugs
3. 11/15/2018 Inventory for lethal injection supplies
4. 12/20/2017 Inventory for lethal drugs
5. 11/1/2019 Inventory for lethal drugs
6. Research re compounding pharmacies and compounded drug products
7. 12/20/2017 Inventory for lethal drugs
8. Handwritten lethal drug inventory and storage pictures
9. 2022 Handwritten inventory for lethal drugs
10. 11/30/2020 Inventory for lethal injection supplies
11. 2018-2022 [Lab] Validation and Lab Reports for drugs
12. Handwritten notes re drug supplier status and maintenance
13. Handwritten notes re court and lethal drug storage and suppliers
14. Vendor list for Fentanyl and Midazolam manufacturers
15. Cardinal Health list of restricted products to Unqualified/incarceration facility customers
16. 4/25/2018 Letter from Alvogen rejecting use of its drugs in lethal injection
17. Handwritten notes re status of lethal drug suppliers
18. Handwritten notes re lethal drugs and suppliers
19. 12/20/2017 Fax cover from [Drug Procurer] to [Pharmacy] (no enclosure)

20. 11/27/2017 [Pharmacy] Specialty Pharmacy, LLC Pharmacy Services Agreement
21. [Pharmacy] 2017 invoices
22. [Pharmacy] Formula Worksheets
23. 10/2018 Medical supplies purchased from Moore Medical
24. Intravenous Training documents
25. Draft Memo re project to search for new source of Pentobarbital and case
26. Compounding pharmacy search
27. Handwritten notes re compounding pharmacy
28. Research re compounded drug products
29. Research re compounding pharmacies search
30. Compounded drugs sterility, potency and endotoxin requirements and US Pharmacopeial Convention guidelines
31. Handwritten notes re lethal drugs
32. Handwritten notes re lethal drugs
33. Research re clinical pharmacology for lethal drugs
34. Research re lethal drugs
35. Research re DEA and importing controlled substances
36. List of inmates
37. 4/11/2019 Letter from Debra Inglis to Kelley Henry (federal public defender) re Johnson Affidavit re Method of Execution
38. 8/23/2019 Email from Charlotte Davis (AAG) encl Nicholas Sutton stay pleading
39. 4/20/2022 Oscar Smith Spiritual Advisor Attendance to Execution form
40. Oscar Smith movement and execution planning

41. Litigation hold re evidence intended for Oscar Smith's execution
42. 3/16/2022 Fax from [Drug Procurer] to [Pharmacist] re John Moody (no enclosure)
43. 2017 TDOC Controlled Substance Registration Certificate
44. TDOC payments to drug suppliers
45. TDOC Lethal Injection Manual rev 7/5/2018
46. Public records requests
47. Tony Parker's Third Supplemental Response to Plaintiff's First Set of Interrogatories
48. 1/24/2019 Return receipt card from Debra Inglis to Jessica Johnson (investigator)
49. 4/4/2017 Agreed (Pharmacy) Board Order for [Pharmacist]
50. 9/1/2016 Letter from (unknown) to (unknown) re authorization to dispense prescriptions for Schedule II Controlled substances
51. 2017 Hotel invoices for [Drug Procurer]
52. Handwritten notes re condition of body after executions
53. Handwritten notes re Protocol A
54. 5/10/22 Email, Subject Fwd: Delegated Authorities for Execution Fys 18-22
55. 6/30/2022 Email, Subject RE: Documents
56. 6/23/2022 Email, Subject Fwd: Oscar Smith's Execution
57. 6/23/2022 Email, Subject {NO SUBJECT}
58. 6/23/2022 Email, Subject {NO SUBJECT}
59. 6/3/2022 Email, Subject {NO SUBJECT}
60. 6/23/2022 Email, Subject FW: Oscar Frank Smith

61. 6/23/22 Email, Subject FW: Oscar Frank Smith
62. 6/22/22 Email, Subject Secured Document
63. 5/25/2022 Email, Subject [secure email]
64. 5/12/2022 Email, Subject [EXTERNAL] RE: documents
65. 5/12/2022 Email, Subject [EXTERNAL] RE: documents
66. 5/12/2022 Email, Subject [EXTERNAL] documents
67. 5/10/2022 Email, Subject FW: Reprieve
68. 5/2/2022 Email, Subject RE: [secure email]
69. 4/28/2022 Email, Subject Screenshot 2022-04-28 at 7.04.54 AM
70. 4/28/2022 Email, Subject Screenshot 2022-04-28 at 7.04.18 AM
71. 4/27/2022 Email, Subject Screenshot 2022-04-27 at 12.11.37 PM
72. 4/27/2022 Email, Subject Screenshot 2022-04-27 at 12:10.07 PM
73. 4/24/2022 Email, Subject RE: Privileged and Confidential - Document Request
74. 4/24/2022 Email, Subject RE: Privileged and Confidential - Document Request
75. 4/24/2022 Email, Subject RE: Privileged and Confidential - Document Request
76. 4/24/2022 Email, Subject RE: Privileged and Confidential - Document Request
77. 4/24/2022 Email, Subject FW: Privileged and Confidential - Document Request
78. 4/23/2022 Email, Subject RE: Privileged and Confidential - Document Request
79. 4/22/2022 Email, Subject [EXTERNAL] RE: testing docs
80. 4/22/2022 Email, Subject [EXTERNAL] testing docs

81. 4/22/2022 Email, Subject RE: Privileged and Confidential - Document Request
82. 4/21/2022 Email, Subject Privileged and confidential - Document Request
83. 4/21/2022 Email, Subject Order setting date
84. 4/21/2022 Email, Subject Reprieve
85. 4/12/2022 Email, Subject RE: [EXTERNAL] RE: Order
86. 4/12/2022 Email, Subject [EXTERNAL] RE: Order
87. 4/12/2022 Email, Subject [EXTERNAL] RE: Order
88. 4/10/2022 Email, Subject Rimmer Letter
89. 4/8/2022 Email, Subject [secure email]
90. 4/7/2022 Email, Subject [secure email]
91. 4/6/2022 Email, Subject [EXTERNAL] RE: Order
92. 3/16/2022 Email, Subject [EXTERNAL] RE: Order
93. 3/16/2022 Email, Subject [EXTERNAL] RE: Order
94. 3/16/2022 Email, Subject Order
95. 3/11/2022 Email, Subject RE: Secured Documents
96. 3/10/2022 Email, Subject RE: Secured Documents
97. 3/10/2022 Email, Subject Secured Documents
98. 2/24/2022 Email, Subject FW: 00218364 SUTTON, GARY W. order setting execution date
99. 2/10/2022 Email, Subject Training Docs
100. 1/13/2022 Email, Subject Documentation (special)
101. 1/4/2022 Email, Subject [EXTERNAL] FW: Invoice 20211130TN from [Pharmacy] Specialty Pharmacy LLC
102. 11/29/2021 Email, Subject RE: [EXTERNAL] RE: Order

103. 11/24/2021 Email, Subject RE: [EXTERNAL] RE: Order
104. 11/22/2021 Email, Subject RE: [EXTERNAL] RE: Further Discovery
105. 11/1/2021 Email, Subject RE: Docs
106. 11/19/2021 Email, Subject RE: Docs
107. 11/18/2021 Email, Subject RE: [EXTERNAL] RE: Further Discovery
108. 11/17/2021 Email, Subject RE: [EXTERNAL] RE: Further Discovery
109. 11/9/2021 Email, Subject RE: [EXTERNAL] RE: Further Discovery
110. 11/9/2021 Email, Subject RE: [EXTERNAL] RE: Further Discovery
111. 11/9/2021 Email, Subject Further Discovery
112. 11/5/2021 Email, Subject RE: [EXTERNAL] RE: Order
113. 11/5/2021 Email, Subject Re: [EXTERNAL] RE: Order
114. 11/5/2021 Email, Subject [EXTERNAL] RE: Order
115. 11/5/2021 Email, Subject FW: Rimmer 110874 Order
116. 11/5/2021 Email, Subject Order
117. 11/5/2021 Email, Subject FW: [EXTERNAL] Court News: Supreme Court Sets Two Execution Dates
118. 11/4/2021 Email, Subject RE: Products
119. 11/2/2021 Email, Subject RE: Products
120. 11/2/2021 Email, Subject RE: Products
121. 11/2/2021 Email, Subject RE: Products
122. 10/29/2021 Email, Subject Products
123. 10/15/2021 Email, Subject Training Documents for October
124. 10/12/2021 Email, Subject [EXTERNAL] RE: Discovery Request

125. 10/12/2021 Email, Subject Discovery Request
126. 9/29/2021 Email, Subject Re: [EXTERNAL] RE: Order
127. 9/29/2021 Email, Subject [EXTERNAL] RE: order
128. 9/29/2021 Email, Subject [EXTERNAL] FW:
129. 9/29/2021 Email, Subject [EXTERNAL] RE: Invoice 20210901 TN from [Pharmacy] Specialty Pharmacy LLC
130. 9/29/2021 Email, Subject RE: Invoice 20210901 TN from [Pharmacy] Specialty Pharmacy LLC
131. 9/23/2021 Email, Subject Documents from this month
132. 9/23/2021 Email, Subject Training documents
133. 9/20/2021 Email, Subject [EXTERNAL] RE: Twoish Things
134. 9/20/2021 Email, Subject [EXTERNAL] RE: Twoish Things
135. 9/20/2021 Email, Subject Fwd: Twoish Things
136. 9/17/2021 Email, Subject [EXTERNAL] RE: kci inventory
137. 9/17/2021 Email, Subject RE: kci inventory
138. 9/17/2021 Email, Subject RE: kci inventory
139. 9/17/2021 Email, Subject [EXTERNAL] kci inventory
140. 9/17/2021 Email, Subject [EXTERNAL] RE: midazolam inventory
141. 9/17/2021 Email, Subject RE: midazolam inventory
142. 9/17/2021 Email, Subject [EXTERNAL] midazolam inventory
143. 9/16/2021 Email, Subject [EXTERNAL] FW: Invoice 20210901TN from [Pharmacy] Specialty Pharmacy LLC
144. 9/16/2021 Email, Subject [EXTERNAL] FW: Invoice 20210906AF from [Pharmacy] Specialty Pharmacy LLC
145. 9/15/2021 Email, Subject RE: Thursday

146. 9/15/2021 Email, Subject Thursday
147. 7/28/2021 Email, Subject [EXTERNAL] RE: Discovery Items
148. 7/26/2021 Email, Subject [EXTERNAL] RE: Deposition
149. 7/15/2021 Email, Subject RE: [EXTERNAL] travel logistics
150. 7/15/2021 Email, Subject RE: [EXTERNAL] travel logistics
151. 7/15/2021 Email, Subject [EXTERNAL] travel logistics
152. 7/15/2021 Email, Subject [EXTERNAL] RE: King Depo Prep
153. 7/9/2021 Email, Subject [EXTERNAL] RE: King Depo Prep
154. 7/9/2021 Email, Subject [EXTERNAL] RE: King Depo Prep
155. 7/6/2021 Email, Subject [EXTERNAL] RE: AVAILABILITY
156. 7/6/2021 Email, Subject RE: Training logs
157. 7/6/2021 Email, Subject [EXTERNAL] RE: AVAILABILITY
158. 7/6/2021 Email, Subject [EXTERNAL] FW: AVAILABILITY
159. 7/1/2021 Email, Subject Letter from Federal Public Defenders Office
160. 6/22/2021 Email, Subject [EXTERNAL] AVAILABILITY
161. 6/4/2021 Email, Subject Updated document
162. 6/2/2021 Email, Subject Re: 2 of 2
163. 6/2/2021 Email, Subject 2 of 2
164. 6/2/2021 Email, Subject 1 of 2
165. 4/14/2021 Email, Subject confidential documents
166. 4/12/2021 Email, Subject confidential documents
167. 3/1/2021 Email, Subject Confidential
168. 1/26/2021 Email, Subject [EXTERNAL] Fw: Invoice TN20210126 from [Pharmacy] Pharmacy LLC

169. 1/14/2021 Email, Subject RE: Training Rosters
170. 1/13/2021 Email, Subject Additional rosters from today
171. 11/18/2020 Email, Subject [EXTERNAL] Fw: Invoice TN20200511 from [Pharmacy] Specialty Pharmacy LLC
172. 9/24/2020 Email, Subject FW: Letter from VP Witmer w/B. Braun Medical
173. 9/24/2020 Email, Subject FW: Letter from General Counsel Wohlfeil w/Meitheal Pharmaceuticals
174. 9/14/2020 Email, Subject Fwd: Letter from VP McDonnell w/Sandoz, Inc.
175. 8/18/2020 Email, Subject RE: Request
176. 8/13/2020 Email, Subject [EXTERNAL] requested info
177. 8/12/2020 Email, Subject {NO SUBJECT}
178. 7/28/2020 Email, Subject [EXTERNAL] Fw: Invoice TN202000728 from [Pharmacy] Specialty Pharmacy LLC
179. 7/22/2020 Email, Subject [EXTERNAL] potency
180. 4/15/2020 Email, Subject [EXTERNAL] February invoice
181. 12/20/2019 Email, Subject [EXTERNAL] New Invoice
182. 12/19/2019 Email, Subject FW: Question
183. 12/9/2019 Email, Subject [EXTERNAL] New Invoice
184. 12/5/2019 Email, Subject [EXTERNAL] Report
185. 11/26/2019 Email, Subject [EXTERNAL] Lab results
186. 11/21/2019 Email, Subject [EXTERNAL] Alternatives
187. 11/20/2019 Email, Subject [EXTERNAL] see attached
188. 10/30/2019 Email, Subject [EXTERNAL] RE: API
189. 9/19/2019 Email, Subject [EXTERNAL] Invoices

190. 8/15/2019 Email, Subject [EXTERNAL] Scanned from a Xerox [Pharmacy] Pharmacy.pdf
191. 8/12/2019 Email, Subject [EXTERNAL] 2019-18034.pdf
192. 8/12/2019 Email, Subject [EXTERNAL] ETX-190806-0007-LabReport.pdf
193. 8/9/2019 Email, Subject [EXTERNAL] results
194. 8/8/2019 Email, Subject [EXTERNAL] Suitability Test
195. 8/8/2019 Email, Subject [EXTERNAL] KCI
196. 8/8/2019 Email, Subject [EXTERNAL] RE: kci protocol
197. 8/7/2019 Email, Subject [EXTERNAL] Invoice
198. 7/31/2019 Email, Subject [EXTERNAL] Report
199. 7/29/2019 Email, Subject [EXTERNAL] RE: Declaration
200. 7/26/2019 Email, Subject RE: Declaration
201. 7/24/2019 Email, Subject [EXTERNAL] Report
202. 7/10/2019 Email, Subject RX
203. 7/2/2019 Email, Subject [EXTERNAL] FW: kci protocol
204. 6/26/2019 Email, Subject kci protocol
205. 6/26/2019 Email, Subject Proposed Alternative
206. 6/26/2019 Email, Subject [EXTERNAL] <http://leucadiapharma.com/anti-capital-punishment-statement/>
207. 6/26/2019 Email, Subject KCI
208. 6/26/2019 Email, Subject [EXTERNAL] KCI Protocol
209. 5/13/2019 Email, Subject FW: Midazolam
210. 5/13/2019 Email, Subject RE: Invoice Check

- 211. 5/9/2019 Email, Subject RE: Invoices
- 212. 5/9/2019 Email, Subject Invoices
- 213. 5/9/2019 Email, Subject report
- 214. 4/29/2019 Email, Subject Potency report
- 215. 4/2/2019 Email, Subject follow up
- 216. 2/26/2019 Email, Subject New Invoice
- 217. 2/14/2019 Email, Subject RE: Summary of Invoices
- 218. 11/7/2018 Email, Subject RE: Payments [secure email]
- 219. 11/6/2018 Email, Subject Open Invoices
- 220. 11/2/2018 Email, Subject Invoice
- 221. 10/31/2018 Email, Subject Invoice
- 222. 10/10/2018 Email, Subject Final Report
- 223. 8/27/2018 Email, Subject Our friend Wally
- 224. 8/24/2018 Email, Subject Fwd: Tennessee License
- 225. 8/23/2018 Email, Subject Fwd:
- 226. 8/16/2018 Email, Subject TN81618
- 227. 8/15/2018 Email, Subject Invoice
- 228. 8/8/2018 Email, Subject Log
- 229. 8/6/2018 Email, Subject USP 71
- 230. 7/25/2018 Email, Subject updated invoice
- 231. 7/23/2018 Email, Subject Shipping SOP
- 232. 7/18/2018 Email, Subject RE: sample RX
- 233. 7/17/2018 Email, Subject sample Rx

234. 7/16/2018 Email, Subject Protocol
235. 7/15/2018 Email, Subject Fwd: Certificates
236. 7/12/2018 Email, Subject Testing report
237. 7/9/2018 Email, Subject RE: Invoices
238. 7/9/2018 Email, Subject Invoices
239. 7/9/2018 Email, Subject {NO SUBJECT}
240. 7/5/2018 Email, Subject Invoice
241. 7/3/2018 Email, Subject FW: ACHC Accreditation Decision_60062
[Pharmacy] Specialty Pharmacy
242. 6/22/2018 Email, Subject {NO SUBJECT}
243. 6/20/2018 Email, Subject Product Inquiry
244. 4/5/2018 Email, Subject FW: Invoices
245. 1/22/2018 Email, Subject List of restricted drugs
246. 4/9/2018 Vendor Letter
247. 12/4/2017 TX Case Order
248. 5/6/2020 TPRA Final Response Letter General
249. 1/10/2017 TN DEA Lic
250. Summary re draft of information re TDOC's search for Pentobarbital
251. 10/18/2019 *Roane v. Gonzales*_Govt's Response to Motion for Preliminary
Injunction
252. 4/9/2018 Removal of Vendor Information Request
253. 2017 Receipts – [Drug Procurer]’s hotel invoices
254. Motion Responses - Word document providing responses to questions
255. 4/9/2018 Email, Subject FW: Removal of Vendor Information Request

- 256. 2018-2019 Electric chair testing logs
- 257. Draft Bill on election timeframe
- 258. 9/1/2017 Death Row Report
- 259. 7/1/2017 Delegated Authority for Tennessee's execution related services
- 260. 9/1/2017 D.R. Offenders with Execution Date
- 261. 9/1/2017 D.R. Offender Demographics
- 262. 9/1/2017 D.R. by Offender TOMIS ID
- 263. 9/1/2017 D.R. by Offender Last Name
- 264. CONSULTANT SERVICES AGREEMENT
- 265. CentralPharmacyLicense5661
- 266. 4/13/2022 handwritten inventory log of lethal drugs
- 267. 4/21/20.22 handwritten inventory log of lethal drugs
- 268. 9/7/2017 Email, Subject Updtae
- 269. 12/4/2017 Email confirming vecuronium is the only chemical requiring reconstitution
- 270. 9/6/2017 Email, Subject Touch Base
- 271. 9/21/2017 Email, Subject Status Update
- 272. 8/30/2021 Letter from Sandoz
- 273. 12/5/2017 Redacted email discussing supplier for lethal drugs
- 274. 9/7/2017 Email, Subject RE: "Updtae"
- 275. 9/7/2017 Email, Subject RE: "Updtae"
- 276. 9/7/2017 Email, Subject RE: "Updtae"
- 277. 10/26/2017 Email, Subject RE: Additional Info

278. 9/20/2017 Email, Subject Is there a good time for me to give you a buzz today? Thanks
279. 9/21/2017 Email, Subject Fwd: Status Update
280. 6/18/2018 Letter from Fresenius Kabi USA, LLC
281. 1/22/2018 PDF of emails
282. 2017 PDF of emails and attachments
283. 2017 PDF of emails and attachments
284. 6/18/2018 Letter from Athenex
285. 2018, 2019, 2020 and 2022 lab reports for lethal drugs
286. Draft of Midazolam storage and preparation instructions with comment from [Drug Procurer]
287. Blank Pharmacy Services Agreement form in notepad
288. 7/23/2018 Letter to Billy Ray Irick from Tony Mays notifying of execution date and method
289. Potassium Chloride preparation instructions
290. Execution Procedures for Lethal Injection, rev 7/11/2016
291. Execution Procedures for Lethal Injection in notepad
292. Execution Procedures for Lethal Injection, rev 6/25/2015
293. 12/11/2017 Email, Subject FW: Lemaricus Davidson (#328954) Order Granting Stay of Execution
294. Execution Procedures for Electrocution, rev 7/11/2016
295. Lethal Injection Execution Manual Execution Procedures for Lethal Injection, rev 7/5/2018
296. Lethal Injection Execution Manual Execution Procedures for Lethal Injection, rev 7/5/2018
297. Blank Affidavit Concerning Method of Execution and Affidavit to Select Defense Counsel Witness to Execution

298. Lethal Injection Execution Manual Execution Procedures for Lethal Injection, rev 7/5/2018
299. Handwritten inventory logs of lethal drugs from 7/27/2018 – 8/14/2019
300. Handwritten inventory logs of lethal drugs from 5/15/2019 – 8/14/2019
301. Lethal Injection Execution Manual Execution Procedures for Lethal Injection, rev 1/8/2018
302. Draft Execution Procedures for Electrocution, rev 6/26/2014
303. Draft Execution Procedures for Electrocution, rev 6/26/2014
304. Draft Execution Procedures for Electrocution, rev 6/26/2014
305. Execution Procedures for Electrocution, rev 3/13/2017
306. Redacted Execution Procedures for Electrocution, rev 3/13/2017
307. Execution Procedures for Lethal Injection, rev 9/22/2014
308. Execution Procedures for Lethal Injection, rev 9/22/2014
309. Execution Procedures for Lethal Injection, rev 9/18/2014
310. Execution Procedures for Lethal Injection, rev 9/18/2014
311. Execution Procedures for Lethal Injection
312. Execution Procedures for Lethal Injection
313. Redacted Execution Procedures for Electrocution
314. Draft Execution Procedures for Electrocution, rev 6/26/2014
315. Draft Execution Procedures for Electrocution, rev 6/26/2014
316. Draft Execution Procedures for Electrocution
317. Draft Execution Procedures for Electrocution
318. Draft Execution Procedures for Electrocution
319. Draft Execution Procedures for Electrocution

320. Draft of amendment to TCA 40-23-114 - relative to election of the method of execution
321. Draft of amendment to TCA 40-23-114 - relative to election of the method of execution
322. PDF of Draft of amendment to TCA 40-23-114 with notes - relative to election of the method of execution with the Warden's primary role and Affidavit Concerning Method of Execution from TDOC's Execution Procedures for Lethal Injection
323. 11/15/2018 Order for supplies
324. 11/3/2020 Order for supplies
325. 3/1/2022 Email, Subject RE: 3680_001.pdf
326. Orders setting execution dates for Donald Ray Middlebrooks, Gary Wayne Sutton and Byron Lewis Black
327. 12/11/2019 Order Denying Motion and Order Staying execution re Abu Ali AbdurRahman
328. 11/16/2018 Order setting execution date re Abu Ali AbdurRahman
329. 7/1/2019 Order setting execution date re Abu Ali AbdurRahman
330. Orders setting execution dates and sealed order for transport re Byron Lewis Black
331. 2/24/2020 Order setting execution date re Byron Lewis Black
332. 11/1/2019 Potassium Chloride and Midazolam prescriptions for Leroy Hall
333. 11/5/2019 Letter to Lee Hall from Tony Mays notifying of execution date and method
334. 9/26/2019 Letter from Kelly A. Gleason to Debra Inglis and Tony Mays requesting to be present when method of execution is presented to Hall
335. 11/1/2019 Lidocaine HCL 2% prescription for Leroy Hall
336. Visit logs, outlook scheduled meetings for visits, Special Visit Requests, Request and Affidavit re disposition of belongings, personal property

- inventories and letters re presence at execution on 12/5/2019 for Lee Hall (53 pages)
337. Redacted TDOC Incident Report, Execution Recorder Checklist, Death row watch logs and Record of staff visits for Lee Hall (51 pages)
 338. Unredacted TDOC Incident Report, Execution Recorder Checklist, Death row watch logs and Record of staff visits for Lee Hall (51 pages)
 339. 11/16/2018 Order setting execution date for Lee Hall
 340. 7/10/2018 Amended Order setting execution date for Billy Ray Irick
 341. 8/8/2018 Response to Motion for Leave to Serve Subpoena Duces Tecum Instante re Billy Ray Irick
 342. 7/18/2018 Prescription for Midazolam for Billy Ray Irick
 343. 7/23/2018 Letter to Billy Ray Irick from Tony Mays notifying of execution date and method
 344. 5/22/2018 Lab report for Midazolam suitability re Billy Ray Irick
 345. 7/24/2018 Letter to Tennessee Attorney General and Billy Ray Irick's attorneys enclosing the 7/23/2018 execution notification letter
 346. 8/6/2018 Lab report for Midazolam sterility re Billy Ray Irick
 347. 8/6/2018 Order denying Billy Ray Irick's motion to vacate execution date
 348. Dissent to 8/6/2018 Order
 349. Tennessee's Brief in Opposition to Billy Ray Irick's application for stay of execution
 350. Tennessee's Response to Billy Ray Irick's Petition for Writ of Habeas Corpus and Application for a stay of execution
 351. 5/25/2018 Lab report for Midazolam potency, endotoxins and sterility re Billy Ray Irick
 352. 5/14/2018 Lab report for Midazolam container closure integrity re Billy Ray Irick
 353. 8/6/2018 Gov. Haslam's statement that clemency not appropriate for Billy Ray Irick

354. 4/11/2019 Letter from Debra Inglis to Kelley J. Henry re presenting the Affidavit re Method of Execution and notification letter to Donnie Johnson
355. 5/9/2019 Lab report for Midazolam potency and sterility re Donnie Johnson
356. 4/17/2019 Midazolam prescription for Donnie Johnson
357. 5/1/2019 Letter to Donnie Johnson from Tony Mays notifying of execution date and method
358. 4/11/2019 Letter from Debra Inglis to Kelley J. Henry re presenting the Affidavit re Method of Execution and notification letter to Donnie Johnson
359. 4/26/2019 Lab report for Midazolam potency re Donnie Johnson
360. 11/16/2018 Order setting execution date re Donnie Johnson
361. 4/16/2019 Letter to Donnie Johnson from Tony Mays notifying of execution date and method
362. 11/21/2018 Letter to David Miller from Tony Mays notifying of execution date and method with waiver election
363. 11/9/2018 Letter to Stephen Kissinger from [Drug Procurer] in response to correspondence
364. 11/16/2018 Midazolam prescription for David Miller
365. 11/21/2018 Letter to David Miller from Tony Mays notifying of execution date and method with waiver election
366. 11/21/2018 Letter to David Miller from Tony Mays notifying of method of execution by lethal injection due to waiver not being provided by deadline
367. 3/15/2018 Order granting amicus brief and denying Tennessee's Motion to set an execution date prior to 6/1/2018 re David Miller
368. 3/15/2018 Order setting execution date for David Miller
369. 11/21/2018 Letter to David Miller from Tony Mays notifying of execution date and method with waiver election

370. 11/6/2018 Letter to Stephen Kissinger from Tony Mays enclosing Affidavit Concerning Method of Execution for lethal injection waiver to be presented to David Miller
371. 11/16/2018 Midazolam prescription for David Miller
372. Blank Affidavit to Select Defense Counsel Witness to Execution
373. 11/27/2018 signed and completed Affidavit to Select Defense Counsel Witness to Execution re David Miller and 11/27/2018 Letter from Tony Mays to David Miller and Kissinger acknowledging receipt of Miller's election waiving lethal injection and notifying that Miller will be executed via electrocution.
374. Copy of envelope to Tony Mays from David Miller
375. 11/23/2018 Handwritten note from David Miller waiving lethal injection and electing electrocution
376. 11/8/2018 Letter to Tony Mays from Stephen Kissinger requesting information re David Miller
377. 12/9/2019 Potassium Chloride and Midazolam prescription for Sutton
378. 2/4/2020 Letter to Nicholas Sutton from Tony Mays notifying of execution date and method, Sutton waived lethal injection
379. 2/4/2020 Letter to Nicholas Sutton from Tony Mays notifying of execution date and method via execution
380. 1/21/2020 Affidavit Concerning Method of Execution and Affidavit to Select Defense Counsel Witness to Execution re Nicholas Sutton
381. 2/3/2020 Email, Subject Fwd: Sutton Update
382. Day of Execution - Electrocution Execution Recorder Checklist for Nicholas Sutton (11 pages)
383. Death watch logs for Nicholas Sutton (40 pages)
384. Letters notifying individuals of selection to witness the execution, correspondence to Nicholas Sutton's attorney, correspondence regarding attending execution, Inmate Inquiry form, Inventories of property, notification letter, Affidavit Concerning Method of Execution, Cremation form, Volunteer Application and certification for reverend, Outlook

- scheduled meetings with visitors, Visit request forms, Release form and Staff visit logs re Nicholas Sutton (81 pages)
385. 11/16/2018 Order for execution for Nicholas Sutton
 386. Letter to Stephen West from Tony Mays notifying of execution date and method
 387. 5/4/2019 Email, Subject RE: contact information – re Stephen West
 388. 7/12/2019 Potassium Chloride and Midazolam prescription for Stephen West
 389. 7/15/2019 Letter to Stephen West from Tony Mays notifying of execution date and method
 390. 7/18/2019 Lab report for Midazolam potency re Stephen West
 391. 7/30/2019 Lab report for Midazolam sterility and potency re Stephen West
 392. 7/15/2019 Affidavit to Select Defense Counsel Witness to Execution and Affidavit Concerning Method of Execution re Stephen West
 393. 7/12/2019 Potassium Chloride and Midazolam prescription for Stephen West
 394. 7/17/2019 Lab report for potassium chloride potency re Stephen West
 395. Redacted Letters notifying individuals of selection to witness the execution, correspondence to Stephen West's attorney, Outlook scheduled meetings with visitors, correspondence regarding attending execution and inventory of personal belongings re Stephen West (66 pages)
 396. Letters notifying individuals of selection to witness the execution, correspondence to Stephen West's attorney, Outlook scheduled meetings with visitors, correspondence regarding attending execution and inventory of personal belongings re Stephen West (66 pages)
 397. Redacted TDOC Incident Report, Day of Execution - Electrocution Execution Recorder Checklist and Staff visit logs re Stephen West (22 pages)
 398. TDOC Incident Report, Day of Execution - Electrocution Execution Recorder Checklist and Staff visit logs re Stephen West (22 pages)
 399. Redacted Death watch logs for Stephen West (42 pages)

400. Death watch logs for Stephen West (42 pages)
401. 11/16/2018 Order for execution for Stephen West
402. 8/6/2019 Sixth Circuit order affirming district court's order and denying Stephen West's motion for a stay of execution
403. 11/16/2018 Order for execution for Charles Wright
404. 10/22/2018 Order for execution for Edmund Zagorski
405. 10/11/2018 Reprieve from Gov. Haslam until 10/21/2018 for Edmund Zagorski
406. 9/11/2018 Email, Subject Zagorski forms
407. Excel spreadsheet of Midazolam test results for sterility and potency for Edmund Zagorski
408. 9/27/2018 Letter to Edmund Zagorski from Tony Mays notifying of execution date and method
409. 10/9/2018 Letter to Kelley Henry from Debra Inglis advising Affidavit ineffective and execution will proceed by lethal injection re Edmund Zagorski
410. 10/9/2018 Letter to Kelley Henry from Debra Inglis advising Affidavit ineffective and execution will proceed by lethal injection re Edmund Zagorski
411. 10/10/2018 Defendants' Response to Plaintiffs' Motion for Temporary Restraining Order re Edmund Zagorski
412. 9/21/2018 Midazolam prescription for Edmund Zagorski
413. 10/24/2018 Midazolam prescription for Edmund Zagorski
414. 10/24/2018 Midazolam prescription for Edmund Zagorski
415. PDF of TCA Sec 39-16-201, policies and procedures for visits, visitation application and forms, highlights re electronic devices
416. PDF of TCA Sec 39-16-201, policies and procedures for visits, visitation application and forms

417. 9/27/2018 Letter to Edmund Zagorski from Tony Mays notifying of execution date and method
418. 9/24/2018 Lab report for Midazolam potency re Edmund Zagorski
419. 8/30/2018 Letter from Kelley Henry re request for Edmund Zagorski not to be presented with an Affidavit Concerning Method of Execution
420. 10/8/2018 Lab report for Midazolam sterility and potency re Edmund Zagorski
421. 9/27/2018 Affidavit Concerning Method of Execution re Edmund Zagorski
422. TDOC policies and procedures re Attorney Access to Inmates and blank release
423. 7/22/2020 Email, Subject [EXTERNAL] potency – re Harold Wayne Nichols
424. 7/1/2020 Potassium chloride and midazolam prescriptions for Harold Wayne Nichols
425. 7/2/2020 Letter to Harold Wayne Nichols from Tony Mays notifying of execution date and method with waiver election
426. 1/15/2020 order setting execution for Harold Wayne Nichols
427. 11/3/2021 order setting execution for Harold Wayne Nichols
428. 11/3/2020 Potassium chloride and Midazolam prescriptions for Pervis Payne
429. 11/3/2020 Letter to Pervis Payne from Tony Mays notifying of execution date and method with waiver election, Affidavit Concerning Method of Execution and Affidavit to Select Defense Counsel Witness to Execution
430. 11/3/2020 Letter to Pervis Payne from Tony Mays notifying of execution date and method with waiver election
431. 2/24/2020 Order setting execution for Pervis Payne
432. 4/11/2020 Letter to Michael Rimmer from Tony Mays notifying of execution date and method with waiver election
433. 4/16/2021 Judgment affirming conviction and sentence and appeal documents re Michael Rimmer

434. 3/16/2022 Potassium Chloride and Midazolam prescriptions for Oscar Smith
435. 3/16/2022 Potassium Chloride and Midazolam signed prescriptions for Oscar Smith
436. 12/21/2020 Letter from Amy Harwell to Tony Mays re Oscar Smith's objection to signing the Affidavit Regarding Method of Execution
437. 1/5/2021 Order staying Oscar Smith's execution date due to COVID-19
438. 3/21/2022 Letter to Oscar Smith from Tony Mays notifying of execution date and method with waiver election
439. Inventory of items preserved from 4/21/2022 execution preparation and chemical preparation forms re Oscar Smith
440. 4/20/2022 Lab reports of Midazolam sterility and potency re Oscar Smith
441. 3/31/2022 Lab report of potassium chloride potency re Oscar Smith
442. 3/31/2022 Lab report of potassium chloride sterility re Oscar Smith
443. 4/20/2022 Non-Disclosure Agreement, Spiritual Advisor Attendance to Execution of Death Sentence re Oscar Smith
444. 1/15/2020 order setting execution date for Oscar Smith
445. 4/17/2020 order setting execution date for Oscar Smith
446. Orders setting execution dates re Oscar Smith
447. *Workman v Bredesen* case, 486 F.3d 896 (2007)
448. Opinion affirming trial court's judgment, trial court did not err in dismissing Plaintiff's claims (3/28/2017) re Stephen West
449. *West v Schofield* case, 460 S.W.3d 113 (2015)
450. Ohio Execution Protocol Litigation - Opinion affirming district court's granting of preliminary injunction enjoining Ohio's execution of 3 inmates to allow further litigation re midazolam's efficacy before Ohio executes 3 inmates (4/6/2017)

451. Ohio Execution Protocol Litigation - Opinion affirming district court's denial of Henness' request to stay his execution (9/11/2019)
452. *Heckler v Chaney* case, 470 U.S. 821 (1985)
453. *Glossip v Gross* Resp Brief, Oklahoma's brief re whether a 3-drug lethal injection protocol creates a substantial risk of severe pain due to Midazolam use as first drug (4/8/2015)
454. *Glossip v Gross* case, 135 S.Ct. 2726 (2015)
455. *Cook v Food and Drug Administration* case, 733 F.3d 1 (2013)
456. *Bray v Lombardi* case, 2017 WL 574909 (2/14/2017)
457. *AbdurRahman v Bredesen* case, 181 S.W.3d 292 (10.17.2005)
458. Method of Execution Act of 2015, A.C.A. Sect 5-4-617 - re Arkansas law
459. 6/4/2018 Email, Subject FW: Shults, No. CV-17-544 – re Arkansas law
460. 3/29/2018 - Wood Concurring Dissenting Opinion - Arkansas Supreme Court dissent from majority's conclusion that the identity of drug manufacturers is not protected under the confidentiality provisions of the Method of Execution Act
461. 3/29/2018 - Majority Opinion - Arkansas Supreme Court opinion finding that the identity of drug manufacturers is not protected under the confidentiality provisions of the Method of Execution Act
462. 3/29/2018 - Kemp Concurring Dissenting Opinion - Arkansas Supreme Court opinion concurring in part and dissenting in part to majority's opinion
463. April 2017 redacted text messages re acquiring lethal drugs produced in *Adbur Rahman v. Parker* – Chancery Court proceedings
464. 6/5/2018 Deposition transcript of Tony Parker in *Adbur Rahman v. Parker* – Chancery Court proceedings
465. 6/4/2018 Deposition transcript of Tony Mays in *Adbur Rahman v. Parker* – Chancery Court proceedings
466. 7/7/2018 Plaintiffs' Response to Motion for Protective Order in *Adbur Rahman v. Parker* – Chancery Court proceedings

467. 8/13/2017 Redacted TDOC Lethal Injection Update PowerPoint presentation advising on the current death row inmates, laws re executions and efforts made to procure chemical to compound lethal drugs for executions produced in *Adbur Rahman v. Parker* – Chancery Court proceedings
468. 2/20/2018 Plaintiffs' First Set of Interrogatories to Defendants in *Adbur Rahman v. Parker* – Chancery Court proceedings
469. 2/20/2018 Plaintiffs' First Request for Production of Documents in *Adbur Rahman v. Parker* – Chancery Court proceedings
470. Redacted April and July 2017 emails re procuring Pentobarbital produced in *Adbur Rahman v. Parker* – Chancery Court proceedings
471. Picture of the first page of article "Using pain to assess neurologic response" produced in *Adbur Rahman v. Parker* – Chancery Court proceedings
472. 5/7/2018 Order Granting in Part and Denying in Part Plaintiffs' Motion to Compel in *Adbur Rahman v. Parker* – Chancery Court proceedings
473. 6/29/2018 Memorandum and Order Granting in Part and Denying in Part Plaintiffs' Motion to Amend in *Adbur Rahman v. Parker* – Chancery Court proceedings
474. 5/24/2018 Memorandum and Order Denying Motion for Protective Order Seeking to Quash Parker and Mays Depositions But Issuing Limitations on Time and Scope of Depositions; and Additional Orders on Deadlines on Expert Disclosures and Defendants' Summary Judgment Filing in *Adbur Rahman v. Parker* – Chancery Court proceedings
475. 7/3/2018 Orders: (1) Denying Plaintiffs' 7/2/2018 Motion to Reconsider; (2) Permitting Offer of Proof at Trial; and (3) Denying Defendants' Motion to Strike Second Amended Complaint and Submit Corrected Version in Accordance with the Court's Order in *Adbur Rahman v. Parker* – Chancery Court proceedings
476. 6/25/2018 Notice of Filing Exhibit in Support of Plaintiffs' Motion and Memorandum of Law Regarding Defendants New Unwritten Protocol Using Compounded High Risk Sterile Injectables Under Seal in *Adbur Rahman v. Parker* – Chancery Court proceedings
477. 6/11/2018 Notice of Filing (Deposition of Commissioner Parker and Warden Mays) in *Adbur Rahman v. Parker* – Chancery Court proceedings

478. Redacted handwritten notes re procuring Pentobarbital produced in *Adbur Rahman v. Parker* – Chancery Court proceedings
479. 5/4/2018 Memorandum and Order Granting in Part and Denying in Part Defendants' Motion to Dismiss in *Adbur Rahman v. Parker* – Chancery Court proceedings
480. 5/29/2018 Defendants' Motion for Summary Judgment in *Adbur Rahman v. Parker* – Chancery Court proceedings
481. September 2017 redacted emails re ordering Midazolam, Vecuronium and Potassium Chloride for a 3-drug protocol produced in *Adbur Rahman v. Parker* – Chancery Court proceedings
482. 6/25/2018 Plaintiffs' Motion and Memorandum of Law Regarding Defendants New Unwritten Protocol Using Compounded High-Risk Sterile Injectables filed in *Adbur Rahman v. Parker* – Chancery Court proceedings
483. Draft of Defendants Answer to the Amended Petition for Declaratory Judgment in *Adbur Rahman v. Parker* – Chancery Court proceedings
484. Drafts of language for request for admissions in *Adbur Rahman v. Parker* – Chancery Court proceedings
485. 6/2/2018 Email, Subject Fw: Plaintiffs Motion to Compel Deposition Testimony re *Adbur Rahman v. Parker* – Chancery Court proceedings
486. 5/29/2018 Defendants' Statement of Undisputed Material Facts in Support of Motion for Summary Judgment in *Adbur Rahman v. Parker* – Chancery Court proceedings
487. 5/29/2018 Defendants' Memorandum of Law in Support of Motion for Summary Judgment in *Adbur Rahman v. Parker* – Chancery Court proceedings
488. Draft of Defendants' Answer to Amended Complaint with redlines in *Adbur Rahman v. Parker* – Chancery Court proceedings
489. 3/29/2018 Defendants' Motion to Compel Complaint for Declaratory Judgment in *Adbur Rahman v. Parker* – Chancery Court proceedings
490. 3/29/2018 Memorandum of Law in Support of Motion to Dismiss Complaint for Declaratory Judgment in *Adbur Rahman v. Parker* – Chancery Court proceedings

491. 6/21/2018 Deposition transcript of Debbie Inglis in *Adbur Rahman v. Parker* – Chancery Court proceedings
492. 2/20/2018 Complaint for Declaratory Judgment in *Adbur Rahman v. Parker* – Chancery Court proceedings
493. 5/8/2018 Defendants' Answer to Amended Complaint in *Adbur Rahman v. Parker* – Chancery Court proceedings
494. Draft of proposed answers to Plaintiffs' amended complaint in *Adbur Rahman v. Parker* – Chancery Court proceedings
495. Amended Complaint for Declaratory Judgment in *Adbur Rahman v. Parker* – Chancery Court proceedings
496. 6/13/2018 Memorandum and Orders on: (1) Plaintiffs' Motion to Compel; (2) Plaintiffs' Notice to Extend Summary Judgment Response time; (3) Altering and Amending 6/12/2018 Memorandum and Orders; and (4) 6/20/2018 Telephone Conference in *Adbur Rahman v. Parker* – Chancery Court proceedings
497. 7/17/2018 Memorandum and Order Regulating (Pursuant to Tenn. Code Ann. § 10-7-504(h)) Plaintiffs' Offer of Proof in *Adbur Rahman v. Parker* – Chancery Court proceedings
498. 7/26/2018 Order Dismissing With Prejudice Plaintiffs' Challenge to Tennessee Lethal Injection Protocol and Memorandum of Findings of Fact and Conclusions of Law in *Adbur Rahman v. Parker* – Chancery Court proceedings
499. 5/14/2018 Issued Subpoenas to take the depositions of Debbie Inglis and [Drug Procurer] in *Adbur Rahman v. Parker* – Chancery Court proceedings
500. USP 38 - Compounding for Animal Patients produced in *Adbur Rahman v. Parker* – Chancery Court proceedings
501. January 2018 FDA Compounding Guidance - Compounded Drug Products That are Essentially Copies of a Commercially Available Drug Product Under Section 503A of the Federal Food, Drug, and Cosmetic Act produced in *Adbur Rahman v. Parker* – Chancery Court proceedings
502. 6/25/2018 Email re search to procure Pentobarbital and April 2017 text messages re acquiring lethal drugs produced in *Adbur Rahman v. Parker* – Chancery Court proceedings

503. Redacted training rosters for electrocution, lethal injection, Practice, protocol review/training and training materials produced in in *Adbur Rahman v. Parker* – Chancery Court proceedings
504. Redacted IV training results and certificates of completion, redacted training rosters for execution, protocol review/training, Death Watch, Practice, Training, electrocution, lethal injection and training materials produced in in *Adbur Rahman v. Parker* – Chancery Court proceedings
505. 7/30/2018 filed Plaintiffs Notice of Appeal in in *Adbur Rahman v. Parker* – Chancery Court proceedings
506. 7/30/2018 Motion to Vacate Execution Date for Billy Ray Irick
507. 8/6/2018 Order Denying the Motion to Vacate Execution Date for Billy Ray Irick
508. 8/6/2018 Dissenting Order to majority's opinion
509. 7/30/2018 Motion to Proceed In Forma Pauperis
510. Picture of thermometer reading in *King v. Parker* – Middle District of Tennessee proceedings
511. 6/24/2019 email from Scott Sutherland to Inglis and [Drug Procurer] enclosing the Amended Complaint and requesting information in *King v. Parker* – Middle District of Tennessee proceedings
512. Draft of a declaration from TDOC Employee in *King v. Parker* – Middle District of Tennessee proceedings
513. Declaration from President of Pharmacy Z signed 7/29/2019 in *King v. Parker* – Middle District of Tennessee proceedings
514. Draft of Declaration from President of Pharmacy Z in *King v. Parker* – Middle District of Tennessee proceedings
515. Declaration from RMSI Officer signed 7/30/2019 in *King v. Parker* – Middle District of Tennessee proceedings
516. Draft of Declaration from RMSI Officer in *King v. Parker* – Middle District of Tennessee proceedings
517. Draft of Declaration from RMSI Mental Health Professional in in *King v. Parker* – Middle District of Tennessee proceedings

518. Draft of Declaration from RMSI Employee in *King v. Parker* – Middle District of Tennessee proceedings
519. Draft of Tony Parker's Answer to Amended Complaint in *King v. Parker* – Middle District of Tennessee proceedings
520. Draft of Tony May's Answer to Complaint with comments from [Drug Procurer] in *King v. Parker* – Middle District of Tennessee proceedings
521. Declaration from RMSI Mental Health Professional signed 7/29/2019 in *King v. Parker* – Middle District of Tennessee proceedings
522. 9/7/2017 emails regarding procuring lethal drugs, possible insufficiency of Midazolam as an analgesic produced in *King v. Parker* – Middle District of Tennessee proceedings
523. Redacted handwritten notes re procuring Pentobarbital in *King v. Parker* – Middle District of Tennessee proceedings
524. 8/13/2017 TDOC Lethal Injection Update PowerPoint presentation advising on the current death row inmates, laws re executions and efforts made to procure chemical to compound lethal drugs for executions produced in *King v. Parker* – Middle District of Tennessee proceedings
525. Spreadsheet re TDOC employee's involvement with procuring the lethal drugs and discoverable records in *King v. Parker* – Middle District of Tennessee proceedings
526. 1/25/2019 Amended Complaint for Injunctive Relief in *King v. Parker* – Middle District of Tennessee proceedings
527. 7/5/2019 Tony May's Answer to Amended Complaint in *King v. Parker* – Middle District of Tennessee proceedings
528. 7/5/2019 Tony Parker's Answer to Amended Complaint in *King v. Parker* – Middle District of Tennessee proceedings
529. 2/11/2020 and 8/4/2020 redacted lethal injection chemical ledgers produced in *King v. Parker* – Middle District of Tennessee proceedings
530. 12/20/2019, 2/11/2020 and 7/28/2020 redacted Lethal injection chemical Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings

531. Redacted lethal drug prescriptions for Irick, Zagorski, Miller, Johnson, West, Hall, Sutton and Nichols produced in *King v. Parker* – Middle District of Tennessee proceedings
532. 1/8/2020 Tony Parker's Response to Plaintiff's 1st Set of Interrogatories in *King v. Parker* – Middle District of Tennessee proceedings
533. Redacted dashboard of invoices and payments to pharmacy for lethal drugs produced in *King v. Parker* – Middle District of Tennessee proceedings
534. Sections of policies and procedures for the Execution team, Victim Services, Execution Perimeter Security cover page, and Execution Forms produced in *King v. Parker* – Middle District of Tennessee proceedings
535. Lethal injection procedures (page 1-50), rev. 7/5/2018 produced in *King v. Parker* – Middle District of Tennessee proceedings
536. 8/19/2020 Defendants' Response to Plaintiff's Request for Production of Documents in *King v. Parker* – Middle District of Tennessee proceedings
537. Draft of information to supplement responses to Interrogatory 8 in *King v. Parker* – Middle District of Tennessee proceedings
538. 8/19/2020 Tony Mays' Supplemental Response to Plaintiff's 1st Set of Interrogatories in *King v. Parker* – Middle District of Tennessee proceedings
539. Draft of information to supplement responses to Interrogatory 8 in *King v. Parker* – Middle District of Tennessee proceedings
540. 8/19/2020 Tony Parker's Supplemental Response to Plaintiff's 1st Set of Interrogatories in *King v. Parker* – Middle District of Tennessee proceedings
541. Redacted lethal drug prescription orders for Irick, Zagorski, Miller, Johnson, West, Hall, Sutton and Nichols produced in *King v. Parker* – Middle District of Tennessee proceedings
542. Tony Parker's Supplemental Response to Plaintiff's 1st Set of Interrogatories in *King v. Parker* – Middle District of Tennessee proceedings
543. Tony May's Supplemental Response to Plaintiff's 1st Set of Interrogatories in *King v. Parker* – Middle District of Tennessee proceedings

544. Draft of proposed supplemental responses to Interrogatories number 8, 9 and 10 in *King v. Parker* – Middle District of Tennessee proceedings
545. Redacted 11/27/2017 executed Pharmacy Services Agreement and 2/20/2018 provider agreement for services rendered by doctor during execution produced in *King v. Parker* – Middle District of Tennessee proceedings
546. 2017 emails re Pentobarbital, new 3-drug protocol including Midazolam, Vecuronium and Potassium Chloride, handwritten notes re procuring Pentobarbital and Pentobarbital property information produced in *King v. Parker* – Middle District of Tennessee proceedings
547. Notes providing names of "Individuals Listed Pages 12-29" and "35-38" in *King v. Parker* – Middle District of Tennessee proceedings
548. 12/19/2019 Email, Subject RE Question in *King v. Parker* – Middle District of Tennessee proceedings
549. Draft of Tony Parker's Supplemental Response to Plaintiff's 1st Set of Interrogatories in *King v. Parker* – Middle District of Tennessee proceedings
550. Draft of Tony May's Supplemental Response to Plaintiff's 1st Set of Interrogatories in *King v. Parker* – Middle District of Tennessee proceedings
551. 12/20/2019 Email, Subject TN Invoice 20191220.xlsx produced in *King v. Parker* – Middle District of Tennessee proceedings
552. 12/19/2019 Email, Subject FW: Question produced in *King v. Parker* – Middle District of Tennessee proceedings
553. 12/9/2019 Email, Subject [EXTERNAL] New Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
554. 12/5/2019 Email, Subject [EXTERNAL] Report produced in *King v. Parker* – Middle District of Tennessee proceedings
555. 11/26/2019 Email, Subject [EXTERNAL] Lab results produced in *King v. Parker* – Middle District of Tennessee proceedings
556. 11/21/2019 Email, Subject [EXTERNAL] Alternatives produced in *King v. Parker* – Middle District of Tennessee proceedings

557. 11/20/2019 Email, Subject [EXTERNAL] see attached produced in *King v. Parker* – Middle District of Tennessee proceedings
558. 10/30/2019 Email, Subject [EXTERNAL] RE: API produced in *King v. Parker* – Middle District of Tennessee proceedings
559. 9/19/2019 Email, Subject [EXTERNAL] Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
560. 8/15/2019 Email, Subject [EXTERNAL] Scanned from a Xerox [Pharmacy] Pharmacy.pdf produced in *King v. Parker* – Middle District of Tennessee proceedings
561. 8/12/2019 Email, Subject [EXTERNAL] 2019-18034.pdf produced in *King v. Parker* – Middle District of Tennessee proceedings
562. 8/12/2019 Email, Subject [EXTERNAL] ETX-190806-0007-LabReport.pdf produced in *King v. Parker* – Middle District of Tennessee proceedings
563. 8/9/2019 Email, Subject [EXTERNAL] results produced in *King v. Parker* – Middle District of Tennessee proceedings
564. 8/8/2019 Email, Subject [EXTERNAL] Suitability Test produced in *King v. Parker* – Middle District of Tennessee proceedings
565. 8/8/2019 Email, Subject [EXTERNAL] KCI produced in *King v. Parker* – Middle District of Tennessee proceedings
566. 8/8/2019 Email, Subject [EXTERNAL] RE: kcl protocol produced in *King v. Parker* – Middle District of Tennessee proceedings
567. 8/7/2019 Email, Subject [EXTERNAL] Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
568. 7/31/2019 Email, Subject [EXTERNAL] Report produced in *King v. Parker* – Middle District of Tennessee proceedings
569. 7/29/2019 Email, Subject [EXTERNAL] RE: Declaration produced in *King v. Parker* – Middle District of Tennessee proceedings
570. 7/26/2019 Email, Subject RE: Declaration produced in *King v. Parker* – Middle District of Tennessee proceedings
571. 7/24/2019 Email, Subject [EXTERNAL] Report produced in *King v. Parker* – Middle District of Tennessee proceedings

572. 7/10/2019 Email, Subject RX produced in *King v. Parker* – Middle District of Tennessee proceedings
573. 7/2/2019 Email, Subject [EXTERNAL] FW: kcl protocol produced in *King v. Parker* – Middle District of Tennessee proceedings
574. 6/26/2019 Email, Subject kcl protocol produced in *King v. Parker* – Middle District of Tennessee proceedings
575. 6/26/2019 Email, Subject Proposed Alternative produced in *King v. Parker* – Middle District of Tennessee proceedings
576. 6/26/2019 Email, Subject [EXTERNAL] <http://leucadiapharma.com/anti-capital-punishment-statement/> produced in *King v. Parker* – Middle District of Tennessee proceedings
577. 6/26/2019 Email, Subject KCI produced in *King v. Parker* – Middle District of Tennessee proceedings
578. 6/26/2019 Email, Subject [EXTERNAL] KCI Protocol produced in *King v. Parker* – Middle District of Tennessee proceedings
579. 5/13/2019 Email, Subject FW: Midazolam produced in *King v. Parker* – Middle District of Tennessee proceedings
580. 5/13/2019 Email, Subject RE: Invoice Check produced in *King v. Parker* – Middle District of Tennessee proceedings
581. 5/9/2019 Email, Subject RE: Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
582. 5/9/2019 Email, Subject Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
583. 5/9/2019 Email, Subject report produced in *King v. Parker* – Middle District of Tennessee proceedings
584. 4/29/2019 Email, Subject Potency report produced in *King v. Parker* – Middle District of Tennessee proceedings
585. 4/2/2019 Email, Subject follow up produced in *King v. Parker* – Middle District of Tennessee proceedings
586. 2/26/2019 Email, Subject New invoice produced in *King v. Parker* – Middle District of Tennessee proceedings

587. 2/14/2019 Email, Subject RE: Summary of Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
588. 11/7/2018 Email, Subject RE: Payments [secure email] produced in *King v. Parker* – Middle District of Tennessee proceedings
589. 11/6/2018 Email, Subject Open invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
590. 11/2/2018 Email, Subject Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
591. 10/31/2018 Email, Subject Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
592. 10/10/2018 Email, Subject Final Report produced in *King v. Parker* – Middle District of Tennessee proceedings
593. 8/27/2018 Email, Subject Our friend Wally produced in *King v. Parker* – Middle District of Tennessee proceedings
594. 8/24/2018 Email, Subject Fwd: Tennessee License produced in *King v. Parker* – Middle District of Tennessee proceedings
595. 8/23/2018 Email, Subject Fwd: produced in *King v. Parker* – Middle District of Tennessee proceedings
596. 8/16/2018 Email, Subject TN 81618 produced in *King v. Parker* – Middle District of Tennessee proceedings
597. 8/15/2018 Email, Subject Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
598. 8/8/2018 Email, Subject Log produced in *King v. Parker* – Middle District of Tennessee proceedings
599. 8/6/2018 Email, Subject USP 71 produced in *King v. Parker* – Middle District of Tennessee proceedings
600. 7/25/2018 Email, Subject updated invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
601. 7/23/2018 Email, Subject Shipping SOP produced in *King v. Parker* – Middle District of Tennessee proceedings

602. 7/18/2018 Email, Subject RE: sample RX produced in *King v. Parker* – Middle District of Tennessee proceedings
603. 7/17/2018 Email, Subject sample RX produced in *King v. Parker* – Middle District of Tennessee proceedings
604. 7/16/2018 Email, Subject Protocol produced in *King v. Parker* – Middle District of Tennessee proceedings
605. 7/15/2018 Email, Subject Fwd: Certificates produced in *King v. Parker* – Middle District of Tennessee proceedings
606. 7/12/2018 Email, Subject Testing report produced in *King v. Parker* – Middle District of Tennessee proceedings
607. 7/9/2018 Email, Subject RE: Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
608. 7/9/2018 Email, Subject Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
609. 7/9/2018 Email, Subject {No Subject} produced in *King v. Parker* – Middle District of Tennessee proceedings
610. 7/5/2018 Email, Subject Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
611. 7/3/2018 Email, Subject FW: ACHC Accreditation Decision_60062 [Pharmacy] Specialty Pharmacy produced in *King v. Parker* – Middle District of Tennessee proceedings
612. 6/22/2018 Email, Subject {No Subject} produced in *King v. Parker* – Middle District of Tennessee proceedings
613. 6/20/2018 Email, Subject Product Inquiry produced in *King v. Parker* – Middle District of Tennessee proceedings
614. 4/5/2018 Email, Subject FW: Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
615. 1/22/2018 Email, Subject List of restricted drugs produced in *King v. Parker* – Middle District of Tennessee proceedings
616. 87-page PDF containing duplicate copies of 65 emails above produced in *King v. Parker* – Middle District of Tennessee proceedings

617. Draft document providing responses to Interrogatories and Requests for Production produced in *King v. Parker* – Middle District of Tennessee proceedings
618. Tony Parker's Second Supplemental Response to Plaintiff's 1st Set of Interrogatories produced in *King v. Parker* – Middle District of Tennessee proceedings
619. 2020 - 2021 Unredacted training rosters for strap down electrocution and lethal injection, electrocution, lethal injection, protocol review and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
620. 2020-2021 training rosters for strap down electrocution and lethal injection, electrocution, lethal injection, protocol review and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
621. 5/7/2021 Email from Robert Mitchell to Inglis and Young re depositions requested from Plaintiffs and supplementing discovery responses produced in *King v. Parker* – Middle District of Tennessee proceedings
622. 7/29/2020 redacted training roster for lethal injection and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
623. Draft of Tony May's 3rd Supplemental Response to Plaintiff's Interrogatories produced in *King v. Parker* – Middle District of Tennessee proceedings
624. Redacted compounding formulas for Sodium Hydroxide 1%, Edetate Disodium 1%, Hydrochloric Acid 1%, Midazolam and Potassium Chloride produced in *King v. Parker* – Middle District of Tennessee proceedings
625. Screen shot of text messages re ordering lethal drugs and expiration date produced in *King v. Parker* – Middle District of Tennessee proceedings
626. Screen shot of text messages re inventory of lethal drugs and expiration dates produced in *King v. Parker* – Middle District of Tennessee proceedings
627. Screen shot of text messages re trip to Nashville (for deposition) produced in *King v. Parker* – Middle District of Tennessee proceedings
628. Screen shot of text messages re emailed inventories for lethal drugs, status of ordering Vecuronium and potassium chloride and formulas produced in *King v. Parker* – Middle District of Tennessee proceedings

629. Screen shot of text messages re travel to Nashville (for deposition) produced in *King v. Parker* – Middle District of Tennessee proceedings
630. Screen shot of text messages re lethal drug and timeframe for its proper use produced in *King v. Parker* – Middle District of Tennessee proceedings
631. Screen shot of text messages re pick up from airport produced in *King v. Parker* – Middle District of Tennessee proceedings
632. Screen shot of text messages re temperature for lethal drug produced in *King v. Parker* – Middle District of Tennessee proceedings
633. Screen shot of text messages re status of ordering lethal drugs and order of vecuronium produced in *King v. Parker* – Middle District of Tennessee proceedings
634. Screen shot of text messages re wanting to discuss latest lawsuit produced in *King v. Parker* – Middle District of Tennessee proceedings
635. Screen shot of text messages re formulas being proprietary and status of lethal drug orders, potassium chloride has come in, availability of vecuronium unclear produced in *King v. Parker* – Middle District of Tennessee proceedings
636. Same Text messages all compiled in a pdf (not in chronological order) produced in *King v. Parker* – Middle District of Tennessee proceedings
637. Same Text messages all compiled in a pdf in chronological order produced in *King v. Parker* – Middle District of Tennessee proceedings
638. 12/20/2019 Email, Subject [EXTERNAL] New Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
639. 12/5/2019 Email, Subject [EXTERNAL] Report produced in *King v. Parker* – Middle District of Tennessee proceedings
640. 11/26/2019 Email, Subject [EXTERNAL] Lab results produced in *King v. Parker* – Middle District of Tennessee proceedings
641. 11/21/2019 Email, Subject [EXTERNAL] Alternatives produced in *King v. Parker* – Middle District of Tennessee proceedings
642. 11/20/2019 Email, Subject [EXTERNAL] see attached produced in *King v. Parker* – Middle District of Tennessee proceedings

643. 10/30/2019 Email, Subject [EXTERNAL] RE: API produced in *King v. Parker* – Middle District of Tennessee proceedings
644. 9/19/2019 Email, Subject [EXTERNAL] Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
645. 8/15/2019 Email, Subject [EXTERNAL] Scanned from a Xerox [Pharmacy] Pharmacy.pdf produced in *King v. Parker* – Middle District of Tennessee proceedings
646. 8/12/2019 Email, Subject [EXTERNAL] 2019-18034.pdf produced in *King v. Parker* – Middle District of Tennessee proceedings
647. 8/12/2019 Email, Subject [EXTERNAL] ETX-190806-0007-LabReport.pdf produced in *King v. Parker* – Middle District of Tennessee proceedings
648. 8/9/2019 Email, Subject [EXTERNAL] results produced in *King v. Parker* – Middle District of Tennessee proceedings
649. 8/8/2019 Email, Subject [EXTERNAL] Suitability Test produced in *King v. Parker* – Middle District of Tennessee proceedings
650. 8/8/2019 Email, Subject [EXTERNAL] KCI produced in *King v. Parker* – Middle District of Tennessee proceedings
651. 8/8/2019 Email, Subject [EXTERNAL] RE: kci protocol produced in *King v. Parker* – Middle District of Tennessee proceedings
652. 8/7/2019 Email, Subject [EXTERNAL] Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
653. 7/31/2019 Email, Subject [EXTERNAL] Report produced in *King v. Parker* – Middle District of Tennessee proceedings
654. 7/24/2019 Email, Subject [EXTERNAL] Report produced in *King v. Parker* – Middle District of Tennessee proceedings
655. 7/10/2019 Email, Subject RX produced in *King v. Parker* – Middle District of Tennessee proceedings
656. 7/2/2019 Email, Subject [EXTERNAL] FW: kci protocol produced in *King v. Parker* – Middle District of Tennessee proceedings
657. 6/26/2019 Email, Subject kci protocol produced in *King v. Parker* – Middle District of Tennessee proceedings

658. 6/26/2019 Email, Subject Proposed Alternative produced in *King v. Parker* – Middle District of Tennessee proceedings
659. 6/26/2019 Email, Subject [EXTERNAL] <http://leucadiapharma.com/anti-capital-punishment-statement/> produced in *King v. Parker* – Middle District of Tennessee proceedings
660. 6/26/2019 Email, Subject KCI produced in *King v. Parker* – Middle District of Tennessee proceedings
661. 6/26/2019 Email, Subject [EXTERNAL] KCI Protocol produced in *King v. Parker* – Middle District of Tennessee proceedings
662. 5/13/2019 Email, Subject FW: Midazolam produced in *King v. Parker* – Middle District of Tennessee proceedings
663. 5/13/2019 Email, Subject RE: Invoice Check produced in *King v. Parker* – Middle District of Tennessee proceedings
664. 5/9/2019 Email, Subject RE: Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
665. 5/9/2019 Email, Subject Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
666. 5/9/2019 Email, Subject report produced in *King v. Parker* – Middle District of Tennessee proceedings
667. 4/29/2019 Email, Subject Potency report produced in *King v. Parker* – Middle District of Tennessee proceedings
668. 4/2/2019 Email, Subject follow up produced in *King v. Parker* – Middle District of Tennessee proceedings
669. 2/26/2019 Email, Subject New Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
670. 2/14/2019 Email, Subject RE: Summary of Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
671. 11/7/2018 Email, Subject RE: Payments [secure email] produced in *King v. Parker* – Middle District of Tennessee proceedings
672. 11/6/2018 Email, Subject Open Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings

- 673. 11/2/2018 Email, Subject Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 674. 10/31/2018 Email, Subject Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 675. 10/10/2018 Email, Subject Final Report produced in *King v. Parker* – Middle District of Tennessee proceedings
- 676. 8/16/2018 Email, Subject TN81618 produced in *King v. Parker* – Middle District of Tennessee proceedings
- 677. 8/15/2018 Email, Subject Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 678. 8/8/2018 Email, Subject Log produced in *King v. Parker* – Middle District of Tennessee proceedings
- 679. 8/6/2018 Email, Subject USP 71 produced in *King v. Parker* – Middle District of Tennessee proceedings
- 680. 7/25/2018 Email, Subject updated invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 681. 7/23/2018 Email, Subject Shipping SOP produced in *King v. Parker* – Middle District of Tennessee proceedings
- 682. 7/18/2018 Email, Subject RE: sample RX produced in *King v. Parker* – Middle District of Tennessee proceedings
- 683. 7/17/2018 Email, Subject sample Rx produced in *King v. Parker* – Middle District of Tennessee proceedings
- 684. 7/16/2018 Email, Subject Protocol produced in *King v. Parker* – Middle District of Tennessee proceedings
- 685. 7/12/2018 Email, Subject Testing report produced in *King v. Parker* – Middle District of Tennessee proceedings
- 686. 7/9/2018 Email, Subject RE: Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
- 687. 7/9/2018 Email, Subject Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings

688. 7/5/2018 Email, Subject Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
689. 7/3/2018 Email, Subject FW: ACHC Accreditation Decision_60062 [Pharmacy] Specialty Pharmacy produced in *King v. Parker* – Middle District of Tennessee proceedings
690. 6/22/2018 Email, Subject {NO SUBJECT} produced in *King v. Parker* – Middle District of Tennessee proceedings
691. 12/5/2017 Email, Subject RE: More Info produced in *King v. Parker* – Middle District of Tennessee proceedings
692. 12/4/2017 Email, Subject RE: {Redacted} produced in *King v. Parker* – Middle District of Tennessee proceedings
693. 12/4/2017 Email, Subject RE {Redacted} produced in *King v. Parker* – Middle District of Tennessee proceedings
694. 12/4/2017 Email, Subject Agreement produced in *King v. Parker* – Middle District of Tennessee proceedings
695. 11/28/2017 Email, Subject RE {Redacted} produced in *King v. Parker* – Middle District of Tennessee proceedings
696. 11/28/2017 Email, Subject Re: More Info produced in *King v. Parker* – Middle District of Tennessee proceedings
697. 11/28/2017 Email, Subject RE: {Redacted} produced in *King v. Parker* – Middle District of Tennessee proceedings
698. 11/28/2017 Email, Subject {Redacted} produced in *King v. Parker* – Middle District of Tennessee proceedings
699. 11/27/2017 Email, Subject Re: Update produced in *King v. Parker* – Middle District of Tennessee proceedings
700. 11/15/2017 Email, Subject Agreement produced in *King v. Parker* – Middle District of Tennessee proceedings
701. 11/14/2017 Email, Subject Re: Agreement produced in *King v. Parker* – Middle District of Tennessee proceedings
702. 11/14/2017 Email, Subject FW: TN drugs produced in *King v. Parker* – Middle District of Tennessee proceedings

- 703. 11/14/2017 Email, Subject Info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 704. 11/9/2017 Email, Subject RE: DEA License produced in *King v. Parker* – Middle District of Tennessee proceedings
- 705. 11/9/2017 Email, Subject Question produced in *King v. Parker* – Middle District of Tennessee proceedings
- 706. 11/7/2017 Email, Subject Update produced in *King v. Parker* – Middle District of Tennessee proceedings
- 707. 11/1/2017 Email, Subject RE: Additional Info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 708. 11/1/2017 Email, Subject More Info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 709. 11/1/2017 Email, Subject Re: Additional Info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 710. 10/31/2017 Email, Subject Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 711. 10/26/2017 Email, Subject RE: Additional Info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 712. 10/20/2017 Email, Subject Can you send the inventory and invoice info? produced in *King v. Parker* – Middle District of Tennessee proceedings
- 713. 10/18/2017 Email, Subject Re: Question produced in *King v. Parker* – Middle District of Tennessee proceedings
- 714. 10/17/2017 Email, Subject Re: Question produced in *King v. Parker* – Middle District of Tennessee proceedings
- 715. Attachments providing dosing information for lethal drugs, quantities needed and available and costs produced in *King v. Parker* – Middle District of Tennessee proceedings
- 716. 12/28/2017 Email, Subject Updated Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 717. 12/28/2017 Email, Subject New Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings

- 718. 12/15/2017 Email, Subject RE: Info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 719. 12/14/2017 Email, Subject RE: Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
- 720. 12/12/2017 Email, Subject RE: Call produced in *King v. Parker* – Middle District of Tennessee proceedings
- 721. 12/12/2017 Email, Subject RE: Call produced in *King v. Parker* – Middle District of Tennessee proceedings
- 722. 12/11/2017 Email, Subject Re: Status produced in *King v. Parker* – Middle District of Tennessee proceedings
- 723. 12/11/2017 Email, Subject {Redacted} produced in *King v. Parker* – Middle District of Tennessee proceedings
- 724. 12/11/2017 Email, Subject {Redacted} produced in *King v. Parker* – Middle District of Tennessee proceedings
- 725. 12/11/2017 Email, Subject RE: Question produced in *King v. Parker* – Middle District of Tennessee proceedings
- 726. 12/11/2017 Email, Subject RE: Can you confirm {Redacted} produced in *King v. Parker* – Middle District of Tennessee proceedings
- 727. 12/11/2017 Email, Subject RE: Can you confirm {Redacted} produced in *King v. Parker* – Middle District of Tennessee proceedings
- 728. 12/6/2017 Email, Subject Re: Update produced in *King v. Parker* – Middle District of Tennessee proceedings
- 729. 12/5/2017 Email, Subject RE: More Info produced in *King v. Parker* – Middle District of Tennessee proceedings
- 730. Redacted 2/11/2020 and 8/4/2020 lethal drugs inventory produced in *King v. Parker* – Middle District of Tennessee proceedings
- 731. Redacted 12/30/2017 – 11/26/2019 lethal drugs inventory produced in *King v. Parker* – Middle District of Tennessee proceedings
- 732. Manual for the Glock Transition Course produced in *King v. Parker* – Middle District of Tennessee proceedings

733. Lesson plan for the Glock Transition Course, FY 2017/2018 produced in *King v. Parker* – Middle District of Tennessee proceedings
734. Lesson plan for the Glock Transition Course, FY 2017/2018 produced in *King v. Parker* – Middle District of Tennessee proceedings
735. PowerPoint presentation on the Glock produced in *King v. Parker* – Middle District of Tennessee proceedings
736. PowerPoint presentation on the Glock produced in *King v. Parker* – Middle District of Tennessee proceedings
737. Program Curriculum for Revolver training, 4/23/2019 produced in *King v. Parker* – Middle District of Tennessee proceedings
738. Firearms Skills Sheet for Revolver/Shotgun produced in *King v. Parker* – Middle District of Tennessee proceedings
739. PowerPoint presentation on the Revolver produced in *King v. Parker* – Middle District of Tennessee proceedings
740. PowerPoint on pre-service firearms training program covering policies and procedures produced in *King v. Parker* – Middle District of Tennessee proceedings
741. Program curriculum for firearms policies and procedures, rev 7/18/2016 produced in *King v. Parker* – Middle District of Tennessee proceedings
742. Program curriculum for range familiarization, rev 7/5/2016 produced in *King v. Parker* – Middle District of Tennessee proceedings
743. Unredacted spreadsheet of staff commissioned as personal protection officers, as of 12/17/2019 produced in *King v. Parker* – Middle District of Tennessee proceedings
744. Unredacted copies of TDOC Annual Weapons Qualification Cards produced in *King v. Parker* – Middle District of Tennessee proceedings
745. TDOC policies and procedures for Standard Firearms Qualification Training, effective 4/1/2019 produced in *King v. Parker* – Middle District of Tennessee proceedings
746. Midazolam storage and preparation instructions and Potassium Chloride preparation instructions produced in *King v. Parker* – Middle District of Tennessee proceedings

747. LIC Administration and IV Training and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
748. 2017 redacted rosters for Execution, Death watch, Practice, Protocol Review, and Training and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
749. 2020 redacted training rosters for Execution, Review of Protocol, Lethal Injections, Electrocutation and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
750. 2019 - 2020 redacted training rosters for Electrocutation, Lethal Injection, Protocol and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
751. 2019 redacted training rosters for protocol, Lethal Injection and Strap down and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
752. 2019 redacted training rosters for Lethal Injection, Spike with bag and Establish IV and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
753. 2019 redacted training rosters for lethal injection and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
754. 2018 - 2019 redacted training rosters for lethal injection and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
755. 9/25/2018 lethal injection training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
756. 2018 redacted training rosters for protocol review, lethal injection, LIC Administration and IV Training and execution and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
757. Redacted printout of payments made for lethal drugs and supplies to pharmacy produced in *King v. Parker* – Middle District of Tennessee proceedings
758. Redacted printout of payments made for lethal drugs and supplies to pharmacy produced in *King v. Parker* – Middle District of Tennessee proceedings

759. Redacted 12/20/2019, 2/11/2020 and 7/28/2020 pharmacy Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
760. Redacted dashboard printout of payments to pharmacy and redacted pharmacy Invoices from 10/26/2017, 11/1/2017, 11/27/2017, 12/14/2017, 12/28/2017, 7/5/2018, 7/5/2018, 8/7/2019, 8/7/2019, 8/16/2018, 10/31/2018, 2/26/2019, and 12/6/2019 produced in *King v. Parker* – Middle District of Tennessee proceedings
761. Redacted 12/20/2017 Prescription for Midazolam 800 vials, Vecuronium Bromide 400 vials and Potassium Chloride 120 vials produced in *King v. Parker* – Middle District of Tennessee proceedings
762. July 2018 redacted training rosters for lethal injection and Protocol review and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
763. Redacted 2017 emails re procuring lethal drugs, 2015 and 2017 training rosters and materials and Execution Procedures for Electrocution, rev 3/13/2017 produced in *King v. Parker* – Middle District of Tennessee proceedings
764. 7/10/2018 redacted training roster for execution protocol produced in *King v. Parker* – Middle District of Tennessee proceedings
765. 6/13/2018 redacted training roster for lethal injection practice and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
766. 10/15/2018 Letter to Kelley Henry at the Federal Public Defender's Office providing 87 pages of records related to the 9/28/2018 request produced in *King v. Parker* – Middle District of Tennessee proceedings
767. Redacted 2018 training rosters for lethal injection and electric chair and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (87 pages)
768. 10/8/2018 Letter to Kelley Henry at the Federal Public Defender's Office responding to request for records related to the 9/28/2018 request produced in *King v. Parker* – Middle District of Tennessee proceedings
769. 9/28/2018 Letter requesting records under the TPRA related to executions via lethal injection and electrocution produced in *King v. Parker* – Middle District of Tennessee proceedings

770. Redacted 2007 - 2018 testing logs for electric chair and annual electrocution equipment inspection letters produced in *King v. Parker* – Middle District of Tennessee proceedings (16 pages)
771. Redacted 2018 training rosters for electrocution practice, electrocution protocol review, lethal injection protocol, lethal injection practice and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (106 pages)
772. 10/18/2018 Letter from Kelley Henry at the Federal Public Defender's Office requesting records under the TPRA related to executions via lethal injection and electrocution and 10/29/2018 Letter providing records in response produced in *King v. Parker* – Middle District of Tennessee proceedings
773. Redacted emails, Victim forms and letters re attendance at execution, Outlook notifications for inmate meetings, Electrocution Chronological Execution Report, TDOC Incident Report and dashboard printouts, Offender Attributes printout, Personal Property Inventory, Summary of Death report, Execution day planning docs, Zagorski's Telephone Call Log, Death Row Offender Info, Tool Inventory and checks, Key Log, Post-Inspection Form and Tool Control Form produced in *King v. Parker* – Middle District of Tennessee proceedings (137 pages)
774. Redacted Emails, Victim forms and letters re attendance at execution, Outlook notifications for inmate meetings, Electrocution Chronological Execution Report, TDOC Incident Report and dashboard printouts, Offender Attributes printout, Personal Property Inventory, Summary of Death report, Execution day planning docs, Zagorski's Telephone Call Log, Death Row Offender Info, Tool Inventory and checks, Key Log, Post-Inspection Form and Tool Control Form produced in *King v. Parker* – Middle District of Tennessee proceedings (121 pages)
775. Redacted emails, Victim forms and letters re attendance at execution, Media info and forms for attendance at execution, filings and orders, Zagorski execution elections, execution notification drafts and final copies produced in *King v. Parker* – Middle District of Tennessee proceedings (207 pages)
776. Emails, Victim forms and letters re attendance at execution, Media info and forms for attendance at execution, filings and orders, Zagorski execution elections, execution notification drafts and final copies produced in *King v. Parker* – Middle District of Tennessee proceedings
777. Emails, execution attendance letters, media attendance and applications, Zagorski's execution election letter and affidavit to have counsel at

- execution, letters from Zagorski's counsel, records re preparation for execution, Victim Services letters, Outlook meeting records for visits, Electrocution chronological report records, TDOC Incident Report, Discipline records, Memo re last meal, offender info, personal property inventory, Offender information, tool inventory and tool check record produced in *King v. Parker* – Middle District of Tennessee proceedings
778. Redacted training rosters for electrocution practice and lethal injection, and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (32 pages)
779. 11/9/2018 Letter from Jessica Johnson, investigator in the Federal Defender Services requesting records related to Zagorski's 11/1/2018 execution and records related to drugs intended for use in David Earl Miller's execution on 12/6/2018 produced in *King v. Parker* – Middle District of Tennessee proceedings
780. Redacted Death Watch logs for Zagorski and redacted Record of staff visits produced in *King v. Parker* – Middle District of Tennessee proceedings (37 pages)
781. Death Watch logs for Zagorski and Record of Staff Visits for use in *King v. Parker* – Middle District of Tennessee proceedings
782. Redacted Death Watch logs for Zagorski produced in *King v. Parker* – Middle District of Tennessee proceedings (75 pages)
783. Death Watch logs for Zagorski produced in *King v. Parker* – Middle District of Tennessee proceedings
784. 11/14/2018 Letter responding to request advising records will be compiled produced in *King v. Parker* – Middle District of Tennessee proceedings
785. 11/27/2018 Letter advising that requested records are ready and the cost for same produced in *King v. Parker* – Middle District of Tennessee proceedings
786. 11/7/2017 Email, Subject produced in *King v. Parker* – Middle District of Tennessee proceedings
787. 11/28/2017 Email, Subject [Pharmacy] Pharmacy produced in *King v. Parker* – Middle District of Tennessee proceedings
788. 11/28/2017 Email, Subject Registering to do business with TN produced in *King v. Parker* – Middle District of Tennessee proceedings

789. 11/27/2017 Email, Subject Re: Update produced in *King v. Parker* – Middle District of Tennessee proceedings
790. 11/27/2017 Email, Subject RE: Update produced in *King v. Parker* – Middle District of Tennessee proceedings
791. 11/28/2017 Email, Subject Re: [Pharmacy] Pharmacy produced in *King v. Parker* – Middle District of Tennessee proceedings
792. 12/4/2017 Email, Subject Re: [Pharmacy] Pharmacy produced in *King v. Parker* – Middle District of Tennessee proceedings
793. 11/28/2017 Email, Subject RE: Registering to do business with TN produced in *King v. Parker* – Middle District of Tennessee proceedings
794. 11/28/2017 Email, Subject RE: Registering to do business with TN produced in *King v. Parker* – Middle District of Tennessee proceedings
795. 10/18/2017 Email, Subject Re: Question produced in *King v. Parker* – Middle District of Tennessee proceedings
796. 10/17/2017 Email, Subject Re: Question produced in *King v. Parker* – Middle District of Tennessee proceedings
797. 10/17/2017 Email, Subject Re: Question produced in *King v. Parker* – Middle District of Tennessee proceedings
798. 10/18/2017 Email, Subject Re: Question produced in *King v. Parker* – Middle District of Tennessee proceedings
799. 11/28/2017 Email, Subject Re: More Info produced in *King v. Parker* – Middle District of Tennessee proceedings
800. 11/9/2017 Email, Subject RE: DEA License produced in *King v. Parker* – Middle District of Tennessee proceedings
801. 11/9/2017 Email, Subject RE: DEA License produced in *King v. Parker* – Middle District of Tennessee proceedings
802. 10/18/2017 Email, Subject RE: Applicant for licensure as a [Pharmacist] in TN produced in *King v. Parker* – Middle District of Tennessee proceedings
803. 11/14/2017 Email, Subject Re: Agreement produced in *King v. Parker* – Middle District of Tennessee proceedings

804. 11/14/2017 Email, Subject RE: Agreement produced in *King v. Parker* – Middle District of Tennessee proceedings
805. 10/26/2017 Email, Subject Re: Additional Info produced in *King v. Parker* – Middle District of Tennessee proceedings
806. 10/27/2017 Email, Subject RE: Additional Info produced in *King v. Parker* – Middle District of Tennessee proceedings
807. 11/1/2017 Email, Subject RE: Additional Info produced in *King v. Parker* – Middle District of Tennessee proceedings
808. 11/9/2017 Email, Subject Question produced in *King v. Parker* – Middle District of Tennessee proceedings
809. 10/18/2017 Email, Subject Fwd: Question produced in *King v. Parker* – Middle District of Tennessee proceedings
810. 11/8/2017 Email, Subject Fwd: DEA License produced in *King v. Parker* – Middle District of Tennessee proceedings
811. 11/14/2017 Email, Subject FW: TN drugs produced in *King v. Parker* – Middle District of Tennessee proceedings
812. 10/18/2017 Email, Subject Applicant for licensure as a [Pharmacist] in TN produced in *King v. Parker* – Middle District of Tennessee proceedings
813. 12/4/2017 Email, Subject Agreement produced in *King v. Parker* – Middle District of Tennessee proceedings
814. 10/26/2017 Email, Subject Additional Info produced in *King v. Parker* – Middle District of Tennessee proceedings
815. 10/26/2017 Email, Subject Re: Additional Info produced in *King v. Parker* – Middle District of Tennessee proceedings
816. Redacted emails from 1/3/2018 re Pharmacy's Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings
817. Redacted emails from 12/5/2017 – 1/3/2018 re Pharmacy's Invoices, confidentiality of pharmacy under TCA 10-7-504(h), shipments of drugs, scheduling a time to talk on the telephone and Pharmacy's Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings

- 2/20/2018 Agreement between TDOC and redacted unknown party, Emails, Electric chair testing logs and training logs and materials produced in *King v. Parker* – Middle District of Tennessee proceedings (61 pages)
818. 6/5/2018 Letter from Kelley Henry requesting records related to executions, lethal injections and electrocutions produced in *King v. Parker* – Middle District of Tennessee proceedings
819. Unredacted 5/15/2018 and 5/16/2018 Training rosters for Protocol review and Lethal Injection and training materials for use in the *King v. Parker* – Middle District of Tennessee proceedings
820. 6/12/2018 Letter from Debra Inglis responding to 6/5/2018 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
821. 6/20/2018 Letter from Debra Inglis providing records in response to 6/5/2018 request produced in *King v. Parker* – Middle District of Tennessee proceedings
822. Redacted 5/15/2018 and 5/16/2018 Training rosters for Protocol review and Lethal Injection and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (13 pages)
823. Redacted March 2018 Training rosters for Electric chair, Death Watch, Lethal Injection, and Protocol Review and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (21 pages)
824. 6/8/2018 Letter from Debra Inglis enclosing records in response to 2/2/2018, 3/7/2018, 4/7/2018 and 5/4/2018 requests, Redacted Agreement between TDOC and medical provider, March 2016 - August 2018 Electric chair testing logs, 2018 redacted training rosters and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (93 pages)
825. 4/2/2018 Letter from Debra Inglis providing records in response to requests on 2/2/2018 and 3/7/2018 produced in *King v. Parker* – Middle District of Tennessee proceedings
826. Redacted Billy Ray Irick Affidavit Concerning Method of Execution and Affidavit to Select Defense Counsel Witness to Execution and redacted July 2018 Training rosters for electrocution and lethal injection and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (21 pages)
- 827.

828. Billy Ray Irick Affidavit Concerning Method of Execution and Affidavit to Select Defense Counsel Witness to Execution and unredacted July 2018 Training rosters for electrocution and lethal injection and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
829. 7/10/2018 Letter from Debra Inglis enclosing records in response to 7/3/2018 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings (22 pages)
830. 7/3/2018 Letter from Kelley Henry requesting records related to lethal injection and electrocution produced in *King v. Parker* – Middle District of Tennessee proceedings
831. 7/30/2018 Letter from Debra Inglis responding to 7/16/2018 request for records and enclosing TDOC rules and regulations revision chart produced in *King v. Parker* – Middle District of Tennessee proceedings (8 pages)
832. 7/16/2018 Letter from Michael Chavis requesting records re TDOC's rules and regulations and 7/25/2018 Letter from Debra Inglis responding to the 7/16/2018 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
833. 7/16/2018 Letter from Michael Chavis requesting records re TDOC's rules and regulations produced in *King v. Parker* – Middle District of Tennessee proceedings
834. 8/15/2018 Letter from Debra Inglis enclosing records in response to the 7/26/2018 request with redacted records enclosed produced in *King v. Parker* – Middle District of Tennessee proceedings (55 pages)
835. 8/15/2018 Payment receipt for records request produced in *King v. Parker* – Middle District of Tennessee proceedings
836. 8/6/2018 Letter from Debra Inglis in response to 7/16/2018 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
837. 7/26/2018 Letter from Kelley Henry requesting records re lethal injection, electrocution and executions produced in *King v. Parker* – Middle District of Tennessee proceedings
838. Redacted July 2018 training rosters for lethal injection, Protocol training, execution training and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (27 pages)

839. Unredacted July 2018 training rosters for lethal injection, protocol training, execution training and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
840. Unredacted July 2018 training rosters for lethal injection and protocol and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
841. Redacted July 2018 training rosters for lethal injection and protocol and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (29 pages)
842. 8/21/2018 Letter from Debra Inglis responding to requests for records on 8/8/2018 and 8/15/2018 produced in *King v. Parker* – Middle District of Tennessee proceedings
843. 7/18/2018 Billy Ray Irick Prescription for Midazolam produced in *King v. Parker* – Middle District of Tennessee proceedings
844. TDOC Incident Report re Billy Ray Irick's execution via lethal injection produced in *King v. Parker* – Middle District of Tennessee proceedings
845. Death watch logs for Billy Ray Irick produced in *King v. Parker* – Middle District of Tennessee proceedings
846. Court filings and orders re Billy Ray Irick produced in *King v. Parker* – Middle District of Tennessee proceedings
847. Victim Services forms and letters re attending Irick's execution, Media information and forms for attending Irick's execution and Elections to attend Irick's execution produced in *King v. Parker* – Middle District of Tennessee proceedings
848. Irick Motion, Emails, Inmate Inquiry, Visitation records and Order produced in *King v. Parker* – Middle District of Tennessee proceedings
849. Irick Execution day logistics records, Irick TDOC Segregation Unit Record for Death Sentenced Inmates, Death Row Offender Info, Key Log, Post Inspection Form, Weekly Tool Inventory, Tool Checks and Control forms produced in *King v. Parker* – Middle District of Tennessee proceedings
850. Midazolam storage and preparation instructions and Pharmacy Invoice information produced in *King v. Parker* – Middle District of Tennessee proceedings

851. Unredacted July and August 2018 Training rosters for Lethal Injection and training materials for use in *King v. Parker* – Middle District of Tennessee proceedings
852. 9/14/2018 Letter from Michael Chavis renewing his previous request for certain records re Irick's execution produced in *King v. Parker* – Middle District of Tennessee proceedings
853. 9/4/2018 Letter from Debra Inglis responding to 8/15/2018 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
854. 8/15/2018 Letter from Michael Chavis requesting certain records re Irick's execution produced in *King v. Parker* – Middle District of Tennessee proceedings
855. 9/11/2018 Draft letter from Debra Inglis providing records in response to 8/15/2018 request produced in *King v. Parker* – Middle District of Tennessee proceedings
856. 9/21/2018 Draft letter from Debra Inglis responding to 9/14/2018 and 8/15/2018 requests for records produced in *King v. Parker* – Middle District of Tennessee proceedings
857. Victim Notification Services - What to Expect on Execution Day produced in *King v. Parker* – Middle District of Tennessee proceedings (7 pages)
858. 9/24/2018 Letter from Debra Inglis enclosing records in response to 8/15/2018 and 9/14/2018 requests for records and enclosing Victim Notification Services brochure re What to Expect on Execution Day produced in *King v. Parker* – Middle District of Tennessee proceedings
859. TDOC Critical Incident Stress Management info for family members and friends after an execution produced in *King v. Parker* – Middle District of Tennessee proceedings
860. 9/11/2018 Letter from Debra Inglis providing records in response to 8/15/2018 request produced in *King v. Parker* – Middle District of Tennessee proceedings
861. Redacted June and July 2018 training rosters for lethal injection practice, protocol training and review, electrocution and execution training and training materials and Irick's Affidavits Concerning Method of Execution and selection of attorney to witness the execution produced in *King v. Parker* – Middle District of Tennessee proceedings (141 pages)

862. 9/4/2018 Letter from Debra Inglis providing records in response to requests on 8/8/2018 and 8/15/2018 produced in *King v. Parker* – Middle District of Tennessee proceedings
863. 8/8/2018 Letter from Paul Bottei requesting records re lethal drugs for Irick's execution produced in *King v. Parker* – Middle District of Tennessee proceedings
864. Redacted Media Info and forms for Irick's execution and elections to witness Irick's execution produced in *King v. Parker* – Middle District of Tennessee proceedings (41 pages)
865. Redacted July and August 2018 training rosters for lethal injection and training materials, Irick Death Watch logs, Irick Midazolam prescription, Midazolam storage and preparation instructions, TDOC Incident Report, Affidavits re selection of defense counsel to witness execution and method of execution, notification letter re execution, Irick's Day of Execution - Lethal Injection Execution Recorder Checklist, Chemical preparation records and Victim Services forms and letters re attendance at execution produced in *King v. Parker* – Middle District of Tennessee proceedings (150 pages)
866. Execution documents for Billy Ray Irick produced in *King v. Parker* – Middle District of Tennessee proceedings (17 pages)
867. Redacted 9/18/2019 training rosters for Lethal injection practice and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (14 pages)
868. 10/15/2019 Letter from Debra Inglis providing records in response to 9/24/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
869. 9/24/2019 Letter from Kelley Henry requesting records re lethal injection, electrocution and execution produced in *King v. Parker* – Middle District of Tennessee proceedings
870. 11/6/2019 Letter from Evelyn Caicedo requesting records re Execution Procedures for Electrocution produced in *King v. Parker* – Middle District of Tennessee proceedings
871. 11/13/2019 Letter from [Drug Procurer] responding to 11/6/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings

872. 11/22/2019 Letter from [Drug Procurer] providing records in response to 11/6/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
873. Execution Procedures for Electrocution, rev. 3/13/2017 produced in *King v. Parker* – Middle District of Tennessee proceedings (88 pages)
874. Lethal Injection Execution Manual Execution Procedures for Lethal Injection, rev 7/5/2018 produced in *King v. Parker* – Middle District of Tennessee proceedings (99 pages)
875. 1/2/2019 Letter from Jessica Johnson requesting records re procurement of lethal injection chemicals produced in *King v. Parker* – Middle District of Tennessee proceedings
876. 1/3/2019 Letter from Debra Inglis responding to 1/2/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
877. 1/18/2018 Letter from Debra Inglis providing records in response to 1/2/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings (29 pages)
878. Records re Invoices and payments to [Pharmacy], [Pharmacy] Invoices, 7/1/2018 Letter re approval of vouchers for payment with redacted info produced in *King v. Parker* – Middle District of Tennessee proceedings
879. 1/2/2019 Email from Neysa Taylor to Debbie Inglis enclosing a 1/2/2019 public records request addressed to the Tennessee Department of Finance from Jessica Johnson produced in *King v. Parker* – Middle District of Tennessee proceedings
880. 2/15/2019 draft letter from Debra Inglis providing records in response to 2/11/2019 and 10/31/2018 request produced in *King v. Parker* – Middle District of Tennessee proceedings
881. 2/5/2019 Letter from Debra Inglis responding to 1/2/2019 and 1/29/2019 requests sent to the Department of Health and responding to 1/31/2019 request for additional information produced in *King v. Parker* – Middle District of Tennessee proceedings
882. 2/8/2019 Letter from Debra Inglis providing a response to the 1/8/2019 request and enclosing redacted [Pharmacy] Invoices and TDOC payment records produced in *King v. Parker* – Middle District of Tennessee proceedings (6 pages)

883. 1/3/2019 Letter from Debra Inglis responding to the 1/2/2019 request addressed to the Tennessee Department of Finance produced in *King v. Parker* – Middle District of Tennessee proceedings
884. 1/10/2019 Letter from Debra Inglis responding to the 1/2/2019 request addressed to the Tennessee Department of Finance produced in *King v. Parker* – Middle District of Tennessee proceedings
885. Redacted TDOC records re [Pharmacy] Invoices and payments produced in *King v. Parker* – Middle District of Tennessee proceedings (3 pages)
886. 2/22/2019 Letter from Debra Inglis responding to 2/11/2019 Letter and enclosing Redacted TDOC records re [Pharmacy] Invoices and payments produced in *King v. Parker* – Middle District of Tennessee proceedings (4 pages)
887. 1/2/2019 Letter from Jessica Johnson to TDOC requesting records re procurement of lethal injection chemicals produced in *King v. Parker* – Middle District of Tennessee proceedings
888. 1/2/2019 Letter from Jessica Johnson to Tennessee Department of Finance requesting records re procurement of lethal injection chemicals produced in *King v. Parker* – Middle District of Tennessee proceedings
889. 2/11/2019 Letter from Jessica Johnson following up to original request on 1/2/2019 produced in *King v. Parker* – Middle District of Tennessee proceedings
890. Redacted Death Watch logs for Stephen West produced in *King v. Parker* – Middle District of Tennessee proceedings (28 pages)
891. Redacted August 2019 - November 2019 training rosters for Strap Down training, Lethal Injection, Electrocution, Protocol Review, and training materials, Media info and forms re attendance at execution, Outlook notifications for meetings, Victim Services notices and letters, elections to attend execution, TDOC Incident Report of West's death, Day of Execution - Electrocution Execution Recorder Checklist, Record of Staff Visits and Death Watch Logs produced in *King v. Parker* – Middle District of Tennessee proceedings (147 pages)
892. Redacted August 2019 Training Rosters for Lethal Injection and Electric Chair and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (33 pages)
893. Redacted May 2019 - August 2019 Training Rosters for Electrocution, Lethal Injection and Spike IV Bag and Establish IV and training materials

- produced in *King v. Parker* – Middle District of Tennessee proceedings (139 pages)
894. 11/14/2019 Letter from Debra Inglis responding to 11/14/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
 895. 12/17/2019 Letter from Debra Inglis providing records in response to 11/14/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
 896. Redacted TDOC Incident Report re death of West, Day of Execution - Electrocution Execution Recorder Checklist and Record of Staff Visits produced in *King v. Parker* – Middle District of Tennessee proceedings (22 pages)
 897. 12/9/2019 Letter from Debra Inglis responding to 12/9/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
 898. 11/14/2019 Letter from Jessica Johnson requesting records re lethal injection records and West electrocution records produced in *King v. Parker* – Middle District of Tennessee proceedings
 899. Redacted 10/29/2018 Training rosters for Electrocution practice and Lethal Injection and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (32 pages)
 900. 1/31/2019 Letter from Debra Inglis responding to 1/22/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
 901. Redacted October 2018 - January 2019 Training rosters for Electrocution practice, Lethal Injection and Electric Chair and training materials and Electric Chair testing logs, [Pharmacy] invoice and payment info produced in *King v. Parker* – Middle District of Tennessee proceedings (128 pages)
 902. Redacted December 2017 - 2018 lethal drug inventory logs produced in *King v. Parker* – Middle District of Tennessee proceedings (3 pages)
 903. 1/22/2019 Letter from Kelley Henry requesting records re lethal injection, electrocution and executions and 1/25/2019 Letter from Debra Inglis responding to 1/22/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
 904. Redacted Electric Chair testing logs for 2018, Unredacted November 2018 - January 2019 training rosters for Electric Chair, Lethal Injection and Electrocution and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings

905. 2/13/2019 Email from [Drug Procurer] to [Drug Procurer] enclosing unredacted 12/30/2017 – 11/20/2018 lethal drug inventories produced in *King v. Parker* – Middle District of Tennessee proceedings
906. 2/19/2019 Letter from Debra Inglis in response to 2/8/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
907. Record of staff visits, Zagorski's Medical Examiner's Report and Labs, Irick's Medical Examiner's Report and Labs, TDOC Incident Report for Miller's death, Email requesting Miller's autopsy report, Miller's TDOC Summary of Death, Letter Requesting Miller's autopsy report, and Media Info and selection records produced in *King v. Parker* – Middle District of Tennessee proceedings (130 pages)
908. Redacted Death Watch logs for Miller produced in *King v. Parker* – Middle District of Tennessee proceedings (42 pages)
909. Redacted Media Info and selection records, Miller execution attendance elections, Miller's affidavit re selection of attorney at execution, letters from Miller's attorney, Emails, Notification letter re execution, Outlook notifications for visits, Offender info, Miller TDOC Incident Reports re Miller's execution, Miller's Day of Execution - Electrocution Execution Recorder Checklist, Inmate Inquiry, Miller Summary of Death, TDOC Health Services Morbidity and Mortality Summary, Miller filings and Orders, Visitor and visitation records, TDOC Incident record, 12/6/2018 handwritten note re staying Miller's execution, Miller Incident reports and USPS Return Receipts produced in *King v. Parker* – Middle District of Tennessee proceedings (172 pages)
910. Miller Incident report, USPS Return Receipts, Redacted Record of Staff Visits and redacted lethal drug inventories from September 2018 - December 2018 produced in *King v. Parker* – Middle District of Tennessee proceedings (37 pages)
911. Media info and selections to attend execution, Miller Death Watch logs, Victim Services letters and elections to attend execution, Miller's Affidavit re selecting counsel to attend execution, Outlook notifications of visits, Memo re Miller's legal visits, Emails, Offender Info, TDOC Incident Reports, Day of Execution - Electrocution Execution Recorder Checklist, Inmate Inquiry, Orders and filings and Miller visitor and visitation records produced in *King v. Parker* – Middle District of Tennessee proceedings (192 pages)

912. 2/8/2019 Email from Debbie Inglis to [Drug Procurer] forwarding an email from Kelley Henry clarifying records requested produced in *King v. Parker* – Middle District of Tennessee proceedings
913. 2/19/2019 Email from [Drug Procurer] to Janet Santana regarding records requested produced in *King v. Parker* – Middle District of Tennessee proceedings
914. Unredacted Record of staff visits, Zagorski's Medical Examiner's Report and Labs, Irick's Medical Examiner's Report and Labs, TDOC Incident Report for Miller's death, Email requesting Miller's autopsy report, Miller's TDOC Summary of Death, Letter Requesting Miller's autopsy report, and Media Info and selection records produced in *King v. Parker* – Middle District of Tennessee proceedings
915. Unredacted Death Watch logs for Miller produced in *King v. Parker* – Middle District of Tennessee proceedings
916. Unredacted Media Info and selection records, Miller execution attendance elections, Miller's affidavit re selection of attorney at execution, letters from Miller's attorney, Emails, Notification letter re execution, Outlook notifications for visits, Offender info, Miller TDOC Incident Reports re Miller's execution, Miller's Day of Execution - Electrocution Execution Recorder Checklist, Inmate Inquiry, Miller Summary of Death, TDOC Health Services Morbidity and Mortality Summary, Miller filings and Orders, Visitor and visitation records, TDOC Incident record, 12/6/2018 handwritten note re staying Miller's execution, Miller Incident reports and USPS Return Receipts produced in *King v. Parker* – Middle District of Tennessee proceedings
917. 4/15/2019 Letter from Debra Inglis responding to 3/28/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
918. Redacted electric chair testing log, Redacted February 2019 - March 2019 Training Rosters for Injection and Electrocution and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (48 pages)
919. Unredacted electric chair testing log, Unredacted February 2019 - March 2019 Training Rosters for Injection and Electrocution and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
920. 4/1/2019 Letter from Debra Inglis responding to 3/28/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings

921. 3/28/2018 Letter from Kelley Henry requesting records re lethal injection, electrocution and execution produced in *King v. Parker* – Middle District of Tennessee proceedings
922. Redacted April 2019 - May 2019 Training Rosters for Lethal Injection, Electrocution, and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings
923. 2/26/2019 [Pharmacy] Invoice for Bacteriostatic water, Sodium Chloride and Lactated Ringers produced in *King v. Parker* – Middle District of Tennessee proceedings
924. Redacted November 2018 - March 2019 Training Rosters for Electrocution, Lethal Injection, 2018 - 2019 electric chair testing logs, 2/26/2019 [Pharmacy] Invoice and May 9, 2019 lethal drug inventory produced in *King v. Parker* – Middle District of Tennessee proceedings
925. 5/8/2019 Letter from Debra Inglis responding to 5/6/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
926. 5/23/2019 Letter from Debra Inglis responding to 5/6/2019 request with cost produced in *King v. Parker* – Middle District of Tennessee proceedings
927. 5/6/2019 Letter from Jessica Johnson requesting records re lethal injection and electrocution produced in *King v. Parker* – Middle District of Tennessee proceedings
928. 6/14/2019 Letter from Debra Inglis responding 6/10/2019 request and enclosing Dec 2017 - Nov 2018 redacted lethal drugs inventory produced in *King v. Parker* – Middle District of Tennessee proceedings (9 pages)
929. Redacted Dec 2017 - Nov 2018 lethal drugs inventory produced in *King v. Parker* – Middle District of Tennessee proceedings (7 pages)
930. Unredacted Dec 2017 - Nov 2018 lethal drugs inventory for use in *King v. Parker* – Middle District of Tennessee proceedings
931. 6/10/2019 Letter from Jessica Johnson requesting records re lethal drug inventories produced in *King v. Parker* – Middle District of Tennessee proceedings
932. 6/5/2019 Email from [Drug Procurer] to Janet Santana responding to 5/20/2019 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings

933. Redacted Record of Staff Visits, Donnie Johnson Day of Execution - Lethal Injection Execution Recorder Checklist, Chemical prep sheets and TDOC Incident Report for Charles Walton Wright produced in *King v. Parker* – Middle District of Tennessee proceedings (18 pages)
934. Inmate card, Media Info and selections for execution, Elections to attend execution, Victim Services forms and letters, Johnson's Affidavit to Select Defense Counsel Witness to Execution, Emails, Method of execution notification letter, Affidavit Concerning Method of Execution, Outlook notifications for meetings, TDOC Offender Info, TDOC Incident Reports, Visitor and Visitation records, Letters to Gov. Lee re clemency, Death Watch logs, May 9, 2019 Inventory of Midazolam and Record of Staff Visits produced in *King v. Parker* – Middle District of Tennessee proceedings (188 pages)
935. 5/22/2019 Email from [Drug Procurer] to Debbie Inglis with draft response to Kelly Henry's 5/20/2019 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
936. Unredacted 5/9/2019 lethal drug inventory for Midazolam for use in *King v. Parker* – Middle District of Tennessee proceedings
937. 6/5/2019 Letter from Debra Inglis to Kelley Henry responding to 5/20/2019 request with cost produced in *King v. Parker* – Middle District of Tennessee proceedings
938. 4/24/2019 Email from Melissa Hood to Debbie Inglis enclosing 4/16/2019 Letter from the Eleos Institute re upgrading state's electric chair produced in *King v. Parker* – Middle District of Tennessee proceedings
939. Redacted Inmate card, Media Info and selections for execution, Elections to attend execution, Victim Services forms and letters, Johnson's Affidavit to Select Defense Counsel Witness to Execution, Emails, Method of execution notification letter, Affidavit Concerning Method of Execution, Outlook notifications for meetings, TDOC Offender Info, TDOC Incident Reports, Visitor and Visitation records, Execution day planning records, Phone call logs and Letters to Gov. Lee re clemency produced in *King v. Parker* – Middle District of Tennessee proceedings (182 pages)
940. Unredacted Inmate card, Media Info and selections for execution, Elections to attend execution, Victim Services forms and letters, Johnson's Affidavit to Select Defense Counsel Witness to Execution, Emails, Method of execution notification letter, Affidavit Concerning Method of Execution, Outlook notifications for meetings, TDOC Offender Info, TDOC Incident Reports, Visitor and Visitation records, Execution day planning records,

Phone call logs and Letters to Gov. Lee re clemency for use in *King v. Parker* – Middle District of Tennessee proceedings

941. Redacted Johnson Death Watch logs produced in *King v. Parker* – Middle District of Tennessee proceedings (48 pages)
942. Unredacted Johnson Death Watch logs for use in *King v. Parker* – Middle District of Tennessee proceedings
943. Redacted TDOC internal record of Johnson's execution, Summary of Death, Execution day planning records, record of staff visits, Johnson Day of Execution - Lethal Injection Execution Recorder Checklist, Chemical prep records and TDOC Incident Report for Charles Walton Wright produced in *King v. Parker* – Middle District of Tennessee proceedings (35 pages)
944. Unredacted TDOC internal record of Johnson's execution, Summary of Death, Execution day planning records, record of staff visits, Johnson Day of Execution - Lethal Injection Execution Recorder Checklist, Chemical prep records and TDOC Incident Report for Charles Walton Wright for use in *King v. Parker* – Middle District of Tennessee proceedings
945. Redacted April 2019 - August 2019 Training rosters for lethal injection, electrocution, Spike IV Bag and Establish IV, Strap down and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (325 pages)
946. Unredacted April 2019 - August 2019 Training rosters for lethal injection, electrocution, Spike IV Bag and Establish IV, Strap down and training materials for use in *King v. Parker* – Middle District of Tennessee proceedings
947. 8/6/2019 Letter from Debra Inglis responding to 8/1/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
948. 8/30/2019 Letter from Debra Inglis providing records in response to 8/1/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
949. 8/1/2019 Letter from Kelley Henry requesting records re lethal injection, electrocution and execution produced in *King v. Parker* – Middle District of Tennessee proceedings
950. 11/16/2020 Email from Richard Tennent to [Drug Procurer] enclosing 11/16/2020 request for records re COVID-19 policies and procedures in

place at Riverbend produced in *King v. Parker* – Middle District of Tennessee proceedings

951. 11/24/2020 Letter from [Drug Procurer] responding to 11/16/2020 request for records and enclosing TDOC Memos and protocols re COVID-19 produced in *King v. Parker* – Middle District of Tennessee proceedings
952. 11/16/2020 Letter from Richard Tennent requesting records re COVID-19 policies and procedures in place at Riverbend produced in *King v. Parker* – Middle District of Tennessee proceedings
953. 1/15/2020 Email from [Drug Procurer] to Janet Santana responding to 12/13/2019 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
954. November 2019 - December 2019 redacted training rosters for electrocution and lethal injection and training materials, redacted emails from/about [Pharmacy] re invoices, payments, lethal drug shipments, procuring lethal drugs and lab reports produced in *King v. Parker* – Middle District of Tennessee proceedings (67 pages)
955. October 2019 - November 2019 redacted training rosters for lethal injection, electrocution and lethal injection protocol reviews, electrocution, and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (52 pages)
956. Redacted Record of Staff Visits produced in *King v. Parker* – Middle District of Tennessee proceedings (10 pages)
957. Media Info and selections to view execution of Stephen West, letters re attendance at execution, Outlook notifications for visitations, West' Personal Property inventory and Storage Request, Death Watch logs, TDOC Incident Report and Day of Execution - Electrocution Execution Recorder Checklist produced in *King v. Parker* – Middle District of Tennessee proceedings (120 pages)
958. 12/13/2019 Letter from Kelley Henry requesting records re lethal injection, electrocution and execution produced in *King v. Parker* – Middle District of Tennessee proceedings
959. 12/18/2019 Letter from Debra Inglis responding to request for records on 12/13/2019 produced in *King v. Parker* – Middle District of Tennessee proceedings

960. 1/31/2020 Letter from Kelley Henry requesting records re lethal injection, electrocution and execution produced in *King v. Parker* – Middle District of Tennessee proceedings
961. Redacted 12/20/2019 Invoice from [Pharmacy] produced in *King v. Parker* – Middle District of Tennessee proceedings
962. 12/20/2019 Invoice from [Pharmacy] for Midazolam and KCI produced in *King v. Parker* – Middle District of Tennessee proceedings
963. Redacted February 2020 Training rosters for Electrocution and training materials, redacted drug logs and redacted 12/20/2019 Invoice from [Pharmacy] produced in *King v. Parker* – Middle District of Tennessee proceedings (9 pages)
964. Redacted January 2020 - February 2020 Training rosters for Protocol, lethal injection, electrocution, and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (116 pages)
965. 2/4/2020 Letter from Debra Inglis responding to 1/31/2020 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
966. 2/24/2020 Letter from Debra Inglis providing records in response to 1/31/2019 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
967. Unredacted February 2020 - March 2020 Training rosters for electrocution, lethal injection, Review of Protocol, and training materials and Day of Execution - Electrocution Execution Recorder Checklist for use in *King v. Parker* – Middle District of Tennessee proceedings
968. 3/2/2020 Letter from Kelley Henry requesting records re lethal injection, electrocution and execution produced in *King v. Parker* – Middle District of Tennessee proceedings
969. Redacted February 2020 - March 2020 Training rosters for electrocution, review of protocol, lethal injection, and training materials, and redacted August 2019 - February 2020 drug inventory logs produced in *King v. Parker* – Middle District of Tennessee proceedings (21 pages)
970. 3/9/2020 Letter from Debra Inglis responding to 3/2/2020 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings

971. 3/23/2020 Letter from Debra Inglis providing records in response to 3/2/2020 request produced in *King v. Parker* – Middle District of Tennessee proceedings
972. Redacted August 2019 - February 2020 Electric chair testing logs produced in *King v. Parker* – Middle District of Tennessee proceedings
973. Unredacted August 2019 - February Electric chair testing logs produced in *King v. Parker* – Middle District of Tennessee proceedings
974. 6/3/2020 Email from [Drug Procurer] to Debbie Inglis with draft response to 5/29/2020 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
975. Redacted 5/28/2020 training roster for Lethal Injections, Aug 2019 - Feb 2020 Electric Chair testing log, 2/11/2020 Lethal drug inventory and 2/11/2020 [Pharmacy] Invoice for KCI and Midazolam produced in *King v. Parker* – Middle District of Tennessee proceedings (5 pages)
976. Redacted January 2020 - March 2020 and May 2020 training rosters for Protocol, Lethal Injection, Electrocution, Review of Protocol, and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (144 pages)
977. 5/29/2020 Email from Debbie Inglis to [Drug Procurer] forwarding 5/29/2020 Request for Records re lethal injection and electrocution produced in *King v. Parker* – Middle District of Tennessee proceedings
978. 6/8/2020 Letter from Debra Inglis responding to 5/29/2020 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
979. 5/29/2020 Letter from Michael Chavis requesting records re lethal injection and electrocution produced in *King v. Parker* – Middle District of Tennessee proceedings
980. Redacted June 2020 - July 2020 training rosters for lethal injection, electrocution and Protocol and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (22 pages)
981. 8/7/2020 Email from Debbie Inglis to [Drug Procurer] re responding to records request produced in *King v. Parker* – Middle District of Tennessee proceedings
982. Redacted 7/29/2020 training roster for lethal injection and training materials, 7/28/2020 [Pharmacy] Invoice the annual service fee, lethal

drugs and supplies produced in *King v. Parker* – Middle District of Tennessee proceedings

983. 8/10/2020 Email from Melissa Hood to [Drug Procurer] encl unredacted 7/29/2020 training roster for lethal injection and training materials for use in *King v. Parker* – Middle District of Tennessee proceedings
984. Unredacted 7/29/2020 training roster for lethal injection and training materials for use in *King v. Parker* – Middle District of Tennessee proceedings (16 pages)
985. 7/29/2020 Letter from Michael Chavis requesting records re lethal injection, electrocution and execution produced in *King v. Parker* – Middle District of Tennessee proceedings
986. 3/14/2022 Draft letter from Debra Inglis to Kelley Henry providing records in response to 2/11/2022 request produced in *King v. Parker* – Middle District of Tennessee proceedings
987. 2/11/2022 Letter from Kelley Henry requesting records re lethal injection, electrocution and execution produced in *King v. Parker* – Middle District of Tennessee proceedings
988. Redacted Nov 2021 - January 2022 Training rosters for protocol, strap down, electrocution, and lethal injection, and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (36 pages)
989. Redacted Nov 2021 - January 2022 Training rosters for protocol, strap down, electrocution, and lethal injection, and training materials, 11/30/2021 [Pharmacy] Invoice, Lethal drugs inventory log, and November 2021 emails re ordering lethal drugs and status of delivery produced in *King v. Parker* – Middle District of Tennessee proceedings (23 pages)
990. 1/3/2022 Letter from Kelley Henry requesting records re lethal injection, electrocution and execution produced in *King v. Parker* – Middle District of Tennessee proceedings
991. 11/30/2021 Redacted [Pharmacy] Invoice for Sodium Chloride and Vecuronium produced in *King v. Parker* – Middle District of Tennessee proceedings
992. Redacted 12/1/2021 Drug inventory log for Vecuronium Bromide produced in *King v. Parker* – Middle District of Tennessee proceedings
993. Unredacted 12/1/2021 Drug inventory log for Vecuronium Bromide for use in *King v. Parker* – Middle District of Tennessee proceedings

994. Draft 1/25/2022 Letter from Debra Inglis to Kelley Henry responding to 1/3/2022 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
995. Draft 1/31/2022 Letter from Debra Inglis to Kelley Henry providing records in response to 1/3/2022 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
996. Redacted Feb 2022 - Mar 2022 training rosters for lethal injection, redacted email re training requirements for sterile compounding and inventory of lethal drugs, discovery responses, Midazolam and KCI inventory log, training rosters, ordering lethal drugs and supplies, shipments of lethal drugs and supplies, pharmaceutical letters re misuse of products, Redacted Tennessee Board of Pharmacy license and DEA license, [Pharmacy] Invoices, Feb 2020 - Dec 2021 lethal drug inventory logs, potassium chloride and midazolam logs, and Feb 2020 - Oct 2021 Electric chair testing logs produced in *King v. Parker* – Middle District of Tennessee proceedings (61 pages)
997. Redacted June 2021 - Nov 2021 and Jan 2022 - Feb 2022 training rosters for Protocol, lethal injection, electrocution, strap down team, and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (132 pages)
998. Redacted June 2021 training rosters for electrocution (and page 2 of lethal injection) and lethal injection training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (20 pages)
999. Redacted July 2020 - June 2021 training rosters for protocol review, lethal injection, electrocution and lethal injection strap down, electrocution, lethal injection, electrocution and lethal injection protocol review and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (139 pages)
1000. Draft 3/11/2022 Letter from Debra Inglis responding to 3/2/2022 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
1001. Draft March 2022 Letter from Debra Inglis responding to 3/2/2022 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
1002. 3/2/2022 Letter from Michael Chavis requesting records re lethal injection, electrocution, and execution produced in *King v. Parker* – Middle District of Tennessee proceedings

1003. April 2021 - February 2022 Redacted Electric Chair Testing Logs produced in *King v. Parker* – Middle District of Tennessee proceedings
1004. 3/18/2022 Letter from Kelley Henry requesting records re lethal injection, electrocution and execution produced in *King v. Parker* – Middle District of Tennessee proceedings
1005. Redacted 3/8/2022 training rosters for lethal injection and training materials, Redacted Sept 2021 - Feb 2022 Electric Chair testing log, and redacted 3/16/2022 email re an order produced in *King v. Parker* – Middle District of Tennessee proceedings (13 pages)
1006. Draft 3/25/2022 Letter from Debra Inglis responding to 3/18/2022 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
1007. 4/26/2022 Email from [Drug Procurer] to [Drug Procurer] attaching picture of unredacted 4/13/2022 lethal drugs inventory log produced in *King v. Parker* – Middle District of Tennessee proceedings
1008. Unredacted 4/13/2022 lethal drugs inventory log produced in *King v. Parker* – Middle District of Tennessee proceedings
1009. Unredacted 4/21/2022 inventory logs for drugs and supplies in the refrigerator and cabinet for use in *King v. Parker* – Middle District of Tennessee proceedings
1010. Unredacted 4/21/2022 lethal drugs inventory log for use in *King v. Parker* – Middle District of Tennessee proceedings
1011. Redacted March 2021 - June 2021 training rosters for lethal injection, protocol, electrocution, and training materials, pharmaceutical letters re misuse of product, 8/13/2020 Email re suppliers' inventory of lethal drugs after compounding and attached logs produced in *King v. Parker* – Middle District of Tennessee proceedings (67 pages)
1012. Redacted Feb 20, 2020 - Jan 26, 2021 electric chair testing logs, Feb 2020 - August 2020 lethal drug inventory logs, [Pharmacy] invoices, training rosters May 2020 - July 2020, Oct 2020 and Dec 2020 - March 2021 for protocol review, electrocution, Lethal injection, electrocution strap down, lethal injection strap down, and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (134 pages)
1013. 6/28/2021 Letter from Kelley Henry requesting records re lethal injection, electrocution and execution and 7/1/2021 Letter from Debra Inglis

responding to 6/28/2021 request produced in *King v. Parker* – Middle District of Tennessee proceedings

1014. 7/7/2021 Letter from Debra Inglis providing records in response to 6/28/2021 request produced in *King v. Parker* – Middle District of Tennessee proceedings
1015. 2/14/2018 RMSI Death Watch Post Orders, Protester sign-in sheet for David Miller, List of Protesters, surveillance pictures of protesters produced in *King v. Parker* – Middle District of Tennessee proceedings (16 pages)
1016. 1/31/2019 Letter from [Drug Procurer] responding 1/1/2018 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
1017. 1/29/2019 email from Korey Cooper to [Drug Procurer] attaching, 2/4/2018 redacted and unredacted RMSI Death Watch Post Orders, 1/20/2019 letter from Manday Strickland requesting records re protest at Irick's execution, surveillance pictures of protesters and Protester sign-in sheet for David Miller produced in *King v. Parker* – Middle District of Tennessee proceedings
1018. Redacted 1/3/2018 emails re [Pharmacy] invoices, 2/20/2018 TDOC agreement with provider, 1/22/2018 email re [Pharmacy] invoice, 2018 - 2019 lethal drug inventory logs, TDOC Tennessee Board of Pharmacy license, July and August 2018, Oct 2018, February 2019 and August 2019 [Pharmacy] invoices, Screenshot of TDOC payments to [Pharmacy], 2018 accounts payable records, 11/27/2017 Pharmacy Services Agreement, TDOC - RMSI's Procurement, Preparation, Introduction of the Lethal Injection Chemical, and Procedures of Accountability policies and procedures, rev 7/5/2018, Midazolam storage and preparation instructions, and Potassium Chloride preparation instructions produced in *King v. Parker* – Middle District of Tennessee proceedings (61 pages)
1019. 8/28/2019 draft of letter from Debra Inglis responding to 8/23/2019 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
1020. 10/4/2019 Letter from Debra Inglis providing records in response to 8/23/2019 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
1021. 10/4/2019 draft of letter from Debra Inglis providing records in response to 8/23/2019 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings

1022. 12/14/2018 Letter from Debra Inglis responding to 12/6/2018 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
1023. 1/15/2019 Letter from Debra Inglis providing cost for records in response to 12/6/2018 request produced in *King v. Parker* – Middle District of Tennessee proceedings
1024. Redacted Dec 2017 - 2018 lethal drug inventory logs, TDOC [Pharmacy] vendor payments, 2017 - 2018 [Pharmacy] invoices, 11/27/2017 Pharmacy Services Agreement, 2017-2018 Emails re procuring lethal drugs, supplier payments, protocols, supplies received, the use of other potential lethal drugs, and Pharmaceutical letters re misuse of products produced in *King v. Parker* – Middle District of Tennessee proceedings (121 pages)
1025. Redacted 12/30/2017 - 2018 lethal drug inventory logs produced in *King v. Parker* – Middle District of Tennessee proceedings (3 pages)
1026. 12/14/2018 draft letter from Debra Inglis responding to 12/6/2018 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
1027. 1/15/2019 Letter from Debra Inglis responding to 12/6/2018 request for records with costs produced in *King v. Parker* – Middle District of Tennessee proceedings
1028. Redacted 7/5/2018, 8/16/2018 and 10/31/2018 [Pharmacy] Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings (3 pages)
1029. 12/6/2018 Letter from Seamus Kelly requesting records re lethal injection produced in *King v. Parker* – Middle District of Tennessee proceedings
1030. Redacted 2016-2018 electric chair and equipment inspection and testing logs produced in *King v. Parker* – Middle District of Tennessee proceedings (5 pages)
1031. Redacted 10/2018 – 12/2018 Training rosters for electrocution protocol, electric chair, and training materials, redacted 2017 -2018 invoices, and electrocution policies and procedures, rev. 7/11/2016 produced in *King v. Parker* – Middle District of Tennessee proceedings (150 pages)
1032. 12/12/2018 Letter from Debra Inglis responding to 10/22/2018 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings

1033. TDOC Electrocution policies and procedures, rev. 3/13/2017 produced in *King v. Parker* – Middle District of Tennessee proceedings (88 pages)
1034. Redacted emails and letters re attendance at Zagorski's execution, Internal and External media list for execution, media elections to attend execution, letters/emails from Zagorski's attorney re execution, Zagorski execution affidavits, execution notification letter, Victim services emails and correspondence, Microsoft outlook notifications for visits, emails re visitation, Zagorski note and memo re no family attending execution and last meal, TDOC offender info, and Zagorski request not to have autopsy performed after execution produced in *King v. Parker* – Middle District of Tennessee proceedings (187 pages)
1035. 10/22/2018 Letter from Seamus Kelly requesting records re electric chair and Zagorski's upcoming execution produced in *King v. Parker* – Middle District of Tennessee proceedings
1036. Redacted 11/2016 – 10/2018 Training rosters for electrocution practice, protocol for execution, electrocution and lethal injection, execution, electrocution death watch, electric chair, and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (133 pages)
1037. 4/29/2020 Letter from Rivkin requesting records re lethal injection produced in *King v. Parker* – Middle District of Tennessee proceedings
1038. 5/6/2020 Letter from [Drug Procurer] encl records in response to 4/9/2020 request produced in *King v. Parker* – Middle District of Tennessee proceedings
1039. Redacted 2/11/2020, 12/20/2019 and 12/6/2019 [Pharmacy] invoices, 9/2019 – 12/2019 emails re [Pharmacy] invoices/payments, lab results, lethal drug sources, procuring lethal drugs, 9/2019 – 2/2020 lethal drug inventory logs produced in *King v. Parker* – Middle District of Tennessee proceedings (14 pages)
1040. Redacted lethal inventory log for 9/2019 – 12/2019 produced in *King v. Parker* – Middle District of Tennessee proceedings
1041. 12/11/2020 Letter from [Drug Procurer] in response to 12/9/2020 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
1042. 5/22/2020 Letter from [Drug Procurer] in response to 4/29/2020 follow up request produced in *King v. Parker* – Middle District of Tennessee proceedings

1043. 6/8/2020 letter from [Drug Procurer] in response to 4/29/2020 additional follow up request produced in *King v. Parker* – Middle District of Tennessee proceedings
1044. Redacted 9/29/2021 email re lethal drug and supply orders, 7/26/2021 lethal drug inventory, Midazolam and potassium chloride Inventory and Use logs produced in *King v. Parker* – Middle District of Tennessee proceedings (8 pages)
1045. 10/9/2021 letter from Rivkin requesting records re lethal injection produced in *King v. Parker* – Middle District of Tennessee proceedings
1046. Redacted 7/2020 – 12/2020 Training rosters for electrocution, electrocution and lethal injection protocol review, lethal injection, electrocution and lethal injection strap down team, and training materials, redacted 8/2020 – 11/2020 emails re lethal drugs inventory, sterile compounding training requirements, payments, invoices, attaching inventory logs for midazolam and potassium chloride, info re payments made to [Pharmacy] and invoices, pharmaceutical letters re misuse of products and 2/2020 redacted lethal drug inventory log produced in *King v. Parker* – Middle District of Tennessee proceedings (122 pages)
1047. Redacted 7/2020 – 12/2020 Training rosters for electrocution, electrocution and lethal injection protocol review, lethal injection, electrocution and lethal injection strap down team, and training materials, redacted 8/2020 – 11/2020 emails re lethal drugs inventory, sterile compounding training requirements, payments, invoices, attaching inventory logs for midazolam and potassium chloride, info re payments made to [Pharmacy] and invoices, pharmaceutical letters re misuse of products and 2/2020 redacted lethal drug inventory log produced in *King v. Parker* – Middle District of Tennessee proceedings (122 pages)
1048. Redacted Training rosters for electrocution, lethal injection, electrocution and lethal injection protocol review, electrocution and lethal injection strapdown, redacted 8/2020 – 11/2020 emails re lethal drugs inventory, sterile compounding training requirements, payments, invoices, attaching inventory logs for midazolam and potassium chloride, info re payments made to [Pharmacy] and invoices, pharmaceutical letters re misuse of products and 2/2020 redacted lethal drug inventory log produced in *King v. Parker* – Middle District of Tennessee proceedings (129 pages)
1049. TDOC Electrocution policies and procedures, rev. 3/13/2017, Redacted 7/29/2020 Training rosters for lethal injection and training materials, redacted 7/28/2020 [Pharmacy] Invoice, Redacted 1/2020 – 7/2020 - training rosters for lethal injection, electrocution, protocol, and training

materials produced in *King v. Parker* – Middle District of Tennessee proceedings (150 pages)

1050. TDOC policies and procedures re Death Watch, Execution Team, Death Watch Supervisor and Control Monitor, rev. 3/13/2017 produced in *King v. Parker* – Middle District of Tennessee proceedings (11 pages)
1051. 1/15/2021 Letter from [Drug Procurer] in response to 12/9/2020 request for records and enclosing TDOC Lethal Injection Execution Manual, rev. 7/5/2018, and TDOC Electrocution Execution Manual, rev. 3/13/2017 produced in *King v. Parker* – Middle District of Tennessee proceedings (146 pages)
1052. 12/9/2020 request for records from Rivkin re lethal injection and electrocution produced in *King v. Parker* – Middle District of Tennessee proceedings
1053. Redacted 2/20/2020 – 11/12/2020 electric chair testing logs produced in *King v. Parker* – Middle District of Tennessee proceedings
1054. 12/9/2020 letter from Rivkin requesting records re lethal injection and electrocution produced in *King v. Parker* – Middle District of Tennessee proceedings
1055. 1/4/2021 Letter from [Drug Procurer] responding to 12/9/2020 request for records with cost info produced in *King v. Parker* – Middle District of Tennessee proceedings
1056. Redacted 1/26/2021 [Pharmacy] Invoice produced in *King v. Parker* – Middle District of Tennessee proceedings
1057. 6/10/2021 Letter from [Drug Procurer] providing records in response to 6/4/2021 request produced in *King v. Parker* – Middle District of Tennessee proceedings
1058. 6/10/2021 Draft of letter from [Drug Procurer] providing records in response to 6.4.21 request produced in *King v. Parker* – Middle District of Tennessee proceedings
1059. 6/4/2021 request for records from Rivkin re lethal injection produced in *King v. Parker* – Middle District of Tennessee proceedings
1060. 8/12/2020 Letter from Rivkin requesting records re lethal injection produced in *King v. Parker* – Middle District of Tennessee proceedings

1061. 8/17/2020 Letter from [Drug Procurer] responding to 8/12/2020 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
1062. 8/27/2020 draft letter from [Drug Procurer] following up to 8/12/2020 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
1063. Redacted 7/28/2020 Invoice from [Pharmacy] and 2/11/2020 and 8/4/2020 Lethal drugs inventory log produced in *King v. Parker* – Middle District of Tennessee proceedings
1064. Redacted 2/11/2020 and 8/4/2020 Lethal drugs inventory log produced in *King v. Parker* – Middle District of Tennessee proceedings
1065. 12/11/2020 Letter from [Drug Procurer] responding to 12/9/2020 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
1066. 8/18/2020 Letter from Rivkin follow up request for records re lethal drugs produced in *King v. Parker* – Middle District of Tennessee proceedings
1067. Redacted 7/22/2020 email re midazolam and kcl potency results and 7/28/2020 Invoice from [Pharmacy] produced in *King v. Parker* – Middle District of Tennessee proceedings
1068. 7/22/2020 email from [Pharmacist] re midazolam and kcl potency results and 7/28/2020 Invoice from [Pharmacy] produced in *King v. Parker* – Middle District of Tennessee proceedings
1069. 8/27/2020 letter from [Drug Procurer] following up to 8/12/2020 request for records and enclosing redacted 7/22/2020 email re midazolam and kcl potency results and 7/28/2020 Invoice from [Pharmacy] produced in *King v. Parker* – Middle District of Tennessee proceedings
1070. 10/9/2019 Letter requesting records re communications between TDOC and Idaho state actors re lethal injection produced in *King v. Parker* – Middle District of Tennessee proceedings
1071. 10/24/2019 Letter from Debra Inglis responding to 10/9/2019 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
1072. Redacted Jan 2017 - Dec 2017 training rosters re Execution, Electrocution and Lethal Injection protocol review, Death Watch, Practice, Protocol

- Review, Lethal Injection, and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (107 pages)
1073. 6/19/2018 Letter from [Drug Procurer] providing records in partial response to records request produced in *King v. Parker* – Middle District of Tennessee proceedings
 1074. 5/9/2018 Letter from [Drug Procurer] responding to records request with info re records that are confidential and cost produced in *King v. Parker* – Middle District of Tennessee proceedings
 1075. 7/17/2018 Draft letter from [Drug Procurer] responding to records request with info re records that are confidential and cost produced in *King v. Parker* – Middle District of Tennessee proceedings
 1076. 4/12/2018 letter from [Drug Procurer] responding to records request produced in *King v. Parker* – Middle District of Tennessee proceedings
 1077. 6/27/2018 request for records re lethal injection and 7/17/2018 response with info re records that are confidential and cost produced in *King v. Parker* – Middle District of Tennessee proceedings
 1078. 2/23/2018 request for records re lethal injection produced in *King v. Parker* – Middle District of Tennessee proceedings
 1079. Redacted Jan 2017 - Dec 2017 training rosters re Execution, Electrocution and Lethal Injection protocol review, Death Watch, Practice, Protocol Review, Lethal Injection, and training materials produced in *King v. Parker* – Middle District of Tennessee proceedings (107 pages)
 1080. 1/5/2018 Letter from [Drug Procurer] in response to 12/13/2017 request for records and 12/13/2017 and 10/16/2017 records request re lethal injection produced in *King v. Parker* – Middle District of Tennessee proceedings
 1081. Subpoena to Tony Parker re Ohio Execution Protocol Litigation requesting records re execution documents for Irick and Johnson produced in *King v. Parker* – Middle District of Tennessee proceedings
 1082. Redacted Record of Staff Visits, Day of Execution - Lethal Injection Execution Recorder, and TDOC Incident Report for Charles Walton Wright produced in *King v. Parker* – Middle District of Tennessee proceedings (18 pages)
 1083. Redacted Johnson inmate card, Media information and selections for execution, victim services and attendance at execution emails and letters, Affidavits re defense counsel to witness execution and method of

execution, Method of Execution letter, Microsoft Outlook notifications re visits, TDOC Offender info and Incident Reports for execution, TDOC visitation records, spiritual advisor at execution selection, records re TDOC preparation for execution, Johnson clemency records, Death Watch logs, 5/9/2019 lethal drug inventory log, Johnson mug shot, and record of staff visits produced in *King v. Parker* – Middle District of Tennessee proceedings. (188 pages)

1084. Affidavit of Records Custodian signed by [Drug Procurer] produced in *King v. Parker* – Middle District of Tennessee proceedings
1085. Redacted Media information and selections for execution of Irick, and letter to counsel requesting info re attorneys on site during death watch produced in *King v. Parker* – Middle District of Tennessee proceedings (41 pages)
1086. Redacted July 2018 - August 2018 training rosters re lethal injection and training materials, Death Watch logs, lethal drugs prescription for Irick, Midazolam storage and preparation instructions, TDOC Incident Report, Affidavits re defense counsel selection to attend execution and method of execution, Method of execution letter, Day of Execution - Lethal Injection Execution Recorder Checklist, Victim services forms and letters re execution and attendance at execution produced in *King v. Parker* – Middle District of Tennessee proceedings (150 pages)
1087. Redacted Media information and selections for execution of Irick, and letter to counsel requesting info re attorneys on site during death watch produced in *King v. Parker* – Middle District of Tennessee proceedings (41 pages)
1088. Affidavit of Records Custodian signed by [Drug Procurer] produced in *King v. Parker* – Middle District of Tennessee proceedings
1089. 2018 - 2019 Redacted electric chair testing logs produced in *King v. Parker* – Middle District of Tennessee proceedings
1090. Redacted Jan 2018 - emails re [Pharmacy] Invoices, Provider Agreement, July 2018 - November 2018 Lethal drugs inventory logs, May 9, 2019 Midazolam Inventory, Tennessee Board of Pharmacy license, February 2019 - August 2019 [Pharmacy] Invoices, Vendor records, Pharmacy Services Agreement, TDOC policies and procedures re Procurement, Preparation, Introduction of the lethal Injection Chemical and Procedures of Accountability, rev. 7/5/2018, Midazolam storage and preparation instructions and KCL preparation instructions produced in *King v. Parker* – Middle District of Tennessee proceedings (61 pages)

1091. 8/26/2019 Letter from Debra Inglis responding to 8/22/2019 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
1092. Draft of 8/26/2019 Letter from Debra Inglis responding to 8/22/2019 request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
1093. Draft of 1/13/2020 Letter from Debra Inglis responding to 1/9/2020 follow up request for records produced in *King v. Parker* – Middle District of Tennessee proceedings
1094. 11/22/2019 Letter from Debra Inglis providing records in response to 11/1/2019 request, July 2018 - Aug 2019 lethal drug inventory logs, vendor invoices and payments, Feb 2019 - Aug 2019 [Pharmacy] Invoices produced in *King v. Parker* – Middle District of Tennessee proceedings (15 pages)
1095. Draft of 9/25/2019 letter from Debra Inglis providing records in response to 8/22/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
1096. 11/22/2019 Draft letter from Debra Inglis providing records in response to 11/1/2019 request produced in *King v. Parker* – Middle District of Tennessee proceedings
1097. 11/15/2019 Letter from Debra Inglis responding to 11/1/2019 request for additional records produced in *King v. Parker* – Middle District of Tennessee proceedings
1098. 9/17/2019 Letter from Debra Inglis responding to 8/22/2019 request for records with cost produced in *King v. Parker* – Middle District of Tennessee proceedings
1099. 8/22/2019 Letter requesting records re lethal injection produced in *King v. Parker* – Middle District of Tennessee proceedings
1100. 9/20/2018 filed Motion to Stay Proceedings based on Colorado River Abstention Doctrine and Memo of Law in Support produced in *King v. Parker* – Middle District of Tennessee proceedings
1101. 8/21/2018 Complaint for Injunctive Relief produced in *King v. Parker* – Middle District of Tennessee proceedings
1102. Outline of new website

1103. United States Pharmacopeial Convention guidance
1104. [Pharmacy]'s current Texas pharmacy license expiring 4/30/2024
1105. Unsigned Pharmacy Services Agreement between [Pharmacy] and TDOC
1106. [Pharmacy]'s 6/26/2018 Application to Add License Modifier to Tennessee Board of Pharmacy, attaching [Pharmacist]-in-Charge compounding information, [Pharmacy]'s ownership and management information, Texas Board of Pharmacy disciplinary action and inspection reports, DEA License and List of Reference books
1107. 12/8/2017 Letter to Texas State Board of Pharmacy from [Pharmacy] re the pharmacy's suspension of sterile compounding.
1108. April 2018 [Pharmacy] Application to Change Pharmacy License Classification to Compounding Sterile Preparations.
1109. 11/27/2017 signed Pharmacy Services Agreement between [Pharmacy] and TDOC.
1110. 7/18/2018 Billy Ray Irick Prescription for Midazolam
1111. List of sterile compounding pharmacies in Tennessee
1112. Redacted formula for Midazolam
1113. Formula for Midazolam
1114. 12/8/2017 Letter to Texas State Board of Pharmacy from [Pharmacy] re the pharmacy's suspension of sterile compounding.
1115. April 2018 [Pharmacy] Application to Change Pharmacy License Classification to Compounding Sterile Preparations.
1116. Blank order form for Midazolam, Vecuronium Bromide and Potassium Chloride
1117. 2016 Texas State Board of Pharmacy Notice of Inspection
1118. 2014 Texas Board of Pharmacy Agreed Order for Sun City Compounding, LLC signed by [Former Pharmacy Owner]
1119. Information regarding Beyond Use Dates on compounded sterile preparations

- 1120. Blank sample pharmacy agreement between Riverbend Maximum Security and a [Pharmacist], rev 6/25/2015
- 1121. 6/15/2018 Email from [Former Pharmacy Owner] to [Drug Procurer] enclosing Beyond Use Dating for Sterile Compounding information
- 1122. [Pharmacy]'s Texas pharmacy license expiring 4/30/2018
- 1123. 2016 Texas State Board of Pharmacy Notice of Inspection
- 1124. 5/22/2018 Midazolam method suitability test result
- 1125. 5/11/2018 Midazolam potency, bacterial endotoxins and sterility test results
- 1126. 5/14/2018 Midazolam container closure integrity test result
- 1127. Dashboard reflecting 2017-2019 [Pharmacy] Invoices and payments
- 1128. Redacted [Pharmacy] Invoices
- 1129. 2017 - 2019 [Pharmacy] Invoices
- 1130. [Pharmacy]'s current Texas pharmacy license expiring 4/30/2024
- 1131. [Pharmacy]'s Tennessee pharmacy license expiring 7/31/2022
- 1132. [Pharmacy]'s current DEA license expiring 2/28/2023
- 1133. 2/26/2020 Letter from Hikma Pharmaceuticals objecting to the use of its products in capital punishment and requesting confirmation that TDOC is not in possession of any Hikma/West Ward products
- 1134. 8/15/2019 Letter from Sandoz objecting to the use of its products in capital punishment and demanding the return of any products in TDOC's possession
- 1135. 8/2/2018 Letter from Sandoz objecting to the use of its products in capital punishment and demanding the return of any products in TDOC's possession
- 1136. 8/15/2019 Letter from Sandoz objecting to the use of its products in capital punishment and demanding the return of any products in TDOC's possession

1137. Redacted text messages from Oct 2017 - April 2018 re lethal drugs procurement *produced in response to public records request* (17 pages)
1138. Draft 6/10/2019 Letter from Tennessee Office of the Attorney General responding to 6/4/2019 request for records *produced in response to public records request*
1139. Redacted 12/2017 Order for Midazolam, Vecuronium Bromide and Potassium Chloride *produced in response to public records request*
1140. 11/13/2019 Draft letter from [Drug Procurer] responding to 11/6/2019 request for records with costs *produced in response to public records request*
1141. 11/22/2019 Draft letter from [Drug Procurer] responding to 11/6/2019 request for records with costs *produced in response to public records request*
1142. Redacted lethal drug procurement handwritten notes *produced in response to public records request* (6 pages)
1143. Unredacted April 2017 - April 2018 text messages between [Drug Procurer] and [Former Pharmacy Owner] re lethal drugs procurement *produced in response to public records request* (23 pages)
1144. Unredacted September 2019 - December 2019 lethal drug inventory logs *produced in response to public records request*
1145. Redacted July 2018 Training rosters for lethal injection, protocol review, and training materials *produced in response to public records request* (25 pages)
1146. Redacted April 2017 - April 2018 text messages between [Drug Procurer] and [Former Pharmacy Owner] re lethal drugs procurement *produced in response to public records request* (23 pages)
1147. 8/13/2018 Letter from Debra Inglis requesting the return of documents provided in response to public record requests that have led to the discovery of individuals/entities involved in the lethal execution process *produced in response to public records request*
1148. 4/15/2019 Letter from Debra Inglis responding to 3/28/2019 request for records with costs *produced in response to public records request*
1149. 2/18/2022 Draft Letter from Debra Inglis responding to 2/11/2022 request for records *produced in response to public records request*

1150. 4/4/2022 Draft Letter from Debra Inglis responding to 3/18/2022 request for records *produced in response to public records request*
1151. 3/3/2022 Draft Letter from Debra Inglis responding to 3/2/2022 request for records *produced in response to public records request*
1152. 6/8/2020 Draft Letter from Debra Inglis responding to 5/29/2020 request for records with cost *produced in response to public records request*
1153. March 2022 Draft Letter from Debra Inglis responding to 3/2/2022 request for records *produced in response to public records request*
1154. 2/12/2018 Draft Letter from [Drug Procurer] responding to request for records received 2/6/2018 and asking for the requester to narrow the scope *produced in response to public records request*
1155. Redacted Feb 2017 - Sept 2017 emails re lethal drug procurement, 9/1/2016 Authorization to dispense Prescriptions for Schedule II Controlled Substances, Declaration regarding chemical products intended use, Aug 2015 and Feb 2017 - July 2017 redacted training rosters re lethal injection, Electrocution, Death Watch, Execution protocols for lethal injection and electrocution, and training materials, and Execution Procedures for Electrocution, rev Mar 13, 2017 *produced in response to public records request*
1156. Unredacted July 2018 - August 2019 lethal drug inventory logs *produced in response to public records request* (10 pages)
1157. Redacted 7/10/2018 Training roster for Execution Protocol *produced in response to public records request*
1158. Redacted 6/13/2018 Training roster for lethal injection and training materials *produced in response to public records request* (10 pages)
1159. Unredacted 6/13/2018 Training roster for lethal injection and training materials *produced in response to public records request* (10 pages)
1160. Redacted 4/13/2022 lethal drugs inventory *produced in response to public records request*
1161. Unredacted 12/20/2017 order for Midazolam, Vecuronium Bromide and Potassium Chloride, TDOC DEA licenses and Unredacted 2017 [Pharmacy] Invoices for lethal drugs signed as received by TDOC staff *produced in response to public records request* (8 pages)

1162. 11/3/2021 request for records re lethal injection, electrocution and execution *produced in response to public records request*
1163. Redacted April 2021 - Oct 2021 Electric chair testing logs, July 2021 - Nov 2021 Training rosters re Protocol Review, Lethal Injection, Electrocution, Strap down team, and training materials, redacted July 2021 - emails re training logs, docs needed for discovery responses, lethal drugs and supply procurement, Tennessee Board of Pharmacy license, DEA license, Inventory and Use logs for Potassium Chloride, Midazolam, and 7/26/2021 lethal drug inventory logs *produced in response to public records request* (127 pages)
1164. Unredacted 7/26/2021 lethal drug inventory log *produced in response to public records request*
1165. Unredacted 7/26/2021 lethal drug inventory log *produced in response to public records request*
1166. 11/15/2021 letter from Debra Inglis responding to 11/3/2021 request for records *produced in response to public records request*
1167. 1/12/2022 Request for records re lethal injection *produced in response to public records request*
1168. 1/31/2022 Email from [Drug Procurer] to Robert Reburn enclosing responsive docs to records request *produced in response to public records request*
1169. Redacted Nov 2021 - emails re lethal drugs and supplies procurement, redacted 11/30/2021 [Pharmacy] Invoice and redacted lethal drugs inventory log *produced in response to public records request*
1170. 3/1/2022 Email from [Drug Procurer] enclosing 3/1/2022 email from [Drug Procurer] to Robert Reburn with docs responsive to records request *produced in response to public records request*
1171. Redacted Nov 2021 - Emails re lethal drugs procurement, Redacted Oct 2021 - Feb 2022 Training rosters re protocol, Electrocution, Lethal Injection, Strap down Team, and training materials *produced in response to public records request*
1172. 2/9/2022 Email from Robert Reburn to [Drug Procurer] forwarding follow up request for records *produced in response to public records request*
1173. Redacted lethal drugs inventory log *produced in response to public records request*

1174. 3/8/2022 Email from Robert Reburn to [Drug Procurer] forwarding 3/8/2022 request for records re lethal injection *produced in response to public records request*
1175. 4/13/2022 Email from [Drug Procurer] to Robert Reburn enclosing responsive docs to request for records *produced in response to public records request*
1176. Redacted March 2022 - April 2022 Emails re lethal drugs and supplies procurement *produced in response to public records request*
1177. 4/6/2022 request for records re lethal injection *produced in response to public records request*
1178. Unredacted March 2022 - April 2022 Emails between [Drug Procurer] and [Pharmacist] re lethal drugs and supplies procurement *produced in response to public records request*
1179. 5/3/2022 Email from Robert Reburn to [Drug Procurer] forwarding request for records *produced in response to public records request*
1180. Redacted April 2022 - May 2022 Emails re lethal drugs procurement and supplies, executions, and Oscar Smith reprieve, sterile compounding info, Redacted 4/12/2022 [Pharmacy] Invoice, Tennessee Board of Pharmacy license and DEA license, 4/21/2022 text message inquiring about whether chemicals needed to be maintained in the event of a challenge, 5/11/2022 email attaching text messages re Smith's reprieve, 4/21/2022 text messages re lethal drugs and preserving the drugs, April 2022 text messages re lethal drugs and testing reports, 4/21/2022 text messages re halting lethal drugs preparation, 5/11/2022 Inventory & Use logs for Midazolam and Potassium Chloride, and 4/13/2022 and 4/21/2022 lethal drugs inventory logs *produced in response to public records request*
1181. 5/12/2022 request for records re lethal drugs *produced in response to public records request*
1182. 5/31/2022 Email from Robert Reburn to [Drug Procurer] forwarding 5/12/2022 records request re lethal drugs *produced in response to public records request*
1183. 6/8/2022 Email from Robert Reburn to [Drug Procurer] forwarding follow up request for records *produced in response to public records request*
1184. Redacted text messages re lethal drugs preparation, 4/21/2022 lethal drugs inventory logs, Smith Reprieve, 10/22/2018 entered Order setting

Zagorski's execution date and 5/12/2022 redacted emails re training
produced in response to public records request

1185. April 13, 2022 unredacted lethal drugs inventory log *produced in response to public records request*
1186. 3/23/2022 Email from [Drug Procurer] to Dorinda Carter enclosing records responsive to request *produced in response to public records request*
1187. Redacted 3/16/2022 emails re lethal drugs procurement, 11/30/2021 [Pharmacy] Invoice and lethal drugs inventory log *produced in response to public records request*
1188. 3/22/2022 Email from Dorinda Carter to [Drug Procurer] forwarding 3/16/2022 request for records re lethal drugs *produced in response to public records request*
1189. Unredacted Jan 2022 - April 2022 emails between [Drug Procurer] and [Pharmacist] re [Pharmacy] invoices and lethal drugs procurement, 11/30/2021 and 4/12/2022 [Pharmacy] Invoices and 4/13/2022 lethal drugs inventory log *produced in response to public records request*
1190. Subpoena to Tony Parker re Ohio Execution Protocol Litigation requesting records re execution documents for Irick and Johnson *produced in response to public records request*
1191. Redacted Record of Staff Visits, Day of Execution - Lethal Injection Execution Recorder, and TDOC Incident Report for Charles Walton Wright *produced in response to public records request*
1192. Redacted Johnson inmate card, Media information and selections for execution, victim services and attendance at execution emails and letters, Affidavits re defense counsel to witness execution and method of execution, Method of Execution letter, Microsoft Outlook notifications re visits, TDOC Offender info and Incident Reports for execution, TDOC visitation records, spiritual advisor at execution selection, records re TDOC preparation for execution, Johnson clemency records, Death Watch logs, 5/9/2019 lethal drug inventory log, Johnson mug shot, and record of staff visits *produced in response to public records request.*
1193. Affidavit of Records Custodian signed by [Drug Procurer] *produced in response to public records request*
1194. Redacted Media information and selections for execution, and letter to counsel requesting info re attorneys on site during death watch *produced in response to public records request*

1195. Redacted July 2018 - August 2018 training rosters re lethal injection and training materials, Death Watch logs, lethal drugs prescription for Irick, Midazolam storage and preparation instructions, TDOC Incident Report, Affidavits re defense counsel selection to attend execution and method of execution, Method of execution letter, Day of Execution - Lethal Injection Execution Recorder Checklist, Victim services forms and letters re execution and attendance at execution *produced in response to public records request*
1196. Redacted Media information and selections for execution, and letter to counsel requesting info re attorneys on site during death watch *produced in response to public records request*
1197. Affidavit of Records Custodian signed by [Drug Procurer] *produced in response to public records request*
1198. 2018 - 2019 Redacted electric chair testing logs *produced in response to public records request*
1199. 12/3/2018 email from Neysa Taylor forwarding request for electric chair testing records *produced in response to public records request*
1200. Text messages re lethal drugs and prep *produced in response to public records request* (7 pages)
1201. Text messages re lethal drugs and prep *produced in response to public records request* (7 pages)
1202. Text messages re lethal drugs and prep *produced in response to public records request* (3 pages)
1203. Text messages re lethal drugs and prep *produced in response to public records request*
1204. Text messages re lethal drugs and prep *produced in response to public records request*
1205. Text messages re lethal drugs and prep *produced in response to public records request*
1206. Text message re preserving evidence *produced in response to public records request*
1207. Letter responding to TPRA re records for scheduled execution of Smith *produced in response to public records request*

1208. Training logs and materials, 4/21/2022 drug inventory, 4/12/2022 [Pharmacy] invoice for drugs, emails between [Drug Procurer] and [Pharmacist] *produced in response to public records request* (44 pages)
1209. Training logs and materials, 4/21/2022 drug inventory, 4/12/2022 [Pharmacy] invoice for drugs, emails between [Drug Procurer] and [Pharmacist] *produced in response to public records request* (44 pages)
1210. Open records requests from media, TDOC policies and procedures re TPRA, form for requesting records and blank forms. *produced in response to public records request*
1211. Training logs and materials *produced in response to public records request* (114 pages)
1212. Training logs and materials *produced in response to public records request* (112 pages)
1213. Emails and text messages re Smith on death watch and status of execution *produced in response to public records request* (26 pages)
1214. Reprieve docs, emails and text messages *produced in response to public records request* (7 pages)
1215. Reprieve docs, emails and text messages *produced in response to public records request* (7 pages)
1216. Template for responses to media seeking TPRA re Smith *produced in response to public records request*
1217. TPRA request for records re Smith's execution *produced in response to public records request*
1218. 4/26/2022 Letter from counsel for Harold Wayne Nichols req recs related to Smith's 4/21/2022 execution date, permission to inspect and photograph items and request re Nichols' pending execution *produced in response to public records request*
1219. 4/29/2022 Letter from Inglis responding to Federal Public Defender's request seeking records re Oscar Smith's execution *produced in response to public records request*
1220. 4/25/2022 Letter from Federal Public Defender's seeking records re Oscar Smith's execution *produced in response to public records request*

1221. 4/29/2022 Letter from Inglis responding to Federal Public Defender's request seeking records re Oscar Smith's execution *produced in response to public records request*
1222. 4/29/2022 Letter from Inglis responding to Federal Public Defender's request *produced in response to public records request*
1223. Debbie Inglis emails preserved per Order *produced in response to public records request* (100 pages)
1224. 4/20/2022 -4/21/2022 Text messages re drugs *produced in response to public records request*
1225. 4/20/2022 -4/21/2022 Text messages re drugs *produced in response to public records request*
1226. 4/20/2022 -4/21/2022 Text messages re drugs *produced in response to public records request*
1227. Delegation Authority Amendments for Execution related services in 2019 *produced in response to public records request* (14 pages)
1228. Delegation Authority Amendments for Execution related services in 2018 *produced in response to public records request* (9 pages)
1229. Delegated Authority for Execution related services in 2022 *produced in response to public records request* (7 pages)
1230. Delegated Authority for Execution related services in 2021 *produced in response to public records request* (7 pages)
1231. Delegated Authority for Execution related services in 2020 *produced in response to public records request* (7 pages)
1232. Redacted Inmate clothing card *produced in response to public records request*
1233. Inmate clothing card *produced in response to public records request*
1234. Redacted Death watch logs *produced in response to public records request* (5 pages)
1235. Death watch logs *produced in response to public records request* (5 pages)
1236. Redacted Death watch logs *produced in response to public records request* (5 pages)

- 1237. Death watch logs *produced in response to public records request* (5 pages)
- 1238. Redacted Death watch logs *produced in response to public records request* (6 pages)
- 1239. Death watch logs *produced in response to public records request* (6 pages)
- 1240. Redacted Record of staff visits *produced in response to public records request* (7 pages)
- 1241. Record of staff visits *produced in response to public records request* (7 pages)
- 1242. Redacted TDOC disciplinary record, Inmate Grievance records, Emails re execution day parking and email re other offenders *produced in response to public records request* (8 pages)
- 1243. TDOC disciplinary record, Inmate Grievance records, Emails re execution day parking and email re other offenders *produced in response to public records request* (8 pages)
- 1244. Redacted Electric chair testing log *produced in response to public records request*
- 1245. Electric chair testing log *produced in response to public records request*
- 1246. Redacted Visitation records *produced in response to public records request* (22 pages)
- 1247. Visitation records *produced in response to public records request* (22 pages)
- 1248. TDOC execution day parking document *produced in response to public records request* (6 pages)
- 1249. TDOC offender info *produced in response to public records request*
- 1250. Inmate inquiry forms and property inventories *produced in response to public records request* (10 pages)
- 1251. Redacted Refusal of medical services and TDOC medical history form *produced in response to public records request* (4 pages)
- 1252. Refusal of medical services and TDOC medical history form *produced in response to public records request* (4 pages)

1253. Redacted Spiritual advisor records *produced in response to public records request* (44 pages)
1254. Spiritual advisor records *produced in response to public records request* (44 pages)
1255. Last meal request *produced in response to public records request*
1256. Redacted Email encl Smith's Method of Execution and notification letter *produced in response to public records request* (3 pages)
1257. Email encl Smith's Method of Execution and notification letter *produced in response to public records request* (3 pages)
1258. Smith orders and filings *produced in response to public records request* (64 pages)
1259. Redacted Sheriff attendance at execution records *produced in response to public records request* (7 pages)
1260. Sheriff attendance at execution records *produced in response to public records request* (7 pages)
1261. Redacted Attorney general attendance at execution records *produced in response to public records request* (3 pages)
1262. Attorney general attendance at execution records *produced in response to public records request* (3 pages)
1263. Redacted Email encl letters to be mailed to victims' family members re execution *produced in response to public records request* (44 pages)
1264. Email encl letters to be mailed to victims' family members re execution *produced in response to public records request* (44 pages)
1265. Redacted Letters to Smith's counsel, Affidavit to Select Defense Counsel Witness to Execution and emails re legal visits *produced in response to public records request* (14 pages)
1266. Letters to Smith's counsel, Affidavit to Select Defense Counsel Witness to Execution and emails re legal visits *produced in response to public records request* (14 pages)

1267. Redacted Records re media and communications personnel on execution day *produced in response to public records request* (13 pages)
1268. Records re media and communications personnel on execution day *produced in response to public records request* (13 pages)
1269. Text messages re chemicals and execution preparation *produced in response to public records request* (3 pages)
1270. Delegations of Authority for execution related services, training logs and materials, drug inventory logs, drug invoice, pharmacy records, emails re drugs, media lottery recs for witnessing execution, emails re visits from counsel, victim service records, letters re election to attend execution, Smith orders and filings, Affidavit Concerning Method of Execution, notification letter, last meal inquiry form, spiritual advisor forms and records, Inmate Inquiry forms, personal property log, Tool Inventory, TDOC Offender info, visitation records, TDOC disciplinary records, Inmate Grievances, Death watch logs, Inmate clothing card and record of staff visits *produced in response to public records request* (361 pages)
1271. [Pharmacy] Midazolam inventory, 3/7/2018 – 4/5/2022 *produced in response to public records request* (4 pages)
1272. Midazolam inventory, 3/7/2018 – 4/5/2022 and Potassium Chloride inventory, 7/8/2019 – 10/11/2021 *produced in response to public records request* (12 pages)
1273. Reprieve records and emails, text messages re drugs *produced in response to public records request* (15 pages)
1274. 4/21/2022 emails attaching Zagorski order setting execution date and Zagorski reprieve *produced in response to public records request*
1275. Sterile compounding records *produced in response to public records request* (18 pages)
1276. Spiritual advisor records, NDA for spiritual advisor, letters, inmate inquiry forms, inmate personal property logs, TDOC offender info, visitation records, TDOC disciplinary records, Inmate Grievance records, Death watch logs and Record of staff visits *produced in response to public records request* (96 pages)
1277. Training materials and logs, lethal drug inventories, invoice for drugs, Tennessee Pharmacy license, DEA card, emails re drug orders, media lottery drawing records, letter to counsel re execution, emails re legal visits, Victim services records, Smith orders and filings, Affidavits re

counsel attending execution and method of execution, notification letter and last meal inmate inquiry *produced in response to public records request* (147 pages)

1278. Delegations of Authority for execution related services, training logs and materials *produced in response to public records request* (118 pages)
1279. Delegations of Authority for execution related services, training logs and materials *produced in response to public records request* (118 pages)
1280. 5/13/2022 draft letter from Debra Inglis providing records in response to 5/12/2022 request re Oscar Smith's scheduled execution
1281. 5/13/2022 draft letter from Debra Inglis providing records in response to 4/22/2022 request re Oscar Smith's scheduled execution *produced in response to public records request*
1282. Finley, Keefe, Kruesi, Loller, Timms and Vaughan responsive docs to TPRA requests for Oscar Smith and executions enclosing redacted May-April 2022 emails re Smith's reprieve, statement on Smith's temporary reprieve, Governor's reprieve, redacted April 2022 emails re Zagorski's order setting execution date and reprieve, redacted Delegated Authority Amendment FY 2019 dtd 2/22/2019, Delegated Authority FY 2019 dtd 2/22/2018, Delegated Authority Amendment FY 2019 dtd 8/20/2018, Delegated Authority Amendment FY 2018 dtd 2/27/2018, Delegated Authority FY 2018 dtd 3/17/2017, Delegated Authority FY 2022 dtd 4/14/2021, Delegated Authority FY 2021 dtd 1/16/2020, Delegated Authority FY 2020 dtd 2/22/2019, redacted 4/20/2022 – 4/21/2022 text messages re lethal chemical preservation, execution, execution preparation, and lab reports for Smith, lethal drug lab results *produced in response to public records request* (161 pages)
1283. Finley, Keefe, Kruesi, Loller, Timms and Vaughan responsive docs to TPRA requests for Oscar Smith and executions enclosing redacted May-April 2022 emails re Smith's reprieve, statement on Smith's temporary reprieve, Governor's reprieve, redacted April 2022 emails re Zagorski's order setting execution date and reprieve, redacted Delegated Authority Amendment FY 2019 dtd 2/22/2019, Delegated Authority FY 2019 dtd 2/22/2018, Delegated Authority Amendment FY 2019 dtd 8/20/2018, Delegated Authority Amendment FY 2018 dtd 2/27/2018, Delegated Authority FY 2018 dtd 3/17/2017, Delegated Authority FY 2022 dtd 4/14/2021, Delegated Authority FY 2021 dtd 1/16/2020, Delegated Authority FY 2020 dtd 2/22/2019, redacted 4/20/2022 – 4/21/2022 text messages re lethal chemical preservation, execution, execution preparation, and lab reports for Smith, lethal drug lab results *produced in response to public records request* (161 pages)

1284. 5/13/2022 draft letter from Debra Inglis providing test results re Midazolam and Potassium Chloride for Oscar Smith's execution *produced in response to public records request*
1285. 5/13/2022 draft letter from Debra Inglis responding to 5/11/2022 request for records *produced in response to public records request*
1286. 5/13/2022 draft letter from Debra Inglis providing records in response to 4/21/2022 request re Oscar Smith's scheduled execution *produced in response to public records request*
1287. 5/13/2022 draft letter from Debra Inglis providing records in response to 4/22/2022 request re executions *produced in response to public records request*
1288. 5/13/2022 letter from Debra Inglis responding to 4/25/2022 request for records with cost *produced in response to public records request*
1289. 5/13/2022 draft letter from Debra Inglis responding to 4/25/2022 request for records with cost *produced in response to public records request*
1290. 5/13/2022 draft letter from Debra Inglis providing records in response to 4/25/2022 request for records *produced in response to public records request*
1291. Redacted April 2021 - Feb 2022 Electric chair testing logs, redacted Feb 2022 - April 2022 Training rosters re electrocution, lethal injection, protocol, and training materials, April 2022 lethal drug inventory log, 4/12/2022 redacted [Pharmacy] invoice, Tennessee Board of Pharmacy and DEA license, March - April 2022 redacted emails re lethal drugs and supplies procurement, Media selections and Info for Smith's execution, Smith's Affidavit re defense counsel selection at execution, April 2022 emails re Smith attorney visitation, Victim services letters and emails re attendance at Smith's execution *produced in response to public records request* (428 pages)
1292. Victim services letters re attendance at Smith's execution, Orders and filings re Oscar Smith, Affidavit re method of execution, letter re method of execution, last meal request, Smith's Spiritual Advisor NDA and records *produced in response to public records request* (75 pages)
1293. Redacted letters, inmate inquiries, forms and emails re religious accommodations, visitations and attendance for Smith's execution, inmate inquiries re disposition of Smith's belongings after death, Smith's property and tool inventory, TDOC offender info, Microsoft outlook notification for

visits, TDOC disciplinary records, Smith Grievance docs, Death Watch logs, Smith clothing card, Record of Staff Visits, and USP Pharmaceutical Compounding bulletin *produced in response to public records request* (122 pages)

1294. USP Pharmaceutical Compounding bulletin, Midazolam storage and preparation instructions, Potassium Chloride preparation instructions, emails re Smith's reprieve, statement on Smith's temporary reprieve, Governor's reprieve, redacted 4/20/2022 – 4/21/2022 text messages re lethal chemical preservation, execution, execution preparation, and lab reports for Smith, Inventory and Use for Midazolam and Potassium Chloride, sterile compounding guidelines, 4/21/2022 emails re Zagorski's order setting execution and reprieve *produced in response to public records request* (83 pages)
1295. Records in response to Federal Public Defender's request for records per TPRA for Smith and lethal drug lab results *produced in response to public records request*
1296. Pharmaceutical compounding, Midazolam and Potassium Chloride protocols, emails, Reprieve info, text messages, drug inventories, sterile compounding docs *produced in response to public records request*
1297. Memorandum re religious accommodations, letters re upcoming execution, Inmate inquiry forms, emails, Smith's personal property logs, Tool inventories, TDOC offense info, visitation records, TDOC Disciplinary records, Grievance records, Death watch records, TDOC clothing card, Record of staff visits, pharmaceutical compounding *produced in response to public records request*
1298. Letters re attendance at execution, Orders and filings, emails, Affidavit Concerning Method of Execution, Notification letter, Last meal request, NDA for spiritual advisor *produced in response to public records request*
1299. Electric chair testing logs, training logs and materials, drug inventories and purchase invoice, Tennessee Pharmacy license, DEA card, emails re lethal drugs, media lottery drawing for attendance at execution records, victim records *produced in response to public records request*
1300. 5/13/2022 letter from Debra Inglis enclosing records re scheduled execution of Oscar Smith, emails re Smith's reprieve, statement on Smith's temporary reprieve, Governor's reprieve, redacted 4/20/2022 – 4/21/2022 text messages re lethal chemical preservation, execution, execution preparation, and lab reports for Smith, 4/21/2022 emails re Zagorski's order setting execution and reprieve *produced in response to public records request* (20 pages)

1301. 5/13/2022 letter from Debra Inglis enclosing records re scheduled execution of Oscar Smith, emails re Smith's reprieve, statement on Smith's temporary reprieve, Governor's reprieve, 4/21/2022 emails re Zagorski's order setting execution and reprieve, redacted Delegated Authority Amendment FY 2019 dtd 2/22/2019, Delegated Authority FY 2019 dtd 2/22/2018, Delegated Authority Amendment FY 2019 dtd 8/20/2018, Delegated Authority Amendment FY 2018 dtd 2/27/2018, Delegated Authority FY 2018 dtd 3/17/2017, Delegated Authority FY 2022 dtd 4/14/2021, Delegated Authority FY 2021 dtd 1/16/2020, Delegated Authority FY 2020 dtd 2/22/2019 *produced in response to public records request* (50 pages)
1302. 5/13/2022 letter from Debra Inglis enclosing records re lethal drugs testing results, emails re Smith's reprieve, statement on Smith's temporary reprieve, Governor's reprieve, 4/21/2022 emails re Zagorski's order setting execution and reprieve, 4/20/2022 – 4/21/2022 text messages re lethal chemical preservation, execution, execution preparation, and lab reports for Smith *produced in response to public records request* (20 pages)
1303. 5/13/2022 letter from Debra Inglis responding to 5/11/2022 request for records *produced in response to public records request*
1304. 5/13/2022 letter from Debra Inglis enclosing records re scheduled execution of Oscar Smith, emails re Smith's reprieve, statement on Smith's temporary reprieve, Governor's reprieve, 4/21/2022 emails re Zagorski's order setting execution and reprieve, 4/20/2022 – 4/21/2022 text messages re lethal chemical preservation, execution, execution preparation, and lab reports for Smith *produced in response to public records request* (20 pages)
1305. 5/13/2022 letter from Debra Inglis enclosing records re execution, redacted Delegated Authority Amendment FY 2019 dtd 2/22/2019, Delegated Authority FY 2019 dtd 2/22/2018, Delegated Authority Amendment FY 2019 dtd 8/20/2018, Delegated Authority Amendment FY 2018 dtd 2/27/2018, Delegated Authority FY 2018 dtd 3/17/2017, Delegated Authority FY 2022 dtd 4/14/2021, Delegated Authority FY 2021 dtd 1/16/2020, Delegated Authority FY 2020 dtd 2/22/2019 *produced in response to public records request* (44 pages)
1306. 5/13/2022 letter from Debra Inglis enclosing records re scheduled execution of Oscar Smith, emails re Smith's reprieve, statement on Smith's temporary reprieve, Governor's reprieve, 4/21/2022 emails re Zagorski's order setting execution and reprieve *produced in response to public records request* (7 pages)

1307. Notepad doc *produced in response to public records request*
1308. Recs re temperature in the refrigerator storing lethal drugs from 4/13/2022 - 4/21/2022 *produced in response to public records request*
1309. Notepad doc *produced in response to public records request*
1310. Recs re temperature in the refrigerator storing lethal drugs from 2/25/2022 - 4/21/2022 *produced in response to public records request*
1311. 8/24/2018 Letter from Debra Inglis requesting that inadvertently disclosed confidential records through the TPRA be returned pursuant to Rule 4.4(b) of the Rules of Professional Conduct *produced in response to public records request*
1312. 9/10/2018 Letter from Debra Inglis in response to 9/4/2018 Letter and requesting return of documents within 7 days *produced in response to public records request*
1313. 8/30/2018 Letter from Kelley Henry responding to 8/24/2018 Letter indicating they are not in violation of Rule 4.4(b) and are reviewing the request *produced in response to public records request*
1314. Track02 (*Purported audio files, but provided as Notepad doc that cannot be played*) *produced in response to public records request*
1315. Track01 (*Purported audio files, but provided as Notepad doc that cannot be played*) *produced in response to public records request*
1316. Redacted Jan 2018 - emails re [Pharmacy] Invoices, Provider Agreement, July 2018 - November 2018 Lethal drugs inventory logs, May 9, 2019 Midazolam Inventory, Tennessee Board of Pharmacy license, February 2019 - August 2019 [Pharmacy] Invoices, Vendor records, Pharmacy Services Agreement, TDOC policies and procedures re Procurement, Preparation, Introduction of the lethal Injection Chemical and Procedures of Accountability, rev. 7/5/2018, Midazolam storage and preparation instructions and KCL preparation instructions *produced in response to public records request* (61 pages)
1317. 8/26/2019 Letter from Debra Inglis responding to 8/22/2019 request for records *produced in response to public records request*
1318. Draft of 8/26/2019 Letter from Debra Inglis responding to 8/22/2019 request for records *produced in response to public records request*

1319. 8/22/2019 Email from Dorinda Carter forwarding 8/22/2019 request for records re lethal injection *produced in response to public records request*
1320. Draft of 1/13/2020 Letter from Debra Inglis responding to 1/9/2020 follow up request for records *produced in response to public records request*
1321. 11/22/2019 Letter from Debra Inglis providing records in response to 11/1/2019 request, July 2018 - Aug 2019 lethal drug inventory logs, vendor invoices and payments, Feb 2019 - Aug 2019 [Pharmacy] Invoices *produced in response to public records request*
1322. Draft of 9/25/2019 letter from Debra Inglis providing records in response to 8/22/2019 request *produced in response to public records request*
1323. 11/22/2019 Draft letter from Debra Inglis providing records in response to 11/1/2019 request *produced in response to public records request*
1324. 11/15/2019 Letter from Debra Inglis responding to 11/1/2019 request for additional records *produced in response to public records request*
1325. 9/17/2019 Letter from Debra Inglis responding to 8/22/2019 request for records with cost *produced in response to public records request*
1326. 8/22/2019 Letter requesting records re lethal injection *produced in response to public records request*
1327. Delegation Authority Amendments for Execution related services in 2019
1328. Delegation Authority Amendments for Execution related services in 2018
1329. Delegated Authority for Execution related services in 2022
1330. Delegated Authority for Execution related services in 2021
1331. Delegated Authority for Execution related services in 2020

Documents from TN AG

1. 6/8/2022 Letter from Dianna Baker Shew
2. Lethal Injection training documents (1162 pages)
3. Testing Reports (69 pages)
4. 11/27/2017 Pharmacy Services Agreement (5 pages)

5. Execution Procedures for Lethal Injection, rev 6/25/2015 (97 pages)
6. Ledger pages (38 pages)
7. Billy Irick and Donnie Johnson Chemical prep records (8 pages)

Handwritten death watch logs for Irick, Johnson, Miller and Zagorski (315 pages)
8. 7/20/2020 Memorandum Opinion in *King v. Parker* case, granting in part, denying in part Plaintiff's motion to compel and Defendants' motion for protective order
9. 7/20/2020 Order in *King v. Parker* case, re Plaintiff's motion to compel and Defendants' motion for protective order
10. 7/19/21 Deposition transcript of [Drug Procurer] in *King v. Parker* case.
11. 11/18/2019 Email, Subject: Update Lab report
12. 5/15/2019 Email, Subject: This is big! DOJ opinion on FDA
13. 7/15/2019 Email, Subject [Pharmacy] True Up
14. 8/8/2019 Email, Subject Suitability Test
15. 11/20/2019 Email, Subject see attached
16. 8/15/2019 Email, Subject Scanned from a Xerox [Pharmacy] Pharmacy.pdf
17. 7/10/2019 Email, Subject RX
18. 8/9/2019 Email, Subject results
19. 12/5/2019 Email, Subject Report
20. 5/9/2019 Email, Subject report
21. 7/24/2019 Email, Subject Report
22. 7/31/2019 Email, Subject Report
23. 5/15/2019 Email, Subject RE: This is big! DOJ Opinion on FDA
24. 5/15/2019 Email, Subject RE: This is big! DOJ Opinion on FDA

25. 1/29/2019 Email, Subject RE: product
26. 1/29/2019 Email, Subject Re: product
27. 1/29/2019 Email, Subject Re: product
28. 4/29/2019 Email, Subject RE: Potency report
29. 8/8/2019 Email, Subject RE: kcl protocol
30. 7/2/2019 Email, Subject RE: kcl protocol
31. 5/9/2019 Email, Subject RE: Invoices
32. 5/9/2019 Email, Subject Re: Invoices
33. 5/9/2019 Email, Subject Re: Invoices
34. 4/3/2019 Email, Subject RE: follow up
35. 7/29/2019 Email, Subject RE: Declaration
36. 7/26/2019 Email, Subject RE: Declaration
37. 7/29/2019 Email, Subject RE: Declaration
38. 10/30/2019 Email, Subject RE: API
39. 10/30/2019 Email, Subject RE: API
40. 12/20/2019 Email, Subject Re: [EXTERNAL] New invoice
41. 12/20/2019 Email, Subject Re: [EXTERNAL] New invoice
42. 6/26/2019 Email, Subject Proposed Alternative
43. 1/29/2019 Email, Subject product
44. 4/29/2019 Email, Subject Potency report
45. 2/26/2019 Email, Subject New Invoice
46. 11/26/2019 Email, Subject Lab results
47. 8/8/2019 Email, Subject KCI

48. 8/8/2019 Email, Subject kcl protocol
49. 6/26/2019 Email, Subject KCI Protocol
50. 6/26/2019 Email, Subject kcl protocol
51. 6/26/2019 Email, Subject KCI
52. 9/19/2019 Email, Subject Invoices
53. 5/9/2019 Email, Subject Invoices
54. 8/7/2019 Email, Subject Invoices
55. 6/26/2019 Email, Subject <http://leucadiapharma.com/anti-capital-punishment-statement/>
56. 7/2/2019 Email, Subject Fwd: kcl protocol
57. 6/28/2019 Email, Subject Fwd: kcl protocol
58. 9/24/2019 Email, Subject Fwd: Invoices
59. 5/16/2019 Email, Subject FW: [Pharmacy]
60. 10/29/2019 Email, Subject FW: potassium
61. 5/13/2019 Email, Subject FW: Midazolam
62. 7/2/2019 Email, Subject FW: kcl protocol
63. 4/2/2019 Email, Subject follow up
64. 12/3/2019 Email, Subject FedEx Shipment 777137874130: Delivery scheduled for tomorrow
65. 12/4/2019 Email, Subject FedEx Shipment 777137874130: Delivery scheduled for today
66. 12/4/2019 Email, Subject FedEx Shipment 777137874130: Delivered
67. 11/26/2019 Email, Subject FedEx Shipment 777076577054: Scheduled delivery update

68. 11/25/2019 Email, Subject FedEx Shipment 777076577054: Delivery scheduled for tomorrow
69. 11/26/2019 Email, Subject FedEx Shipment 777076577054: Delivery scheduled for today
70. 11/25/2019 Email, Subject FedEx MPS Shipment 777076577054 Notification
71. 11/26/2019 Email, Subject FedEx MPS Shipment 777076577054 Delivered
72. 7/25/2019 Email, Subject Fed Executions
73. 8/12/2019 Email, Subject ETX-190806-0007-LabReport.pdf
74. 7/26/2019 Email, Subject Declaration
75. 12/20/2019 Email, Subject Automatic reply: New Invoice
76. 10/30/2019 Email, Subject API
77. 11/21/2019 Email, Subject Alternatives
78. 8/12/2019 Email, Subject 2019-18034.pdf
79. 12/3/2019 Email, Subject Update
80. Text messages on [Drug Procurer] cell phone from 4/6/2017 – 6/27/2018
81. Text messages on [Drug Procurer] cell phone from 7/3/2018 – 9/26/2018
82. Text messages on [Drug Procurer] cell phone from 10/24/18 – 7/11/19
83. Text messages on [Drug Procurer] cell phone from 7/31/19 – 1/6/2020
84. Text messages on [Drug Procurer] cell phone from 1/7/2020 – 5/26/2022
85. Declaration of Sarah B. Miller in Support of Plaintiff's Motion filed 4/13/2022 in the *King v. Parker* case.
86. Affidavit of John Gardiner pursuant to 28 U.S.C. Sec 1746 dated 4/11/2022 in the *King v. Parker* case.
87. Declaration of Joel Zivot, MD filed 11/21/2018 in the *King v. Parker* case.

88. Declaration of TDOC Employee dated 12/19/2019 in the *King v. Parker* case.
89. Sworn Statement of Debra K. Inglis dated 2/14/2022 in the *King v. Parker* case.
90. Declaration of Larry D. Sasich dated 10/2/2018 in the *King v. Parker* case.
91. Declaration of RMSI Officer dated 7/30/2019 in the *King v. Parker* case.
92. Declaration of RMSI Mental Health Professional dated 7/29/2019 in the *King v. Parker* case.
93. Declaration of RMSI Employee dated 12/19/2019 in the *King v. Parker* case.
94. Declaration of the President of Pharmacy Z dated 3/31/2020 in the *King v. Parker* case.
95. Declaration of Tony C. Parker dated 10/5/2021 in the *King v. Parker* case.
96. Declaration of David A. Lubarsky, MD dated 9/2/2018 in the *King v. Parker* case.
97. Sworn Statement of Damon Lawrence dated 3/16/2022 in the *King v. Parker* case.
98. Sworn Statement of Debra K. Inglis dated 12/1/2021 in the *King v. Parker* case.
99. Deposition transcript of Gourang P. Patel, Pharm. D. taken on 2/11/2022 in the *King v. Parker* case.
100. Deposition transcript of Joseph Antognini, M.D. taken on 1/28/2022 in the *King v. Parker* case.
101. Deposition transcript of Feng Li, M.D., J.D., Ph.D. taken on 2/3/2022 in the *King v. Parker* case.
102. Defendants 2nd Interrogatories, Request for Production and Request for Admission dated 9/21/2021 in the *King v. Parker* case. (139 pages)
103. Mays Supplemental Responses to Interrogatories and Request for Production dated 8/19/2020 in the *King v. Parker* case. (226 pages)

104. Supplemental Responses dated 3/10/22 in the *King v. Parker* case. (77 pages)
105. Supplemental Responses to Request for Production dated 2/14/2022 in the *King v. Parker* case. (259 pages)
106. Defendants Supplemental Responses to Discovery dated 11/17/2021 in the *King v. Parker* case. (7,802 pages)
107. Defendants Supplemental Responses to Discovery dated 11/18/2021 in the *King v. Parker* case. (38 pages)
108. Defendants' Supplemental Responses to Request for Production dated 2/22/2022 in the *King v. Parker* case. (257 pages)
109. Defendants' Supplemental Responses to Request for Production dated 4/5/2022 in the *King v. Parker* case. (31 pages)
110. Initial Disclosures of Defendant in the *King v. Parker* case. (2,189 pages)
111. Defendants' First Supplemental Responses to Request for Production in the *King v. Parker* case. (54 pages)
112. Defendants first response to Request for Production of Documents in the *King v. Parker* case. (1,292 pages)
113. 2013 - 2019 Autopsy Reports from different states of executed offenders in the *King v. Parker* case. (250 pages)
114. Defendants' Supplemental responses to Request for Production dated 12/1/2021 in the *King v. Parker* case. (13 pages)
115. 84 pictures of the death chambers, witness room and lethal injection tubing in the *King v. Parker* case
116. 2/14/2022 Sworn Statement of Debra K. Inglis in the *King v. Parker* case
117. 3/16/2022 Sworn Statement of Damon Lawrence in the *King v. Parker* case
118. 12/1/2021 Sworn Statement of Debra K. Inglis in the *King v. Parker* case
119. 4/13/2022 Declaration of Sarah B. Miller in Support of Plaintiff's Motion in the *King v. Parker* case
120. 11/17/2021 Expert Report of Dr. Michaela Almgren in the *King v. Parker* case

121. 1/14/2022 Supplemental Expert Report of Dr. Michaela Almgren in the *King v. Parker* case
122. 2/4/2022 Full Deposition Transcript of Dr. Michaela Almgren in the *King v. Parker* case
123. Exhibit 1 – 1/14/2021 Notice of Subpoena for Deposition and to Produce Documents to Dr. Almgren Deposition Transcript in the *King v. Parker* case
124. Exhibit 2 – 11/17/2021 Expert Report of Dr. Michaela Almgren to Dr. Almgren Deposition Transcript in the *King v. Parker* case
125. Exhibit 3 – 1/14/2022 Supplemental Expert Report of Dr. Michaela Almgren to Dr. Almgren Deposition Transcript in the *King v. Parker* case
126. Exhibit 4 - Lethal Injection Execution Manual, rev 7/5/2018 to Dr. Almgren Deposition Transcript in the *King v. Parker* case
127. 2/4/2022 Condensed Deposition Transcript of Dr. Michaela Almgren in the *King v. Parker* case
128. 11/17/2021 Expert Report of Dr. Charles David Blanke in the *King v. Parker* case
129. 1/18/2022 Full Deposition Transcript of Dr. Blanke in the *King v. Parker* case
130. Exhibit 1 - 12/4/2021 Notice of Subpoena for Deposition and to Produce Documents to Dr. Blanke's Deposition Transcript in the *King v. Parker* case
131. Exhibit 2 – 11/17/2021 Expert Report of Dr. Charles David Blanke to Dr. Blanke's Deposition Transcript in the *King v. Parker* case
132. Exhibit 3 – 10/2/2020 Death with Dignity: The Oregon Experience and Future Implications PowerPoint slides to Dr. Blanke's Deposition Transcript in the *King v. Parker* case
133. Exhibit 4 - Oregon Death with Dignity Act 2020 Data Summary to Dr. Blanke's Deposition Transcript in the *King v. Parker* case
134. 1/18/2022 Condensed Deposition Transcript of Dr. Blanke in the *King v. Parker* case

135. 1/18/2022 (Corrected) Full Deposition Transcript of Dr. Blanke in the *King v. Parker* case
136. Exhibit 1 – 12/14/2021 Notice of Subpoena for Deposition and to Produce Documents to Dr. Blanke’s (Corrected) Deposition Transcript in the *King v. Parker* case
137. Exhibit 2 – 11/17/2021 Expert Report of Dr. Charles David Blanke to Dr. Blanke’s (Corrected) Deposition Transcript in the *King v. Parker* case
138. Exhibit 3 – 10/2/2020 Death with Dignity: The Oregon Experience and Future Implications PowerPoint slides to Dr. Blanke’s (Corrected) Deposition Transcript in the *King v. Parker* case
139. Exhibit 4 - Oregon Death with Dignity Act 2020 Data Summary to Dr. Blanke’s (Corrected) Deposition Transcript in the *King v. Parker* case
140. 1/18/2022 (Corrected) Condensed Deposition Transcript of Dr. Blanke in the *King v. Parker* case
141. 1/14/2022 Full Deposition Transcript of Craig W. Stevens, Ph. D. in the *King v. Parker* case
142. 1/14/2022 Condensed Deposition Transcript of Craig W. Stevens, Ph. D. in the *King v. Parker* case
143. 11/17/2021 Expert Opinion: Inappropriate Use of Midazolam in Tennessee's Triple-Drug Lethal Injection Protocol to Craig W. Stevens, Ph. D. Deposition Transcript in the *King v. Parker* case
144. Exhibit 1 – 12/14/2021 Notice of Subpoena for Deposition and to Produce Documents to Craig W. Stevens, Ph. D. Deposition Transcript in the *King v. Parker* case
145. Exhibit 2 – 11/17/2021 Expert Opinion: Inappropriate Use of Midazolam in Tennessee's Triple-Drug Lethal Injection Protocol to Craig W. Stevens, Ph. D. Deposition Transcript in the *King v. Parker* case
146. Exhibit 3 – 6/11/2018 deposition transcript of Craig W. Stevens, Ph.D. to Craig W. Stevens, Ph. D. Deposition Transcript in the *King v. Parker* case
147. Exhibit 4 - Transcript of 7/9/2018 proceedings (pages 1 - 150 only) to Craig W. Stevens, Ph. D. Deposition Transcript in the *King v. Parker* case
148. Exhibit 5 - Lethal Injection Execution Manual, rev 7/5/2018 to Craig W. Stevens, Ph. D. Deposition Transcript in the *King v. Parker* case

149. Exhibit 6 - July 2021 Curriculum Vitae of Craig W. Stevens, Ph.D. to Craig W. Stevens, Ph. D. Deposition Transcript in the *King v. Parker* case
150. Exhibit 7 - American Society of Anesthesiologists Continuum of Depth of Sedation: Definition of General Anesthesia and Levels of Sedation/Analgesia to Craig W. Stevens, Ph. D. Deposition Transcript in the *King v. Parker* case
151. Exhibit 8 – 11/1/2019 Expert Declaration of Craig W. Stevens, PH.D. to Craig W. Stevens, Ph. D. Deposition Transcript in the *King v. Parker* case
152. Exhibit 9 - Death Be Not Proud: The pharmacology of lethal drug executions to Craig W. Stevens, Ph. D. Deposition Transcript in the *King v. Parker* case
153. 1/11/2022 Full deposition transcript of Dr. Gail Van Norman in the *King v. Parker* case
154. 11/17/2021 Expert Opinion of Gail A. Van Norman, MD to transcript of Dr. Gail Van Norman in the *King v. Parker* case
155. Exhibit 1 – 12/14/2021 Notice of Subpoena for Deposition and to Produce Documents to transcript of Dr. Gail Van Norman in the *King v. Parker* case
156. Exhibit 2 – 11/17/2021 Expert Opinion of Gail A. Van Norman, MD to transcript of Dr. Gail Van Norman in the *King v. Parker* case
157. 11/10/2021 Report of Dr. James S. Williams: Efficacy and Feasibility of Firing Squad as a Means of Execution for Dr. Williams Transcript in the *King v. Parker* case
158. 1/4/2022 Full deposition transcript of Dr. James Williams in the *King v. Parker* case
159. 1/4/2022 Condensed deposition transcript for Dr. James Williams Transcript in the *King v. Parker* case
160. Exhibit 1 – 12/14/2021 Notice of Subpoena for Deposition and to Produce Documents to Dr. Williams Transcript in the *King v. Parker* case
161. Exhibit 2 – 11/10/2021 Report of Dr. James S. Williams: Efficacy and Feasibility of Firing Squad as a Means of Execution to Dr. Williams Transcript in the *King v. Parker* case

162. Exhibit 3 - Gunshot Wound Review by Martin L. Fackler, MD to Dr. Williams Transcript in the *King v. Parker* case
163. Exhibit 4 - Utah Technical Manual for execution by firing squad, rev 6/10/2010 to Dr. Williams Transcript in the *King v. Parker* case
164. Exhibit 5 - U.S. Army's Procedure for Military Executions to Dr. Williams Transcript in the *King v. Parker* case
165. Exhibit 6 - Diagnosis of brain death by G Bryan Young, MD to Dr. Williams Transcript in the *King v. Parker* case
166. Exhibit 7 - Advanced Trauma Life Support Student Course Manual to Dr. Williams Transcript in the *King v. Parker* case
167. Exhibit 8 - Military Police - U.S. Army Corrections System: Procedures for Military Executions to Dr. Williams Transcript in the *King v. Parker* case
168. Exhibit 9 - Thread of 7/22/2015 comments on forum to Dr. Williams Transcript in the *King v. Parker* case
169. 3/10/2022 Sworn Statement of Jim Biddle for Plaintiff's fact witnesses in the *King v. Parker* case
170. Exhibit 1 - TDOC Lethal Injection Execution Manual, rev 7/5/2018 for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
171. Exhibit 2 - Midazolam storage and preparation instructions for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
172. Exhibit 3 - October 2017 email thread re request for a drug storage protocol and info for a DEA # for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
173. Exhibit 4 - Potassium Chloride preparation instructions for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
174. Exhibit 5 - Creation, quantity, lot # and discard date logs for Potassium Chloride and Midazolam injections for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
175. Exhibit 6 – 9/7/2017 email re preference for procuring Midazolam first for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case

176. Exhibit 7 – 9/7/2017 email thread re availability and sources for lethal injection drugs for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
177. Exhibit 8 – 9/7/2017 email thread re lethal drugs availability and sources and other options for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
178. Exhibit 9 – 9/21/2017 email thread re request to order lethal drugs used in 3 drug protocol for 20 inmates for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
179. Exhibit 10 – 4/6/2017 email inquiring about current inventory of Pentobarbital for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
180. Exhibit 11 – 4/6/2017 email inquiry regarding Pentobarbital bulk order for compounding for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
181. Exhibit 12- 4/6/2017 email request to purchase Pentobarbital for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
182. Exhibit 13 – 7/20/2017 email thread re Pentobarbital update and DEA involvement for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
183. Exhibit 14 - Handwritten notes re importation of drugs from oversea sources for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
184. Exhibit 15 – 4/4/2017 email thread re inquiry to buy bulk order of Pentobarbital for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
185. Exhibit 16 - TDOC PowerPoint slides re efforts to procure chemicals to compound lethal injections, death row inmates and current execution law for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
186. Exhibit 17 – 10/30/2019 email thread discussing importing drugs and DEA for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case

187. Exhibit 18 – 6/20/2018 email thread inquiring about purchasing Pentobarbital for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
188. Exhibit 19 – 5/3/2019 Memorandum Opinion for the Attorney General: Whether the FDA has Jurisdiction over Articles Intended for Use in Lawful Executions for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
189. Exhibit 20 – 12/4/2017 email thread re Vecuronium requiring reconstitution for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
190. Exhibit 21 – 11/26/2019 email with subject Lab Results for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
191. Exhibit 22 – 8/9/2019 email indicating house sterility report is attached for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
192. Exhibit 23 – 8/8/2019 email indicating suitability/methodology test for KCI that was falling out of solution is attached for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
193. Exhibit 24 – 8/8/2019 email thread re kcl protocol for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
194. Exhibit 25 – 7/31/2019 email re Midazolam complete report for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
195. Exhibit 26 – 7/24/2019 email indicating potency reports for the Midazolam and KCI are attached for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
196. Exhibit 27 – 06/2019 – 07/2019 email thread re KCI protocol for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
197. Exhibit 28 – 5/9/2019 email indicating lab report for Midazolam is attached for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
198. Exhibit 29 – 4/29/2019 email indicating potency report for Midazolam batch is attached for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case

199. Exhibit 30 – 8/6/2018 email indicating the lab results for sterility testing are attached for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
200. Exhibit 31 – 7/12/2018 email indicating a testing report is attached re compounds for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
201. Exhibit 32 – 11/14/2017 email requesting info on an exam, manufacturer and to discuss contract for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
202. Exhibit 33 – 7/17/2018 email attaching a sample prescription for ordering a compounded preparation for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
203. Exhibit 34 – 12/15/2017 email providing TCA 10-7-504(h) and a case for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
204. Exhibit 35 – 6/26/2019 email providing proposed alternatives Midazolam, Digoxin, Morphine Sulfate and Propranolol for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
205. Exhibit 36 – 12/20/2019 Invoice for bulk shipment of Midazolam and KCI for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
206. Exhibit 37 – 10/26/2017 Invoice for bulk shipment of Midazolam, Vecuronium and KCI for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
207. Exhibit 38 – 8/16/2018 Invoice for bulk shipment of Midazolam and Vecuronium for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
208. Exhibit 39 – 12/28/2017 Invoice for Midazolam, Vecuronium, Sterile water for injection and KCI for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
209. Exhibit 40 – 10/31/2018 Invoice for Midazolam for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case
210. Exhibit 41 – 9/2018 handwritten inventories for lethal drugs for Defendant’s fact witnesses deposition transcripts in the *King v. Parker* case

211. Exhibit 42 - 2017-2018 handwritten inventories for lethal drugs for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
212. Exhibit 43 – 2/2020 – 8/2020 handwritten inventories for lethal drugs for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
213. Exhibit 44 – 4/14/2021 Chemical Preparation Time Sheet for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
214. Exhibit 45 – 8/13/2020 email re training requirements for compounding and status of KCI and Midazolam remaining for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
215. Exhibit 46 – 11/21/2017 Pharmacy Services Agreement for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
216. Exhibit 47 – 10/18/2017 email re lethal drugs received from suppliers for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
217. Exhibit 48 - Picture of area where lethal drugs are stored for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
218. Exhibit 49 - Tony May's Supplemental Response to Plaintiff's First Set of Interrogatories signed 8/19/2020 for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
219. Exhibit 50 - Supplement to information in response to Interrogatory 8 for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
220. Exhibit 51 – 3/30/2021 In-Service Training Course Roster for Lethal Injection and sample documents used on day of executions for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
221. Exhibit 52 – 4/13/2021 dated Day of Execution checklist sample for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
222. Exhibit 53 – 4/13/2021 In-Service Training Course Roster for Lethal Injection for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
223. Exhibit 54 -4/13/2021 dated Lethal Injection Chemical Administration Record sample for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
224. Exhibit 55 - IV Team Inventory Checklist for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case

225. Exhibit 56 - Physician's Inventory Checklist for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
226. Exhibit 57 – 8/9/2018 Day of Execution - Lethal Injection Execution Recorder Checklist for Billy Ray Irick for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
227. Exhibit 58 – 8/9/2018 Lethal Injection Chemical Administration Record and Prep Sheets for Billy Ray Irick for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
228. Exhibit 59 – 8/10/2018 Newspaper article re Billy Ray Irick's execution for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
229. Exhibit 60 – 9/2/2018 Declaration of David A. Lubarsky, MD for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
230. Exhibit 61 – 5/16/2019 Lethal Injection Chemical Administration Record for Donnie Johnson for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
231. Exhibit 62 – 5/16/2019 Chemical Prep sheets for Donnie Johnson for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
232. Exhibit 63 – 5/16/2019 Day of Execution - Lethal Injection Execution Recorder Checklist for Donnie Johnson for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
233. Exhibit 64 - TDOC Administrative Policies and Procedures for Standard Firearms Qualification Training for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
234. Exhibit 65 – 4/14/2021 Chemical Prep Sheets for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
235. Exhibit 66 – 5/16/2018 Sample Day of Execution check list for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
236. Exhibit 67 – 7/17/2018 Chemical Prep sheets for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
237. Exhibit 68 – 2/22/2017 Sample Day of Execution check list for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case

238. Exhibit 69 - Subpoena to Testify at a Deposition to TDOC Designees signed on 9/10/2021 for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
239. Exhibit 70 - Lethal Drug Prescription Orders for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
240. Exhibit 71 - USP Pharmaceutical Compounding - Nonsterile Preparations chapter 795 for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
241. Exhibit 72 - USP Pharmaceutical Compounding - Sterile Preparations chapter 797 for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
242. Exhibit 73 – 11/28/2017 email attaching an executed agreement and revisions to the protocols for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
243. Exhibit 74 - Potassium Chloride preparation instructions for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
244. Exhibit 75 - Potassium Chloride preparation instructions for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
245. Exhibit 76 - Sample Prescription for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
246. Exhibit 77 - Midazolam lab report for sterility for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
247. Exhibit 78 - Midazolam lab report for potency for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
248. Exhibit 79 - Pharmacy Board Order for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
249. Exhibit 81 – 5/9/2019 In-Service Training Course Roster for Spike IV Bag and Establish IV and training material for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
250. Exhibit 82 - Tennessee Emergency Medical Services Protocol Guidelines for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case

251. Exhibit 83 - Declaration of Tony C. Parker dated 10/5/2021 for Defendant's fact witnesses deposition transcripts in the *King v. Parker* case
252. Exhibit 1 - Lethal Injection Execution Manual rev 7/5/2018 for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
253. Exhibit 2 - Midazolam storage and preparation instructions for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
254. Exhibit 3 - October 2017 email thread re request for a drug storage protocol and info for a DEA # for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
255. Exhibit 4 - Potassium Chloride preparation instructions for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
256. Exhibit 5 - Creation, quantity, lot # and discard date logs for Potassium Chloride and Midazolam injections for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
257. Exhibit 6 – 9/7/2017 email re preference for procuring Midazolam first for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
258. Exhibit 7 – 9/7/2017 email thread re availability and sources for lethal injection drugs for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
259. Exhibit 8 – 9/7/2017 email thread re lethal drugs availability and sources and other options for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
260. Exhibit 9 – 9/21/2017 email thread re request to order lethal drugs used in 3 drug protocol for 20 inmates for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
261. Exhibit 10 – 4/6/2017 email inquiring about current inventory of Pentobarbital for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
262. Exhibit 11 – 4/6/2017 email inquiry regarding Pentobarbital bulk order for compounding for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
263. Exhibit 12 – 4/6/2017 email request to purchase Pentobarbital for [Drug Procurer] Deposition Transcript in the *King v. Parker* case

264. Exhibit 13 – 7/20/2017 email thread re Pentobarbital update and DEA involvement for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
265. Exhibit 14 - Handwritten notes re importation of drugs from oversea sources for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
266. Exhibit 15 – 4/4/2017 email thread re inquiry to buy bulk order of Pentobarbital for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
267. Exhibit 16 - TDOC PowerPoint slides re efforts to procure chemicals to compound lethal injections, death row inmates and current execution law for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
268. Exhibit 17 – 10/30/2019 email thread discussing importing drugs and DEA for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
269. Exhibit 18 – 6/20/2018 email thread inquiring about purchasing Pentobarbital for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
270. Exhibit 19 – 5/3/2019 Memorandum Opinion for the Attorney General: Whether the FDA for [Drug Procurer] Deposition Transcript has Jurisdiction over Articles Intended for Use in Lawful Executions for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
271. Exhibit 20 – 12/4/2017 email thread re Vecuronium requiring reconstitution for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
272. Exhibit 21 – 11/26/2019 email with subject Lab Results for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
273. Exhibit 22 – 8/9/2019 email indicating house sterility report is attached for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
274. Exhibit 23 – 8/8/2019 email indicating suitability/methodology test for KCI that was falling out of solution is attached for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
275. Exhibit 24 – 8/8/2019 email thread re kcl protocol for [Drug Procurer] Deposition Transcript in the *King v. Parker* case

276. Exhibit 25 – 7/31/2019 email re Midazolam complete report for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
277. Exhibit 26 – 7/24/2019 email indicating potency reports for the Midazolam and KCI are attached for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
278. Exhibit 27 – 06/2019 – 07/2019 email thread re KCI protocol for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
279. Exhibit 28 – 5/9/2019 email indicating lab report for Midazolam is attached for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
280. Exhibit 29 – 4/29/2019 email indicating potency report for Midazolam batch is attached for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
281. Exhibit 30 – 8/6/2018 email indicating the lab results for sterility testing are attached for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
282. Exhibit 31 – 7/12/2018 email indicating a testing report is attached re compounds for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
283. Exhibit 32 – 11/14/2017 email requesting info on an exam, manufacturer and to discuss contract for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
284. Exhibit 33 – 7/17/2018 email attaching a sample prescription for ordering a compounded preparation for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
285. Exhibit 34 – 12/15/2017 email providing TCA 10-7-504(h) and a case for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
286. Exhibit 35 – 6/26/2019 email providing proposed alternatives Midazolam, Digoxin, Morphine Sulfate and Propranolol for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
287. Exhibit 36 – 12/20/2019 Invoice for bulk shipment of Midazolam and KCI for [Drug Procurer] Deposition Transcript in the *King v. Parker* case

288. Exhibit 37 – 10/26/2017 Invoice for bulk shipment of Midazolam, Vecuronium and KCI for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
289. Exhibit 38 – 8/16/2018 Invoice for bulk shipment of Midazolam and Vecuronium for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
290. Exhibit 39 – 12/28/2017 Invoice for Midazolam, Vecuronium, Sterile water for injection and KCI for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
291. Exhibit 40 – 10/31/2018 Invoice for Midazolam for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
292. Exhibit 41 – 9/2018 handwritten inventories for lethal drugs for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
293. Exhibit 42 - 2017-2018 handwritten inventories for lethal drugs for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
294. Exhibit 43 – 2/2020 – 8/2020 handwritten inventories for lethal drugs for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
295. Exhibit 44 – 5/16/2019 Chemical Preparation Time Sheet for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
296. Exhibit 45 – 8/13/2020 email re training requirements for compounding and status of KCI and Midazolam remaining for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
297. Exhibit 46 – 11/21/2017 Pharmacy Services Agreement for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
298. Exhibit 47 – 10/18/2017 email re lethal drugs received from suppliers for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
299. Exhibit 48 - Picture of area where lethal drugs are stored for [Drug Procurer] Deposition Transcript in the *King v. Parker* case
300. 10/20/2021 Deposition transcript of EMT 1 in the *King v. Parker* case
301. Exhibit 81 – 5/9/2019 In-Service Training Course Roster for Spike IV Bag and Establish IV and training material for EMT 1 Deposition Transcript in the *King v. Parker* case

302. Exhibit 82 - Tennessee Emergency Medical Services Protocol Guidelines for EMT 1 Deposition Transcript in the *King v. Parker* case
303. 10/22/2021 Deposition transcript of EMT 2 in the *King v. Parker* case
304. 10/21/2021 Deposition transcript of EMT 3 in the *King v. Parker* case
305. Exhibit 1 - Lethal Injection Execution Manual rev 7/5/2018 for Executioner Deposition in the *King v. Parker* case
306. Exhibit 2 - Midazolam storage and preparation instructions for Executioner Deposition in the *King v. Parker* case
307. Exhibit 4 - Potassium Chloride preparation instructions for Executioner Deposition in the *King v. Parker* case
308. Exhibit 8 – 9/7/2017 email thread re lethal drugs availability and sources and other options for Executioner Deposition in the *King v. Parker* case
309. Exhibit 43 – 2/2020 – 8/2020 handwritten inventories for lethal drugs for Executioner Deposition in the *King v. Parker* case
310. Exhibit 44 – 4/4/2021 Chemical Preparation Time Sheet for Executioner Deposition in the *King v. Parker* case
311. Exhibit 49 - Tony May's Supplemental Response to Plaintiff's First Set of Interrogatories signed 8/19/2020 for Executioner Deposition in the *King v. Parker* case
312. Exhibit 50 - Supplement to information in response to Interrogatory 8 for Executioner Deposition in the *King v. Parker* case
313. Exhibit 51 – 3/30/2021 In-Service Training Course Roster for Lethal Injection and sample documents used on day of executions for Executioner Deposition in the *King v. Parker* case
314. Exhibit 52 – 4/13/2021 dated Day of Execution checklist sample for Execution Deposition in the *King v. Parker* case
315. Exhibit 53 – 4/13/2021 In-Service Training Course Roster for Lethal Injection for Executioner Deposition in the *King v. Parker* case
316. Exhibit 54 – 4/13/2021 dated Lethal Injection Chemical Administration Record sample for Executioner Deposition in the *King v. Parker* case

317. Exhibit 55 - IV Team Inventory Checklist for Executioner Deposition in the *King v. Parker* case
318. Exhibit 56 - Physician's Inventory Checklist for Executioner Deposition in the *King v. Parker* case
319. Exhibit 57 – 8/9/2018 Day of Execution - Lethal Injection Execution Recorder Checklist for Billy Ray Irick for Executioner Deposition in the *King v. Parker* case
320. Exhibit 58 – 8/9/2018 Lethal Injection Chemical Administration Record and Prep Sheets for Billy Ray Irick for Executioner Deposition in the *King v. Parker* case
321. Exhibit 59 – 8/10/2018 Newspaper article re Billy Ray Irick's execution for Executioner Deposition in the *King v. Parker* case
322. Exhibit 60 – 9/2/2018 Declaration of David A. Lubarsky, MD for Executioner Deposition in the *King v. Parker* case
323. Exhibit 61 – 5/16/2019 Lethal Injection Chemical Administration Record for Donnie Johnson for Executioner Deposition in the *King v. Parker* case
324. Exhibit 62 – 5/16/2019 Chemical Prep sheets for Donnie Johnson for Executioner Deposition in the *King v. Parker* case
325. Exhibit 63 – 5/16/2019 Day of Execution - Lethal Injection Execution Recorder Checklist for Donnie Johnson for Executioner Deposition in the *King v. Parker* case
326. Exhibit 64 - TDOC Administrative Policies and Procedures for Standard Firearms Qualification Training for Executioner Deposition in the *King v. Parker* case
327. 10/13/2021 Deposition transcript of Debra K. Inglis in the *King v. Parker* case
328. 9/24/2021 Deposition transcript of IV Team Member 1 in the *King v. Parker* case
329. 9/16/2021 Deposition transcript of IV Team Member 2 in the *King v. Parker* case
330. 9/22/2021 Deposition transcript of IV Team Member 3 in the *King v. Parker* case

331. 7/29/2021 Deposition transcript of Associate Warden Ernest Lewis in the *King v. Parker* case
332. Exhibit 1- Lethal Injection Execution Manual rev 7/5/2018 for Associate Warden Lewis Deposition in the *King v. Parker* case
333. Exhibit 2 - Midazolam storage and preparation instructions for Associate Warden Lewis Deposition in the *King v. Parker* case
334. Exhibit 4 - Potassium Chloride preparation instructions for Associate Warden Lewis Deposition in the *King v. Parker* case
335. Exhibit 7 – 9/7/2017 email thread re availability and sources for lethal injection drugs for Associate Warden Lewis Deposition in the *King v. Parker* case
336. Exhibit 8 – 9/7/2017 email thread re lethal drugs availability and sources and other options for Associate Warden Lewis Deposition in the *King v. Parker* case
337. Exhibit 50 - Supplement to information in response to Interrogatory 8 for Associate Warden Lewis Deposition in the *King v. Parker* case
338. Exhibit 58 – 8/9/2018 Lethal Injection Chemical Administration Record and Prep Sheets for Billy Ray Irick for Associate Warden Lewis Deposition in the *King v. Parker* case
339. Exhibit 59 – 8/10/2018 Newspaper article re Billy Ray Irick's execution for Associate Warden Lewis Deposition in the *King v. Parker* case
340. Exhibit 60 – 9/2/2018 Declaration of David A. Lubarsky, MD for Associate Warden Lewis Deposition in the *King v. Parker* case
341. Exhibit 62 – 5/16/2019 Chemical Prep sheets for Donnie Johnson for Associate Warden Lewis Deposition in the *King v. Parker* case
342. 7/27/2021 Deposition transcript of Warden Tony Mays in the *King v. Parker* case
343. Exhibit 1 - Lethal Injection Execution Manual rev 7/5/2018 for Warden Mays Deposition in the *King v. Parker* case
344. Exhibit 2 - Midazolam storage and preparation instructions for Warden Mays Deposition in the *King v. Parker* case

345. Exhibit 4 - Potassium Chloride preparation instructions for Warden Mays Deposition in the *King v. Parker* case
346. Exhibit 5 - Creation, quantity, lot # and discard date logs for Potassium Chloride and Midazolam injections for Warden Mays Deposition in the *King v. Parker* case
347. Exhibit 6 – 9/7/2017 email re preference for procuring Midazolam first for Warden Mays Deposition in the *King v. Parker* case
348. Exhibit 7 – 9/7/2017 email thread re availability and sources for lethal injection drugs for Warden Mays Deposition in the *King v. Parker* case
349. Exhibit 41 – 9/2018 handwritten inventories for lethal drugs for Warden Mays Deposition in the *King v. Parker* case
350. Exhibit 42 - 2017-2018 handwritten inventories for lethal drugs for Warden Mays Deposition in the *King v. Parker* case
351. Exhibit 43 – 2/2020 – 8/2020 handwritten inventories for lethal drugs for Warden Mays Deposition in the *King v. Parker* case
352. Exhibit 49 - Tony May's Supplemental Response to Plaintiff's First Set of Interrogatories signed 8/19/2020 for Warden Mays Deposition in the *King v. Parker* case
353. Exhibit 50 - Supplement to information in response to Interrogatory 8 for Warden Mays Deposition in the *King v. Parker* case
354. Exhibit 53 – 4/13/2021 In-Service Training Course Roster for Lethal Injection for Warden Mays Deposition in the *King v. Parker* case
355. Exhibit 58 – 8/9/2018 Lethal Injection Chemical Administration Record and Prep Sheets for Billy Ray Irick for Warden Mays Deposition in the *King v. Parker* case
356. Exhibit 59 – 8/10/2018 Newspaper article re Billy Ray Irick's execution for Warden Mays Deposition in the *King v. Parker* case
357. Exhibit 60 - 9/2/2018 Declaration of David A. Lubarsky, MD for Warden Mays Deposition in the *King v. Parker* case
358. Exhibit 62 – 5/16/2019 Chemical Prep sheets for Donnie Johnson for Warden Mays Deposition in the *King v. Parker* case

359. Exhibit 63 – 5/16/2019 Day of Execution - Lethal Injection Execution Recorder Checklist for Donnie Johnson for Warden Mays Deposition in the *King v. Parker* case
360. Exhibit 65 – 4/14/2021 Chemical Prep Sheets for Warden Mays Deposition in the *King v. Parker* case
361. Exhibit 66 – 5/16/2018 Sample Day of Execution check list for Warden Mays Deposition in the *King v. Parker* case
362. Exhibit 68 – 2/22/2017 Sample Day of Execution check list for Warden Mays Deposition in the *King v. Parker* case
363. 9/30/201 Deposition transcript of Tony Parker in the *King v. Parker* case
364. 11/22/2021 Deposition transcript of Tony Parker in the *King v. Parker* case
365. Exhibit 83 Declaration of Tony C. Parker dated 10/5/2021 for Tony Parker Deposition in the *King v. Parker* case
366. 9/29/2021 Deposition Transcript of Tony Parker as Corporate Representative for TDOC in the *King v. Parker* case
367. 7/30/2021 Deposition Transcript of [Pharmacist] in the *King v. Parker* case
368. Exhibit 70 - Lethal Drug Prescription Orders for [Pharmacist] Deposition in the *King v. Parker* case
369. Exhibit 71 - USP Pharmaceutical Compounding - Nonsterile Preparations chapter 795 for [Pharmacist] Deposition in the *King v. Parker* case
370. Exhibit 72 - USP Pharmaceutical Compounding - Sterile Preparations chapter 797 for [Pharmacist] Deposition in the *King v. Parker* case
371. 10/1/2021 Deposition Transcript of Pharmacy Owner in the *King v. Parker* case
372. 9/17/2021 Deposition Transcript of Steven Turley as Corporate Representative for Utah Department of Corrections in the *King v. Parker* case
373. Exhibit 1 - Amended Notice of Deposition to the Utah Department of Corrections dated 9/10/2021 in the *King v. Parker* case
374. Exhibit 2 - Picture of firing squad chair and backing in the *King v. Parker* case

375. Exhibit 3 - Description of the firing squad chair and backing in the *King v. Parker* case
376. Exhibit 4 – 9/30/2003 Inter-Office memorandum re estimated cost for upcoming execution by firing-squad in the *King v. Parker* case
377. Exhibit 5 - Utah Technical Manual for execution by firing squad, rev 6/10/2010 in the *King v. Parker* case
378. Exhibit 6 - Picture of execution chamber in the *King v. Parker* case
379. Exhibit 7 – 1/29/2014 email thread re costs of execution methods in the *King v. Parker* case

Documents from Kelley Henry

1. Plaintiff prisoners PowerPoint in the *Abu Ali Abdur'Rahman* matter.
2. 05/20/2019 Request from Kelley Henry for records re the execution of Johnson, response to request and information advising Johnson's Midazolam was tested for potency and sterility. The sterility passed on 5/9/19 and the potency results were 104%.
3. 04/21/2022 Email from Kelley Henry to Debbie Inglis, et al requesting that Inglis preserve all evidence re Oscar Smith's execution that did not go forward.
4. 04/21/2022 Email from Kelley Henry to Debbie Inglis, et al requesting a response re 4.20.22 email requesting proof of testing for the lethal injection chemicals intended to be used for Oscar Smith's 04/21/2022 execution.
5. 04/20/2022 Email from Kelley Henry to Debbie Inglis, et al requesting proof re testing of the lethal injection chemicals intended to be used for Oscar Smith's 04/21/2022 execution.

Documents from David Esquivel

1. 10/3/2022 Letter to Ed Stanton, et al from David Esquivel re suggested Lethal Injection protocol recommendations

Documents from [Former Pharmacy Owner]

1. Directions for unpacking and storage
2. Revised IV protocol for Midazolam

3. Chemicals Used in Lethal Injection Edited protocol

Documents from Pharmacy

1. [Pharmacy] Pharmacy license expiring 4/30/2022
2. [Pharmacy] Texas Pharmacy License expiring 4/30/2024
3. Sterile Compounding training document
4. Sterile Compounding training document
5. Sterile Compounding training document
6. Sterile Compounding training document
7. Sterile Compounding Aseptic Technique document
8. [Pharmacy] Pharmacy Tennessee license expiring 7/31/2022
9. Formula Worksheet for Sodium Hydroxide 1% Water for injection
10. Midazolam preparation instructions
11. 3/16/2022 Oscar Franklin Smith Prescription Order for Potassium Chloride and Midazolam
12. Formula Worksheet for Midazolam 50 MG/ML Injection Solution
13. Unredacted Midazolam log of prescriptions filled between 1/1/2017 - 8/9/2022
14. Redacted Midazolam log of prescriptions filled between 1/1/2017 - 8/9/2022
15. 5/22/2018 Midazolam suitability test
16. Logged Formula Worksheet for Potassium Chloride 15% injection solution concentrate injectable
17. Potassium Chloride preparation instructions
18. Potassium Chloride log of prescriptions filled between 1/1/2017 - 8/9/2022
19. Potassium Chloride Inventory log between 1/1/2000 - 5/11/2022

20. IV Protocol
21. 7/26/2021 Hotel Booking Invoice for [Pharmacist]
22. 9/1/2021 [Pharmacy] Invoice to TDOC
23. Formula Worksheet for Hydrochloric Acid 1% water for injection 1%
24. Lab Report for 5/11/2018 Midazolam Potency and Endotoxins and 5/25/2018 Sterility
25. protocols for chemicals used in lethal injection, rev. 7/11/2016
26. Formula Worksheet for Edetate Disodium 1% water for injection
27. [Pharmacy] DEA License expiring 2/28/2023
28. 2/11/2020 [Pharmacy] Invoice to TDOC
29. Midazolam inventory log between 1/1/2000 - 9/17/2021
30. Log of Midazolam made for TDOC between 1/1/2018 - 8/13/2020
31. Log of Potassium Chloride made for TDOC between 1/1/2018 - 8/13/2020
32. Potassium Chloride inventory log between 1/1/2000 - 9/17/2021
33. Potassium Chloride inventory log between 1/1/2000 - 9/17/2021
34. 5/14/2018 Lab report for container closure integrity
35. 9/17/2020 Letter from B. Braun Medical Inc. to [Pharmacy] re potential misuse of its Potassium Chloride drug product
36. Emails from pharmacy from 2020 - 2019 (8 pages)
37. Emails from pharmacy from 2019 (10 pages)
38. Emails from pharmacy from 2021 (14 pages)
39. Emails from pharmacy from 2021 (14 pages)
40. Emails from pharmacy from 2022 - 2021 (16 pages)
41. Emails from pharmacy from 2019 - 2018 (22 pages)

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U.S. Department of
JUSTICE

Review of the Federal Execution Protocol Addendum and Manner of Execution Regulations



January 2025

Office of Legal Policy

Introduction

On July 1, 2021, the Attorney General issued a memorandum instituting a moratorium on federal executions pending the Department of Justice's (Department) review of certain policies and procedures.¹ This review consists of three prongs: first, a review of the federal execution protocol addendum; second, a review of the manner of execution regulations;² and third, a review of the relevant Justice Manual provisions. In the memorandum, the Attorney General noted that "the Department of Justice must ensure that everyone in the federal criminal justice system is not only afforded the rights guaranteed by the Constitution and laws of the United States, but is also treated fairly and humanely." The memorandum directed the Office of Legal Policy (OLP), under the supervision of the Deputy Attorney General, to coordinate the first two prongs of the review.³

Regarding the review of the federal execution protocol addendum, which provides that an injection of a single drug – pentobarbital – is the sole manner of federal execution, the memorandum stated in part:

Although some medical experts have concluded that the use of pentobarbital may risk inflicting painful pulmonary edema, the Supreme Court found that this risk was insufficient "to justify last-minute intervention by a Federal Court" shortly before an execution was scheduled to occur. *Barr v. Lee*, 140 S. Ct. 2590, 2591 (2020) (per curiam). A risk need not meet the Court's high threshold for such relief, or violate the Eighth Amendment, to raise important questions about our responsibility to treat individuals humanely and avoid unnecessary pain and suffering.

Regarding the review of the manner of execution regulations, the memorandum noted that they had last been amended on November 27, 2020, to reflect the provisions of the Federal Death Penalty Act, 18 U.S.C. § 3596. This statute expanded the permissible methods of execution to include any manner prescribed by the "law of the State in which the sentence was imposed," and also permitted the federal government to use state facilities and personnel in federal executions. Additionally, the amendments to the manner of execution regulations added procedural provisions regarding the Attorney General's capacity to make exceptions to the regulations, as well as to delegate relevant duties within the Department. The memorandum directed a review to consider modification, rescission, or any other changes to the regulations.

This document summarizes the reviews of the federal execution protocol addendum and the manner of execution regulations in two parts. Part 1 addresses the review of the federal execution protocol: After an extensive review of available

¹ Memorandum from the Attorney General, *Moratorium on Federal Executions Pending Review of Policies and Procedures* (July 1, 2021), <https://www.justice.gov/opa/file/1557511/dl?inline>.

² See 28 C.F.R. § 26 (2020).

³ On January 30, 2023, the Deputy Attorney General issued a memorandum adopting changes to Title 9, Chapter 10 of the Justice Manual, which addresses capital crimes. See Memorandum from the Deputy Attorney General, *Changes to the Justice Manual's Provisions Regarding Capital Crimes* (January 30, 2023) <https://www.justice.gov/d9/2023-01/2023.01.30%20DAG%20Memo%20re%20JM%20Edits.pdf>.

scientific, medical, and legal research; recent autopsies of individuals who have received lethal injections of pentobarbital; consultation with experts within and outside the Department; and solicitation and consideration of public comments, OLP concludes that there remains significant uncertainty about whether the use of pentobarbital as a single-drug lethal injection causes unnecessary pain and suffering. In the face of such uncertainty, the Department should err on the side of humane treatment and avoidance of unnecessary pain and suffering, and therefore halt the use of pentobarbital unless and until that uncertainty is resolved. Part 2 addresses the review of the manner of execution regulations: Because the amendments made in 2020 largely reflect statutory law, there is no present reason to modify or rescind them. However, if the federal government were required to conduct an execution in a manner other than lethal injection of pentobarbital, the Department should undertake an analysis of that manner like the one engaged in here with regard to pentobarbital before it may be used.

Part 1 – The Federal Execution Protocol

I. Background

a. Capital Punishment and the Eighth Amendment of the Constitution

While the Supreme Court has a robust jurisprudence addressing the “cruel and unusual punishment” clause of the Eighth Amendment,⁴ it has never held that a method of execution adopted by a state or the federal government, and challenged in litigation, violates the Eighth Amendment.⁵ The Court’s caselaw thus does not provide definitive guidance on what is unconstitutionally cruel and unusual in the capital punishment context, although the Court has

⁴ See, e.g., *Wilkerson v. Utah*, 99 U.S. 130, 136 (1878) (finding it “safe to affirm that punishments of torture...and all others in the same line of unnecessary cruelty, are forbidden.”); *In re Kemmler*, 136 U.S. 436, 446 (1890) (stating that “if the punishment prescribed for an offense against the laws of the state were manifestly cruel and unusual, as burning at the stake, crucifixion, breaking on the wheel, or the like, it would be the duty of the courts to adjudge such penalties to be within the constitutional prohibition”); *Weems v. United States*, 217 U.S. 349 (1910) (prohibiting a sentence of 12 years in chains and hard labor); *Trop v. Dulles*, 356 U.S. 86 (1958) (prohibiting expatriation); *Robinson v. California*, 370 U.S. 660 (1962) (prohibiting the imprisonment for narcotics addiction); *Estelle v. Gamble*, 429 U.S. 97 (1976) (prohibiting incarceration without medical care); *Atkins v. Virginia*, 536 U.S. 304 (2002) (finding the death penalty is unconstitutional for people with intellectual disabilities); *Roper v. Simmons*, 543 U.S. 551 (2005) (finding the death penalty is unconstitutional for people who were under 18 when they committed a crime); *Kennedy v. Louisiana*, 554 U.S. 407, 447 (2008) (reserving the imposition of the death penalty to “crimes that take the life of the victim”).

⁵ See, e.g., *Wilkerson*, 99 U.S. 130 (regarding the use of a firing squad); *In re Kemmler*, 136 U.S. 436 (regarding the use of the electric chair); *Gary v. Lucas*, 463 U.S. 1237 (1983) (denying certiorari to a challenge to a state’s use of a gas chamber); *Baze v. Rees*, 553 U.S. 35, 48 (2008) (upholding Kentucky’s lethal injection procedure, finding that the plaintiff did not demonstrate that the execution procedure imposed a substantial risk of serious harm or a feasible alternative that reduces the a substantial risk of severe pain); *Barr v. Lee*, 591 U.S. 979 at 981 (2020) (vacating a district court’s preliminary injunction against the federal government and permitting the federal execution to proceed using pentobarbital, finding that plaintiffs “have not made the showing required to justify last-minute intervention by a Federal Court”); see also *United States v. Aquart*, 912 F.3d 1, 62 (2d Cir. 2018) (finding that “the Court has not drawn ‘precise distinctions between cruelty and unusualness’ or clearly indicated that the two words bear qualitatively different meanings” (citing *Trop*, 356 U.S. at 100 n.32)).

said more generally that “wanton and unnecessary infliction of pain” offends the Eighth Amendment.⁶

In 1972, in the landmark case of *Furman v. Georgia*, the Supreme Court held in a one-paragraph per curiam decision that “the imposition and carrying out of the death penalty in these cases constitute cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments.”⁷ The petitioners before the Court had been convicted and sentenced to death by juries in state courts, but the manner of execution was not at issue: the concerns in the case centered on the arbitrary and discriminatory application of the death penalty. The five justices in the majority each filed separate opinions in support of the judgment, providing independent justifications for the decision. Three of those five justices noted their view that the death penalty could be constitutional if greater procedural safeguards were in place, such that the jury would be required to adhere to standards for determining that the death penalty was appropriate. While the case effectively invalidated the prevailing state death penalty statutes at the time, the decision left room for state and federal legislators to rewrite statutes to address the concerns about the arbitrary imposition of the death penalty.⁸

Four years later, after thirty-five states enacted revised death penalty laws, the Court upheld the constitutionality of the death penalty statutes considered in *Gregg v. Georgia* and several companion cases.⁹ The Court ruled that death penalty statutes that included safeguards to guide juror discretion and to require jurors to make special findings or to weigh “aggravating” versus “mitigating” circumstances withstood constitutional scrutiny.¹⁰

Since the 1970s, the Court has largely left questions about the method and implementation of capital punishment to legislative bodies, juries, and executive branch officials, but has placed limits on the instances in which the death penalty may be appropriate.¹¹ In *Kennedy v. Louisiana*, the Court stated that the “evolving standards of decency” principle “requires that use of the death penalty be restrained.”¹² The Court said that “[i]n most cases justice is not better served by terminating the life of the perpetrator,” and it held that use of the death penalty “must be reserved for the worst of crimes and limited in its instances of application.”¹³ Using the “evolving standards of decency” test, the Court has found unconstitutional the execution of certain categories of offenders, including juveniles, individuals

⁶ See *Ingraham v. Wright*, 430 U.S. 651, 670 (1977) (quoting *Estelle*, 429 U.S. at 103).

⁷ *Furman v. Georgia*, 408 U.S. 238, 239-40 (1972).

⁸ Carol S. Steiker & Jordan M. Steiker, *Little Furmans Everywhere: State Court Intervention and the Decline of the American Death Penalty*, 107 Cornell L. Rev. 1621, 1626 (2022).

⁹ *Gregg v. Georgia*, 428 U.S. 153, 875 (1976) (plurality opinion); *Proffitt v. Florida*, 428 U.S. 242 (1976); *Jurek v. Texas*, 428 U.S. 262 (1976); *Woodson v. North Carolina* 428 U.S. 280 (1976); *Roberts v. Louisiana*, 428 U.S. 325 (1976).

¹⁰ *Id.* at 153. On the same day *Gregg* was decided, the Court decided *Woodson v. North Carolina*, 428 U.S. 280, 303 (1976), in which the Court held that the mandatory imposition of the death penalty is unconstitutional and that a “particularized consideration of relevant aspects of the character and record of each convicted defendant” is necessary “before the imposition upon him of a sentence of death.”

¹¹ See James C. Feldman, *Nothing Less than the Dignity of Man: The Eighth Amendment and State Efforts to Reinstitute Traditional Methods of Execution*, 90 Wash. U.L. Rev. 1313 (2015).

¹² *Kennedy*, 554 U.S. at 446.

¹³ *Id.* at 447.

with an intellectual disability, and individuals convicted of offenses other than homicide.¹⁴ While the Court has held that certain forms of corporal punishment violate the Eighth Amendment, such as the use of excessive force in physical restraints,¹⁵ it has never found specific methods of execution to violate the Constitution.¹⁶

In *Baze v. Rees*, the Court considered the constitutionality of Kentucky's lethal injection procedure and held that it did not violate the Eighth Amendment. The plurality opinion begins with the assertion that if capital punishment is constitutional, then it "necessarily follows that there must be a means of carrying it out."¹⁷ Under *Baze*, for a petitioner to succeed on an Eighth Amendment challenge, he or she must demonstrate, first, that an execution procedure imposes a "substantial" or "objectively intolerable" risk of serious harm; and second, that there is a "feasible, readily implemented" alternative that "in fact significantly reduce[s] a substantial risk of severe pain."¹⁸ Later, in *Bucklew v. Precythe*, the Court further articulated that the Eighth Amendment "does not guarantee a prisoner a painless death."¹⁹ The Court held that the Eighth Amendment permits methods of execution, like hanging, that involved a significant risk of pain, while forbidding as cruel only those methods that intensified the death sentence by "'superadding' terror, pain, or disgrace" as compared to a viable alternative method.²⁰

Taken together, the Court's recent decisions require petitioners who are challenging the method of execution to establish that a State's chosen method cruelly "superadds" pain to the death sentence, that there is a feasible and readily implemented alternative method that would significantly reduce a substantial risk of severe pain, and that the State has refused to adopt that method without a legitimate penological reason.²¹ The Court has stated that the Constitution affords a "measure of deference to a State's choice of execution procedures," and does not authorize courts to serve as "boards of inquiry charged with determining 'best practices' for executions."²²

¹⁴ See *Atkins*, 536 U.S. 304; *Roper*, 543 U.S. 551; *Kennedy*, 554 U.S. 407.

¹⁵ In *Hope v. Pelzer*, 536 U.S. 730 (2002), the Supreme Court characterized the gratuitous handcuffing of a shirtless inmate to a hitching post for hours at a time as an "obvious" Eighth Amendment violation.

¹⁶ See *Glossip v. Gross*, 576 U.S. 863 (2015) ("While methods of execution have changed over the years, '[t]his Court has never invalidated a State's chosen procedure for carrying out a sentence of death as the infliction of cruel and unusual punishment.'" (quoting *Baze*, 553 U.S. at 48 (2008))).

¹⁷ *Baze*, 553 U.S. at 47.

¹⁸ *Id.* at 47-52 (noting that the Court's "broad framework of the Eighth Amendment" and its "approval of a particular method in the past has not precluded legislatures from taking the steps they deem appropriate, in light of new developments, to ensure humane capital punishment").

¹⁹ *Bucklew v. Precythe*, 587 U.S. 119, 132 (2019).

²⁰ *Id.* at 138 (citing *Baze*, 553 U.S. at 48; *Glossip*, 576 U.S. 863); see also *Wilkerson*, 99 U.S. at 135 (in which the Court noted cases in England in which "terror, pain, or disgrace were sometimes superadded" to the sentence").

²¹ *Bucklew*, 587 U.S. at 134.

²² *Baze*, 553 U.S. at 51-52.

b. History of Federal Executions

In the last 100 years, the federal government's implementation of capital punishment has been limited: 34 people were executed between 1927 and 1963; 3 were executed between 2001 and 2003, and 13 were executed in 2020 and 2021.²³

Until 1937, federal law prescribed hanging as the method of execution.²⁴ In 1937, Congress mandated that each federal execution be carried out in the manner prescribed by the laws of the State within which the sentence was imposed,²⁵ which at time also included the use of the electric chair and gas chamber. In 1988, Congress passed the Anti-Drug Abuse Act of 1988, which made the death penalty available for certain drug-related offenses but did not specify a method of execution.²⁶ The Justice Department issued regulations providing for lethal injection to be the federal method of execution in 1993.²⁷

Subsequently, through the Violent Crime Control and Law Enforcement Act of 1994, Congress expanded the number of offenses for which the death penalty could be imposed and established general statutory procedures for seeking and imposing capital sentences.²⁸ The statute also included the Federal Death Penalty Act, which requires that federal executions be implemented “in the manner prescribed by the law of the State in which the sentence is imposed” and gives the Attorney General discretion to use “appropriate State or local facilities” and officials to implement a sentence of death in the manner prescribed.²⁹

Between 2001 and 2003, the federal government carried out three executions using a three-drug cocktail, including sodium thiopental (a barbiturate), pancuronium bromide, and potassium chloride.³⁰ In January 2011, the sole American manufacturer of sodium thiopental stopped production after it faced pressure to guarantee that the drug would not be used in capital punishment.³¹ The federal government announced that it did not have any reserves of sodium thiopental for lethal injections,³² and federal courts prevented the importation of sodium thiopental from foreign manufacturers without approval from the Food and Drug Administration

²³ *Capital Punishment*, Federal Bureau of Prisons, https://www.bop.gov/about/history/federal_executions.jsp (last visited Dec. 30, 2024).

²⁴ See Crimes Act of 1790, ch. 9 § 33, 1 Stat. 112, 119.

²⁵ An Act of June 19, 1937, ch. 367, 50 Stat. 304, 304.

²⁶ Anti-Drug Abuse Act of 1988, Pub. L. No. 100-690, 102 Stat. 4181.

²⁷ 28 C.F.R. Part 26.

²⁸ Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, 108 Stat. 1796 (1994).

²⁹ See 18 U.S.C. §§ 3596-3597.

³⁰ *BOP Execution Protocol*, Federal Bureau of Prisons (undated version prior to 2004 update,) (on file).

³¹ *Statement from Hospira regarding its halt of production of Pentothal (sodium thiopental)* (Jan. 21, 2011), <https://dpic-cdn.org/production/legacy/HospiraJan2011.pdf> (last visited Dec. 30, 2024); see also Erik Eckholm & Katie Zezima, *States Face Shortage of Key Lethal Injection Drug*, N.Y. Times (Jan. 21, 2011) <https://www.nytimes.com/2011/01/22/us/22lethal.html>.

³² See *Roane v. Leonhart*, 741 F.3d 147, 149 (2014); see also Letter from Attorney General Eric Holder to the National Association of Attorneys General (Mar. 4, 2011), <https://files.deathpenaltyinfo.org/legacy/documents/2011.03.04.holder.letter.pdf> (last visited Dec. 30, 2024).

(FDA).³³ No federal executions occurred after 2003, until the Department revised the execution protocol to use only a single drug, pentobarbital, and restarted executions in 2020.

c. Medically Approved Use of Pentobarbital

Pentobarbital is a barbiturate drug that the FDA has approved for use in humans as an emergency treatment for status epilepticus (seizures that occur in quick succession or that last longer than five minutes), as a short-term sedative to treat insomnia, or as a pre-anesthetic prior to surgery.³⁴ The therapeutic concentration of pentobarbital depends on the intended therapeutic effect. For example, the sedation dose is 1 to 5 mcg/mL. The standard injectable dose of pentobarbital is between 150 and 200 milligrams. Toxic doses of pentobarbital occur at approximately 1 gram in most adults, with death occurring at 2 to 10 grams.³⁵

The FDA has approved the use of pentobarbital in animal euthanasia.³⁶ Typically, animal euthanasia products contain a combination of pentobarbital sodium and phenytoin sodium: the pentobarbital “produces rapid anesthetic action, unconsciousness, and depression of the respiratory and vasomotor centers,” while the phenytoin “causes cardiovascular collapse and/or central nervous system depression.”³⁷ According to the American Veterinary Medical Association, “[i]ntravenous injection of a barbituric acid derivative (e.g., pentobarbital, pentobarbital combination product) is the preferred method for euthanasia of dogs, cats, and other small companion animals,” and veterinarians may also first use a sedative prior to administering the barbiturate.³⁸ The dosage of the drug is typically determined by the animal’s body weight.

Pentobarbital has also been used in states with lawful medical aid in dying practices. Those states typically have developed a regulatory framework for physicians to prescribe lethal doses specific to the individual, often along with sedatives or other medications.³⁹ These prescriptions are all considered “off-label,” as they are not uses approved by the FDA. Notably,

³³ In *Beatty v. Food & Drug Admin.*, 853 F. Supp.2d 30 (D.D.C. 2012), the district court considered an action brought by inmates on death row and held that the FDA violated the APA by improperly allowing the shipment of drugs from abroad to states to use in capital punishment. The D.C. Circuit affirmed. *Cook v. Food & Drug Admin.*, 733 F.3d 1 (D.C. Cir. 2013).

³⁴ *Orange Book: Approved Drug Products with Therapeutic Equivalence Evaluations*, Food & Drug Admin., https://www.accessdata.fda.gov/scripts/cder/ob/search_product.cfm (last visited Dec. 30, 2024).

³⁵ See Anna B. Johnson & Nazia M. Sadiq, *Pentobarbital*, StatPearls, National Library of Medicine (Feb. 25, 2024), <https://www.ncbi.nlm.nih.gov/books/NBK545288/> (last visited Dec. 30, 2024).

³⁶ *Animal Drugs*, Food & Drug Admin., <https://animaldrugsatfda.fda.gov/adafda/views/#/home/searchResult> (search results for “animal euthanasia”) (last visited Dec. 30, 2024).

³⁷ M. B. Forrester, *Human exposure to pentobarbital-phenytoin combination veterinary drugs*, Human & Experimental Toxicology (2017), <https://journals.sagepub.com/doi/10.1177/0960327116661398> (last visited Dec. 30, 2024).

³⁸ *AVMA Guidelines for the Euthanasia of Animals: 2020 Edition*, American Veterinary Medical Association, at 57, <https://www.avma.org/sites/default/files/2020-02/Guidelines-on-Euthanasia-2020.pdf>.

³⁹ See, e.g., *Oregon Death with Dignity Act: 2023 Data Summary*, Oregon Health Authority (2024), <https://www.oregon.gov/oha/ph/providerpartnerresources/evaluationresearch/deathwithdignityact/documents/year26.pdf>.

a 2019 opinion from the Office of Legal Counsel concluded that the FDA did not have jurisdiction to regulate drugs used in executions.⁴⁰

While several states have used pentobarbital in executions as a single-drug injection,⁴¹ the FDA has not reviewed or approved of the use of pentobarbital in high doses or for the purpose of causing death. In addition, the primary manufacturer of injectable pentobarbital that has been approved by the FDA, the Danish company Lundbeck, has restricted the use of the drug in capital punishment.⁴² As a result, states and the federal government have not purchased injectable pentobarbital from drug manufacturers, but instead have found chemical companies that provide powdered active pharmaceutical ingredient (API) pentobarbital in bulk and then used compounding pharmacies to create an injectable solution.⁴³ According to the FDA, “[c]ompounded drugs are not FDA approved, which means the agency does not verify their safety, effectiveness or quality before they are marketed.”⁴⁴ Pharmacies that compound drugs in bulk, such as those typically contracted to produce lethal injection drugs, are required to register as Human Drug Compounding Outsourcing Facilities under Section 503B of the Food, Drug, and Cosmetic Act.⁴⁵ These facilities are advised by the FDA to comply with “current good

⁴⁰ *Whether the Food and Drug Administration Has Jurisdiction over Articles Intended for Use in Lawful Executions*, Office of Legal Counsel, Dept. of Justice, 43 Op. *1 (May 2, 2019). *But see In re Federal Bureau of Prisons’ Execution Protocol*, 980 F.3d 123, 136 (D.C. Cir. 2020) (“There is no dispute that pentobarbital is a drug regulated under the FDCA... . Nor is there any dispute that pentobarbital is the type of drug that the FDCA requires to be dispensed only through a prescription issued by a licensed medical professional... . There likewise is no question that prisoners are generally entitled to the protections of the FDCA’s prescription requirement.” (citations omitted)).

⁴¹ On the state level, 194 individuals in 8 states have been executed using pentobarbital as the sole lethal substance beginning in 2011: Arizona (11 executions between 2/29/12 - 10/23/13 and 5/11/22 - 11/16/22), Georgia (25 executions between 2/21/13 - 3/20/24), Idaho (1 execution on 6/12/12), Missouri (32 executions between 11/20/13 - 9/24/24), Ohio (10 executions between 3/10/11 - 9/25/13), South Carolina (2 executions between 9/20/24 - 11/1/24), South Dakota (4 executions between 10/15/12 - 11/04/19), and Texas (109 executions between 7/18/12 - 10/01/24). In total, 14 states have used pentobarbital in executions. Five other states plan to use pentobarbital: Kentucky, Louisiana, Montana, North Carolina, and Tennessee. *See State-by-State Execution Protocols*, Death Penalty Information Center, <https://deathpenaltyinfo.org/state-lethal-injection> (last visited Dec. 30, 2024).

⁴² David Jolly, *Danish Company Blocks Sale of Drug for U.S. Executions*, N.Y. Times (Jul. 1, 2011), <https://www.nytimes.com/2011/07/02/world/europe/02execute.html>.

⁴³ Recent reporting described the compounding pharmacy working with the Texas Department of Criminal Justice to provide pentobarbital between 2019 and 2023. The reporting found that the pharmacy was “cited more than a dozen times over the past decade” by the Texas State Board of Pharmacy for “fail[ing] to maintain clean and sterile facilities and fail[ing] to keep complete and correctly labeled records and drugs in stock, among other violations.” Chiara Eisner, *Unmarked cards and secret orders: How a pharmacy prepared drugs for Texas’ executions*, NPR (Jul. 10, 2024), <https://www.npr.org/2024/07/10/g-s1-9016/unmarked-cars-and-secret-orders-how-a-pharmacy-prepared-drugs-for-texas-executions>. The report also noted that a pharmacy owned by the same family was sued by the Department of Justice for “dispensing powerful opioids to people without valid prescriptions, falsifying hundreds of prescriptions for controlled substances and ignoring serious red flags that indicated people intended to abuse their medications.” *Id.*; see also Hayley Bedard, *NPR Investigation Reveals Supplier of Texas Execution Drugs Has Multiple Drug Enforcement Agency Violations; Questions Remain Regarding Drug Acquisition in Other States*, Death Penalty Information Center (Jul. 11, 2024), <https://deathpenaltyinfo.org/npr-investigation-reveals-supplier-of-texas-execution-drugs-has-multiple-drug-enforcement-agency-violations-questions-remain-regarding-drug-acquisition-in-other-states>.

⁴⁴ *Human Drug Compounding*, Food & Drug Admin., <https://www.fda.gov/drugs/guidance-compliance-regulatory-information/human-drug-compounding> (last visited Dec. 30, 2024).

⁴⁵ *Facility Definition Under Section 503B of the Federal Food, Drug, and Cosmetic Act: Guidance for Industry*, Food & Drug Admin. (May 2018), <https://www.fda.gov/media/97359/download>.

manufacturing practice,”⁴⁶ and are subject to FDA inspection “according to a risk-based schedule.”⁴⁷ As of the date of this report, there are 88 compounding pharmacies registered as 503B outsourcing facilities, 31 of which have never been inspected by the FDA. In 55 of the 57 facilities that have been inspected, FDA officials have issued a Form 483, officially noting “significant objectional conditions” at the facility.⁴⁸

Some state lethal injection protocols include the administration of a sedative prior to execution, but those states require a physician to prescribe the sedative.⁴⁹ On the federal level, the Bureau of Prisons (BOP) has determined that in order to administer a sedative prior to execution, a prescription would be required, which would in turn require the participation of a medical professional.⁵⁰ It is internal BOP policy that the BOP medical staff do not administer drugs in connection with the execution process.⁵¹ Moreover, states that involve medical professionals in the execution process rely on those professionals doing so at their own risk, and likely rely on extensive state secrecy statutes.⁵² The American Medical Association’s code of ethics prohibits physician participation in a legally authorized execution.⁵³

II. Review of the Federal Execution Protocol Addendum

a. BOP’s Development of the 2019 Addendum to the Federal Execution Protocol

In 2017, in a memorandum to the Attorney General, the Director of BOP requested approval to issue an Addendum to its Federal Execution Protocol that provided only for “the use of a single drug, phenobarbital sodium (pentobarbital), as the lethal agent.”⁵⁴ The proposed addendum also specified procedural details such as dosage, identification of appropriate injection sites, and the number of backup syringes.⁵⁵ The memorandum detailed the development of the

⁴⁶ *Guidance Document: Current Good Manufacturing Practice*, Food & Drug Admin. (Jan. 2020), <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/current-good-manufacturing-practice-guidance-human-drug-compounding-outsourcing-facilities-under>.

⁴⁷ *See Compounding and the FDA: Questions and Answers*, Food & Drug Admin. <https://www.fda.gov/drugs/human-drug-compounding/compounding-and-fda-questions-and-answers> (last visited Dec. 30, 2024).

⁴⁸ *See Registered Outsourcing Facilities*, Food & Drug Admin., <https://www.fda.gov/drugs/human-drug-compounding/registered-outsourcing-facilities> (last visited Dec. 30, 2024) (noting that a Form 483 “does not constitute a final agency determination of whether any condition is in violation of the [Food, Drug, and Cosmetic] Act or any relevant regulations”).

⁴⁹ *See, e.g., Georgia Diagnostic and Classification Prison Lethal Injection Procedures*, Georgia Dept. of Corrections (Jul. 17, 2012), <https://dpic-cdn.org/production/legacy/GeorgiaProtocol07.17.2012.pdf> (last visited Dec. 30, 2024).

⁵⁰ Dep. of Rick Winter, *In re Federal Bureau of Prisons’ Execution Protocol Cases*, No. 19-MC-0145 (D.D.C. Sept. 20, 2020) (on file).

⁵¹ *Id.*

⁵² *See* Nadia N. Sawicki, *Clinicians’ Involvement in Capital Punishment - Constitutional Implication*, 371 N. Engl. J. Med. vol 2. 103-105 (2014); *see also* Nadia N. Sawicki, *Doctors, Discipline, and the Death Penalty*, 27 Yale L. & Pol’y Rev. 107 (2008).

⁵³ *Opinion 9.7.3, Capital Punishment*, American Medical Association, <https://code-medical-ethics.ama-assn.org/sites/amacoedb/files/2022-08/9.7.3.pdf> (last visited Dec. 30, 2024).

⁵⁴ Memorandum from the Federal Bureau of Prisons, *Approval of Bureau of Prisons’ Death Penalty Protocol Addendum* (Nov. 27, 2017) (on file) [hereinafter “2017 BOP Memo”].

⁵⁵ *Id.*

addendum, including a review of state protocols, visits to state execution sites, and consultations with other Department components.⁵⁶ In the course of its review, BOP considered several alternatives to using pentobarbital in a single dose,⁵⁷ but determined that due to “complications inherent in obtaining multiple drugs” a single-drug pentobarbital protocol “was the most suitable method based on its widespread use by the states and its acceptance by many courts.”⁵⁸

In anticipation of future litigation, BOP retained a consulting firm, Elite Medical Experts,⁵⁹ to identify medical experts to review the addendum and prepare to testify about it in court.⁶⁰ The firm identified two medical professionals to review the addendum: Dr. Craig W. Lindsley of the Vanderbilt Center for Neuroscience Drug Discovery, and Dr. Joseph F. Antognini, a clinical professor of anesthesiology and pain medicine at the University of California Davis School of Medicine.

Dr. Lindsley submitted a 550-word report stating that in his expert opinion and “deep knowledge of the pharmacology of pentobarbital,” the protocol would “produce a humane death with limited suffering and pain.”⁶¹ He wrote that, in his view, a person would lose consciousness within 10 to 30 seconds after being administered 5 grams of pentobarbital and would “be unaware of any pain or suffering due to the rapidity of the effect.” Although he stated that he reviewed “the available literature and case studies in the public domain,” his report did not include any citations.⁶²

According to BOP’s memorandum, Dr. Antognini did not submit a separate written evaluation of the protocol, but he “concur[ed] with the Addendum” and was “prepared to submit an expert report in defense of the protocol.”⁶³ Despite later testifying that BOP was aware of experts with conflicting views on pentobarbital, a BOP representative stated that “[a]fter consulting with [Dr. Lindsley and Dr. Antognini], we didn’t feel it was necessary to reach out to more.”⁶⁴

⁵⁶ *Id.*

⁵⁷ Prior to the identification of a domestic pentobarbital supplier, BOP considered the use of fentanyl as the lethal substance. See Memorandum from the Federal Bureau of Prisons, *Use of Fentanyl in Executions* (Mar. 7, 2018) (on file).

⁵⁸ 2017 BOP Memo, *supra* note 54, at 4.

⁵⁹ Today, Elite Medical Experts describes its mission as “align[ing] the top minds in healthcare – Professors of Medicine & Surgery – as experts in complex litigation.” According to its website, “[w]ith nearly 8000 engagements domestically and abroad, Elite solves challenges so that our clients win.” See *History & Mission*, Elite Medical, <https://elitemedicalexperts.com/history-mission/> (last visited Dec. 30, 2024).

⁶⁰ The review was coordinated through, and paid for by, the United States Attorney’s Office in D.C. in anticipation of future litigation.

⁶¹ Lindsley Report, *In re Federal Bureau of Prisons’ Execution Protocol Cases*, No. 19-MC-145 (D.D.C. Sept. 20, 2020) (on file) [hereinafter “Lindsley Report”].

⁶² See *id.*

⁶³ 2017 BOP Memo, *supra* note 54.

⁶⁴ Decl. of Rick Winter, *In re Federal Bureau of Prisons’ Execution Protocol Cases*, No. 19-MC-145 (D.D.C. Sept. 20, 2020) (on file).

Regarding the sourcing of pentobarbital, BOP initially intended to import powdered API pentobarbital from a foreign registered facility.⁶⁵ In a revised version of the memorandum from July 2019, however, BOP indicated it had identified a domestic source willing to provide the base ingredients and a compounding pharmacy to develop and produce the drug for executions.⁶⁶

In July 2019, Attorney General Barr directed BOP to adopt an addendum to the Federal Execution Protocol that provided for the use of pentobarbital.⁶⁷ Four individuals on the federal death row brought suit to prevent BOP's use of the protocol, alleging that the protocol was unlawful and unconstitutional. A district court issued a preliminary injunction to prevent BOP from carrying out executions under the revised protocol, finding that the protocol "exceed[ed] the statutory authority" of the Federal Death Penalty Act insofar as it "create[d] a single implementation procedure" not authorized by the Act.⁶⁸ The U.S. Court of Appeals for the D.C. Circuit, however, vacated that injunction.⁶⁹ In June 2020, the Department announced Attorney General Barr had directed BOP to schedule the execution of four inmates,⁷⁰ the first of whom was executed on July 14, 2020,⁷¹ a few hours after the U.S. Supreme Court vacated a district court order to stay the execution.⁷² In total, 13 people were executed using the BOP's single-drug protocol between July 2020 and January 2021.⁷³

⁶⁵ See 2017 BOP Memo, *supra* note 54, at 1 (stating "BOP also believes it has a viable plan to obtain pentobarbital. BOP intends to import powdered pentobarbital from a foreign FDA-registered facility" and would use a domestic compound pharmacy to create the injectable solution).

⁶⁶ After press reports publicly identified the BOP's source for pentobarbital API, the company announced that it would no longer manufacture pentobarbital. See Lauren Gill & Daniel Moritz-Rabson, *Company Linked to Federal Execution Spree Says it Will no Longer Produce Key Drug*, The Intercept (Jun. 22, 2024), <https://theintercept.com/2024/06/22/pentobarbital-execution-drug-absolute-standards/>.

⁶⁷ See Memorandum from the Federal Bureau of Prisons, *The Federal Bureau of Prisons' Federal Execution Protocol Addendum* (Jul. 24, 2019) (adopted and signed by the Attorney General) (on file) [hereinafter "FBOP Protocol Memorandum"].

⁶⁸ *In re Federal Bureau of Prisons' Execution Protocol Cases*, No. 19-mc-145, 2019 WL 6691814, at *7 (D.D.C. Nov. 20, 2019) ("There is no statute that gives the BOP or DOJ the authority to establish a single implementation procedure for all federal executions.").

⁶⁹ *In re Federal Bureau of Prisons' Execution Protocol Cases*, 955 F.3d 106 (D.C. Cir. 2020).

⁷⁰ See *Executions Scheduled for Four Federal Inmates Convicted of Murdering Children*, U.S. Dep't of Just. (June 15, 2020), <https://www.justice.gov/opa/pr/executions-scheduled-four-federal-inmates-convicted-murdering-children>.

⁷¹ Haley Fuchs, *Government Carries Out First Federal Execution in 17 Years*, N.Y. Times (July 14, 2020), <https://www.nytimes.com/2020/07/14/us/politics/daniel-lewis-lee-execution-crime.html>.

⁷² *Barr*, 591 U.S. at 980 (noting that pentobarbital had been "used to carry out over 100 executions, without incident," and had been "repeatedly invoked by prisoners as a less painful and risky alternative to the lethal injection protocols of other jurisdictions").

⁷³ As previously noted, the Department amended 28 CFR Part 26, "Death Sentence Procedures," in November 2020. A discussion of those changes is below. See *infra*, at 19.

b. OLP's Review

As directed by the Attorney General, OLP undertook a comprehensive review of the federal execution protocol addendum. OLP consulted with experts, including academics, medical professionals, drug safety experts, and advocacy groups. OLP also conducted a literature review, including legal materials and medical and scientific research specifically related to the use of pentobarbital. OLP reviewed all available documentation related to prior executions using pentobarbital, including autopsy reports and witness accounts. OLP reviewed state execution protocols⁷⁴ and consulted with state representatives. OLP also consulted relevant Department components, including BOP, the U.S. Marshals Service, the Criminal Division, the Civil Division, the Office of the Solicitor General, the Drug Enforcement Administration, the Civil Rights Division, the Bureau of Justice Statistics, and the National Institute of Justice. And OLP consulted with other federal agencies, including the Department of Health and Human Services. In addition, in September 2022, OLP published a request for information in the Federal Register.⁷⁵ The request yielded comments from the Federal Capital Habeas Project, experienced capital counsel, and members of Congress.

The primary areas of concern related to the use of pentobarbital include the risk of flash pulmonary edema; pain associated with the injection of a highly alkaline solution into the bloodstream; and the lack of clarity as to whether pentobarbital causes individuals to become unconscious, and therefore incapable of feeling pain, or simply unresponsive. Based on recent medical research evaluating autopsy data from executions that used pentobarbital, information collected from autopsies conducted on two individuals recently executed by the federal government, recent witness accounts from federal and state executions, and a review of medical expert testimony in litigation, OLP concludes that there remains significant uncertainty about whether pentobarbital can be used in a single-drug execution protocol without causing unnecessary pain and suffering.

c. Risk of Flash Pulmonary Edema

A review of available research and consultation with academics indicates that there is a risk of flash (acute) pulmonary edema with the use of pentobarbital in executions.⁷⁶ Pentobarbital is a barbiturate, and flash pulmonary edema is a complication of barbiturate overdose. It occurs through several mechanisms, including direct caustic injury to the lungs, negative pressure pulmonary edema as the individual struggles to breathe against an obstructed airway, and diminished power of contraction by the heart.⁷⁷ As pulmonary edema can cause “a

⁷⁴ See Appendix (State Execution Protocols).

⁷⁵ Request for Information Regarding the Manner of Execution Regulations, 87 Fed. Reg. 58531 (Sept. 27, 2022) <https://www.federalregister.gov/documents/2022/09/27/2022-20889/request-for-information-regarding-the-manner-of-execution-regulations>.

⁷⁶ Although the research into pentobarbital is limited, the available research conforms with findings made in other drugs. See M W Potts & P W Smethurst, *Pleural effusion complicating thiopentone administration. A case report*, 39(1) Br J Anaesth. (1967) (finding pulmonary edema developing after the administration of sodium thiopental).

⁷⁷ Jin Ma et al., *Negative Pressure Pulmonary Edema*, 26(2), Exp Ther Med. (Aug. 4, 2023), doi: 10.3892/etm.2023.12154.

feeling of suffocating or drowning that worsens when lying down,”⁷⁸ experts have likened it to the experience elicited during waterboarding.⁷⁹

A 2022 study by physicians Joel Zivot, Mark Edgar, and David Lubarsky reviewed autopsy reports from eight states (Alabama, Arkansas, Arizona, Florida, Georgia, Ohio, Oklahoma, and Virginia) using pentobarbital as a single drug or using midazolam⁸⁰ in a drug cocktail.⁸¹ The study noted that pentobarbital is a highly alkaline solution (pH between 9.8-11) and that “massive quantities of acidic or basic solution entering the bloodstream during lethal injection may be directly toxic to pulmonary capillary endothelial cells and that the earliest manifestation of this injury is the escape of edema fluid into the lungs.”⁸² In essence, the drug’s pH level is so high that it damages the blood vessels in the lungs and causes them to fill with fluid, leading to the feeling of drowning.

In their review of autopsy findings of 15 individuals executed by a protocol involving pentobarbital, Zivot, Edgar, and Lubarsky found evidence of lung edema in 10 of 15 cases, or 66 percent. This was evidenced by the “presence of froth, frothy fluid or blood-tinged froth located in the in the tracheobronchial tree... or fluid in lung parenchyma or small airways.”⁸³ The authors noted froth in the airways “requires breathing to create froth, so the timing of pulmonary edema must, [by] definition, occur prior to the administration of a paralyzing agency or heart stopping medication.”⁸⁴

Finally, the authors wrote that for people who experience sudden death, which is the intended effect of lethal injection, the weight of a person’s lungs after death should approximate normal lung weight, or an average of 234 grams.⁸⁵ Among the autopsies examined of those executed by lethal injection, however, “lung weights observed in this study were all above 400 grams (average weights for right and left lungs, respectively, in... pentobarbital executions 723 grams and 631 grams), indicating some combination of vascular congestion and parenchymal edema.”⁸⁶

⁷⁸ *Pulmonary edema; Sudden (acute) pulmonary edema signs and symptoms*, Mayo Clinic, <https://www.mayoclinic.org/diseases-conditions/pulmonary-edema/symptoms-causes/syc-20377009> (last visited Jan. 3, 2024).

⁷⁹ Noah Caldwell, Ailsa Chang & Jolie Myers, *Gasping for Air: Autopsies Reveal Troubling Effects of Lethal Injection*, NPR (Sept. 21, 2020), <https://www.npr.org/2020/09/21/793177589/gasping-for-air-autopsies-reveal-troubling-effects-of-lethal-injection> [hereinafter “NPR Report”].

⁸⁰ Midazolam is a benzodiazepine, while pentobarbital is a barbiturate. Both drugs act to depress the central nervous system but affect the functioning of the nervous system in different ways. See Thejasvi N. Lingamchetty, Seyed Alireza Hosseini & Abdolreza Saadabadi, *Midazolam*, StatPearls, National Library of Medicine (June 5, 2023), <https://www.ncbi.nlm.nih.gov/books/NBK537321/> (last visited Jan. 3, 2024).

⁸¹ Joel B. Zivot, Mark A. Edgar & David Lubarsky, *Execution by lethal injection: Autopsy findings of pulmonary edema*, (2022), doi.org/10.1101/2022.08.24.22279183 [hereinafter “Zivot Study”].

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.* (citing Hans Joachim, Ursus Nikolaus Riede & Christian Mittermayer, *The Weight of Human Lungs as a Diagnostic Criterium (Distinction of Normal Lungs from Shock Lungs by Histologic, Morphometric and Biochemical Investigations)*, 162(1) *Pathology - Research and Practice*, 24-40 (May 1978), doi.org/10.1016/S0344-0338(78)80129-0).

⁸⁶ Zivot Study, *supra* note 81.

NPR also recently released a detailed report that reviewed 216 autopsies that involved an internal examination of the lungs, some of which were likely reviewed by Zivot, Edgar, and Lubarsky's study.⁸⁷ In state executions that used pentobarbital as a single drug, 47 out of 58 autopsies were found to have signs of edema determined.⁸⁸

Two autopsies were conducted after recent federal executions with pentobarbital, and both showed signs of pulmonary edema. First, the Associated Press (AP) reported on an autopsy of Corey Johnson's body following his execution in January 2021, and while the autopsy has not been made public, the AP reported that Johnson suffered from pulmonary edema and that "so much fluid rushed up his trachea that some exited his mouth."⁸⁹ Second, the autopsy of Wesley Purkey's body following his federal execution in July 2020, also found "severe bilateral acute pulmonary edema" and evidence of "[f]rothy pulmonary edema" in Purkey's trachea and mainstem bronchi, suggesting that fluid had built up in his lungs.⁹⁰ The physician performing the autopsy weighed Purkey's lungs and found that his right lung weighed 1140 grams and his left lung weighed 1160 grams⁹¹ (as compared to the approximate normal lung weight, an average of 234 grams⁹²).

Given the rare and specific circumstances in which such large amounts of pentobarbital are injected into humans, there are not additional scientific studies that address the risk of flash pulmonary edema in the context of lethal injection. Nonetheless, Zivot, Edgar, and Lubarsky's study of autopsy reports, and the review of autopsies reported by NPR and the AP, suggest that pulmonary edema is a significant risk when pentobarbital is used in executions.

The autopsy data also provide support for the expert statements and declarations that have been used by legislators considering amending state execution protocols and by courts in litigation related to executions using lethal injections.

Dr. Mark Edgar, one of the co-authors of the study discussed above, and an Associate Professor of Pathology at Emory University, submitted a comment to the Montana Legislature as it considered legislation to change its execution protocol in 2021.⁹³ In his comment, Dr. Edgar

⁸⁷ According to NPR, the reporters gathered 305 autopsy reports of inmates executed between 1990 and 2019 through public records requests or through evidence submitted in federal court cases, 216 of which contained an examination of the lungs. The states included Alabama, Arkansas, Arizona, Florida, Georgia, Ohio, Oklahoma, Tennessee and Virginia. Zivot, Edgar, and Lubarsky's study included 43 autopsy reports from Alabama, Arkansas, Arizona, Florida, Georgia, Ohio, Oklahoma, and Virginia. Therefore, while the NPR story includes a broader set of autopsies, it is likely there is overlap with those reviewed by Zivot, Edgar, and Lubarsky. *See* Zivot Study, *supra* note 81.

⁸⁸ *See* NPR Report, *supra* note 79.

⁸⁹ Michael Tarm, *Fuller Picture emerges of the 13 federal executions at the end of Trump's presidency*, AP News (Oct. 3, 2023), <https://apnews.com/article/trump-executions-biden-death-penalty-brandon-bernard-c1b26807c5c40b337d14485c3d6df2de>.

⁹⁰ *See* DeJong Autopsy report, *In re Federal Bureau of Prisons' Execution Protocol Cases*, No. 19-MC-145 (D.D.C. Sept. 20, 2020) (on file).

⁹¹ *Id.*

⁹² Zivot study, *supra* note 81.

⁹³ *See* Public Comment by Mark Edgar, Montana Senate Judiciary Committee (March 22, 2021), <https://archive.legmt.gov/bills/2021/Minutes/Senate/Exhibits/jus62a02.pdf>; *see also* Alex Sakariassen, *Revising lethal injection – and reviving a death penalty in legal limbo*, Montana Free Press (Feb. 3, 2021), <https://montanafreepress.org/2021/02/03/revising-lethal-injection-and-reviving-a-death-penalty-in-legal-limbo>.

stated that he had “found evidence of prisoners developing acute and severe pulmonary edema...in both pentobarbital and midazolam executions,” which, he argued, “produces sensations similar to drowning or asphyxiation as fluid occupies a greater volume of the air spaces.”⁹⁴ He also wrote that in his review of autopsies conducted after an execution using pentobarbital, “at least two-thirds...showed findings consistent with development of acute pulmonary edema” during the execution, which he characterized as a “terrifying, horrific and painful condition that causes great suffering as the person struggles to breathe without being able to exchange air because of the compromised lungs.”⁹⁵

Dr. Gail Van Norman, a practicing internist and anesthesiologist and Adjunct Professor of Bioethics at the University of Washington, submitted an expert declaration on the risk of flash pulmonary edema in lethal injection executions involving pentobarbital.⁹⁶ She stated that the single-drug pentobarbital protocol would “subject executed prisoners to severe pain and suffering, when they remain conscious and aware prior to their deaths.”⁹⁷ Dr. Van Norman described flash pulmonary edema as occurring extremely rapidly, stating that the “administration of a large dose of barbiturate causes lung injury, which in turn causes flash pulmonary edema.”⁹⁸ She stated that as pulmonary edema sets in, the person has to “work harder and harder to breathe, and suffers sensations of shortness of breath and excruciating air hunger, similar to the sensations experienced in drowning and near-drowning victims.”⁹⁹ She also noted that the drowning sensation is “one of the most powerful, excruciating feelings known to man,” and is “deliberately elicited in ‘the enhanced interrogation technique’ called waterboarding.”¹⁰⁰

d. Risk of pain associated with the injection of a highly alkaline solution

In addition to concerns related to flash pulmonary edema, experts have warned that the use of high amounts of pentobarbital in a single-drug execution protocol could cause extreme pain upon the initial injection. As Zivot, Edgar, and Lubarsky describe in their study of autopsies pentobarbital is highly alkaline with a pH level between 9.8 and 11, and is like other barbiturates that “have long been known to cause vascular injury if improperly administered.”¹⁰¹

Here again, given the rare circumstances in which such large amounts of pentobarbital are injected into humans, there are not specific scientific studies that evaluate the risk of pain in the context of lethal injection. Nonetheless, studies have noted that barbiturates can damage the veins in the body, causing the drug to leak into the surrounding tissue.¹⁰² In Dr. Van Norman’s opinion, “[p]entobarbital can cause excruciating pain if injected rapidly into veins, particularly if

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ See Declaration of Dr. Van Norman submitted Nov. 1, 2019, at 31, *In re Federal Bureau of Prisons’ Execution Protocol Cases*, 471 F. Supp. 3d 209 (D.D.C. 2020) (*vacated sub nom. Barr*, 591 U.S. 979) (on file) [hereinafter “2019 Van Norman Decl.”].

⁹⁷ Declaration of Dr. Van Norman submitted Sept. 29, 2020, *In re Federal Bureau of Prisons’ Execution Protocol Cases*, 471 F. Supp.3d 209 (D.D.C. 2020)) (on file).

⁹⁸ *Id.*

⁹⁹ 2019 Van Norman Decl. at 31, *supra* note 96.

¹⁰⁰ *Id.* at 34.

¹⁰¹ Zivot Study, *supra* note 81, at 7.

¹⁰² See Shibata Y. et al., *Injury due to extravasation of thipental and propofol: risks/effects of local cooling/warming in rats*, 8 Biochem Biophys Rep., 207-11 (2016), <https://pubmed.ncbi.nlm.nih.gov/28955958/>.

extravasation [where IV fluid leaks from the veins] or infiltration of the peripheral IV catheter occurs, or if inadvertent intra-arterial injection occurs.”¹⁰³ In these cases, she argues, it would cause “significant, excruciating pain for prisoners undergoing judicial lethal injection with IV barbiturates.”¹⁰⁴

e. Witness accounts

In light of the limited research and unanswered questions about the risks of pulmonary edema and pain associated with lethal injection by pentobarbital, witness accounts take on greater significance and provide important anecdotal evidence. Witness accounts from the 13 federal executions using pentobarbital are particularly relevant.¹⁰⁵ In February 2021, AP News reported that “executioners who put [those] 13 inmates to death in the last months of the Trump administration likened the process of dying by lethal injection to falling asleep...but those tranquil accounts are at odds with reports by The Associated Press and other media witnesses of how prisoners’ stomachs rolled, shook and shuddered as the pentobarbital took effect inside the U.S. penitentiary death chamber in Terre Haute, Indiana.”¹⁰⁶ During the execution of Alfred Bourgeois in 2020, witnesses reported that he “grimaced and furrowed his eyebrows. He began to exhale rhythmically, and his stomach started to quiver uncontrollably.”¹⁰⁷ It was observed during Lezmond Hall’s execution in 2020 that his “chest heaved” and his “stomach area began to throb.”¹⁰⁸ Similarly, in 2020, witnesses reported that William LeCroy’s “midsection quickly began to heave uncontrollably” after the pentobarbital was administered.¹⁰⁹ In addition, in 2020, eyewitnesses observed that as the drug was administered to Orlando Hall, he “appeared to wince briefly and twitched his feet...open[ing] his mouth wide, as if he was yawning...[e]ach time that was followed by short, seemingly labored breaths.”¹¹⁰

f. Consciousness versus responsiveness

It is not clear whether a person who receives 5 grams of pentobarbital can feel and experience the impact the drug has on the body. Throughout litigation related to the use of pentobarbital in lethal injection, experts have debated whether 5 grams of pentobarbital leaves a person in a state of disconnected consciousness, and therefore unable to experience impacts

¹⁰³ 2019 Van Norman Decl. at 8, *supra* note 96.

¹⁰⁴ *Id.*

¹⁰⁵ Witness accounts of non-federal executions have also indicated a risk of pain and suffering. See Declaration of Dr. Edgar submitted October 24, 2019, *In re Federal Bureau of Prisons’ Execution Protocol Cases*, 471 F. Supp.3d 209 (D.D.C. 2020).

¹⁰⁶ See Michael Tarm, *Executioners sanitized accounts of deaths in federal cases*, AP News (Feb. 17, 2021), <https://apnews.com/article/executioners-sanitized-accounts-of-death-25d133f59039150c2e308ba1a2a5caef>.

¹⁰⁷ Michale Tarm, *US Executes Louisiana truck driver who killed daughter, 2*, AP News (Dec. 11, 2020), <https://apnews.com/general-news-32f7e296aba11d7d749bb996cffe623b>.

¹⁰⁸ Michael Tarm & Felicia Fonseca, *Only Native American on federal death row executed*, AP News (Aug. 25, 2020), <https://apnews.com/general-news-d10a18eff9cdf43afda8810bf859949d>.

¹⁰⁹ Jennifer Henderson & Steve Almasy, *Federal government executes inmate who blamed murder victim for using witchcraft on him*, CNN (Sept. 22, 2020), <https://www.cnn.com/2020/09/22/us/federal-execution-william-lecroy/index.html>.

¹¹⁰ Jill Salter, *US government executes man convicted of killing Texas teen*, AP News (Nov. 18, 2020), <https://apnews.com/article/kidnapping-coronavirus-pandemic-executions-terre-haute-william-barr-d25b85a78580efbacf899d6919ce1a15>.

including flash pulmonary edema,¹¹¹ or whether the drug leaves a person in a state of connected consciousness, in which they may or may not be physically responsive to pain of pulmonary edema but are experiencing that pain.¹¹²

This question is unanswered by scientific study in the context of capital punishment, and it remains debated even within clinical settings involving anesthesia.¹¹³ Recent studies have sought to distinguish “connected consciousness” from “responsiveness.” While responsiveness can indicate connected consciousness, a lack of responsiveness “does not equate to the absence of internal or external awareness.”¹¹⁴ Indeed, studies argue that while “a state of disconnected consciousness is the optimal level of anesthesia, as it likely avoids both awareness and the possible dangers of oversedation...there are no reliably tested indices that can discriminate between connected consciousness, disconnected consciousness, and complete unconsciousness.”¹¹⁵

III. Conclusion

After an extensive review of available scientific, medical, and legal research; recent autopsies of individuals who have received lethal injections of pentobarbital; consultation with experts within and outside the Department; and solicitation and consideration of public comments, there remains significant uncertainty about whether the use of pentobarbital as a single-drug lethal injection causes unnecessary pain and suffering. In the face of such uncertainty, the Department should err on the side of

¹¹¹ Dr. Lindsley’s report stated that he believed a person would lose consciousness within 10-30 seconds of administering 5g of pentobarbital, and respiratory depression or heart failure would ensue within minutes. He opined that even if edema occurred within one minute of administration, the brain would be so profoundly depressed that the person would not experience it. *See* Lindsley Report, *supra* note 61. BOP’s other retained expert, Dr. Joseph F. Antognini, stated : “It is my opinion, to a reasonable degree of medical and scientific certainty, that 1) the inmate would become unconscious within 20-30 sec after the initiation of the infusion of the pentobarbital, followed by respiratory arrest, cardiovascular collapse and death; 2) injection of massive doses (5 grams) of pentobarbital would not inflict mild, moderate or severe pain; 3) pulmonary edema, if it occurs ante-mortem, would not be perceived by the inmate because of the profound brain suppression caused by pentobarbital.” Declaration of Dr. Antognini submitted June 25, 2020, *In re Federal Bureau of Prisons’ Execution Protocol Cases*, 471 F. Supp.3d 209 (D.D.C. 2020) (on file).

¹¹² *See* 2019 Van Norman Decl., *supra* note 96. Dr. Van Norman argued that “it is extremely likely that prisoners given even high doses of barbiturates retain consciousness long enough to experience pain and suffering during the execution process using single-drug pentobarbital.” She also argued that that Dr. Antognini, “despite decades of evidence to the contrary, appears to believe that unresponsiveness accurately predicts unconsciousness. This is a grave error.”

¹¹³ *See* Javier Montupil et al., *The Nature of Consciousness in Anesthesia*, 8 British Journal of Anesthesia Open 100224 (2023), <https://pubmed.ncbi.nlm.nih.gov/37780201/>.

¹¹⁴ *Id.* (citing Robert D. Sanders et al., *Unresponsiveness ≠ unconsciousness*, 116 *Anesthesiology* 946 (2012), <https://pubmed.ncbi.nlm.nih.gov/22314293/>); Charlotte Martial et al., *Near-Death Experience as a Probe to Explore (Disconnected) Consciousness*, 24(3) *National Library of Medicine* 173 (2020), <https://pubmed.ncbi.nlm.nih.gov/31982302/>; Melanie Boly et al., *Consciousness and responsiveness: lessons from anesthesia and the vegetative state*, 26(4) *Current Opinion in Anesthesiology* 444 (2013), <https://pubmed.ncbi.nlm.nih.gov/23743554/>.

¹¹⁵ *See* Jiang Yandong & Jamie Sleight, *Consciousness and General Anesthesia: Challenges for Measuring the Depth of Anesthesia*, 140(2) *Anesthesiology* 313 (2024), <https://pubmed.ncbi.nlm.nih.gov/38193734/>; *see also* Vincent Bonhomme et al., *General Anesthesia: A Probe to Explore Consciousness*, 13 *Frontiers in Systems Neuroscience* 36 (2019), <https://pubmed.ncbi.nlm.nih.gov/31474839/>.

humane treatment and avoidance of unnecessary pain and suffering and cease the use of pentobarbital unless and until that uncertainty is resolved.

Part 2 – Manner of Execution Regulations

I. Background

The manner of execution by state and federal authorities has changed over the course of the nation’s history. The Supreme Court canvassed that history in *Baze v. Rees*, and noted that “hanging was the ‘nearly universal form of execution’” by the middle of the 19th century,¹¹⁶ but that widespread concerns about the inhumanity of hanging led to adoption of electrocution on the “well-grounded belief that electrocution is less painful and more humane than hanging.”¹¹⁷ Although hanging, lethal gas, and firing squads were used for executions as well, until the late 20th century, electrocution was the predominant manner of execution. At that time, another round of public pressure to reconsider the optimal way to ensure a humane death by execution led states to turn to lethal injection as a preferred manner, and by the turn into the 21st century, the federal government and all of the state governments that implemented the death penalty adopted lethal injection.¹¹⁸

The federal, and most of the state, lethal injection protocols involved a three-drug “cocktail”: first a barbiturate to sedate the prisoner, second a paralytic to halt respiration, and third a lethal agent to induce cardiac arrest. The Department issued a regulation in 1993 providing for lethal injection to be the sole manner of execution, but that regulation did not specify which substance or substances would be used. By the time of the next three federal executions, which occurred in 2001-2003, an execution protocol had been developed that instructed the use of a “cocktail” of sodium thiopental, pancuronium bromide, and potassium chloride.¹¹⁹ That protocol was refined and revised several times over subsequent years, but the three drugs remained the same.¹²⁰

In 2011, the Department of Justice could no longer procure sodium thiopental. States were similarly unable to purchase that barbiturate for use in executions. Public pressure brought to bear on pharmaceutical companies to refuse to supply lethal execution drugs meant that alternative sources, or alternative drugs, needed to be acquired for executions by lethal injection to continue.¹²¹ The Department addressed that challenge by amending the federal execution

¹¹⁶ *Baze*, 553 U.S. at 41 (citation omitted).

¹¹⁷ *Id.* at 42 (quoting *Malloy v. South Carolina*, 237 U.S. 180, 185 (1915)).

¹¹⁸ See Appendix. While lethal injection is the primary method used, some states have used alternative methods in recent years. As an example, Alabama (in 2002), South Carolina (in 2004 and 2008), and Virginia (in 2009, 2019, and 2013) have used electrocution in capital punishment.

¹¹⁹ See *supra* Part 1, I(b) at 5-6.

¹²⁰ See *In re Federal Bureau of Prisons’ Execution Protocol Cases*, No. 12-CV-0782, 2019 WL 6691814, at *2 (D.D.C. Nov. 20, 2019).

¹²¹ See *supra* note 31; see also Rebecca Katz, *Lethal Injection Challenges Continue Across the Country*, Am. Bar Assoc. (Mar. 1, 2012), https://www.americanbar.org/groups/committees/death_penalty_representation/project_press/2012/spring/li_challenges_continue/; Chris McGreal, *Lethal Injection Drug Production Ends in the US*, The Guardian (Jan. 23, 2011), <https://www.theguardian.com/world/2011/jan/23/lethal-injection-sodium-thiopental-hospira>.

protocol to require pentobarbital as the sole drug for lethal injection, and some states also began using pentobarbital, either as a substitute for sodium pentothal in a multi-drug “cocktail” or as a single drug lethal injection. But because the manufacturer of the injectable form of pentobarbital had also announced that it would not be supplying its product for use in executions, the Department needed to acquire the raw ingredient and have the injectable product made by a compounding pharmacy, as did several states.¹²²

While some states still had statutorily authorized methods of execution in addition to lethal injection, they had mostly been using only lethal injections for some years. In addition to seeking alternative suppliers of execution drugs in the face of manufacturers’ refusal to supply them, states began to turn to – or turn back to – other methods of execution. Of the 27 states that currently employ the death penalty, all have lethal injection as a sole or possible manner of execution: 13 have it as the sole manner;¹²³ 4 have it as the default manner, if the prisoner does not select another method;¹²⁴ 6 have it as the default, but if lethal injection is unavailable or deemed unconstitutional, other methods become the default;¹²⁵ and 4 have it as one of several options available to the correctional authority or for the prisoner to choose among.¹²⁶

Thus, when the Department resumed federal executions in 2020, it was in an atmosphere of increasing uncertainty about the consistent availability of drugs for executions, and also of awareness that states were in the same position, and thus could be expected to turn to other methods authorized by their own statutes. These realizations helped spur the amendments to the Manner of Federal Executions regulation, conducted through notice-and-comment rulemaking and finalized on November 27, 2020.¹²⁷

II. Review of the Manner of Execution Regulations

The Federal Death Penalty Act (FDPA) provides that a capital sentence in a federal case is to be implemented “in the manner prescribed by the law of the State in which the sentence is imposed.”¹²⁸ The FDPA further provides that federal authorities “may use appropriate State or local facilities for the purpose [of execution], may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof.”¹²⁹ In other words, a federal execution must be carried out in the manner that the State would, and the federal authorities may make use of State personnel and facilities for that execution.

The most significant revisions made to the manner of execution regulation in 2020, reflecting the Department’s awareness that it might confront a situation in which it was “required

¹²² See *supra* Part 1, I(b) at 5-6.

¹²³ See Appendix (states include: Georgia, Indiana, Kansas, Kentucky, Montana, Nebraska, Nevada, North Carolina, Ohio, Oregon, Pennsylvania, South Dakota, and Texas).

¹²⁴ *Id.* (states include Alabama, Arizona, California, and Florida).

¹²⁵ *Id.* (states include Arkansas, Idaho, Oklahoma, Tennessee, Utah and Wyoming).

¹²⁶ *Id.* (states include Louisiana, Missouri, Mississippi, and South Carolina).

¹²⁷ Manner of Federal Executions, Final Rule, 85 Fed. Reg. 75846 (Nov. 27, 2020), <https://www.federalregister.gov/documents/2020/11/27/2020-25867/manner-of-federal-executions>.

¹²⁸ 18 U.S.C. § 3596(a).

¹²⁹ 18 U.S.C. § 3597(a).

to execute a Federal inmate according to the law of a State that uses a method other than lethal injection,”¹³⁰ were to repeat those two statutory provisions in the text of the regulation itself. The expressed motivation for aligning the regulation with the statute was to eliminate possible legal arguments against using a manner other than lethal injection (should the law of the sentencing State require another manner), and the final rule’s explanatory text also made clear that the Department anticipated that, in such a case, “the most expedient means of carrying out the execution may be to arrange for State assistance.”¹³¹

Whatever the motivation for making these changes, however, the fact of the matter is that they simply reiterate what the FDPA already states; were these changes not made, or were they rescinded, the law would remain the same.

Much the same can be said for the 2020 amendments that reiterated the Attorney General’s broad delegation authority: The new regulatory language declares that “[a]ny task or duty assigned to any officer of the Department of Justice by this part may be delegated by the Attorney General to any other officer or employee of the Department of Justice.”¹³² That adds no authority that the Attorney General does not already possess, by virtue of long-standing federal statute, namely that “[a]ll functions of other officers of the Department of Justice and all functions of agencies and employees of the Department of Justice are vested in the Attorney General,” and “[t]he Attorney General may from time to time make such provisions as he considers appropriate authorizing the performance by any other officer, employee, or agency of the Department of Justice of any function of the Attorney General.”¹³³

Finally, that the 2020 amendments gave the Attorney General authority to make exceptions to the regulations, while not simply a repetition of existing statutory authority, ultimately is not a cause for undue concern. The new language introduced through the rulemaking declared that “[w]here applicable law conflicts with any provision of this part, the Attorney General may vary from that provision to the extent necessary to comply with the applicable law.”¹³⁴ It does not allow the Attorney General unfettered license to ignore or depart from the regulations’ requirements. Rather, it acknowledges that there could be otherwise controlling law that might conflict with the regulatory requirements, and that the Attorney General then would have to comply with the law – but only when, and to the extent, it was necessary to meet that law’s requirements.

Although there is nothing necessarily to modify or rescind in the manner of execution regulation, the pentobarbital evaluation described above compels the conclusion that the Attorney General should require such an evaluation of any other manner of execution before it is utilized by the federal government. The 2020 amendments to that regulation were undertaken in light of the changed operational facts about executions: It was increasingly likely that states would adopt alternative methods to lethal injection, it was a simple fact that the federal

¹³⁰ Manner of Federal Executions, Proposed Rule, 85 Fed. Reg. 47324 (proposed Aug. 5, 2020), <https://www.federalregister.gov/documents/2020/08/05/2020-15039/manner-of-federal-executions>.

¹³¹ *Id.*

¹³² See 28 C.F.R. § 26.1(c).

¹³³ See 28 U.S.C. §§ 509–510 (2002).

¹³⁴ See 28 C.F.R. § 26.1(b).

government was only equipped with the apparatus and experience of lethal injection, and so a future execution might well involve the Department's availing itself of a state facility and personnel to conduct a federal execution.

Were that circumstance to come to pass – and the Notice of Proposed Rulemaking for the 2020 amendments¹³⁵ makes clear that the possibility of just such a circumstance motivated the rulemaking – the Department should adhere to its responsibility to treat individuals humanely and avoid unnecessary pain and suffering. If a federal execution is to take place by a manner of execution other than the lethal injection of pentobarbital, the same kind of evaluation of that manner should be done as was done here on pentobarbital, with the same consideration of the risks posed by that method. And if the Attorney General in that case is not confident that the manner of execution does not risk inhumane treatment or unnecessary pain and suffering, then the Bureau of Prisons should be ordered not to proceed.

If the Attorney General determines that the manner of execution itself does not risk inhumane treatment or unnecessary pain and suffering, but that the Federal Bureau of Prisons does not have the capability, experience, and expertise to implement an execution in that manner, the Attorney General should determine before proceeding that the implementation of the execution in those facilities and by those personnel will not create a risk of inhumane treatment or unnecessary pain and suffering.

III. Conclusion

Because the amendments made in 2020 largely reflect statutory law, there is no present reason to modify or rescind them. However, if the federal government were required to conduct an execution by a manner other than lethal injection of pentobarbital, the Department should undertake an analysis of that manner like the one engaged in here with regard to pentobarbital before that other manner may be implemented.

¹³⁵ See Manner of Federal Executions, Proposed Rule, 85 Fed. Reg. 47324 (proposed Aug. 5, 2020), <https://www.federalregister.gov/documents/2020/08/05/2020-15039/manner-of-federal-executions..>

Appendix: State by State Execution Protocol (as of January 8, 2025)

State	Current Protocol/Statute	Determination	Most Recently Used
Alabama	Lethal injection, nitrogen hypoxia, electrocution. (Protocol issued August 25, 2023) (Ala. Code § 15-18-82.1.c)	Person must affirmatively choose nitrogen hypoxia or electrocution.	Nitrogen Hypoxia (November 22, 2024)
Arizona	Lethal injection or lethal gas; lethal injection is the default. (Protocol issued April 20, 2022) (Ariz. Rev. Stat. § 13-757)	If person was sentenced before November 23, 1992, they may select lethal gas.	1-drug pentobarbital (November 16, 2022)
Arkansas	Lethal injection; if needed, electrocution. <i>Protocol not publicly available.</i> (Ark. Code Ann. § 5-4-617)	If lethal injection is deemed “invalidated by a final and unappealable court order” then electrocution.	3-drug lethal injection, beginning with midazolam (April 27, 2017)
California	Lethal injection or lethal gas; lethal injection is the default. <i>No current protocol in place.</i> (Cal. Penal Code § 3604)	Person may request lethal gas.	Lethal injection (January 17, 2006) <i>Gubernatorial moratorium</i>
Florida	Lethal injection or electrocution. (Protocol issued March 10, 2023) (Fla. Stat. Ann. § 922.105)	Person must affirmatively choose electrocution.	3-drug lethal injection, beginning with etomidate (August 29, 2024)
Georgia	Lethal injection of pentobarbital. (Protocol issued July 17, 2012) (Ga. Code Ann. § 17 – 10-38)		1-drug lethal injection, pentobarbital (March 20, 2024)
Idaho	Lethal injection or firing squad. (Protocol issued October 11, 2024) (Idaho Code Ann. § 19 – 2716)	The Director of the IDOC must determine if lethal injection is available.	1-drug lethal injection, pentobarbital (attempted February 28, 2024)
Indiana	Lethal injection. <i>Protocol not publicly available.</i> (Ind. Code Ann. § 35-38-6-1)		Lethal Injection (December 18, 2024)
Kansas	Lethal injection. <i>No current protocol in place.</i> (Kan. Stat. Ann. § 22-4001)		Hanging (June 22, 1965)

State	Current Protocol/Statute	Determination	Most Recently Used
Kentucky	Lethal injection of pentobarbital. (Protocol issued July 6, 2018)		3-drug lethal injection, beginning with sodium thiopental (November 21, 2008)
Louisiana	Lethal injection, nitrogen hypoxia, or electrocution. (Protocol Issued March 12, 2014) (La. Stat. Ann. § 15:569)	The method used is at the discretion of the secretary of the Department of Public Safety and Corrections.	3-drug lethal injection, beginning with sodium thiopental (January 7, 2010)
Mississippi	Lethal injection is the default option. Authorizes use of nitrogen hypoxia if either lethal injection is held unconstitutional or “otherwise unavailable”; then authorizes electrocution if nitrogen hypoxia and lethal injection are held unconstitutional or “otherwise unavailable”; finally authorizes firing squad if nitrogen hypoxia, lethal injection, and electrocution are held unconstitutional or “otherwise unavailable.” <i>Protocol not publicly available.</i> (Miss. Code Ann. § 99-19-51)	The Commissioner of Corrections has the authority and discretion to select and obtain the substances and the means necessary to carry out an execution.	3-drug lethal injection starting with midazolam (December 14, 2022)
Missouri	Lethal injection or lethal gas. (Protocol issued October 22, 2013) (Mo. Ann. Stat. § 546.720)	Unclear if person or the Director of the Missouri Department of Corrections selects method.	1-drug lethal injection, pentobarbital (December 3, 2024)
Montana	Lethal injection. (Protocol issued January 16, 2013)		3-drug lethal injection, beginning with sodium thiopental (August 11, 2006)
Nebraska	Lethal injection: by 4-drug protocol, including fentanyl citrate. (Protocol issued November 9, 2017)		4-drug lethal injection: diazepam, fentanyl citrate, cisatracurium besylate, potassium chloride (August 14, 2018)
Nevada	Lethal injection by 3-drug protocol, beginning with an opioid (fentanyl or alfentanil). (Protocol issued June 9, 2021)		Lethal Injection (April 26, 2006)

State	Current Protocol/Statute	Determination	Most Recently Used
North Carolina	Lethal injection by 3-drug protocol of pentobarbital. (Protocol issued October 24, 2013)		3-drug lethal injection, beginning with sodium thiopental (August 18, 2006)
Ohio	Lethal injection. <i>Protocol not publicly available.</i> (Ohio Rev. Code. Ann. § 2949.22)		3-drug lethal injection, beginning with midazolam (July 18, 2018) <i>Gubernatorial moratorium</i>
Oklahoma	Lethal injection is the default; authorizes use of nitrogen hypoxia if either lethal injection is held unconstitutional or “otherwise unavailable”; then authorizes electrocution if nitrogen hypoxia and lethal injection are held unconstitutional or “otherwise unavailable”; finally authorizes firing squad if nitrogen hypoxia, lethal injection, and electrocution are held unconstitutional or “otherwise unavailable.” (Protocol issued February 2020) (Okla. Stat. Ann. tit. 22 § 1014)	“An appellate court of competent jurisdiction” decides method.	3-drug lethal injection, beginning with midazolam (December 19, 2024)
Oregon	3-drug lethal injection protocol <i>Protocol not publicly available.</i> (Or. Rev. Stat. Ann. § 137.473)		3-drug lethal injection, beginning with sodium thiopental (May 16, 1997) <i>Gubernatorial moratorium</i>
Pennsylvania	Lethal injection. <i>Protocol not publicly available.</i> (61 Pa. Stat. and Cons. Stat. Ann. § 4304)		3-drug lethal injection, beginning with sodium thiopental (July 6, 1999) <i>Gubernatorial moratorium</i>
South Carolina	Electrocution, firing squad or lethal injection. <i>Protocol not publicly available.</i> (S.C. Code Ann. § 24-3-530)	Person must select firing squad or lethal injection “under the direction of the Director of the Department of Corrections.” If person fails to select a method, then the	1-drug lethal injection, pentobarbital (November 1, 2024)

State	Current Protocol/Statute	Determination	Most Recently Used
		penalty must be administered by electrocution.	
South Dakota	1-drug lethal injection: pentobarbital. (Protocol issued July 23, 2020) (S.D. Codified Laws § 23A-27A-32.1)		1-drug lethal injection, pentobarbital (November 4, 2019)
Tennessee	Lethal injection of pentobarbital or electrocution. (Tenn. Code Ann. § 40-23-114) <i>Protocol not publicly available.</i>	If crime committed before December 31, 1998, person may select electrocution. If lethal injection is deemed unconstitutional or unavailable, then electrocution will be used.	Electrocution (February 20, 2020)
Texas	Lethal injection. (Protocol issued April 2021)		1-drug lethal injection of pentobarbital (October 1, 2024)
Utah	Lethal injection or firing squad. <i>Protocol not publicly available.</i> (Utah Code Ann. § 77-18-5.5)	Authorizes firing squad if lethal injection is unavailable or held to be unconstitutional. Also, if person committed crime before May 3, 2004, they may select firing squad.	3-drug lethal injection including pentobarbital (August 8, 2024)
Wyoming	Lethal injection or lethal gas <i>Protocol not publicly available.</i> (Wyo. Stat. Ann. § 7-13-904)	Authorizes lethal gas if lethal injection is held to be unconstitutional.	3-drug lethal injection, beginning with sodium thiopental (January 22, 1992)

RE: The proposed execution of Christa Gail Pike

Joel B. Zivot, M.D., FRCP(C), MA, JM

April 8, 2026

1. I am writing this as an addendum to the letter I wrote on January 6, 2026. Please refer to that letter for my qualifications and experience.
2. I have now reviewed the autopsy reports of Byron Black and Harold Nichols. Byron Black was executed by the State of Tennessee on August 5, 2025. Harold Nichols was executed by the State of Tennessee on December 11, 2025. The cause of death for Byron Black was listed as pentobarbital and hydrocodone toxicity. The cause of death for Harold Nichols was listed as pentobarbital toxicity.
3. In the case of Byron Black, his autopsy revealed no coronary artery disease. Apart from the finding of an automatic implantable cardioverter defibrillator, the left ventricle and right ventricle are of near-normal size. Pulmonary edema was found at his autopsy and could not have been present prior to the execution. Additionally, pulmonary edema requires a beating heart and could not have occurred simply as a post-mortem finding.
4. In the case of Harold Nichols, his autopsy revealed a normally sized heart with some mild coronary artery disease. No evidence was present to suggest an acute myocardial infarction. The cut surfaces of his lungs revealed the presence of extensive pulmonary edema. This could not have been present prior to execution.
5. In the case of pentobarbital-induced execution, pulmonary edema is a common finding. The mechanism is likely due to pentobarbital's highly alkaline pH. Highly alkaline solutions are extremely noxious to human tissue. It would be akin to a severe chemical burn to the esophagus if one were to drink bleach. This bleach-induced tissue destruction to the lungs is

Document received by the TN Supreme Court.

made worse by injecting large quantities of pentobarbital, which is the standard practice of the State of Tennessee Department of Corrections.

6. Pulmonary edema is an excruciatingly painful condition characterized by the sensation of drowning and a burning in the lungs as they fill with blood. Pentobarbital has no pain-relieving properties to lessen the pain felt during this type of execution.
7. Death from a pentobarbital injection is not instantaneous. Pulmonary edema will begin rapidly and be present even with some level of awareness on the part of the prisoner. It is false to claim that brief pain is not material. Consider the experience of holding one's hand directly over a burning flame for 30 seconds. The brain will detect pain of this nature in a fraction of 1 second. No one would reasonably be able to endure 30 seconds of the burning pain of fire.
8. The Tennessee Department of Corrections intends to execute Christa Pike with a pentobarbital injection, as was used to execute Byron Black and Harold Nichols. Pulmonary edema was clearly present during those two executions. It is a virtual certainty that if Christa Pike is executed via the same method, she will experience the excruciating and cruel pain of pulmonary edema before she finally dies.
9. I hold the opinions in this declaration to a reasonable degree of medical certainty. Should additional information become available later, I reserve the opportunity to update or add to the opinions stated in this letter.



Joel B. Zivot, M.D., FRCP(C), MA, JM

Autopsy sheds light on Byron Black's painful execution

By Catherine Sweeney

September 11, 2025



Nashville's local news and
NPR station

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Sue Ogrocki / AP Photo (File)

This 2014 file photo shows the gurney in the the execution chamber at the Oklahoma State Penitentiary. Lethal injections in several states, including Tennessee and Oklahoma, have caused pulmonary edemas.

APP-000619
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For the first time since Tennessee adopted a new lethal injection protocol, a post-execution autopsy has been released<<https://wpln.org/wp-content/uploads/sites/7/2025/09/Byron-Black-autopsy-report.pdf>>.

It shows that Byron Black, who was put to death Aug. 5, developed pulmonary edema — a form of lung damage that can cause a drowning sensation.

The lung damage could explain why Black showed distress as he died<<https://wpln.org/post/tennessee-executes-byron-black-despite-worries-about-his-heart-implant/>>. He groaned for several minutes, and told his bedside spiritual adviser he was in pain. However, his attorneys have raised concerns that the report failed to address other potential causes, such as a poorly administered injection.

Black was the second man to be executed using Tennessee’s pentobarbital-only lethal injection method. Autopsies are standard procedure after an execution. The first man to die under the new protocol, Oscar Franklin Smith<<https://wpln.org/post/tennessee-executes-oscar-smith-ending-pause-on-lethal-injections/>>, refused an autopsy on religious grounds.

This autopsy revealed that Byron Black developed pulmonary edema during the execution. That’s a form of lung damage that can cause a painful drowning sensation. An NPR investigation published in 2020<<https://www.npr.org/2020/09/21/793177589/gasping-for-air-autopsies-reveal-troubling-effects-of-lethal-injection>> found that this damage is incredibly common. Researchers reviewed dozens of post-execution autopsy reports, and they found pulmonary edema mentioned in about 80% of them.

That can happen with any kind of lethal injection method — including the three-drug protocol that Tennessee previously used. But it’s especially likely with pentobarbital. That medication is highly caustic — like Drain-o.

For weeks before he died, Black’s attorneys argued that this form of execution violated his rights in several ways<<https://wpln.org/post/a-heart-implant-could-make-tennessees-next-execution-painful-and-prolonged-prison-officials-argue-they-dont-have-to-disable-the-device/>> — one being the risk of this lung damage.

The state’s medical witness argued that it was unlikely Black would experience any pain during his execution, whether he developed pulmonary edema.

Dr. Joseph Antognini is an anesthesiologist who has served as a medical expert on behalf of several red state governments updating their death penalty methods. This year, he has performed his services in Louisiana<<https://www.wwno.org/law/2025-03-17/the-doctor-defending-louisianas-controversial-execution-method>>, where officials

are implementing nitrogen gassing, and Tennessee, as it goes through a legal challenge to its new lethal injection protocol.

In Davidson County court records<<https://wpln.org/wp-content/uploads/sites/7/2025/09/Antognini-declaration-re-pentobarbital.pdf>>, he testified that such high dose of pentobarbital would cause Black and any other inmate to lose consciousness within 20 seconds of administration, and that they would would be unlikely to experience any pain associated with the injection.

Under Tennessee’s lethal injection protocol, the drugs are stored and administered in a room adjacent to the execution chamber. This is to obscure the identity of any prison workers involved in the process.

There is a hole in the wall between the two rooms, and the IV lines are routed through the hole. Then, workers place an IV in each arm. Media witnesses are in the viewing gallery as this happens, but curtains cover those windows until the IVs are established. Once the workers finish the job and leave the room, the curtains open, and the pentobarbital begins flowing into the prisoner being executed.

The curtains opened at 10:31 a.m., and Black showed signs of alertness until about 10:36<<https://www.youtube.com/watch?v=98EihpmH9v4>>. It was during this time he groaned, panted, and said, “It’s hurting so bad.”

Black’s legal team told the Nashville Banner<<https://nashvillebanner.com/2025/09/10/byron-black-glen-casada-mnps/>> the autopsy failed to address other concerns.

For example, his attorneys noted it took several attempts to find a vein, and it was possible the caustic medication was shot into the muscle instead. But the report did not discuss whether there was any damage at the injection site.



Catherine Sweeney

 (<https://twitter.com/CathJSweeney>)  (<mailto:csweeney@wpln.org>)

Catherine Sweeney is WPLN’s health reporter. Before joining the station, she covered health for Oklahoma’s NPR member stations. That was her first job in public radio. Until then, she wrote about state and local government for newspapers in Oklahoma and Colorado. In her free time, she likes to cycle through hobbies, which include crochet, embroidery, baking, cooking and weightlifting.



U.S. NEWS

Attorney says electrocardiogram at Tennessee execution was active after inmate was pronounced dead

BY TRAVIS LOLLER

Updated 1:43 PM EDT, October 24, 2025

NASHVILLE, Tenn. (AP) — An electrocardiogram monitoring the heart of a Tennessee inmate [executed by lethal injection](#) in August showed “sustained cardiac activity” nearly two minutes after [Byron Black](#) was pronounced dead, his attorney told a judge on Friday.

The comments by Kelley Henry came during a hearing over whether attorneys for Black and several current death row inmates will be allowed to depose the key people who carry out Tennessee executions. It is part of a [lawsuit in Chancery Court](#) in Nashville that challenges the state’s [latest lethal injection protocol](#), claiming it violates both federal and state constitutional bans on cruel and unusual punishment.

In the hearing, state Deputy Attorney General Cody Brandon argued that requiring members of the execution team to testify risks exposing their identities, even if their faces are hidden and their voices are disguised.

Instead, he proposed that Tennessee Department of Correction officials could testify. If the inmates’ attorneys designate the appropriate topics, the agency is required to provide witnesses with knowledge of those topics, he said.

Henry, who leads a group of federal public defenders representing indigent death row inmates in Middle Tennessee, said only the people who were actually there

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will be able to answer the question of what went wrong during Black's Aug. 5 execution.

"At one point, the blanket was pulled down to expose the IV," she told Davidson County Chancery Court Judge Russell Perkins. "Why? Did the IV come out? Is that the reason that Mr. Black exclaimed, 'It's hurting so bad'? Is the EKG correct?"

Black was convicted of shooting and killing his girlfriend Angela Clay, 29, and her two daughters, Latoya Clay, 9, and Lakeisha Clay, 6, in 1988.

Henry also noted an issue during the [May 22 execution of Oscar Smith](#). Attorneys don't know what Smith's cardiac activity looked like because there was no paper was loaded into the EKG machine.

"Since we filed this lawsuit, there have been two executions that have not gone to plan," she said. "They are batting a thousand with regard to not following the protocol."

Brandon interjected that Tennessee's lethal injection protocol doesn't specifically say paper should be loaded into the EKG machine.

Perkins told the attorneys he will take their arguments under advisement and rule later.

Smith was convicted of fatally stabbing and shooting Judith Smith, 13-year-old Jason Burnett and 16-year-old Chad Burnett in 1989.

Smith had earlier come within minutes of execution before [a surprise reprieve](#) from Republican Gov. Bill Lee in April 2022. It later turned out the lethal drugs for that planned execution had not been properly tested. A [yearlong investigation](#) revealed numerous other problems with Tennessee executions that led to the [new lethal injection protocol](#) put in place last December.

The lawsuit filed in March claims the corrections department failed to make the changes to its protocol that were recommended by the governor and an independent investigator. Rather, the lawsuit claims, department officials wrote a new protocol with fewer specifics, making it hard to hold them accountable. A trial in the case is currently set for April.



[U.S. News](#)

Tennessee executes Harold Wayne Nichols by lethal injection for killing college student in 1988

By [TRAVIS LOLLER](#)

Updated 5:21 PM EDT, December 11, 2025

NASHVILLE, Tenn. (AP) — Tennessee executed [Harold Wayne Nichols](#) by lethal injection Thursday in Nashville for the 1988 rape and murder of Karen Pulley, a 20-year-old student at Chattanooga State Community College.

Nichols, 64, had confessed to killing Pulley as well as raping several other women in the Chattanooga area. Although he expressed remorse at trial, he admitted he would have continued his violent behavior had he not been arrested. He was sentenced to death in 1990.

“To the people I’ve harmed, I’m sorry,” Nichols said in his final statement. Before Nichols died, a spiritual adviser prayed over him in the execution chamber and the two recited together the 23rd Psalm and the Lord’s Prayer. At several points, they teared up and their voices became strained. After the final “Amen,” the adviser, J.R. Davis, continued talking quietly, with Nichols nodding along.

“Go in peace, my friend. I love you,” Davis told Nichols.

Nichols was strapped to a gurney with a sheet pulled up to just above his waist and a long tube running from an adjoining room to an IV inserted on the inside of his elbow. There was a spot of blood near the injection site. At one point he took a very heavy breath and his whole torso rose up. He then took a series of short, huffing breaths that witnesses said sounded like snorting or snoring. Nichols’ face turned red and he groaned. His breathing then appeared to slow, then stop, and his face became purple before he was pronounced dead.

Nichols’ sister, Deborah Perry, watched the execution from a witness chamber and cried quietly but did not speak.

Nichols’ attorneys unsuccessfully sought to have his sentence commuted to life in prison, citing the fact that he took responsibility for his crimes and pleaded guilty. His clemency

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petition stated “he would be the first person to be executed for a crime he pleaded guilty to since Tennessee re-enacted the death penalty in 1978.”

The U.S. Supreme Court declined to issue a stay of the execution on Thursday.

Pulley’s sister, Lisette Monroe, had wanted to be present for the execution but became too overwhelmed, her husband and Pulley’s brother-in-law, Jeff Monroe, told media afterwards. He read a statement that said the family “was destroyed by evil” the night Pulley was killed.

“Taking a life is serious, and we take no pleasure in it,” he said. “However, the victims, and there were many, were carefully stalked and attacked. The crimes, and there were many, were deliberate, violent, and horrific.”

In a [recent interview](#), Lisette Monroe, said the wait for Nichols’ execution has been “37 years of hell.” She described her sister as “gentle, sweet and innocent,” and said she hopes that after the execution she’ll be able to focus on the happy memories of Pulley instead of her murder.

Pulley, who was 20 when she was killed, had just finished Bible college and was attending school in Chattanooga to become a paralegal, Jeff Monroe said.

“Karen was bubbly, happy, selfless, and looking forward to the life before her,” he said.

Nichols’ attorney, Debbie Drew, also spoke after the execution, saying her client had turned his life over to God after speaking to Pulley’s mother decades ago, shortly after he was sentenced. His execution “sent the message that no one can rise beyond the crimes they committed decades earlier and that redemption deserves no mercy,” she said.

Davis said after the execution that he had known Nichols for a decade as part of a prison men’s group and believes that Nichols’ remorse and spiritual transformation were genuine. Davis said Nichols committed “horrible crimes. But killing to teach people not to kill just doesn’t make sense.”

Nichols had seen two previous execution dates come and go. The state earlier planned to execute him in August 2020, but Nichols was [given a reprieve](#) due to the COVID-19 pandemic.

Many states have had difficulty obtaining lethal injection drugs as anti-death penalty activists have put pressure on drug companies and other suppliers. Between the shortages and legal challenges over botched executions, some states have moved to alternative methods of execution including a [firing squad](#) in South Carolina and [nitrogen gas](#) in Alabama.

Including Nichols, a total of [46 men](#) have died by [court-ordered execution](#) this year in the U.S.

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Corrects that Pulley was a student at Chattanooga State Community College.

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Reporter Adrian Sainz contributed from Memphis, Tennessee.



[U.S. News](#)

Tennessee fails to execute Tony Carruthers after IV difficulties. State won't try again for a year

By [TRAVIS LOLLER](#)

Updated 6:43 PM EDT, May 21, 2026

NASHVILLE, Tenn. (AP) — Tennessee officials on Thursday called off the lethal injection of [Tony Carruthers](#), who was convicted of kidnapping and murdering three people in 1994, after his executioners tried and failed for over an hour to establish an intravenous line. Gov. Bill Lee announced soon afterward that the state would not try again for at least a year.

In a written statement, the Tennessee Department of Corrections said medical personnel had quickly established a primary IV line but were unable to find a suitable vein for a backup line as required by the state's execution protocol. Efforts to insert a central line also failed, and officials called off the execution.

Maria DeLiberato, an American Civil Liberties Union attorney representing Carruthers, said she saw him “wincing and groaning” while officials attempted to find a vein, calling it “horrible” to watch. An Associated Press journalist was in attendance to observe the execution, but a state rule contested by news organizations prohibits media witnesses from observing the IV insertion.

DeLiberato was addressing reporters when the governor's office issued the reprieve. She began crying.

“That's amazing!” she said. “I'm so grateful!”

Since 2009, six other prisoners in three states — Alabama, Idaho and Ohio — have had executions halted because of difficulties establishing an IV, according to the Death Penalty Information Center. In Idaho in 2024, medical team members [tried eight times](#) to establish a line to execute Thomas Creech, one of the nation's [longest-serving death row](#) inmates, before calling it off. Idaho Gov. Brad Little subsequently signed a law making firing squad the state's primary method of execution.

In Alabama, Gov. Kay Ivey [paused executions for several months](#) after officials called off the lethal injection of Kenneth Eugene Smith in 2022. It was the third time since 2018 Alabama had been unable to conduct executions due to problems with IV lines.

Document received by the TN Supreme Court.

“Tony Carruthers’ case raised serious concerns about mental illness, representation, innocence, and access to DNA testing,” the Death Penalty Information Center said in an emailed statement. “The state’s failed attempt today to execute him presents an additional issue surrounding the qualifications of the people tasked with executing prisoners.”

Witnesses had limited access to the execution attempt

Under Tennessee’s execution policies, blinds between the witness room and the execution chamber are kept closed until the IV insertion team has left. On Thursday, media witnesses sat in a dark room for over an hour, but the blinds were never raised.

Witnesses did hear what sounded like groans through a crack beneath a door connecting the two rooms.

DeLiberato, who was in the execution chamber, said that after establishing an IV line in Carruthers’ right arm, medical personnel tried his other arm, his left hand and his left foot before trying to establish a central line.

Carruthers groaned as a doctor started pushing a needle in, she said. She saw two or three puncture wounds: “There was a lot of blood.”

Unable to establish a central line, the medical team accessed a vein in his right shoulder before the warden received a phone call and announced the execution was off, she said.

The Associated Press is part of a group of media organizations [fighting for witnesses](#) to be allowed to see more of the execution process, including the IV insertion.

Carruthers was convicted of killing 3 in Memphis

Carruthers, 57, was found guilty of the 1994 kidnappings and murders of Marcellos Anderson; his mother, Delois Anderson; and Frederick Tucker. Authorities said Marcellos Anderson was a drug dealer and that Carruthers was trying to take over the illegal trade in their Memphis neighborhood.

He was forced to represent himself at trial after repeatedly complaining about court-appointed attorneys and threatening to harm several of them.

There was no physical evidence tying Carruthers to the killings, and he was convicted primarily on the basis of testimony from people who claimed to have heard him confess to or discuss the crimes. The ACLU said it would continue to push for DNA testing on evidence in the case, saying it should have been done long ago.

Carruthers’ attorneys have also argued that he has mental health issues that render him incompetent to be executed.

Executions surged last year

The number of [executions](#) in the U.S. surged from 25 in 2024 to 47 last year, driven by a sharp increase in Florida. That state carried out 19 executions in 2025, up from one the previous year, according to the Death Penalty Information Center. Four states have carried out 14 executions so far this year, including one [Thursday evening in Florida](#), and 10 more are scheduled.

Tennessee, which had its last execution in December, began a [new round](#) last year after a [three-year pause](#) following the discovery that the state was not properly testing lethal injection drugs for purity and potency.

An [independent review](#) later found that none of the drugs prepared for the seven inmates executed in Tennessee since 2018 had been fully tested. The state attorney general's office also conceded in court that two of the people most responsible for overseeing Tennessee's lethal injection drugs " [incorrectly testified](#) " under oath that officials were testing the chemicals as required.

Associated Press writers Gene Johnson in Seattle and Sudhin Thanawala in Atlanta contributed.

RE: The proposed execution of Christa Gail Pike

Joel B. Zivot, M.D., FRCP(C), MA, JM

January 6, 2026

1. I am an associate professor and senior member of the Departments of Anesthesiology and Surgery, Emory University School of Medicine, in Atlanta, Georgia. I am the former Medical Director of the Cardiothoracic Intensive Care Unit at Emory University Hospital. I am also the former fellowship director for training in Critical Care Medicine. I hold board certification in Anesthesiology from the Royal College of Physicians and Surgeons of Canada and the American Board of Anesthesiology. I am board-certified in Critical Care Medicine from the American Board of Anesthesiology. I have an MA in bioethics and a Master of Law (JM).
2. I have been in continuous practice of anesthesiology and critical care medicine for the last 31 years, during which time I have personally performed or supervised the care of over 50,000 patients. I have been retained as a medical expert in death penalty cases. In this capacity, I have been to death row to examine prisoners in 8 states, including Tennessee, Georgia, Florida, Ohio, Arkansas, Missouri, Nevada, and Arizona. I have also consulted on death penalty cases in South Carolina, Texas, California, and executions carried out by the Federal Government. I have extensively studied autopsies on the aftermath of death by use of lethal injection and nitrogen gas. I have witnessed an execution in Georgia that used a chemical technique identical to that used in Tennessee.

Document received by the TN Supreme Court.

3. I hold a medical license in Georgia and have held unrestricted medical licenses in Ohio, the District of Columbia, Michigan, and the Canadian provinces of Ontario and Manitoba. I also have a license to prescribe narcotics and other controlled substances from the US Drug Enforcement Administration (DEA).
4. I have been consulting with attorneys for Tennessee death row prisoner Christa Gail Pike, DOB: 03/10/1976, regarding Ms. Pike's medical conditions and the risks attendant to executing her by the Tennessee Department of Correction Lethal Injection Execution Protocol.
5. I became involved in Ms. Pike's case at the request of her attorneys. I agreed to do a review of her medical records so that I could provide a declaration that would allow the attorneys to understand the risks posed to Ms. Pike if executed according to Tennessee's lethal injection protocol.
6. My opinion is based on a review of three documents provided to me by the attorneys for Ms. Pike. The documents are entitled "Dec 2024-July 2025 TDOC Medical.pdf," "2025.01.08 TN LI – redacted.pdf," and "June 2023 – December 2024 TDOC Medical and Psych Rcd.pdf."
7. From the documents I reviewed, I observed that Ms. Christa Pike is a 49-year-old woman who suffers from several medical problems, including:
 - Allergic rhinitis
 - Bipolar disorder
 - Hyperlipidemia (HLD)
 - Migraine disorder (with N/V)
 - Post Traumatic Stress Disorder (PTSD)

- Thrombocytopenia/Thrombocytosis

8. Notable among this list is thrombocytosis. This is a blood condition characterized by a marked elevation in platelet levels. A platelet is a small, colorless, disk-shaped cell fragment from a large cell known as a megakaryocyte. Platelets play a critical role in the natural formation of blood clots. When the platelet count is below a specific value, the capacity to form clots is impaired. When blood fails to clot normally, the consequences can be catastrophic, including death by exsanguination. A very high platelet count can also, paradoxically, lead to dangerous bleeding as the excess circulating platelets consume another critical blood-clotting component known as von Willebrand Factor.

9. A review of the supplied medical records documents a visit with a hematologist on 03/21/2025. In this account, thrombocytosis was first diagnosed in 2017 with a platelet count of approximately 1 million. This is a significantly elevated amount – more than twice the upper limit of normal. The letter further states that thrombocytosis had been present for several years but had not been addressed. Treatment for this condition consisted of daily aspirin to reduce the risk of clotting in the setting of an elevated platelet count, and follow-up. In Ms. Pike’s case, thrombocytosis is likely due to a myeloproliferative disorder, which is a rare form of blood cancer. Her platelet count continues to fluctuate over time.

10. Lethal injection execution, as utilized by the TDOC, will very commonly produce bloody frothy fluid within the lungs. Such bleeding occurs in people with a normal clotting mechanism. In the case of Ms. Pike, her predisposition to possible abnormal clotting

would very likely produce an even more severe pattern of bloody froth in the lungs. This is death by drowning in one's own blood.

11. TDOC is bound to provide all the necessary medical care for Ms. Pike. Indeed, it was recommended to Ms. Pike that she undergo a cancer screening evaluation via a colonoscopy. Such actions suggest that TDOC considers it very likely that Ms. Pike will be alive for many years and should expect a normal life expectancy. TDOC recognizes that it cannot allow Ms. Pike to fall ill by withholding medical care at any time during her incarceration. Ms. Pike is always entitled to medical care, including the period of time during any attempt by TDOC to execute her.
12. If a prisoner survives an attempt at execution but suffers sub-lethal injuries that, without treatment, will or may lead to death or disability, that prisoner must receive medical care, and the warden is under a duty to provide it. No prisoner facing execution can be designated as DNR (do not resuscitate), as a refusal to receive medical treatment to sustain life is a demand subject to continuous reconsideration. Once a person designated DNR loses agency, a proxy must be in place to make medical decisions. A prisoner has no liberty, and the warden is the *de facto* proxy. The warden is not an agent on the prisoners' behalf.
13. Apoptosis, or programmed cell death, may occur after cellular exposure to noxious stimuli. Injury, once initiated, may tip towards recovery or apoptosis, depending on its nature. Specific noxious injuries are fundamentally time-based. That is, the cellular response between recovery and apoptosis will favor one or the other, based on the duration of the noxious stimuli alone. In the brain, a sudden and complete arrest of

circulation will deplete all brain oxygen within 10-15 seconds and brain glucose and adenosine triphosphate (ATP) within 5 minutes. ATP is the body's fuel and is critical for energy transport within all cells. After five minutes of circulatory arrest, brain cell apoptosis occurs and is not reversible under any circumstances.

14. If the execution fails, the prisoner must be substantially free of risk of disabling injuries due to the failed execution, or medical intervention must be immediately available to reduce that risk. If a prisoner survives an execution attempt, the duty requiring the delivery of necessary health care is revived, if it was ever set aside. To guard against the significant risk of execution failure and subsequent brain injury, TDOC must have in place the capacity to resuscitate a prisoner. The ability to immediately provide resuscitative measures to a prisoner when an execution method fails also applies to other TDOC execution methods, including the electric chair.
15. A resuscitation team should be led by a physician, not in the employ of TDOC, and empowered absolutely to call off an execution anticipated to fail. This physician must have unrestricted access to the technique of execution to plan all the necessary countermeasures for the best chance at reviving the prisoner. Execution is in no way a medical act but aspires to impersonate one. This impersonation is no accident. It is designed to present itself as having received endorsement from the legitimate medical community.
16. On the other hand, rescue resuscitation is a medical act. The performance of quality state-of-the-art resuscitation will need the tools of the medical trade, access to the prisoner on demand, and once declared, the prisoner is immediately transformed into a patient.

Skilled, trained providers must staff this resuscitation effort. An ICU ambulance must be on hand to deliver the full measure of necessary resuscitative measures.

17. The TDOC lethal injection protocol describes a two-step injection technique. In each attempt, 2500 mg of pentobarbital will be injected. We understand that if the first 2500 mg of pentobarbital fails to cause death, a second 2500 mg of pentobarbital will be injected. What is absent in this reasoning is any attempt to understand the reason for failure. Indeed, simply repeating the precise technique a second time may logically produce the same outcome: no death. TDOC has no procedure to consider why the first injection failed to cause death. The protocol has no mechanism to evaluate itself as a technical act. Without a particular understanding of why failure occurred, no new attempt can reasonably take place. As a physician, I might encounter procedural failure. This failure provides the basis for my following action, which must use a different technique, not the same one that failed.

18. The use of pentobarbital as the single chemical agent requires commentary. The stability of compounded Pentobarbital depends on the preparation and storage conditions. Small microprecipitates may be present and not easily visualized by casual observation of the compounded solution. Pentobarbital must be fully suspended in solution to be utilized. If the preparation or storage of the compounded solution has resulted in drug degradation, the effectiveness is no longer guaranteed.

19. Pentobarbital is a chemical within a class of chemicals known as barbiturates. Chemical agents in this class work primarily by causing sedation but provide no pain relief at any dose. Barbiturates are never used for pain relief. Death by pentobarbital lethal injection is

highly noxious and extremely painful. The pain of dying by this method of execution remains unaddressed by TDOC. Any claim that the pain is inconsequential because of brevity might consider the experience of placing a hand in a burning flame and counting 60 seconds. Humans have an extraordinary ability to detect pain, and this detection occurs in a fraction of a second. Death by pentobarbital lethal injection may be akin to being burned alive from the inside for as long as 10 to 15 minutes.

20. Ms. Pike is plagued by serious mental health challenges, including bipolar disorder and PTSD (post-traumatic stress disorder). The threat of execution will not doubt be a profound trigger in the mental state of Ms. Pike, particularly as the TDOC lethal injection protocol will likely result in severe pain and suffering. It is conceivable that in anticipation of an execution, Ms. Pike's mental health would deteriorate to the point of a loss of agency and be unable to undergo an execution on that basis. Treating the mental health crisis to make her fit for execution is a gross ethical violation of the practice of medicine and cannot take place.

21. Upon review of TDOC's redacted lethal injection protocol, many false claims are made regarding the qualifications of the execution team, including comments that members must be licensed. A medical license is a license to practice medicine, and participation in execution is a violation of the practice of medicine and a gross act of moral turpitude. No medical board would sanction such participation by medical license holders and would very likely seek to revoke that license should it be held up for this purpose. A nursing licensing authority would similarly discipline a nurse if they participated in a lethal injection execution. Ms. Pike is aware of this, and it further degrades her mental health.

22. Based on my review of Ms. Pike's medical records, her known platelet disorder leading to abnormal bleeding risks and the TDOC lethal injection protocol, it is my opinion that a substantial risk exists that, if TDOC attempts to execute Ms. Pike, the result will be death associated with emotional terror and trauma in anticipation of this death. The circumstance of this lethal injection event will be an even more exaggerated, cruel death caused by drowning in one's own blood.

23. I hold the opinions in this affidavit to a reasonable degree of medical certainty. Should additional information become available later, I reserve the opportunity to update or add to the opinions stated in this letter.

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a series of loops and a horizontal stroke.

Joel B. Zivot, MD, FRCP(C), MA, JM

FORENSIC PSYCHOLOGICAL ADDENDUM

CLIENT: Christa Gail Pike

DOB: 3/10/1976

DATE OF ADDENDUM: June 1, 2026

I have been provided with additional records pertinent to my forensic psychological evaluation of Christa Pike dated July 29, 2023. I have summarized the material relevant to my updated conclusions which follow below.

Specifically, I was provided with the following additional records which informed my updated conclusions:

Carrboro NC Police Department Sexual Assault Incident Report Date 01/14/1994
Bates 000001 – 000022

University of NC Chapel Hill – Pike Medical Records from 1994 Rape Date 01/14/1994
Bates 000023 – 000034

Carrboro NC Police Dept Interview of Christa Pike Date 01/14/1994 Bates 000035 - 000035

Summary of Additional Records

I reviewed the written records from the Carrboro North Carolina Police Department and the University of North Carolina, Chapel Hill emergency department where Christa was taken for examination following being raped. Christa's report to the police and hospital staff was consistent in describing that a man caught her while she was walking to the store, threw her to the ground, and raped her. She reported that she screamed and hit him in the face. A car drove close by; he responded by running away. The hospital records show that Christa, who was only 17 years old, was crying throughout the exam. Hospital staff noted she was "tearful, very upset while telling the story" (Bates 000025) indicated that the young victim had abrasions on her breast and leg, and bruising on her inner thigh close to her genitals and her knee.

The police interview revealed that Christa was distraught and sobbing as she shared what the man had done to her. She was sobbing so hard that she could not be understood at times. This is the type of intense emotional reaction that is common among rape victims.

Furthermore, the bruising and abrasions add detailed information about how rough the rapist was with the young girl.

In my report from 2023, I referred to this rape in three places, as noted below:

First reference:

When Christa was approximately 17 years old, she was assaulted again while walking to the store. A man grabbed her and pulled her into the woods. She fought him with all her strength. Christa recalled, "I was fighting him so hard that he barely got started (raping her)." She hit his head with a rock, which allowed her to get away. (It is notable that she hit this man's head on a rock, which is like what she did to the victim in the incident crime. This brings up the possibility that Christa was unconsciously triggered during the incident with Colleen Slemmer, and lost control of her behavior, in part because she was triggered by the victim, who she experienced as possibly causing her boyfriend to abandon her.) Christa escaped and ran as fast as she could to a friend's house, who then took her to a hospital. The staff collected a rape kit but there was no semen; she had apparently stopped his attack before he had an orgasm. This man was never identified or caught. (p. 17, Brand Forensic Psychological Report)

Second reference:

Consistent with the CTQ and ACE questionnaires, Christa acknowledged that she endured a truly horrendous level of frequent childhood sexual abuse by five different perpetrators (Ernest, Steve and *rapists who attacked her at age 11, 14, and 17*) as well as being physically assaulted by her mother's boyfriend (Danny), maternal grandmother, mother, and her father. (Brand, P. 23 Forensic Psychological Report)

Third reference:

I believe elements of reenacted trauma showed up in Christa's behavior in her late teens. Christa was exposed to the brutal slaughtering and disemboweling of animals when her grandfather babysat her at a slaughterhouse as a preschooler. This exposure to animals being killed and decapitated brings up the possibility that Christa was unconsciously reenacting the bloody scenes she had been exposed to as a little girl during two bloody episodes in her teens. Specifically, Christa lost control of her behavior during the incident that led her to being on death row, as well as when she, in her own estimation, went "too far" in beating up a man who raped her when she was 17. The victim in the instant crimes was beaten and badly bloodied. *Christa used rocks to hit the head of the victim in the instant crimes as well as the man who attacked when she was 17 years*

old. This may have been an unconscious attempt to be in control in both situations where she was threatened. In the episode with the man, he surprised her and began raping her. Only after she hit him in the head did he stop raping her and run away. (Italics added here.) Christa reported to the police that she had tried to get the victim in the instant murder to stop talking to her. Christa was trying to get her to stop calling her the same names one of Christa’s abusers had called her. Christa perceived the victim as a threat to Christa in that she had been harassing her, cutting up photos that were precious to Christa, coming into her room at night while she slept, and threatening to steal Christa’s boyfriend from her. Christa reported telling the victim repeatedly to stop talking, but the girl refused to stop talking. Christa was triggered by this girl’s use of the same slurs as one of her previous abusers, and by the possibility that this girl might cause Tadaryl to abandon her. *All of these situations (slaughterhouse, rape at 17, and instant crime) were bloody scenes in which animals and people were severely injured or killed. (Italics added.)* When triggered and threatened, Christa becomes disorganized in her thinking. Under serious stress, she is unable to reign in control of her behavior, emotions and thinking, as noted in Dr. Wilson’s and Dr. Engum’s testing. This had tragic consequences. (Brand, pp. 27-28 Forensic Psychological Report)

The Account of the Rock Involved in Christa’s Rape at Age 17

In reviewing the additional records provided, I noted a discrepancy between two accounts Christa gave of the rape she suffered at age 17. In my 2023 evaluation, Christa reported that she struck her attacker in the head with a rock, which caused him to stop raping her and flee. However, a report by Dr. Diana McCoy, prepared approximately one year after the instant crimes, documents a somewhat different account: that the man threw Christa down and she hit her head on a rock, and that it was the approach of a car, not Christa’s own action, that frightened him away.

This discrepancy does not indicate deception. It reflects something clinically fundamental about the nature of traumatic memory.

Traumatic memories are not stored or retrieved like ordinary recollections. They are encoded as fragmented sensory and movement memories, such as what the body felt, what the hands did, where the terror was felt, rather than as coherent verbal narratives. As Kearney and Lanius (2024) explain, traumatic memory is neurobiologically distinct from autobiographical memory: it is not deliberately retrieved but involuntarily relived, existing as “unintegrated vestiges of overwhelming events” that re-emerge as present-day sensory and movement fragments of memory rather than as a coherent story one can tell. Critically, these authors note that the legal system’s assumption that traumatic memory can be interrogated by the same standards as ordinary autobiographical memory “is inappropriate at best”, a caution directly relevant here (Kearney & Lanius, 2024).

The narrative a survivor constructs around a traumatic memory changes over time, shaped by psychological development, emotional needs, and the ongoing often unconscious work of survival from horrific events. Research has established that trauma memories are subject to change over time, with the stored memory tending to diverge from the original as a function of ongoing psychological processing (Dekel & Bonanno, 2013). Research on survivors of childhood sexual abuse further documents that, over time, survivors often unconsciously reshape their memories of victimization in ways that allow them to feel less helpless and more in control of what happened to them (Harvey, 2010). For someone who spent her childhood with no power over what was done to her body, this kind of psychological self-protection is not surprising — it is a survival mechanism.

In Christa’s case, the clinical interpretation is straightforward. When she first described this assault to Dr. McCoy approximately one year after the instant crimes, she narrated herself as passive: she was the one struck, she was rescued by the arrival of a car. By the time of my evaluation decades later, her memory had reorganized around an image of herself as someone who fought back — who struck her attacker and forced him to stop. The rock was now in her hand. This is not fabrication. It is what the traumatized mind does across a lifetime of survival — it searches, however imperfectly, for a story that is tolerable.

This detail also deepens the clinical significance of the instant offense. The weapon Christa used in the crime for which she was sentenced to death was not incidental. The rock she used on the victim carries profound symbolic weight in her psychological history. Its use reflects what trauma clinicians recognize as traumatic reenactment — the unconscious repetition of elements from prior traumatic experiences in later behavior (Herman, 1992; Kearney & Lanius, 2024). This is consistent with what I described in my 2023 report. Understanding this does not excuse the offense. It reveals a psychological history of devastation — one that was never adequately presented at trial.

The Anniversary Date Connection Between Christa's Rape and the Instant Crimes

It is quite significant that Christa was violently raped on January 14, 1994, and that one year later, almost to the exact day, she committed the instant crimes on January 12, 1995. The trauma literature describes “anniversary reactions” to trauma which can manifest as heightened emotional distress, intrusive re-experiencing, behavioral dysregulation, and in some cases, unconscious reenactment of trauma-related behavior in the period surrounding the anniversary date (Bruce & Matsuo, 2022; Saltzman, 2019). The proximity of these two dates — separated by less than 48 hours across calendar years — is clinically significant and consistent with the broader pattern of traumatic reenactment described in my 2023 report. It is my opinion that Christa's violent behavior on January 12, 1995 was not only the product of the situational triggers present that night, but was also shaped by two converging vulnerabilities: the psychological weight of the approaching anniversary of her rape — a date her nervous system, if not her conscious mind, had reason to remember — and the irritable bipolar emotionally reactive state she was experiencing on that same day. The co-occurrence of these two factors, each capable

of impairing judgment and behavioral control independently, substantially increases the likelihood that her capacity for self-regulation was severely compromised at the time of the offense.

The Cruelty of the Execution Protocol as Applied to Christa Pike

Torn From Everything Familiar

Approximately 48 hours before her scheduled execution, Christa will be transferred from the women’s facility where she has lived for years, her cell, her routines, the staff and peers who constitute her entire world, to Riverbend Maximum Security Institution, a men’s prison, where she will be held in a death watch cell until she is killed (Tennessee Department of Correction, 2025). She will spend the final days of her life as a stranger in a strange place, surrounded by men, cut off from every source of human familiarity she has. For a woman with Christa’s history, this is not administrative procedure. It is added and severe punishment, one nowhere reflected in her sentence.

Silenced in Her Final Hours

In the 12 hours before her execution, Christa will be prohibited from contact with family, friends, her spiritual minister, or anyone who might offer comfort, with the sole exception of her attorney (Tennessee Department of Correction, 2025). She will face her death alone. For a woman who was abandoned, repeatedly sexually and physically violated, and unprotected throughout her childhood, who spent years in a system that failed to recognize how broken she was when she arrived, the deliberate withdrawal of human connection in her final hours is not neutral. It replicates, with harsh precision, the abandonment she has known her entire life.

Held Down by Men

At 10:00 a.m. on the morning of her execution, a team of male corrections officers will enter Christa’s cell, physically remove her, place her on a gurney, and strap her arms and legs down so she cannot move (Tennessee Department of Correction, 2025). Christa was repeatedly held down by men and raped throughout her childhood and adolescence. She was unable to move. She was pinned. She was powerless. What the protocol describes as a routine restraint procedure will, for her, be experienced as a precise replication of the worst moments of her life. The research on traumatic memory makes this unavoidable: traumatic memory is not recalled, it is *relived*, triggered by sensory and physical experiences that mirror the original trauma (Herman, 1992; Kearney & Lanius, 2024). Being physically restrained by a group of men, immobilized and unable to move, will not simply frighten her. It will return her, in full sensory and neurobiological force, to every violation she ever survived. She will die in the grip of her trauma, as she has lived.

Conclusion

Taken together, the records reviewed in this addendum and the three issues raised above tell a single coherent story. Christa Pike was born into a family with generations of severe emotional and psychiatric problems. Her childhood was filled with watching and experiencing bloody violence. She was sexually violated by five perpetrators throughout her childhood and adolescence. She struggled with unrecognized trauma-related psychiatric disorders. She was never accurately diagnosed, never adequately treated, and never fully understood, not by the people and the system that raised her, and not by the legal process that condemned her.

The discrepancy in her memory of the rape at age 17 is not evidence of dishonesty; it is evidence of how thoroughly that trauma lived in her, and how hard her mind worked across decades to survive it. The rock she used in the instant offense was not random; it was the instrument her memory had transformed into a symbol of survival and control. The execution that now awaits her, the transfer to a men's prison, the isolation, the physical restraint by male officers, will, for this woman with this particular history, constitute a form of suffering that goes far beyond what any sentence requires. She will not simply be put to death. Christa will be returned, in her final hours, to the terror that defined her life. What awaits her is not only death. It is, for Christa, a form of dying that is uniquely and needlessly cruel. And it is avoidable.

The conclusions stated in this report were reached within a reasonable degree of psychological certainty.

Sincerely,

Bethany Brand

Bethany Brand, Ph.D.

Licensed Psychologist and Professor Emerita

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One Execution Botched, Oklahoma Delays the Next

By Erik Eckholm

April 29, 2014



Clayton D. Lockett, left, died of a heart attack Tuesday after his execution went awry in Oklahoma. A second execution, that of Charles F. Warner, right, was then stayed. Oklahoma Department of Correction

McALESTER, Okla. — What was supposed to be the first of two executions here on Tuesday night was halted when the prisoner, Clayton D. Lockett, began to writhe and gasp after he had already been declared unconscious and called out “oh, man,” according to witnesses.

The administering doctor intervened and discovered that “the line had blown,” said the director of corrections, Robert Patton, meaning that drugs were no longer flowing into Mr. Lockett’s vein.

At 7:06 p.m., Mr. Patton said, Mr. Lockett died in the execution chamber, of a heart attack.

Mr. Patton said the governor had agreed to his request for a stay of 14 days in the second execution scheduled for Tuesday night, that of Charles F. Warner.

It was a chaotic and disastrous step in Oklahoma’s long effort to execute the two men, overcoming their objections that the state would not disclose the source of the drugs being used in a newly tried combination.

According to Mr. Patton, it was the method of administration, not the drugs themselves, that failed, but it resulted in what witnesses called an agonizing scene.

“This was botched, and it was difficult to watch,” said David Autry, one of Mr. Lockett’s lawyers.

Dean Sanderford, another lawyer for Mr. Lockett, said, “It looked like torture.”

A medical technician inserted the IV needle and then the first drug, a sedative intended to knock the man out and forestall pain, was administered at 6:23 p.m. Ten minutes later, the doctor announced that Mr. Lockett was unconscious, and the team started to administer the next two drugs, a paralytic and one intended to make the heart stop.

At that point, witnesses said, things began to go awry. Mr. Lockett’s body twitched, his foot shook and he mumbled, witnesses said.

At 6:37 p.m., he tried to rise and exhaled loudly. At that point, prison officials pulled a curtain in front of the witnesses and the doctor discovered a “vein failure,” Mr. Patton said.

Without effective sedation, the second two drugs are known to cause agonizing suffocation and pain.

Mr. Lockett’s apparent revival and writhing raised questions about the doctor’s initial declaration that he was unconscious and are sure to cast doubt on the effectiveness of the sedative used.

Gov. Mary Fallin said late Tuesday, “I have asked the Department of Corrections to conduct a full review of Oklahoma’s execution procedures to determine what happened and why during this evening’s execution of Clayton Derrell Lockett.”

Madeline Cohen, a federal public defender and lawyer for Mr. Warner, said that while prison officials asserted that the problem was only with the intravenous line, “unless we have a full and independent investigation, we’ll never know.”

“No execution should take place in Oklahoma until there has been a full investigation into Clayton Lockett’s death, including an independent autopsy and full transparency surrounding the drugs and the process of administering them,” she said.

The appeals for disclosure about the drug sources, supported by a state court in March, threw Oklahoma’s highest courts and elected officials into weeks of conflict and disarray, with courts arguing over which should consider the request for a politically unpopular stay of execution, the governor defying the State Supreme Court’s ruling for a delay, and a legislator seeking impeachment of the justices.

The planned executions of Mr. Lockett, 38, and Mr. Warner, 46, dramatized the growing tension nationally over secrecy in lethal injections as drug companies, saying they are fearful of political and even physical attack, refuse to supply drugs, and many states scramble to find new sources and try untested combinations. Several states have imposed secrecy on the suppliers of lethal injection drugs, leading to court battles over due process and the ban on cruel and unusual punishment.

Lawyers for the two convicts said the lack of supplier information made it impossible to know if the drugs were safe and effective, or might possibly violate the ban on cruel and unusual punishment.

Officials swore that the drugs had been obtained legally from licensed pharmacies and had not expired. Ms. Fallin, expressing the view of many here, said earlier Tuesday, “Two men that do not contest their guilt in heinous murders will now face justice.”

But that sentiment was overshadowed by Tuesday night’s bungled execution, which is certain to generate more challenges to lethal injection, long considered the most humane of execution methods.

Mr. Lockett was convicted of shooting a 19-year-old woman in 1999 and burying her alive. Mr. Warner, condemned for the rape and murder of an 11-month-old girl in 1997, was to be executed two hours later.

The two men spent Tuesday in adjacent cells, visited by their lawyers and, in Mr. Warner’s case, family members. The hulking white penitentiary in this small town in southeast Oklahoma, amid prairies now green from soaking spring rains, is the prison from which Tom Joad is paroled in the opening pages of John Steinbeck’s “The Grapes of Wrath.”

In keeping with the untried drug protocol announced by the Corrections Department this month, Mr. Lockett was first injected with midazolam, a benzodiazepine intended to render the prisoner unconscious. This was to be followed by injections of vecuronium bromide, a paralyzing agent that stops breathing, and then potassium chloride, which stops the heart.

This combination has been used in Florida, but with a much higher dose of midazolam than Oklahoma used.

Faced with shortages, Oklahoma and other states have turned to compounding pharmacies — lightly regulated laboratories that mix up drugs to order. Opponents have raised questions about quality control, especially after the widely reported dying gasps of a

convict in Ohio for more than 10 minutes, and an Oklahoma inmate's utterance, "I feel my whole body burning," after being injected with compounded drugs.

Oklahoma later said it had found a federally approved manufacturer to provide the drugs for Tuesday's executions, but refused to identify it.

Oklahoma's attorney general, Scott Pruitt, derided the lawsuits over drug secrecy, calling them delaying tactics. Many legal experts, especially death penalty opponents, say otherwise.

"Information on the drug that is intended to act as the anesthetic is crucial to ensure that the execution will be humane," said Jennifer Moreno, a lawyer with the Berkeley Law School's Death Penalty Clinic.

Elsewhere, Texas has refused to reveal where it obtained a new batch of compounded drugs; a challenge is before the State Supreme Court. Georgia passed a law last year making information about lethal drug suppliers a "confidential state secret"; a challenge is also pending in that state's top court.

This month, the United States Supreme Court declined to hear suits attacking drug secrecy in Missouri and Louisiana.

But three of the justices expressed interest, and the issue seems likely to be considered by the Supreme Court at some point, said Eric M. Freedman, a professor of constitutional law at Hofstra University.

In March, it appeared that Mr. Lockett and Mr. Warner had won the right to know more about the drugs when an Oklahoma judge ruled that the secrecy law was unconstitutional. But the judge said she did not have the authority to grant the men stays of execution, sending the inmates into a Kafkaesque legal maze.

The state's Court of Criminal Appeals repeatedly turned back the Supreme Court's order to rule on a stay, while the attorney general insisted that the executions would go ahead.

On April 21, the Supreme Court said that to avoid a miscarriage of justice, it would delay the executions until it had time to resolve the secrecy matter.

The next day, Ms. Fallin, a Republican, said the Supreme Court had overstepped its powers, and she directed officials to carry out both executions on April 29. An outraged legislator, Representative Mike Christian, said he would seek to impeach the justices, who were

already under fire from conservative legislators for striking down laws the court deemed unconstitutional.

A constitutional crisis appeared to be brewing. But last Wednesday, the Supreme Court announced a decision on the secrecy issue — overturning the lower court and declaring that the executions could proceed.

A correction was made on May 2, 2014: An article on Wednesday about an execution by lethal drugs that was botched by an Oklahoma prison on Tuesday night described incorrectly the administering of the drugs to the inmate. Prison officials said an intravenous line was inserted by a medical technician and the drugs were given by unnamed officials. A medical doctor was present but did not give the drugs, the officials said. And the article, using information from a witness, misidentified the person who said, “Something’s wrong” during the execution of Clayton D. Lockett. It was a prison official, not Mr. Lockett.

When we learn of a mistake, we acknowledge it with a correction. If you spot an error, please let us know at corrections@nytimes.com. [Learn more](#)

Emma G. Fitzsimmons contributed from New York.

A version of this article appears in print on , Section A, Page 1 of the New York edition with the headline: One Execution Botched, State Delays the Next

Document received by the TN Supreme Court.



John J. Custer

IDEAS

DEAD TO RIGHTS

What did the state of Alabama do to Joe Nathan James in the three hours before his execution?

By Elizabeth Bruenig

AUGUST 14, 2022

SHARE AS GIFT  SAVE 

Editor's Note: This story is part of a collection of work by Elizabeth Bruenig that was the finalist for the 2023 Pulitzer Prize for Feature Writing.

This much is undisputed: In 1994, Joe Nathan James Jr. murdered Faith Hall, a mother of two he had formerly dated; in 1999, he was sentenced to death in Jefferson County, Alabama; and he was executed on July 28, 2022. Whether James ought to have been killed was and is, by contrast, deeply disputed—Hall’s family pleaded that their mercy should spare him, and the state government acted against their wishes. Also disputed is the matter of how, exactly, the Alabama Department of Corrections took James’s life. Or it was in my mind, at least, until I saw what they had done to him, engraved in his skin.

ADVERTISEMENT

A little over a week ago, James’s body lay on a bloody shroud draped over an exam table in an Alabama morgue scarcely large enough to accommodate the three men studying the corpse. He had been dead for several days, but there was still time to discover what exactly had happened to him during the roughly three-hour period it took to—in the Department of Corrections’ telling—establish access to a vein so an execution team could deliver the lethal injection of drugs that would kill him. Despite the long delay and an unnaturally short execution, the Department of Corrections had assured media witnesses gathered to observe James’s death that “nothing out of the ordinary” had happened in the course of killing the 50-year-old. It was suspicion of that claim that led to this private autopsy.

By the time I arrived at the morgue, Daniel Zivot, an associate professor of anesthesiology and surgery at Emory University and a lethal-injection

opponent, had agreed to join a local independent pathologist named Boris Datnow and his assistant, Jay Glass, James's body had undergone days of postmortem swelling in cool storage. Datnow would later caution me about the difficulty of our inquiry—the edema had diminished our chances of locating punctures left by needles during the execution—though my initial impression of James was of someone whose hands and wrists had been burst by needles, in every place one can bend or flex. That and the carnage farther up one arm told a radically different tale than the narrative offered by the Alabama Department of Corrections, even to the naked eye. Something terrible had been done to James while he was strapped to a gurney behind closed doors without so much as a lawyer present to protest his treatment or an advocate to observe it, yet the state had insisted that nothing unusual had taken place. Approached for comment about the allegations contained in this article, Department of Corrections officials declined to speak with me.

Elizabeth Bruenig: Can America kill its prisoners kindly?

Obdurate disregard for genuine inquiries seems to be the state's disposition where capital punishment is concerned. In the months prior to James's execution, Faith Hall's brother Helvetius and her two daughters, Terrlyn and Toni, lobbied Governor Kay Ivey to spare the man's life, repeatedly stating that they had forgiven James and had no desire to see him killed. (The Halls, like James, are Black.) Nevertheless, the execution, scheduled for 6 p.m., went ahead unhindered, with Ivey explaining her office's disregard for the victim's family's wishes as a matter of principle.

When members of the media who had been selected to witness James's execution arrived for their transport to William C. Holman Correctional Facility's death chamber, two female journalists, the Associated Press's Kim Chandler and AL.com's Ivana Hrynkiw, were subjected to dress-code checks by prison staff, who demanded that Hrynkiw change from a skirt into a borrowed pair of men's fishing waders and sneakers before allowing her to proceed as a witness. By the time everyone was shod and apparreled to the DOC's specifications and loaded onto prison transport vans, it was 6:33 p.m. (I had contacted the agency about applying to witness James's execution, but had been ignored.)

And then, media witnesses reported, they waited—for hours. Prisoners on Holman’s death row held up signs—a captive message from a captive audience—stating that the victim’s family didn’t want James dead, that this was a murder. Time passed, then more: Finally, around 9 o’clock, roughly three hours after the scheduled time of execution, media witnesses were led into the execution chamber.

I have witnessed two executions, and in both cases the men were alert and responsive to corrections staff in the moments prior to lethal injection. After all, multidrug cocktails including paralytics and sedatives only begin to affect a person’s consciousness *after* administration. Before the injections begin, the men I’ve seen die have spoken at least briefly of love and regret. But James neither responded to his death warrant nor gave any last words—not even a refusal to offer a final statement, per Kim Chandler. In fact, witnesses, including Chandler and Hrynkiw, reported that James’s eyes stayed closed during the entire procedure, flickering only in his death throes, and that he remained unresponsive from beginning to end. His death warrant was read at 9:03 p.m., the lethal drugs began to flow at 9:04, and he was declared dead, finally, at 9:27.

What happened to James during the three-hour interval between his scheduled execution and his time of death, and why was he apparently unconscious in the execution chamber? The Alabama DOC gave the gathered reporters no explanation for the long delay, or for his strange demeanor in the chamber. Pressed for an explanation by journalists on the scene that night, John Hamm, the corrections department commissioner, said, in somewhat scattered fashion, that he couldn’t “overemphasize this process. We’re carrying out the ultimate punishment, the execution of an inmate. And we have protocols and we’re very deliberate in our process, and making sure everything goes according to plan. So if that takes a few minutes or a few hours, that’s what we do.”

Subsequent official statements only confused matters further. For instance, DOC spokesperson Kelly Betts wrote in an email to members of the media that “ADOC’s execution team strictly followed the established protocol. The protocol states that if the veins are such that intravenous access cannot be provided, the team will perform a procedure. Fortunately, this was not necessary and with adequate time, intravenous access was established.”

Eventually, the DOC conceded that it could not confirm whether James had been “fully conscious” during the lethal-injection procedure, though it assured journalists that he had not been sedated.

Aside from the DOC, nobody seemed especially satisfied with that account of events. Jim Ransom, the last of many defense attorneys to represent James, was especially disturbed when he heard that his client hadn’t responded to the warden’s prompt to offer his last words. “That sent up red flags. It didn’t ring true,” Ransom told me the night of the autopsy. “Joe *always* had something to say. Joe would’ve said no,” Ransom insisted, if he didn’t have anything to say: “That’s Joe.” (Ransom told me that James had asked that he not be present the night of the execution.) But somehow during the three-and-a-half-hour delay, James had transformed from a devout Muslim and dedicated jailhouse lawyer who, in Ransom’s telling, “wanted to fight ’em to the very last minute” into someone mute and absent, with neither an apology for his victim’s family nor an utterance of gratitude for their efforts to save his life.

S. Frank Thompson: I know what it’s like to carry out executions

I spoke with Helvetius, Hall’s brother, in the days after the autopsy. He told me that he wasn’t especially shocked by James’s silence, but that he *was* appalled by the state’s. In the weeks leading up to the execution, Helvetius said, “Nobody called us, nobody reached out to us, nobody—nobody—got in touch with us.” Toni, Faith’s youngest daughter, who was a toddler when her mother was killed, told me she had repeatedly asked the district attorney’s office to let her speak with James prior to his execution, only to be refused. “There could have been a conversation to heal a little 3-year-old’s heart,” she said, pausing to swallow tears. But nobody in any position of power, aside from Alabama State Representative Juandalynn Givan, who lobbied the state on behalf of the family, seemed particularly interested in what would bring her or her family peace, much less a sense of closure. They simply wanted James dead.

A clinician of 27 years, Joel Zivot worked mainly in intensive-care units and operating rooms before investigating the disappearance of sodium thiopental (an erstwhile anesthetic recruited into lethal-injection cocktails) from the American market circa 2010, due to capital punishment. Zivot's curiosity about the vanishing of a good drug eventually led him to research lethal-injection protocols, at which point he became a vocal critic of the death penalty's use of medical means for lethal ends. Now, having published papers on the bioethical hazards of physician participation in lethal injection and having testified about his research into the end-of-life suffering evinced by the autopsy reports of executed prisoners, Zivot has become a familiar presence in legal challenges to executions nationwide. Friendships across the anti-capital-punishment advocacy domain made him especially well placed to set up the independent autopsy of Joe James. Within two days of the execution, Zivot had heard rumors about errors, and he began working in earnest to probe the man's death.

Before any exam could take place, James's next of kin would have to agree. I connected Zivot with Ransom to reach out to James's family. "I had my suspicions about the time lapse," Ransom explained, "and I feel like the state needs to be held accountable when they mess up." With that in mind, he called Hakim James, one of Joe Nathan James's brothers, whose mother had charged him with handling his brother's final affairs, and asked if he would agree to submit James's body to an independent autopsy.

Hakim considered, then gave his consent. "I felt it needed to be done," he told me later, even though it came at the end of an already protracted, taxing process. "I felt that it was important."

Then there was the matter of locating an independent pathologist willing to take on the case, and finding the money to pay them. I suggested that Zivot reach out to Reprieve, a nonprofit civil-rights organization made up of lawyers, advocates, and investigators who defend the rights of people facing extreme abuses. Maya Foa, an executive director at Reprieve USdirector, agreed that an independent autopsy ought to happen—quickly.

"Lethal injection was developed to mask the very torture it inflicts," she explained over text message, "and y [redacted] prisoner is executed in secret, the only person who can tell the world [redacted]ally happened is dead. We've seen APP-000655 242A

time and again states suppressing or delaying autopsy results following executions that appear to have gone disastrously wrong. Autopsies help tell the story that the body leaves behind.” Reprieve agreed to fund the autopsy through its newly launched Forensic Justice Initiative. By Tuesday morning, Zivot was en route to Alabama from Atlanta and I was making my way from my home in New England; we met in Birmingham, and then went together to the funeral home where the autopsy was to be performed.

From the June 2015 issue: The cruel and unusual execution of Clayton Lockett

The human body opened along “a standard Y-incision”—across the breast and down the center of the abdomen—was unmistakably that of Joe Nathan James. His head was encased in a clear plastic bag, laid to one side, and his face was slack and ashen. The state of Alabama had already wrought its work twice upon James: First in the execution itself, and then again in the autopsy carried out at the Mobile medical examiner’s office immediately after, the findings of which would not be made available for a minimum of 90 days, in the optimistic estimation of local capital defenders. And while the array of viscera and the accordion-style slicing of organs was appalling in its bloody gratuitousness—James had been, according to Datnow, a generally healthy man, prior to his execution—it was the story his flesh told about his lengthy and painful death that lent the scene its awful vertigo. In a little green storefront funeral parlor in Birmingham lay the visual record of everything the government can do to you, provided that you, like James in his final hours, have no counsel present, no wealth to your name, and no contact with the outside world.

James, it appeared, had suffered a long death. The state seems to have attempted to insert IV catheters into each of his hands just above the knuckles, resulting in broad smears of violet bruising. Then it looked as though the execution team had tried again, forcing needles into each of his wrists, with the same bleeding beneath the skin and the same indigo mottling around the puncture wounds. On the inside of James’s left arm, another puncture site, another pool of deep bruising, and then, a scant distance above, a strange, jagged incision, at James’s inner elbow. The laceration met another cut at an obtuse angle. That longer  slice was part of a parallel pair, which matched a fainter, shallower  parallel cuts. Underneath the

mutilated portion of James's arm was what appeared to be yet another puncture—a noticeable crimson pinprick in the center of a radiating blue-green bruise. Other, less clear marks littered his arm as well.

Mark Edgar, a pathologist at the Department of Laboratory Medicine and Pathology at the Mayo Clinic in Jacksonville, Florida, reviewed my photos from James's autopsy and concluded in an email that all of the wounds on James's arm happened before death, judging by the redness along the edges of the wounds. One among them—the deeper, wider cut at James's elbow—suggested, in Edgar's view, “that the inmate moved suddenly while the central cut was being placed, possibly in an attempt to access a vein.”

Zivot, upon examining the body, agreed that the incision carved into James's arm was most likely made in the death chamber, in an attempt to expose a vein that execution staff could see. The medical term for the procedure is *cutdown*, and its aftermath dismayed Zivot. “The use of a cutdown in this situation is a stark departure from what would be done in a medical setting,” he explained in an email. “I can't tell if local anesthetic was first infused into the skin, as slicing deep into the skin with a sharp surgical blade in an awake person without local anesthesia would be extremely painful. In a medical setting, ultrasound has virtually eliminated the need for a cutdown, and the fact that a cutdown was utilized here is further evidence that the IV team was unqualified for the task in a most dramatic way.”

The absence of a local anesthetic during a cutdown, however, could explain two other unusual features of James's execution: the shallow lacerations lining his arm, and the fact that he was evidently unresponsive during the entire lethal-injection procedure witnessed by the media.

Edgar observed that the “roughly parallel” incisions did “not appear to be part of any procedure,” but were “more consistent with trauma in my opinion, presumably incurred during a struggle that took place during the prolonged efforts to gain access to a vein.” If James had struggled profoundly enough to tear his own flesh with his restraints, that in itself may have prevented IV access. In that case, members of the execution team may have resorted to sedating James.

“I also see several puncture marks not in the anatomical vicinity of a known vein,” Zivot wrote in his assessment. “It is possible that this just represents gross incompetence, or some, or one, or more of these punctures were actually intramuscular injections. An intramuscular injection in this setting would only be used to deliver a sedating medication.”

Elizabeth Bruenig: Two executions on a Thursday in America

With roughly one minute elapsing between the reading of James’s death warrant and the rush of poison into his veins, per witness accounts, it scarcely seems that anyone involved in his execution *expected* him to offer last words. Further, the DOC’s own admission that it cannot confirm James’s consciousness during the procedure raises an obvious question: Why? James had been alone in DOC custody for the past three hours, presumably undergoing repeated, torturous, abortive efforts to gain lethal access to one of his veins. If something had happened to James during that period that affected his consciousness, only DOC staff would know, and the agency’s complete failure to account for the last hours of James’s life or the awful suffering inflicted upon him before his death is ghastly, the sort of catastrophic, pseudo-medicinal brutality of our recent past that mainly flourishes behind closed doors.

Alabama had good reason to think it would never be held to account for what happened to James: He was, at the time of his death, entirely alone, having sought no attendees for his death. In fact, Ransom told me, James had been representing himself in a couple of pending matters before federal courts at the time of his execution, meaning that if he was indeed sedated at some point, what slim semblance of legal counsel he had—his own wits and abilities—was extinguished before his execution.

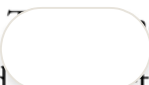
The thought troubled Ransom. If he had been present, he told me, he would have intervened on James’s behalf. There would have been precedent for that kind of intercession: As recently as 2018, Alabama was forced to halt the execution of Doyle Hamm after execution staff punctured his body at least 11 times in his ankles, legs, and groin, apparently even piercing his bladder over a three-hour period. Hamm’s attorney, Bernard Harcourt, was there that evening, demanding an explanation long delay and preparing a legal offensive for the morning. Hamm’s case since become emblematic of the

grotesque reality of lethal injection, compared with its putatively sterile, professional public-facing aesthetics. Lethal injections largely happen, quite literally, behind a curtain; what observers do see looks vaguely surgical; what they don't looks like a war crime.

"The details of the torture inflicted on Joe James are tragic, but unfortunately no surprise to anyone who has had a client executed in Alabama with lethal injection," John Palombi, an assistant federal defender, told me in an email. "Adding to the torture is the refusal of the Alabama Department of Corrections to admit or accurately discuss the issues with Mr. James' execution ... There should be an immediate moratorium on all executions in the state of Alabama until a thorough investigation of Alabama's execution process, done by people outside the Department of Corrections, is complete."

Megan McCracken, a lawyer based in Philadelphia with expertise in execution methods, told me in an email that, "It is only because of the total lack of transparency surrounding executions in Alabama that the DOC was able to spend such a long time on failed IV access attempts. If this process had been performed openly in front of witnesses, such that anyone outside the DOC knew what was happening at the time, the attempts likely would have been stopped. It is hard to imagine that the courts would countenance this kind of harrowing procedure, but when DOCs can shield their actions and make them invisible to the public, there is no accountability."

Deborah Denno, a law professor and the founding director of the Neuroscience and Law Center at Fordham Law School, emphasized to me that James's case is only the latest in a long sequence of botched executions that challenge the constitutionality of lethal injection on Eighth Amendment grounds. "From the very first lethal injection execution to the last—that of Joe Nathan James—the method is predictably disastrous, all the more so in the last dozen years given the lack of availability of drugs," Denno wrote to me in an email. "James's execution not only resembles the execution botches of the 1980s, it is even more egregious given the excessive lack of care and prison officials' indifference to the safeguards of the execution process."

Which is not to say that the state of Alabama will pay any particular heed to this investigation or its aftermath.  lobby for dead men. Execution states—24 remain—are, more and more, retreating into secrecy and elaborate

privacy laws to hide their execution means and methods. Some states, like Alabama, simply ignore press inquiries into their executions or, as in this case, subject journalists to inexplicable delays and bland, unconvincing evasions. It appears that the state thought no one would catch it at what it was doing, and in most cases it would be correct; that alone is haunting. That it may haunt Faith Hall's family evidently mattered not a jot to the state of Alabama.

From the April 2022 issue: A good man, at one time

The Halls, having fought for James's life, were dismayed and outraged by the news of his torturous death. In Helvetius's view, he said, Governor Ivey "was wrong for not contacting the victim's family in any fashion, and she was wrong with her statement that Faith Hall got justice. This is not what she would have wanted. And we deserve an apology for that."

Toni Hall agreed, as did State Representative Givan.

The family "simply wanted to be heard," Givan told me. "They wanted an acknowledgment that they were victims and that their voices were listened to and that their concerns were weighed seriously. And I wonder: If they had been white, Anglo-Saxon Americans, would the governor or Attorney General Steve Marshall have at least returned their phone calls?"

Givan reflected that the entire sequence of events had been a grand indignity visited upon a family struggling to heal for more than 25 years, which concluded with the state's utter indifference to their wishes and with James, the object of their attempted mercy, evidently too incapacitated on his deathbed to offer the barest apology.

But there is reason to believe that he intended to.

I spoke with two prisoners on Holman's death row who had known James, spent some of those long years with him, seen him age and change into an older, different man—a committed Muslim who prayed regularly and devoted much of his time to studiously pursuing his own defense, not just for his own purposes, but for the sake of his friends on the row.

One of them told me that James had planned three items for his final words: To apologize to his mother and daughters, to apologize to the Hall family, and to pray the *shahada*, the Muslim profession of faith. He felt grateful for the family's advocacy on his behalf, even startled by it, by the abrupt unilaterality of forgiveness. But he trusted it, and he appreciated it, and he needed it.

James still hadn't chosen the exact words he meant to say, the second prisoner told me. The mind revolts at such closely considered finalities, and James had more reason than most to hope for mercy. Somewhere deep inside, he believed the Halls' forgiveness had saved him.

This story is part of *The Atlantic's Inside America's Death Chambers* series supported by the MacArthur Foundation.

ABOUT THE AUTHOR



Elizabeth Bruenig

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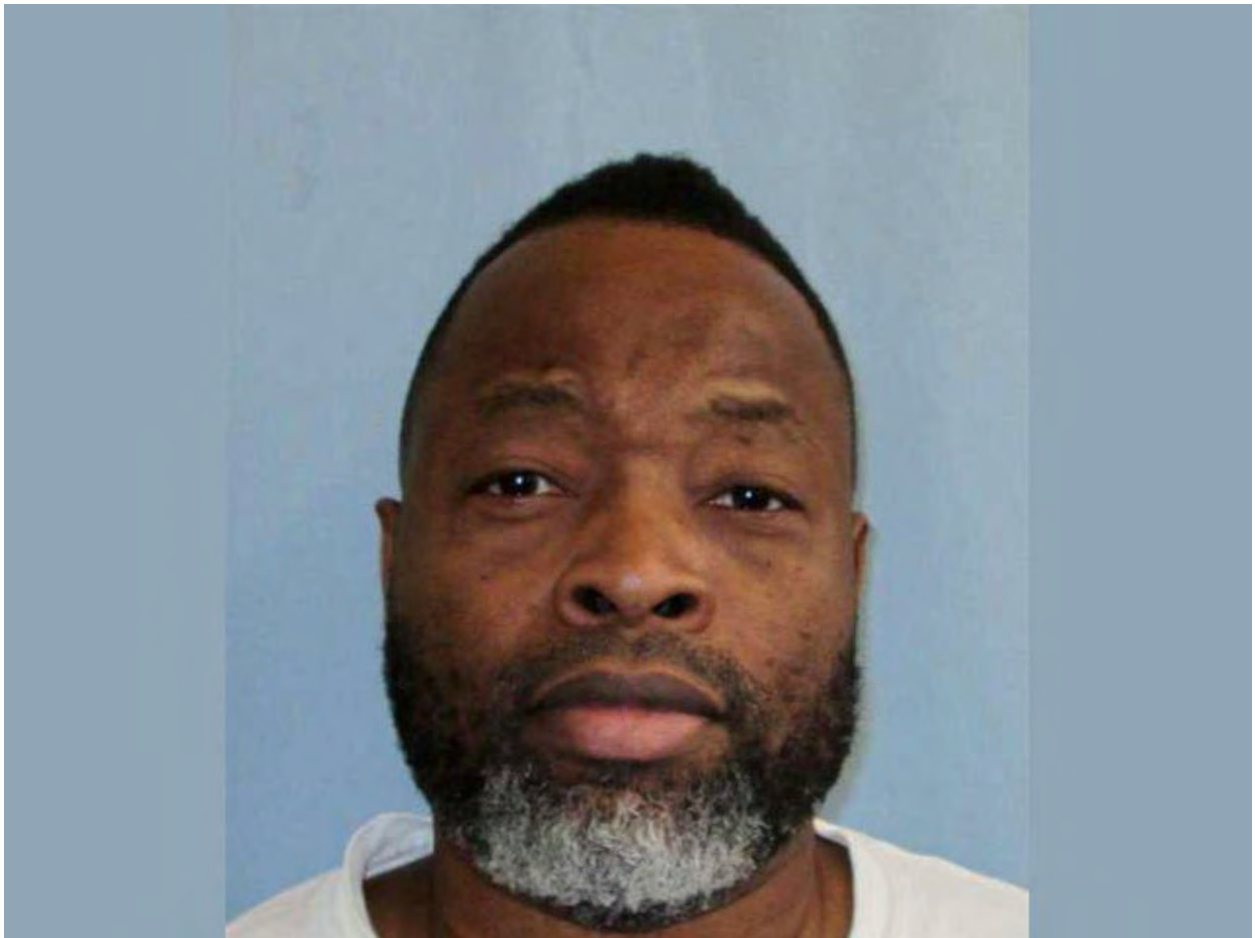
Elizabeth Bruenig is a staff writer at *The Atlantic*.



[News](#)

Joe Nathan James ‘suffered a long death’ in botched Alabama execution, magazine alleges

- Updated: Aug. 14, 2022, 2:00 p.m.
- |Published: Aug. 14, 2022, 9:02 a.m.



Joe Nathan James Jr. is set to die by lethal injection on July 28, 2022. (ADOC)

By [Amy Yurkanin](#) | ayurkanin@al.com

Alabama prison officials spent hours searching for a vein that could be used to deliver lethal drugs in the execution of Joe Nathan James on July 28, according to a [recent article](#) in the Atlantic.

Document received by the TN Supreme Court.

Staff punctured his hands, wrists and elbows several times before finally cutting open his arm to expose a vein, according to reporting by Elizabeth Bruenig.

Bruenig attended an independent autopsy performed several days after James' death and funded by the human rights group Reprieve U.S.

"James, it appeared, had suffered a long death," she wrote.

James' execution was scheduled for 6 p.m. on July 28 but wasn't carried out until 9 p.m.

Officials from the Alabama Department of Corrections later told [the Associated Press](#) the delay was related to problems establishing an intravenous line.

Prison officials said nothing out of the ordinary had happened, but Bruenig wrote that independent pathologists found evidence of a long and painful search for a working vein.

"Something terrible had been done to James while he was strapped to a gurney behind closed doors without so much as a lawyer present to protest his treatment or an advocate to observe it, yet the state had insisted that nothing unusual had taken place," Bruenig wrote.

According to the story, the pathologist found bruising and puncture marks all over James' arms and evidence of an incision that might have been made in the death chamber to expose a vein.

James did not speak prior to the execution and appeared unresponsive, according to [reporting by AL.com](#).

Experts quoted in the story speculated that James might have been sedated to make it easier to search for a vein.

James was executed for the 1994 murder of his ex-girlfriend, Faith Hall. Hall's relatives had asked state officials to spare James' life because they had forgiven him for the crime.

James did not have attorneys present during the execution.

Lawyers for another inmate, Doyle Lee Hamm, stopped his execution in 2018 after prison staff took hours trying to establish an IV line. Hamm later died in prison from cancer.

Officials from the Alabama Department of Corrections did not immediately respond to questions from AL.com about the Atlantic article.

The state also conducted its own autopsy of James prior to the independent examination.

The three men involved in the private autopsy are Dr. Joel Zivot, a professor of anesthesiology at Emory University and an expert on lethal injection, independent pathologist Dr. Boris Datnow of Birmingham and former Jefferson County Chief Deputy Coroner Jay Glass.



[Amy Yurkanin](#)

Amy Yurkanin is a senior reporter at Al.com focused on health care, criminal justice and other systems that affect the health and wellbeing of Alabama residents. Previous stories have focused on the incarceration of women for drug use during pregnancy and the role of hospital drug testing in those criminal cases. She has also investigated gaps in the mental health care system and the rise of substance use and overdose deaths in Alabama. In 2021, she won a first place award for Excellence in Health Care Journalism. Other past awards include Green Eyeshade Awards from the Society for Professional Journalists and a Sidney Award from the Sidney Hillman Foundation. Prior to moving to Alabama, Yurkanin worked in Las Vegas, Nevada and Greensboro, N.C.

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Arizona Executes a Blind, Disabled Man Previously Found Legally Insane

Updated 05.11.22

Arizona executed Clarence Dixon, 66, today, even though he was blind, physically frail, and had a documented history of severe mental illness. He was also a member of the Navajo Nation, which opposes the death penalty on cultural and religious grounds.

Mr. Dixon was sentenced to death in 2008 for a killing that happened 30 years earlier, while civil commitment proceedings were pending.

In 1977, Mr. Dixon was charged with assault for hitting a stranger with a metal pipe. He was diagnosed with severe depression and schizophrenia, adjudicated incompetent to stand trial, and sent to a state hospital for treatment, Slate reports. One of his doctors wrote, "I have a strong feeling that without presence of the mental disturbance, the act of violence would not have taken place."

In January 1978, Mr. Dixon was found not guilty by reason of insanity by then-Maricopa County Superior Court Judge Sandra Day O'Connor, who ordered prosecutors to keep him in custody until civil commitment proceedings could begin within 10 days, DPIC reports. Instead, he was released without any supervision or treatment.

Two days later, a college student was raped and murdered. In 2001, DNA testing linked Mr. Dixon to the crime and he was charged with capital murder. Mr. Dixon was allowed to fire his court-appointed lawyers and represent himself at his trial in 2008. His defense was based on his delusional belief that a government conspiracy was behind the charges. He was convicted and sentenced to death, and DPIC reports, he has continued to file numerous lawsuits and motions arguing this conspiracy theory.

Mr. Dixon's jury never learned that he was legally insane at the time of the crime or about his lifelong history of severe mental illness, which started with severe depression and suicidal ideations as a young child, his legal team said.

Jurors likewise did not know that Clarence Dixon "grew up on a reservation in a home rife with trauma, dominated by his painkiller-addicted father's vicious physical and emotional abuse of Dixon, his six siblings, and their mother," advocates reported. "As a child, he also suffered from chronic neglect in a setting where he ate dog food as nourishment, and, at age 12, was left to walk several miles alone to a local hospital in order to be flown to Phoenix for critical heart surgery to correct a congenital heart defect with which he still suffers."

On April 8, Mr. Dixon's lawyers filed a motion to stay his execution, arguing that he does not rationally understand the reason for his execution and therefore is incompetent to be executed under the Constitution. Arizona Attorney General Mark Brnovich urged the court not to hold a competency hearing. APP-000665

because it could delay Mr. Dixon's scheduled execution.

The trial court held a hearing on May 3, where Mr. Dixon's lawyers presented evidence of his schizophrenia and his documented history of delusions, auditory and visual hallucinations, and paranoid ideation. As DPIC reports, an experienced psychiatrist who had interviewed Mr. Dixon in person multiple times over the last 11 years testified that Mr. Dixon had schizophrenia, was delusional and irrational, and believed he was being executed because of a government conspiracy.

Prosecutors presented testimony from a former clinical psychologist who had never evaluated a person's competency to be executed, never diagnosed or treated someone with schizophrenia, and never met Mr. Dixon in person. After speaking with Mr. Dixon by video for 70 minutes, he testified that he had deluded beliefs but was not delusional or incompetent to be executed, DPIC reports.

The court issued its opinion the same day, finding that Mr. Dixon "has a mental disorder or mental illness of schizophrenia" but that his mental state was not "so distorted by this mental illness that he lacks a rational understanding of the State's rationale for his execution."

Mr. Dixon's attorneys appealed to the Arizona Supreme Court, which denied review on Monday, and federal courts refused to stay the execution.

Arizona's last execution was nearly eight years ago, when it killed Joseph Wood using a secret experimental drug protocol that took more than two hours. Witnesses reported that Mr. Wood gasped and snorted more than 600 times after being injected with 15 doses of midazolam and hydromorphone.

A 2017 settlement over Arizona's lethal injection protocol bars prison staff from using expired chemicals in an execution, the AP explained. On Saturday, a federal judge declined to stay Mr. Dixon's execution after prosecutors said the compounded sodium pentobarbital they plan to use would not expire until August.

Mr. Dixon's attorneys argued that the drug actually expired in April. The judge scheduled a hearing on Monday to consider those arguments, according to Fox10 Phoenix. After the State agreed to compound a new batch of pentobarbital, Mr. Dixon's lawyers agreed that settled their claims.

"The state has had nearly a year to demonstrate that it will not be carrying out executions with expired drugs but has failed to do so," Mr. Dixon's attorney, Jennifer Moreno, said. "Under these circumstances, the execution of Mr. Dixon—a severely mentally ill, visually disabled, and physically frail member of the Navajo Nation—is unconscionable."

Media witnesses to today's execution reported that Mr. Dixon appeared to be in pain as prison staff struggled for 25 minutes to place the IV, which they put in his groin. "I did see what appeared to be some cutting into the groin, they did have to wipe up a fair amount of blood," said Paul Davenport, a media witness for the Associated Press.

Tags: **Executions**



Arizona executes man for 1980 killings of 2 people

By BOB CHRISTIE and JACQUES BILLEAUD

Published 9:47 PM EDT, November 16, 2022

FLORENCE, Ariz. (AP) — An Arizona man convicted of murdering two people in 1980 was put to death Wednesday in the state's third execution since officials resumed carrying out the death penalty in May after a nearly eight-year hiatus.

Murray Hooper, 76, received a lethal injection at the state prison in Florence for the killings of William "Pat" Redmond and his mother-in-law, Helen Phelps, at Redmond's home in Phoenix. Redmond's wife, Marilyn, also was shot in the head in the attack but survived and testified against Hooper at trial.

Authorities say the killings were carried out at the behest of a man who wanted to take over Redmond's printing business.

In Texas late Wednesday, prison officials executed an inmate for killing his pregnant ex-girlfriend and her 7-year-old son more than 17 years ago. Stephen Barbee was given a lethal injection at the state penitentiary in Huntsville.

Hooper's death was announced by Frank Strada, a deputy director of the Arizona Department of Corrections, Rehabilitation and Reentry.

Hooper chuckled several times while interacting with the execution team. It took more than 20 minutes from the time the execution team members walked into the room until they inserted IV lines in his right leg and right forearm to administer the sedative pentobarbital.

There also was one unsuccessful attempt to insert a line in his right arm. The IV in his leg was inserted through his femoral artery.

After the execution warrant was read aloud, Hooper said, "It's all been said. Let it be done."

He then told his attorneys, friends and family "don't cry for me — don't be sad."

Hooper turned to look out the windows at about 30 witnesses seated on bleacher-type benches, including an Associated Press reporter and two other journalists. He made eye contact, smiled broadly and waved.

During the first few minutes after the warden read the death warrant, nothing happened, and Hooper said “what are we waiting on?”

Once the drug began flowing, Hooper’s fingers quivered, and he yawned. After that, he made no movement. About 15 minutes passed between when a warden said the execution was beginning and when Hooper was pronounced dead.

At one point while trying to insert the IV lines, a medical professional present couldn’t find a syringe with the anesthetic used to numb the area, so one was brought in and used on Hooper.

“It will hurt less,” the medical professional said. Hooper said, “OK, all right.” He later said, “I can’t believe this” and shook his head.

Arizona [did not carry out the death penalty for nearly eight years](#) after criticism that a 2014 execution was botched and because of difficulties obtaining execution drugs. No other executions are currently scheduled in Arizona, where 110 people are on death row.

Hooper was executed within hours of the U.S. Supreme Court rejecting without comment a last appeal over [his claim that authorities had until recently withheld that Marilyn Redmond had failed to identify him in a photo lineup](#).

Authorities said that claim was based on a mistake a prosecutor made in a letter to the state’s clemency board and now insist no such lineup was shown to her. She later identified Hooper in an in-person lineup.

Courts also rebuffed attempts by Hooper’s lawyers to [order fingerprint and DNA testing](#) on evidence from the killings.

Authorities say Hooper and two other men forced entry into the Redmond home on Dec. 31, 1980. The three victims were bound, gagged, robbed and shot in the head.

Two other men, William Bracy and Edward McCall, were convicted in the killings. Both died before their death sentences could be carried out.

Authorities say Robert Cruz, who was alleged to have had ties to organized crime, hired Hooper, Bracy and McCall to kill Pat Redmond, who co-owned a printing business. They said Cruz wanted to take over the business and was unhappy Redmond rejected his offers to enter several printing contracts with Las Vegas hotels, according to court records. Cruz was acquitted of murder charges in both deaths in 1995.

Hooper’s lawyers say Marilyn Redmond’s description of the assailants changed several times before she identified their client, who said he was not in Arizona at the time. They

also raised questions about the benefits received by witnesses who testified against Hooper, including favorable treatment in other criminal cases.

[Barbee was executed in Texas](#) for the February 2005 suffocation deaths of Lisa Underwood, 34, and her son Jayden at their home in Fort Worth. Barbee was the fifth inmate put to death this year in Texas. His was the 15th execution in the U.S. this year, up from [last year's three-decade low of 11](#).

The [executions](#) come despite waning support in recent years for the death penalty across all political parties. About 6 in 10 Americans favor the death penalty, according to the General Social Survey, a major trends survey conducted by NORC at the University of Chicago. While a majority continue to express support for the death penalty, the share has declined steadily since the 1990s, when nearly three-quarters were in favor.

Billeaud reported from Phoenix.

More of AP's coverage of executions can be found at <https://apnews.com/hub/executions>

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EXECUTIONS

Botched Executions

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“With each development in the technology of execution, the same promises have been made, that each new technology was safe, reliable, effective and humane. Those claims have not generally been fulfilled.” -Austin Sarat

It is estimated that 3% of U.S. executions in the period from 1890 to 2010 were botched. In the 2014 book, *Gruesome Spectacles: Botched Executions and America’s Death Penalty*, Austin Sarat, a professor of jurisprudence and political science at Amherst College, describes the history of flawed executions in the U.S. during that period. Sarat reports that over those 120 years, 8,776 people were executed and 276 of those executions (3.15%) went wrong in some way. Lethal injection had the highest rate of botched executions. In his book, he defines a botched execution as follows:

Botched executions occur when there is a breakdown in, or departure from, the “protocol” for a particular method of execution. The protocol can be established by the norms, expectations, and advertised virtues of each method or by the government’s officially adopted execution guidelines. Botched executions are “those involving unanticipated problems or delays that caused, at least arguably, unnecessary agony for the prisoner or that reflect gross incompetence of the executioner.” Examples of such problems include, among other things, inmates catching fire while being electrocuted, being strangled during hangings (instead of having their necks broken), and being administered the wrong dosages of specific drugs for lethal injections.

Botched Executions: 1890 – 2010

Method	Total Executions	Botched Executions	Botched Execution Rate
Hanging	2,721	85	3.12%
Electrocution	4,374	84	1.92%

Document received by the TN Supreme Court

Lethal Gas	593	32	5.4%
Lethal Injection	1,054	75	7.2%
Firing Squad	34	0	0%
All Methods	8,776	276	3.15%

Sources: Austin Sarat, “Gruesome Spectacles: Botched Executions and America’s Death Penalty” (Stanford Univ. Press 2014). Corinna Lain, “Secrets of the Killing State: The Untold Story of Lethal Injection” (NYU Press 2025).

A report in the Salt Lake City Tribune takes a different view of the suggestion that there have been no botched executions by firing squad since 1890. The paper reports that in September 1951, a Utah firing squad shot Eliseo J. Mares in the hip and abdomen and that it was “several minutes” before he was declared dead. Utah’s May 16, 1879 firing-squad execution of Wallace Wilkerson also was botched. See Botched Executions in American History.

Examples of Post-Furman Botched Executions

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NOTE: The below is not intended to be a comprehensive catalogue of botched executions, but simply a listing of examples that are well-known. There are 64 executions or attempted executions listed: three by asphyxiation, ten by electrocution, and 51 by lethal injection, including seven failed executions that were halted when execution personnel were unable to set an IV line. By “botched” I mean “those involving unanticipated problems or delays that caused, at least arguably, unnecessary agony for the prisoner or that reflect gross incompetence of the executioner” (Borg & Radelet, 2004:144). For more information on how I define “botch” and other methodological decisions, see Marian J. Borg & Michael L. Radelet, On Botched Executions, pp. 143 – 68 in Peter Hodgkinson & William Schabas (eds.), CAPITAL PUNISHMENT: STRATEGIES FOR ABOLITION. Cambridge: Cambridge University Press (2004).

Document received by the TN Supreme Court.

By far the most extensive discussion of the myriad problems with lethal injection is found in the 2025 book by Professor Corinna Barrett Lain, **SECRETS OF THE KILLING STATE: THE UNTOLD STORY OF LETHAL INJECTION**. New York University Press (2025). This book includes additional details on several of the botched executions described below.

1. August 10, 1982. Virginia. Frank J. Coppola. Electrocutation. Although no media representatives witnessed the execution and no details were ever released by the Virginia Department of Corrections, an attorney who was present later stated that it took two 55-second jolts of electricity to kill Coppola. The second jolt produced the odor and sizzling sound of burning flesh, and Coppola's head and leg caught on fire. Smoke filled the death chamber from floor to ceiling with a smoky haze.

[1]

2. April 22, 1983. Alabama. John Evans. Electrocutation. After the first jolt of electricity, sparks and flames erupted from the electrode attached to Evans's leg. The electrode burst from the strap holding it in place and caught on fire. Smoke and sparks also came out from under the hood in the vicinity of Evans's left temple. Two physicians entered the chamber and found a heartbeat. The electrode was reattached to his leg, and another jolt of electricity was applied. This resulted in more smoke and burning flesh. Again the doctors found a heartbeat. Ignoring the pleas of Evans's lawyer, a third jolt of electricity was applied. The execution took 14 minutes and left Evans's body charred and smoldering.

[2]

3. September 2, 1983. Mississippi. Jimmy Lee Gray. Asphyxiation. Officials had to clear the room eight minutes after the gas was released when Gray's desperate gasps for air repulsed witnesses. His attorney, Dennis Balske of Montgomery, Alabama, criticized state officials for clearing the room when the inmate was still alive. Said noted death penalty defense attorney David Bruck, "Jimmy Lee Gray died banging his head against a steel pole in the gas chamber while the reporters counted his means (eleven, according to the Associated Press)."[3] Later it was revealed that the executioner, Barry Bruce, was drunk.[4]

4. December 12, 1984. Georgia. Alpha Otis Stephens. Electrocutation. "The first charge of electricity ... failed to kill him, and he struggled to breathe for eight minutes before a second charge carried out his death sentence." [5] After the first two-minute power surge, there was a six-minute pause so his body could cool before physicians could examine him (and declare that another jolt was needed). During that six-minute interval, Stephens took 23 breaths. A Georgia prison official said, "Stephens was just not a conductor" of electricity.[6]

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5. March 13, 1985. Texas. Stephen Peter Morin. Lethal Injection. The Associated Press reported that, because of Morin's history of drug abuse, the execution technicians were forced to probe both of Morin's arms and one of his legs with needles for nearly 45 minutes before they found a suitable vein.[7]

6. October 16, 1985. Indiana. William E. Vandiver. Electrocuting. After the first administration of 2,300 volts, Vandiver was still breathing. The execution eventually took 17 minutes and five jolts of electricity.[8] Vandiver's attorney, Herbert Shaps, witnessed the execution and observed smoke and the smell of burning. He called the execution "outrageous." The Department of Corrections admitted the execution "did not go according to plan." [9]

7. August 20, 1986. Texas. Randy Woolls. Lethal Injection. A drug addict, Woolls helped the execution technicians find a useable vein for the execution.[10]

8. June 24, 1987. Texas. Elliot Rod Johnson. Lethal Injection. Because of collapsed veins, it took nearly an hour to complete the execution.[11]

9. December 13, 1988. Texas. Raymond Landry. Lethal Injection. Pronounced dead 40 minutes after being strapped to the execution gurney and 24 minutes after the drugs first started flowing into his arms.[12] Two minutes after the drugs were administered, the syringe came out of Landry's vein, spraying the deadly chemicals across the room toward witnesses. The curtain separating the witnesses from the inmate was then pulled, and not reopened for fourteen minutes while the execution team reinserted the catheter into the vein. Witnesses reported "at least one groan." A spokesman for the Texas Department of Correction, Charles Brown (sic), said, "There was something of a delay in the execution because of what officials called a 'blowout.' The syringe came out of the vein, and the warden ordered the (execution) team to reinsert the catheter into the vein." [13]

10. May 24, 1989. Texas. Stephen McCoy. Lethal Injection. He had such a violent physical reaction to the drugs (heaving chest, gasping, choking, back arching off the gurney, etc.) that one of the witnesses (male) fainted, crashing into and knocking over another witness. Houston attorney Karen Zellars, who represented McCoy and witnessed the execution, thought the fainting would catalyze a chain reaction. The Texas Attorney General admitted the inmate "seemed to have had a somewhat stronger reaction," adding, "The drugs might have been administered in a heavier dose or more rapidly." [14]

11. July 14, 1989. Alabama. Horace Franklin Dunkins, Jr. Electrocuting. It took two jolts of electricity, nine minutes apart, to complete the execution. After the first jolt failed to kill the prisoner (who was mildly retarded), the captain of the prison guard opened the door to the witness room and stated "I believe we've got the jacks on wrong." [15] Because the cables had been connected improperly, it was

impossible to dispense sufficient current to cause death. The cables were reconnected before a second jolt was administered. Death was pronounced 19 minutes after the first electric charge. At a post-execution news conference, Alabama Prison Commissioner Morris Thigpen said, "I regret very very much what happened. [The cause] was human error." [16]

12. May 4, 1990. Florida. Jesse Joseph Tafero. Electrocuting. During the execution, six-inch flames erupted from Tafero's head, and three jolts of power were required to stop his breathing. State officials claimed that the botched execution was caused by "inadvertent human error" — the inappropriate substitution of a synthetic sponge for a natural sponge that had been used in previous executions. [17] They attempted to support this theory by sticking a part of a synthetic sponge into a "common household toaster" and observing that it smoldered and caught fire. [18]

13. September 12, 1990. Illinois. Charles Walker. Lethal Injection. Because of equipment failure and human error, Walker suffered excruciating pain during his execution. According to Gary Sutterfield, an engineer from the Missouri State Prison who was retained by the State of Illinois to assist with Walker's execution, a kink in the plastic tubing going into Walker's arm stopped the deadly chemicals from reaching Walker. In addition, the intravenous needle was inserted pointing at Walker's fingers instead of his heart, prolonging the execution. [19]

14. October 17, 1990. Virginia. Wilbert Lee Evans. Electrocuting. When Evans was hit with the first burst of electricity, blood spewed from the right side of the mask on Evans's face, drenching Evans's shirt with blood and causing a sizzling sound as blood dripped from his lips. Evans continued to moan before a second jolt of electricity was applied. The autopsy concluded that Evans suffered a bloody nose after the voltage surge elevated his high blood pressure. [20]

15. August 22, 1991. Virginia. Derick Lynn Peterson. Electrocuting. After the first cycle of electricity was applied, and again four minutes later, prison physician David Barnes inspected Peterson's neck and checked him with a stethoscope, announcing each time "He has not expired." Seven and one half minutes after the first attempt to kill the inmate, a second cycle of electricity was applied. Prison officials later announced that in the future they would routinely administer two cycles before checking for a heartbeat. [21]

16. January 24, 1992. Arkansas. Rickey Ray Rector. Lethal Injection. It took medical staff more than 50 minutes to find a suitable vein in Rector's arm. Witnesses were kept behind a drawn curtain and not permitted to view this scene, but reported hearing Rector's eight loud moans throughout the process. During the ordeal Rector (who suffered from serious brain damage) helped the medical personnel find a vein. The administrator of State's Department of Corrections medical programs said (paraphrased by a newspaper reporter) "the moans did come as a team of two medical people that

had grown to five worked on both sides of his body to find a vein.” The administrator said “That may have contributed to his occasional outbursts.” The difficulty in finding a suitable vein was later attributed to Rector’s bulk and his regular use of antipsychotic medication.[22]

17. April 6, 1992. Arizona. Donald Eugene Harding. Asphyxiation. Death was not pronounced until 10 1/2 minutes after the cyanide tablets were dropped.[23] During the execution, Harding thrashed and struggled violently against the restraining straps. A television journalist who witnessed the execution, Cameron Harper, said that Harding’s spasms and jerks lasted 6 minutes and 37 seconds. “Obviously, this man was suffering. This was a violent death ... an ugly event. We put animals to death more humanely.”[24] Another witness, newspaper reporter Carla McClain, said, “Harding’s death was extremely violent. He was in great pain. I heard him gasp and moan. I saw his body turn from red to purple.”[25] One reporter who witnessed the execution suffered from insomnia and assorted illnesses for several weeks; two others were “walking vegetables” for several days.[26]

18. March 10, 1992. Oklahoma. Robyn Lee Parks. Lethal Injection. Parks had a violent reaction to the drugs used in the lethal injection. Two minutes after the drugs were dispensed, the muscles in his jaw, neck, and abdomen began to react spasmodically for approximately 45 seconds. Parks continued to gasp and violently gag until death came, some eleven minutes after the drugs were first administered. Tulsa World reporter Wayne Greene wrote that the execution looked “painful,” “scary and ugly.” “It was overwhelming, stunning, disturbing — an intrusion into a moment so personal that reporters, taught for years that intrusion is their business, had trouble looking each other in the eyes after it was over.”[27]

19. April 23, 1992. Texas. Billy Wayne White. Lethal Injection. White was pronounced dead some 47 minutes after being strapped to the execution gurney. The delay was caused by difficulty finding a vein; White had a long history of heroin abuse. During the execution, White attempted to assist the authorities in finding a suitable vein.[28]

20. May 7, 1992. Texas. Justin Lee May. Lethal Injection. May had an unusually violent reaction to the lethal drugs. According to one reporter who witnessed the execution, May “gasp[ed], coughed and reared against his heavy leather restraints, coughing once again before his body froze.”[29] Associated Press reporter Michael Graczyk wrote, “Compared to other recent executions in Texas, May’s reaction to the drugs was more violent. He went into a coughing spasm, groaned and gasped, lifted his head from the death chamber gurney and would have arched his back if he had not been belted down. After he stopped breathing, his eyes and mouth remained open.”[30]

21. May 10, 1994. Illinois. John Wayne Gacy. Lethal Injection. After the execution began, the lethal chemicals unexpectedly solidified, clogging the IV tube that led into Gacy’s arm, and prohibiting any further passage. Blinds covering the window through which witnesses observed the execution were

drawn, and the execution team replaced the clogged tube with a new one. Ten minutes later, the blinds were then reopened and the execution process resumed. It took 18 minutes to complete. Anesthesiologists blamed the problem on the inexperience of prison officials who were conducting the execution, saying that proper procedures taught in "IV 101" would have prevented the error.

22. May 3, 1995. Missouri. Emmitt Foster. Lethal Injection. Seven minutes after the lethal chemicals began to flow into Foster's arm, the execution was halted when the chemicals stopped circulating. With Foster gasping and convulsing, the blinds were drawn so the witnesses could not view the scene. Death was pronounced thirty minutes after the execution began, and three minutes later the blinds were reopened so the witnesses could view the corpse. According to William "Mal" Gum, the Washington County Coroner who pronounced death, the problem was caused by the tightness of the leather straps that bound Foster to the execution gurney; it was so tight that the flow of chemicals into the veins was restricted. Foster did not die until several minutes after a prison worker finally loosened the straps. The coroner entered the death chamber twenty minutes after the execution began, diagnosed the problem, and told the officials to loosen the strap so the execution could proceed. In an editorial, the *St. Louis Post-Dispatch* called the execution "a particularly sordid chapter in Missouri's capital punishment experience."

23. January 23, 1996. Virginia. Richard Townes, Jr. Lethal Injection. This execution was delayed for 22 minutes while medical personnel struggled to find a vein large enough for the needle. After unsuccessful attempts to insert the needle through the arms, the needle was finally inserted through the top of Mr. Townes's right foot.

24. July 18, 1996. Indiana. Tommie J. Smith. Lethal Injection. Because of unusually small veins, it took one hour and nine minutes for Smith to be pronounced dead after the execution team began sticking needles into his body. For sixteen minutes, the execution team failed to find adequate veins, and then a physician was called. Smith was given a local anesthetic and the physician twice attempted to insert the tube in Smith's neck. When that failed, an angio-catheter was inserted in Smith's foot. Only then were witnesses permitted to view the process. The lethal drugs were finally injected into Smith 49 minutes after the first attempts, and it took another 20 minutes before death was pronounced.

25. March 25, 1997. Florida. Pedro Medina. Electrocution. A crown of foot-high flames shot from the headpiece during the execution, filling the execution chamber with a stench of thick smoke and gagging the two dozen official witnesses. An official then threw a switch to manually cut off the power and prematurely end the two-minute cycle of 2,000 volts. Medina's chest continued to heave until the flames stopped and death came. After the execution, prison officials blamed the fire on

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a corroded copper screen in the headpiece of the electric chair, but two experts hired by the governor later concluded that the fire was caused by the improper application of a sponge (designed to conduct electricity) to Medina's head.

26. May 8, 1997. Oklahoma. Scott Dawn Carpenter. Lethal Injection. Carpenter was pronounced dead some 11 minutes after the lethal injection was administered. As the drugs took effect, Carpenter began to gasp and shake. "This was followed by a guttural sound, multiple spasms and gasping for air" until his body stopped moving, three minutes later.[40]

27. June 13, 1997. South Carolina. Michael Eugene Elkins. Lethal Injection. Because Elkins's body had become swollen from liver and spleen problems, it took nearly an hour to find a suitable vein for the insertion of the catheter. Elkins tried to assist the executioners, asking "Should I lean my head down a little bit?" as they probed for a vein. After numerous failures, a usable vein was finally found in Elkins's neck.[41]

28. April 23, 1998. Texas. Joseph Cannon. Lethal Injection. It took two attempts to complete the execution. After making his final statement, the execution process began. A vein in Cannon's arm collapsed and the needle popped out. Seeing this, Cannon lay back, closed his eyes, and exclaimed to the witnesses, "It's come undone." Officials then pulled a curtain to block the view of the witnesses, reopening it fifteen minutes later when a weeping Cannon made a second final statement and the execution process resumed.[42]

29. August 26, 1998. Texas. Genaro Ruiz Camacho. Lethal Injection. The execution was delayed, approximately two hours due, in part, to problems finding suitable veins in Camacho's arms.[43]

30. October 5, 1998. Nevada. Roderick Abeyta. Lethal Injection. It took 25 minutes for the execution team to find a vein suitable for the lethal injection.[44]

31. July 8, 1999. Florida. Allen Lee Davis. Electrocution. "Before he was pronounced dead ... the blood from his mouth had poured onto the collar of his white shirt, and the blood on his chest had spread to about the size of a dinner plate, even oozing through the buckle holes on the leather chest strap holding him to the chair." [45] His execution was the first in Florida's new electric chair, built especially so it could accommodate a man Davis's size (approximately 350 pounds). Later, when another Florida death row inmate challenged the constitutionality of the electric chair, Florida Supreme Court Justice Leander Shaw commented that "the color photos of Davis depict a man who — for all appearances — was brutally tortured to death by the citizens of Florida." [46] Justice Shaw also described the botched executions of Jesse Tafero and Pedro Medina (q.v.), calling the three executions "barbaric spectacles" and "acts more befitting a violent murderer than a civilized state." [47] Justice Shaw included pictures of Davis's dead body in his opinion. [48] The execution was witnessed

by a Florida State Senator, Ginny Brown-Waite, who at first was “shocked” to see the blood, until she realized that the blood was forming the shape of a cross and that it was a message from God. Gayle supported the execution.[49] (See Photos taken after execution — graphic images).

32. May 3, 2000. Arkansas. Christina Marie Riggs. Lethal Injection. Riggs dropped her appeals and asked to be executed. However, the execution was delayed for 18 minutes when prison staff couldn’t find a suitable vein in her elbows. Finally, Riggs agreed to the executioners’ requests to have the needles in her wrists.[50]

33. June 8, 2000. Florida. Bennie Demps. Lethal Injection. It took execution technicians 33 minutes to find suitable veins for the execution. “They butchered me back there,” said Demps in his final statement. “I was in a lot of pain. They cut me in the groin; they cut me in the leg. I was bleeding profusely. This is not an execution, it is murder.” The executioners had no unusual problems finding one vein, but because Florida protocol requires a second alternate intravenous drip, they continued to work to insert another needle, finally abandoning the effort after their prolonged failures.[51]

34. December 7, 2000. Texas. Claude Jones. Lethal Injection. Jones was a former intravenous drug abuser. His execution was delayed 30 minutes while the execution team struggled to insert an IV into a vein. One member of the execution team commented, “They had to stick him about five times. They finally put it in his leg.” Jim Willett, the warden of the Walls Unit and the man responsible for conducting the execution, wrote: “The medical team could not find a vein. Now I was really beginning to worry. If you can’t stick a vein then a cut-down has to be performed. I have never seen one and would just as soon go through the rest of my career the same way. Just when I was really getting worried, one of the medical people hit a vein in the left leg. Inside calf to be exact. The executioner had warned me not to panic as it was going to take a while to get the fluids in the body of the inmate tonight because he was going to push the drugs through very slowly. Finally, the drug took effect and Jones took his last breath.”[52]

35. June 28, 2000. Missouri. Bert Leroy Hunter. Lethal Injection. Hunter had an unusual reaction to the lethal drugs, repeatedly coughing and gasping for air before he lapsed into unconsciousness. [53] An attorney who witnessed the execution reported that Hunter had “violent convulsions. His head and chest jerked rapidly upward as far as the gurney restraints would allow, and then he fell quickly down upon the gurney. His body convulsed back and forth like this repeatedly. ... He suffered a violent and agonizing death.”[54] However, three reporters who witnessed the execution did not substantiate these observations, with two reporting that Hunter simply coughed several times and the third stating that he saw no violent reaction to the drugs. [55]

36. November 7, 2001. Georgia. Jose High. Lethal Injection. High was pronounced dead some one hour and nine minutes after the execution began. After attempting to find a useable vein for “Q to 20 minutes,” the emergency medical technicians under contract to do the execution abandoned their efforts. Eventually, one needle was stuck in High’s hand, and a physician was called in to insert a second needle between his shoulder and neck.[56]

37. May 2, 2006. Ohio. Joseph L. Clark. Lethal Injection. It took 22 minutes for the execution technicians to find a vein suitable for insertion of the catheter. But three or four minutes thereafter, as the vein collapsed and Clark’s arm began to swell, he raised his head off the gurney and said five times, “It don’t work. It don’t work.” The curtains surrounding the gurney were then closed while the technicians worked for 30 minutes to find another vein. Media witnesses later reported that they heard “moaning, crying out and guttural noises.”[57] Finally, death was pronounced almost 90 minutes after the execution began. A spokeswoman for the Ohio Department of Corrections told reporters that the execution team included paramedics, but not a physician or a nurse.[58]

38. December 13, 2006. Florida. Angel Diaz. Lethal Injection. After the first injection was administered, Mr. Diaz continued to move, and was squinting and grimacing as he tried to mouth words. A second dose was then administered, and 34 minutes passed before Mr. Diaz was declared dead. At first a spokesperson for the Florida Department of Corrections claimed that this was because Mr. Diaz had some sort of liver disease.[59] After performing an autopsy, the Medical Examiner, Dr. William Hamilton, stated that Mr. Diaz’s liver was undamaged, but that the IV catheters (which had been inserted in both arms) had gone through Mr. Diaz’s veins and out the other side, so the deadly chemicals were injected into soft tissue, rather than the vein. Two days after the execution, Governor Jeb Bush temporarily suspended all executions in the state and appointed a commission “to consider the humanity and constitutionality of lethal injections.”[60] In 2014, pictures from the autopsy of Mr. Diaz’s body, along with a long article describing his painful death, were published in *The New Republic*. [61]

39. May 24, 2007. Ohio. Christopher Newton. Lethal Injection. According to the Associated Press, “prison medical staff” at the Southern Ohio Correctional Facility struggled to find veins on each of Newton’s arms during the execution. Newton, who weighted 265 pounds, was declared dead almost two hours after the execution process began. The execution “team” stuck Newton at least ten times with needles before getting the shunts in place where the needles are injected.[62]

40. June 26, 2007. Georgia. John Hightower. Lethal Injection. It took approximately 40 minutes for the nurses to find a suitable vein to administer the lethal chemicals, and death was not pronounced until 7:59, 59 minutes after the execution process began.[63]

41. June 4, 2008. Georgia. Curtis Osborne. Lethal Injection. After a 55-minute delay while the U.S. Supreme Court reviewed his final appeal, prison medical staff began the execution by trying to find suitable veins in which to insert the IV. The executioners struggled for 35 minutes to find a vein, and it took 14 minutes after the fatal drugs were administered before death was pronounced by two physicians who were inside the death chamber.[64]

42. September 15, 2009. Ohio. Romell Broom (pictured, after execution attempt). Lethal Injection (failed). Efforts to find a suitable vein and to execute Mr. Broom were terminated after more than two hours when the executioners were unable to find a useable vein in Mr. Broom's arms or legs. During the failed efforts, Mr. Broom winced and grimaced with pain. After the first hour's lack of success, on several occasions Broom tried to help the executioners find a good vein. "At one point, he covered his face with both hands and appeared to be sobbing, his stomach heaving.[65] Finally, Ohio Governor Ted Strickland ordered the execution to stop, and announced plans to attempt the execution anew after a one-week delay so that physicians could be consulted for advice on how the man could be killed more efficiently.[66] The executioners blamed the problems on Mr. Broom's history of intravenous drug use. Mr. Broom died in December 2020 of COVID-19 contracted on Ohio's death row.

43. September 27, 2010. Georgia. Brandon Joseph Rhode. Lethal Injection. After the Supreme Court rejected his appeals, "Medics then tried for about 30 minutes to find a vein to inject the three-drug concoction." It then took 14 minutes for the lethal drugs to kill him. The execution had been delayed six days because a prison guard had given Rhode a razor blade, which Rhode used to attempt suicide.[67]

44. January 16, 2014. Ohio. Dennis McGuire. Lethal Injection. McGuire gasped for air for some 25 minutes while the drugs used in the execution, hydromorphone and midazolam, slowly took effect. Witnesses reported that after the drugs were injected, McGuire was struggling, with his stomach heaving and fist clenched, making "horrible" snorting and choking sounds.[68] In a lawsuit filed after the execution, Mr. McGuire's family alleged that the inmate experienced "repeated cycles of snorting, gurgling and arching his back, appearing to writhe in pain," the lawsuit said. "It looked and sounded as though he was suffocating." [69]

45. April 29, 2014. Oklahoma. Clayton D. Lockett. Lethal Injection. Despite prolonged litigation and numerous warnings from defense attorneys about the dangers of using an experimental drug protocol with the drug midazolam, Oklahoma went ahead and scheduled the executions of Clayton Lockett and Charles Warner. Plans for the execution and the drugs used were cloaked in secrecy, with the state refusing to release information about the source and efficacy of the lethal drugs, making it impossible to accurately predict the effects of the combination of drugs. Nonetheless, Oklahoma Governor Mary Fallon pressured the Courts to allow the execution, a bill was introduced in

the Oklahoma House of Representatives to impeach the Justices who had voted to stay the execution, and the state Supreme Court allowed the executions to go forward. Mr. Lockett died nearly two hours after the paramedic began to set the IV.

Mr. Lockett was the first who was scheduled to die. An hour before the execution began, the governor was notified that the executioner (a “phlebotomist”) was having problems finding a usable vein, but she did not intervene. After an hour, a vein was finally found in Mr. Lockett’s “groin area,” and the execution went forward. Ten minutes after the administration of the first drug, a sedative, the physician supervising the process (whose very presence violated ethical standards of several medical organizations) announced that the inmate was unconscious, and therefore ready to receive the other two drugs that would actually kill him. Those two drugs were known to cause excruciating pain if the recipient was conscious. However, Mr. Lockett was not unconscious. Three minutes after the latter two drugs were injected, “he began breathing heavily, writhing on the gurney, clenching his teeth and straining to lift his head off the pillow.”[70] Officials then lowered the blinds to prohibit witnesses from seeing what was going on, and 15 minutes later the witnesses were ordered to leave the room.

Twenty minutes after the first drugs were administered, the Director the Oklahoma Department of Corrections halted the execution and issued a two-week stay (later extended by extensive litigation) for the execution of Mr. Warner. Mr. Lockett died 43 minutes after the execution began, of a heart attack, while still in the execution chamber.[71]

46. July 23, 2014. Arizona. Joseph R. Wood. Lethal Injection. After the chemicals (midazolam and hydromorphone) were injected, Mr. Wood repeatedly gasped for one hour and 40 minutes before death was pronounced. During the ordeal, Mr. Wood’s attorneys filed an emergency appeal to a Federal District Court and placed a phone call to Supreme Court Justice Anthony Kennedy in a failed effort to halt the botched execution. Meanwhile, a spokesperson for the Arizona Attorney General’s office claimed that Mr. Wood was asleep and was simply snoring. In the days before the execution, defense attorneys won a stay from the U.S. Court of Appeals for the Ninth Circuit on their motion to compel the state to reveal the source of the drugs and the training of the executioners. However, this stay was later overturned by the Supreme Court.[72] A reporter for the *Arizona Republic* who witnessed the execution, Michael Kiefer, said that he counted 640 gasps from Wood before he finally died.[73]

47. December 9, 2015. Georgia. Brian Keith Terrell. Lethal Injection. “[I]t took an hour for the nurse assigned to the execution to get IVs inserted into both of the condemned man’s arms. She eventually had to put one into Terrell’s right hand. Terrell winced several times, apparently in pain.”[74]

48. February 3, 2016. Georgia. Brandon Jones. Lethal Injection. After spending 24 minutes unsuccessfully trying to insert an IV into Jones' left arm, the executioners spent 8 minutes trying to insert it in his right arm and, when that failed, they again attempted to insert it in his left arm. They then asked a physician to violate several codes of medical ethics for assistance, and he or she spent 13 minutes inserting and stitching the IV near Jones' groin. Six minutes later, Jones' eyes popped open. He was 72 years old at the time of his execution.[75]

49. December 8, 2016. Alabama. Ronald Bert Smith, Jr. Lethal Injection. Smith (a former Eagle Scout and Army reservist) was convicted of a 1994 murder of a convenience store clerk, and his jury at trial (after anti-death penalty citizens were removed) voted 7 – 5 to recommend a punishment of life imprisonment without parole. Alabama, however, requires neither unanimity nor a majority jury vote before the trial judge can sentence a defendant to death. Smith heaved, gasped and coughed while struggling for breath for 13 minutes after the lethal drugs were administered, and death was pronounced 34 minutes after the execution began. He also “clenched his fists and raised his head during the early part of the procedure.” Alabama used the controversial sedative midazolam (a “valium-like drug”) in the execution.[76]

50. January 13, 2017. Virginia. Ricky Javon Gray. Lethal Injection. It took 33 minutes to complete the execution. “Witnesses reported that Gray started making gasping, snoring, and snorting-like noises shortly after the midazolam was injected.” The post-mortem autopsy found “The upper airways contain foamy liquid,” indicating that the lungs were “so full of fluid that the fluid spills out of the lungs and up into the throat and mouth.” [77]

51. October 19, 2017. Alabama. Torrey McNabb. Lethal Injection. It took 35 minutes for the lethal injection (midazolam) to end Mr. McNabb's life.[78] “McNabb's attorney said Friday that his movements during the middle of the execution, that included moving his arm and rolling his head back and forth after a consciousness check, showed problems with the sedative used by the state. ... McNabb's family members and attorneys who witnessed the execution expressed concerns to each other that he was still conscious during the lethal injection. “He's going to wake up,” one of his relatives whispered.”

52. November 15, 2017. Ohio. Alva Campbell. Lethal Injection (failed). “The execution team first worked on both of Alva Campbell's arms for about 30 minutes Wednesday while he was on a gurney in the state's death chamber and then tried to find a vein in his right leg below the knee. ... About 80 minutes after the execution was scheduled to begin, the 69-year-old Campbell shook hands with two guards after it appeared the insertion was successful. About two minutes later, media witnesses were told to leave without being told what was happening. ... Gary Mohr, head of the Ohio Department of Rehabilitation and Correction, ... [then] called off the execution after talking with the medical team [saying] ‘It was my decision that it was not likely that we're going to access a vein.’” [79]

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Prison officials brought Campbell into the death chamber in a wheelchair and provided him a wedge pillow on the gurney, which was meant to help him breathe. Campbell has suffered from breathing problems related to a longtime smoking habit. His attorneys said he has required a walker, relied on a colostomy bag and needed breathing treatments four times a day.” [79] Less than four months later, on March 3, 2018, Campbell died on death row of his terminal medical conditions.

53. February 22, 2018. Alabama. Doyle Lee Hamm. Lethal Injection (failed). Despite several warnings from defense counsel that it would be impossible to find a vein in which to insert the catheter (Hamm suffered from advanced lymphatic cancer and carcinoma), the State went forward with the execution. For 2.5 hours, the executioners tried to find a vein, leaving Hamm with a ten-twelve puncture marks, including six in his groin and others that punctured his bladder and penetrated his femoral artery. Finally, approaching a midnight deadline that prohibited further attempts, the execution was called off. Alabama Corrections Commissioner Jeff Dunn later told reporters, “I wouldn’t necessarily characterize what we had tonight as a problem.”[80] [NOTE: On March 5, 2018, attorneys for Doyle Hamm submitted a preliminary report from an anesthesiologist who evaluated Hamm on February 25. WARNING: Report contains graphic images and descriptions.] On November 28, 2021, Mr. Hamm, still in prison, died from his lymphoma and cranial cancer.[81]

54. October 28, 2021. Oklahoma. John Marion Grant. Lethal Injection. After the first drug was administered (midazolam), Mr. Grant convulsed and vomited for several minutes, leading members of the execution team to wipe the vomit from his face and neck. Associated Press media witness Sean Murphy said that “Grant’s body shook and jerked nearly two dozen times before vomit spurted from his mouth and spilled down his neck.”[82] In addition, the autopsy report (on file with DPIC) found pulmonary edema and intramuscular hemorrhaging of the tongue (p. 2). Prior to the execution, Mr. Grant’s legal team (along with attorneys for some two-dozen other Oklahoma death row inmates) had argued that the state’s three-drug lethal injection protocol would cause unnecessary and excruciating pain. Said Robert Dunham, executive director of the Death Penalty Information Center, “Oklahoma knew full well that this was well within the realm of possible outcomes in a midazolam execution. It didn’t care ... and the Supreme Court apparently didn’t either.”[83]

55. May 11, 2022. Arizona. Clarence Dixon. Lethal Injection. “Troy Hayden, a media witness from Fox News, said the execution team had trouble getting IVs into Dixon, who grimaced and appeared to be in pain while this was happening. ... Hayden said execution team members took 25 minutes to insert IVs into Dixon’s body, eventually resorting to making an incision and inserting an IV into Dixon’s groin. Dixon was grimacing and appeared to be in pain while the execution team attempted to insert the IVs.”[84]

56. June 8, 2022. Arizona. Frank Atwood. Lethal Injection. Mr. Atwood had to assist his executions in finding a suitable vein for his execution. *Arizona Republic* reporter Jimmy Jenkins, who witnessed the execution, called it “surreal.” “I have witnessed life. And I have witnessed death. But nothing could have prepared me for the surreal spectacle I witnessed during the execution of Frank Atwood.” Atwood, age 65, had a degenerative spinal condition and had to be wheeled to the gurney in a wheelchair. ““After a few minutes and what appeared to be several attempts [to insert the needle], the execution team inserted an IV and catheter into Atwood’s left arm. ... The execution team tried and failed to get the IV into his right arm several times.” Atwood then suggested to the executioners that they try to insert the needle in his hand. That did the job. The total execution took approximately 30 minutes.[85]

57. July 28, 2022. Alabama. Joe Nathan James, Jr. Lethal Injection. Rejecting pleas from the two daughters and the brother of the homicide victim, Faith Hall, Governor Kay Ivey ordered the execution to proceed. The execution was scheduled for 6:00 p.m. Central time, but for reasons that the Alabama Department of Corrections (ADOC) failed to directly address, the execution was delayed for three hours. Prison officials asserted that the delay was a result of attempting to comply with the execution protocol without initiating a cut-down procedure and that “nothing out of the ordinary” had occurred during the delay. A private autopsy later demonstrated that ADOC’s representation was false.

The autopsy findings, described by reporter Elizabeth Bruenig in an August 15, 2022 exposé in *The Atlantic*, documented multiple failed attempts by the ADOC execution team to set an intravenous execution line, puncture wounds in Mr. James arm muscles that appeared to be unrelated to efforts to insert the IV, multiple unexplained incisions, and bleeding and bruising around Mr. James’ wrist where he was strapped to the gurney. Bruenig called the execution “lengthy and painful,” and a doctor who attended the autopsy said the execution team that carried it out “was unqualified for the task in a most dramatic way.”[86]

The estimated 3 to 3½ hours between the initiation of efforts to set the execution IV to the time of James’ death was the longest botched lethal-injection execution since the method came into use in the U.S. in 1982. The human rights group Reprieve, which funded the private autopsy, said it had reviewed information on 275 botched U.S. executions since 1890 and found that the interval between the start of James’ execution and his death was the longest on record involving any method of execution.[87]

While the unexplained delay was taking place, prison officials subjected two female reporters to clothing examinations, deeming the skirt one witness had worn when covering prior executions “too short” to gain admission to the prison. After the reporter found other clothing to wear, prison officials

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further delayed media entry into the facility by then telling her that she could not wear open-toed shoes. The same prison officials subjected a second veteran female reporter to a clothing inspection.

Reporters were subsequently left in the prison transport van for nearly 2½ hours, without any explanation for this additional delay. The media witnesses were ultimately seated in the execution viewing room at 8:57 p.m. and the curtain to the execution chamber was raised at 9:02 p.m. Multiple reporters noted that James' eyes were closed and he lay motionless on the gurney. He was non-responsive when an execution team member read him his death warrant at 9:03 and asked him if he had any final words. At 9:04 officials began administering the execution drugs through an IV that was already in place in James' left arm when the curtain was raised. Reporters indicated that "James blinked and his eyes fluttered briefly" after the drugs were injected. He was pronounced dead at 9:27 p.m.

The next day, ADOC's public information officer, Kelly Betts, indicated via email that the delay had resulted from difficulties in establishing the execution IV line. Prison authorities provided no explanation for James' non-responsiveness. On the night of the execution, Commission Hamm specifically denied that the execution team had sedated James, a representation Betts repeated to the media the next day. Asked if James had been fully conscious when the execution curtain opened, Betts stated, "I cannot confirm that." [88]

The private autopsy found puncture wounds and bruising around James' knuckles and wrists, which doctors said suggested that execution team members had tried and failed to insert IV lines in those locations. The autopsy also documented puncture wounds in James' musculature that, Emory University anesthesiologist Joel Zivot said, were "not in the anatomical vicinity of a known vein."

"It is possible that this just represents gross incompetence, or some, or one, or more of these punctures were actually intramuscular injections," Zivot explained. "An intramuscular injection in this setting would only be used to deliver a sedating medication," Zivot said.

On the inside of James's left arm, the autopsy examiners found a jagged incision, which Zivot concluded was likely from a "cutdown" — a deep cut in the skin made to expose a vein. "I can't tell if local anesthetic was first infused into the skin, as slicing deep into the skin with a sharp surgical blade on an awake person without local anesthesia would be extremely painful," Zivot explained.

"In a medical setting, ultrasound has virtually eliminated the need for a cutdown," Zivot said, "and the fact that a cutdown was utilized here is further evidence that the IV team was unqualified for the task in a most dramatic way." [89]

58. September 22, 2022. Alabama. Alan Eugene Miller. Lethal Injection (failed). Mr. Miller alleged that he had designated nitrogen hypoxia, which Alabama had authorized in 2018 as an alternative to lethal injection, as the method of his execution but that Alabama Department of Corrections (ADOC) personnel had lost his designation form. During his challenge to the state's decision to use lethal injection, state prosecutors suggested that ADOC could execute him by lethal gas. But when the federal district court gave them a firm deadline to declare if they were ready to proceed by nitrogen hypoxia, ADOC indicated that it could not do so. On September 19, 2022, the district court issued a preliminary injunction enjoining Alabama from executing Miller "by any method other than nitrogen hypoxia." On the afternoon his scheduled execution, a divided panel of the U.S. Court of Appeals for the Eleventh Circuit denied the state's motion to set aside the injunction. At about 9:15 p.m. Central time, the U.S. Supreme Court issued a 5 – 4 ruling that vacated the injunction, leaving Alabama approximately 2½ hours to carry out the execution before the warrant expired.[90]

The execution then began, but after failing to properly insert the catheter for at least 90 minutes (while puncturing Mr. Miller with a needle approximately 18 times), ADOC Commissioner John Hamm ordered the executioners to stop. Thereafter, Mr. Miller asked the federal courts to prohibit Alabama from trying again to put him to death.[91] On November 28, 2022, the State agreed that it would no longer attempt to execute Mr. Miller by lethal injection and that any future attempt to put him to death would be by means of nitrogen hypoxia.[92]

59. November 16, 2022. Stephen Barbee. Texas. Lethal Injection. Mr. Barbee's disabled arms were unable to be straightened out so the needle with the deadly drugs could be properly inserted. Earlier Mr. Barbee's attorney had filed motions to stop the execution because these problems were foreseeable. His death was finally pronounced approximately 90 minutes after he was strapped in the gurney.[93]

60. November 16, 2022. Arizona. Murray Hooper. Lethal Injection. "For the third time since resuming the death penalty this year, the Arizona Department of Corrections struggled to insert the intravenous needles that deliver lethal drugs during an execution. ... Witnesses ... reported seeing execution team members attempt and fail to insert IVs into both of Hooper's arms before finally resorting to inserting a catheter into Hooper's femoral vein near his groin." [94]

61. November 17, 2022. Kenneth Eugene Smith. Alabama. Lethal Injection (failed). The execution began just after 10:00 pm, but was called off at 11:21 when prison officials determined that they did not have enough time to set a second IV line before the death warrant expired at midnight. Mr. Smith's attorneys reported that he had been strapped to the gurney at 8:00 and was not removed until four hours later. They claimed that after two hours, "an IV team entered the execution chamber and began repeatedly jabbing Mr. Smith's arms and hands with needles, well past the point at which the executioners should have known that it was not reasonably possible to access a vein." [95]

Document received by the U.S. Supreme Court

Alabama Prisons Commissioner said “the people attempting to carry out the execution had tried to insert a line into ‘several locations’ without success.” Earlier on the day of the execution, an appeals court halted so his attorneys could argue that Alabama’s execution procedures could lead Mr. Smith to suffer an illegally “cruel” death. Nonetheless, the U.S. Supreme Court (with three dissenting votes) overturned that decision and ordered the execution to go forward. At trial, Mr. Smith’s jury voted 11 – 1 in favor of a life sentence rather than the death penalty, but the trial judge rejected this recommendation and instead imposed a death sentence.[96]

Five days after the botched (attempted) execution, Alabama Governor Kay Ivey halted all executions in the state and ordered a “top-to-bottom review” of the state’s execution procedures, although the investigation appears to be far from an objective review conducted by neutral parties. Said the governor, “I don’t buy for a second the narrative being pushed by activists that these issues are the fault of the folks at Corrections or anyone in law enforcement, for that matter. I believe that legal tactics and criminals hijacking the system are at play here.”[97]

62. February 28, 2024. Thomas Creech. Idaho. Lethal Injection (failed). The execution team tried and failed eight times to insert a functional IV, trying to insert the catheter in his “arms, legs, hands and feet.” After 58 minutes of failures, the warden finally halted the execution and Creech was returned to his cell. Said attorneys from the Idaho Federal Defender Services, “This is what happens when unknown individuals with unknown training are assigned to carry out an execution.”[98]

63. October 23, 2025. Alabama. Anthony Boyd. Asphyxiation (nitrogen gas). In a 6 – 3 decision, the Supreme Court refused to block the execution, with Justice Sotomayor (joined by Justices Kagan and Jackson) calling nitrogen hypoxia a “cruel form of execution that should not be allowed to continue.” Boyd was the eighth person in the U.S. sent to his death since the beginning of 2024 with nitrogen gas. His execution took more than 30 minutes, during which Mr. Boyd repeatedly convulsed and heaved, and gasped for air some 200 times. [99]

64. May 21, 2026. Tennessee. Tony Carruthers. Lethal Injection (failed). Mr. Carruthers was set to be the first American in over a century to be executed after representing himself at trial, and reasonable doubt remained about his guilt. Nonetheless, the execution proceeded. It took roughly 15 minutes to secure a primary IV line, but the protocol also required the executioners to establish a secondary “backup line.” They failed to do so, and after 1.5 hours of poking the Tennessee Department of Corrections stopped the attempts and Mr. Carruthers was returned to his cell. Shortly thereafter, Gov. Bill Lee issued a one-year reprieve. [100]

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CHAPTER: 700

Operational Security

DEPARTMENT ORDER:

710 – Execution Procedures

**OFFICE OF PRIMARY
RESPONSIBILITY:**

**OGC
OPS
OIG
M&C
EPCR
VS
HS**

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DO 710 (10/23/24)

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ACCESS

☐ **Contains Restricted Section(s)**

Department Order Manual



Ryan Thornell, Director

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PURPOSE

This Department Order (DO) establishes procedures for planning and carrying out the execution of a person convicted of a capital offense and sentenced to death, in accordance with state law. These procedures shall be followed as written, except that the Director of the Arizona Department of Corrections, Rehabilitation and Reentry (Director) may make limited deviations from or adjustments to these procedures when required to address certain unexpected or otherwise unforeseen contingencies, subject to the limitations on the Director's discretion as set forth herein. Except as expressly permitted herein, the Director shall not have any authority to deviate from or make adjustments to any material aspects of the execution process, including, but not limited to, the execution chemicals or dosages, consciousness checks, the access of the media and the inmate's counsel to the execution, and the timeframes established by this DO.

RESPONSIBILITY

The Department ensures the execution of a person sentenced to death under State law by a court of competent authority and jurisdiction is carried out in keeping with statute, case law, and professional practices.

The Department shall make every effort in the planning and preparation of an execution to ensure the execution process:

- Faithfully adheres to constitutional mandates against cruel and unusual punishment.
- Minimizes its impact on the safety, security, and operational integrity of the prison and the community in which it occurs.
- Accommodates the public's right to obtain certain information concerning the execution.
- Reasonably addresses the privacy interests of persons as provided by law.
- Provides contingency planning to identify and address unforeseen problems.
- Allows for stays of execution, commutations, and other exigencies until the time that the sentence is imposed.
- Provides opportunity for citizens to exercise their First Amendment rights to demonstrate for or against capital punishment in a lawful manner.
- Ensures there is an appropriate response to unlawful civil disobedience, trespass, and other violations of the law by any person attempting to interfere with the execution or the operation of the prison.

The Department shall detain, seek the arrest and encourage prosecution of persons whose conduct includes:

- Violating prohibitions against filming, taping, broadcasting or otherwise electronically documenting the execution of the inmate.
- Trespassing and/or otherwise entering upon Department property without authorization.
- Participating in unlawful demonstrations or unlawfully attempting to disrupt, prevent, and otherwise interfere with the execution.
- Unlawfully threatening, intimidating, and otherwise attempting to influence authorized persons involved in the execution process.
- These prohibitions apply to the inmate population as well as Department personnel and members of the general public engaging or attempting to engage in disruptive and other prohibited behaviors.

Participating staff shall adhere to the Department's Code of Ethics and Guided Principles, evidencing:

- Appropriate levels of professionalism, restraint, and courtesy when interacting with witnesses, demonstrators, attorneys, media, state and local law enforcement, and any other member of the public directly and indirectly involved with the imposition of the sentence of death.
- All assigned duties are performed proficiently and professionally.
- Their ability to exercise the option to withdraw from the process by the prescribed means at any time.
- Conduct that appropriately reflects the solemnity of the activities in which they elect to engage and the duties they choose to perform.
- Reserving public comment on any and all facets of the execution except as expressly provided in DO #201, Legal Services - Records Release.
- Any Department employee who learns of identifying information regarding any person who participates in or performs any function of an execution must keep that information confidential.

IMPORTANT GUIDELINES REGARDING CONFIDENTIALITY AND VOLUNTARINESS OF PARTICIPATION IN AN EXECUTION:

- The anonymity of any person, as defined in A.R.S. §§ 1-215(29) and 13-105(30), who participates in or performs any ancillary function(s) in the execution, including the source of the execution chemicals, and any information contained in records that would identify those persons are, as required by statute, to remain confidential and are not subject to disclosure. A.R.S. § 13-757(C).
- All team members serve on a strictly voluntary basis. At any point before, during or after an execution any team member may decline to participate or participate further without additional notice and explanation or repercussion.
- The Administrative Team Leader shall ensure all team members understand and comply with the provisions contained herein.
- Any of the duties that are to be performed under this policy by a specifically identified Department position may be substituted out and performed by a designee named by the Director.

PROCEDURES

1.0 DIRECTOR'S OFFICE RESPONSIBILITIES UPON NOTICE THAT THE STATE HAS FILED A MOTION FOR WARRANT OF EXECUTION

1.1 Upon notice from the Attorney General's Office that it has filed a Motion for Warrant of Execution in the Arizona Supreme Court:

1.1.1 General Counsel shall:

1.1.1.1 Notify the Director, Administrative Team Leader, the Warden of the prison complex where the inmate is housed, and the Media Relations Office.

1.1.1.2 Notify the Victim Services Administrator, who shall contact the victim(s) and inform them that the State is seeking a Warrant of Execution.

1.1.2 The Director shall notify the inmate and the inmate's counsel in writing of the drug/lethal gas protocol that will be used in the event a Warrant of Execution is issued and the method of execution.

2.0 COMPLEX AND DIRECTOR'S OFFICE RESPONSIBILITIES UPON RECEIPT OF WARRANT OF EXECUTION

2.1 Upon receipt of the Warrant of Execution:

- 2.1.1 General Counsel shall:
 - 2.1.1.1 Notify the Director, Administrative Team Leader, the Warden of the prison complex where the inmate is housed, and the Media Relations Office.
 - 2.1.1.2 Forward copies of the Warrant of Execution to the Warden of ASPC-Eyman and the Warden the prison complex where the inmate is housed.
 - 2.1.1.3 Notify the Victim Services Administrator, who shall contact the victim(s) and inform them of the court's issuance of the Warrant of Execution.
- 2.1.2 The Director shall:
 - 2.1.2.1 Select the time of execution and provide notice to the Arizona Supreme Court and the parties at least 20 calendar days prior to the execution date. (Arizona Rules of Criminal Procedure, Rule 31.23(c)(3))
 - 2.1.2.2 Notify the inmate that if the offense was committed prior to November 23, 1992, the inmate shall choose in writing using the Method of Execution, Form 710-1, either lethal injection or lethal gas at least 21 days prior to the execution. If the inmate fails to choose either lethal injection or lethal gas, the penalty of death shall be inflicted by lethal injection (A.R.S. § 13-757(B)).
 - 2.1.2.3 Have the authority to change the timeframes established in this DO in order to address certain unexpected or otherwise unforeseen contingencies only with regard to minor or routine contingencies not central to the execution process.
- 2.1.3 The Warden of the prison complex where the inmate is housed shall provide a copy of this DO and all forms to the inmate and shall:
 - 2.1.3.1 Direct the inmate to submit the Inmate Witness Information, Form 710-2, to the Warden no later than 14 days prior to the scheduled execution date.
 - 2.1.3.1.1 Inform the inmate that two clergy/spiritual advisors and five other persons may be invited to be present at the execution. The inmate may designate one of the clergy/spiritual advisors to accompany the inmate into the lethal injection execution chamber for audible prayer and faith-based touch, consistent with the United States Supreme Court's Opinion in *Ramirez v. Collier* (March 24, 2022).
 - 2.1.3.1.1.1 The Department reserves the right to enforce as necessary any or all reasonable restrictions on the audible prayer and faith-based touch as set forth in the United States Supreme Court's Opinion.
 - 2.1.3.1.2 Notify the inmate that minors are prohibited from witnessing the execution pursuant to A.R.S. § 13-758.

- 2.1.3.1.3 Notify the inmate that requests for Department or contract staff to attend the execution shall be denied.
 - 2.1.3.1.4 Notify the inmate that requests for other inmates to attend the execution shall be denied.
- 2.1.3.2 Direct the inmate to review and update as necessary the Notification in Case of Accident, Serious Illness or Death and Disposition of Property, Form 711-1. The Warden shall direct the inmate to provide any changes no later than 14 days prior to the execution. If the inmate provides no instruction, the property and accounts shall be disposed per DO #711, Notification of Inmate Hospitalization or Death.
- 2.1.3.3 Advise the inmate that his/her body shall not be used for organ donation.
- 2.1.3.4 Summarize the options available with the inmate for release and disposition of their body after the autopsy is performed. The Warden shall direct the inmate to review the previously completed Disposition of Remains, Form 710-3, and update as necessary no later than 14 days prior to the execution. If the inmate provides no information or the information is insufficient or incorrect the deceased shall be disposed per DO #711, Notification of Inmate Hospitalization or Death.
 - 2.1.3.4.1 The Inspector General shall provide a copy of the Disposition of Remains, Form 710-3, to the Office of the Medical Examiner prior to the execution.
- 2.1.3.5 Advise the inmate they may request a last meal by completing the Last Meal Request, Form 710-5, and returning it no later than 14 days prior to the execution. Reasonable effort shall be made to accommodate the request.
- 2.1.3.6 Ensure that copies of all forms filled out by the inmate are provided to the Deputy Warden at the Browning Unit or the Lumley Unit at or before the time the inmate is transferred to Death Row at Browning Unit or Lumley Unit.

3.0 EXECUTION TEAM MEMBERS

- 3.1 The Administrative Team consists of the Administrative Team Leader and two additional Department Administrators appointed by the Director.
 - 3.1.1 The Administrative Team will consult with the General Counsel as needed for legal advice and the Healthcare Services Division designee in carrying out their responsibilities.
 - 3.1.2 The Administrative Team is responsible for:
 - 3.1.2.1 Providing, planning, directing, and implementing all pre-execution and post-execution activities.

- 3.1.2.2 Coordinating all processes associated with specialty team personnel selection (excluding the IV/Medical Team), equipment, supply acquisition, training, rehearsal, and performance.
 - 3.1.2.3 Conducting preparatory steps in order to ensure that the execution process is conducted in accordance with this DO.
 - 3.1.2.4 Ensuring that an annual training schedule is established and scheduling dates for periodic on-site rehearsal sessions are established.
 - 3.1.2.5 Ensuring that the Emergency Operations Center (EOC) creates, oversees, and distributes all training and day-of check-in lists.
- 3.2 The Administrative Team shall:
- 3.2.1 Establish a training schedule and identify dates for periodic on-site practice by the Housing Unit 9 Section Teams, to include 10 training scenarios within the 12 months preceding the scheduled execution.
 - 3.2.2 Conduct a minimum of two training sessions with multiple scenarios two days prior to the scheduled execution. The IV/Medical Team members shall participate in quarterly training sessions and at least one training session with multiple scenarios within one day prior to the scheduled execution.
 - 3.2.2.1 All training sessions shall be documented and be included as part of a permanent record created by the Administrative Team to be submitted to the Department's General Counsel for archive, post execution.
 - 3.2.3 Ensure periodic testing of all of the equipment in Housing Unit 9 occurs, affirming electrical, plumbing, heating and air conditioning units are in working order and the gas chamber is maintained.
- 3.3 The Administrative Team provides for the planning and overall direction of all pre-execution, execution and post-execution activities (excluding the IV/Medical Team). The Administrative Team activates the following teams and oversees their activities, specifically:
- 3.3.1 Others as necessary
 - 3.3.2 Team members, including the team leader, are selected by the Administrative Team with the documented approval of the Director.
 - 3.3.3 Housing Unit 9 Section
 - 3.3.3.1 Consists of a section leader, recorder, and one team:
 - 3.3.3.1.1 Restraint Team
 - 3.3.3.2 Team leaders are selected by the Administrative Team with the documented approval of the Director.
 - 3.3.3.3 The section leader is a Warden selected by the Administrative Team Leader with the documented approval of the Director.

- 3.3.3.4 The primary function of the section leader is the overall coordination of activities of the Restraint Team to ensure compliance with conditions of confinement and application of approved procedures.

3.3.4 Restraint Team

- 3.3.4.1 Consists of a minimum of five team members, including one team leader.
- 3.3.4.2 Restraint Team members and the team leader are selected by the Administrative Team with the documented approval of the Director.
- 3.3.4.3 The primary function of the Restraint Team is to provide continuous observation of the inmate on the day of the execution and apply appropriate restraint procedures and inmate management prior to, during and after the execution.

3.3.5 Maintenance Response Team (MRT)

- 3.3.5.1 Consists of three team members, including the team leader, and reports to the Administrative Team.
- 3.3.5.2 Team members are selected by the Administrative Team with the documented approval of the Director.
- 3.3.5.3 The primary function of MRT is to test all Housing Unit 9 equipment utilized to impose the sentence of death and to ensure electrical, plumbing, heating and air conditioning units are in working order.

3.3.6 Employee Support Unit (ESU)

- 3.3.6.1 Consists of four team members, including the team leader, an Occupational Health Nurse (OHN), and reports to the Administrative Team.
- 3.3.6.2 The leader is the ESU Statewide Coordinator or designee.
- 3.3.6.3 Team members are ESU responders and selected by the ESU Statewide Coordinator with the documented approval of the Director.
- 3.3.6.4 The primary function of ESU is to educate staff regarding possible psychological responses and effective coping mechanisms to affected staff at all levels in the Department prior to, during and after the execution. ESU shall provide ongoing follow-up contact to staff.

3.3.7 Traffic Control Team

- 3.3.7.1 Consists of up to 18 team members and a team leader, and reports to the EOC.
- 3.3.7.2 Team members and the team leader are selected, in consultation with the Administrative Team, by the Office of Inspector General with the documented approval of the Director.

3.3.7.3 The primary function is to confer with state and local law enforcement agencies, establish check points and parameters for traffic control and formulate inter-agency emergency response strategies. The team also coordinates the ingress/egress for Department and contract staff and other persons whose attendance is necessary at ASPC-Eyman. The Team's focus is the period of time starting 24 hours prior to the execution and concluding when normal activities resume after the execution.

3.3.8 Witness Escort Team

3.3.8.1 Consists of up to 14 team members and reports to the Administrative Team.

3.3.8.2 Team members are selected by the Administrative Team with the documented approval of the Director.

3.3.8.3 The primary function is to coordinate the movement of all pre-approved witnesses on and off prison grounds and within its perimeter. Escort team members always remain with witnesses within the established perimeter.

3.3.9 Victim Services Team

3.3.9.1 Consists of two team members and reports to the Administrative Team.

3.3.9.2 The team leader is the Victim Services Administrator.

3.3.9.3 Team members are selected by the Victim Services Administrator with the documented approval of the Director.

3.3.9.4 The primary function is to ensure victims of the crime that resulted in the imposition of death are informed of the execution date and their opportunity to witness the execution. The team explains the execution process. If the victim is interested in attending, the team submits the victim's name(s) for consideration.

3.3.9.5 Day of the Execution – The team leader meets with the victim(s) in a predetermined staging area and accompanies them throughout the process, including a briefing by the Director or the Director's designee. The team provides support and advocacy as appropriate.

3.3.9.6 If the victim(s) is interested in speaking with the media after the execution, the victim(s) is escorted to the media room for brief media availability.

3.3.9.7 Post-Execution - The team leader ensures the victim(s) receives follow-up phone calls and support.

3.3.10 Population Assessment

3.3.10.1 The affected Warden where the inmate is housed:

3.3.10.1.1 Is responsible for the coordination of monitoring and evaluation of inmate activity, to be reported to the Administration Team.

3.3.10.1.2 Continuously monitors and assesses the inmate population for any activity related to the execution or its impact on the prison's operation.

3.4 Intravenous/Medical Team Members (IV/Medical Team)

3.4.1 The IV/Medical Team will consist of any two or more of the following: physician(s), physician assistant(s), nurse(s), emergency medical technician(s) (EMTs), paramedic(s), military corpsman or other certified or licensed personnel including those trained in the United States Military. All team members shall be currently certified or licensed within the United States to place IV lines.

3.4.1.1 One member of the IV/Medical Team will serve as the IV/Medical Team Recorder.

3.4.2 The IV/Medical Team members shall be approved by the Director. Selection of any team member shall include a review of the proposed team member's qualifications, training, experience, and/or any professional license(s) and certification(s) they may hold. Licensing and criminal history reviews shall be conducted by the Inspector General's Office prior to assigning or retaining any IV/Medical Team member and upon the issuance of a Warrant of Execution.

3.4.3 The Director shall designate the IV/Medical Team Leader. The Director or designee shall ensure all team members thoroughly understand all provisions contained herein as written and by practice.

3.4.4 The IV/Medical Team shall be responsible for inserting peripheral IV catheters as determined by the Director acting upon the recommendation of the IV/Medical Team Leader. The IV/Medical Team Leader shall ensure all lines are functioning properly throughout the procedure, perform the mixing of the chemicals, preparing the syringes, and monitoring the inmate (including the level of consciousness and establishing the time of death). The IV/Medical Team shall administer the chemicals.

3.4.5 IV/Medical Team members shall be required to participate in quarterly training sessions, in addition to training sessions scheduled one day prior to the actual execution. IV/Medical Team members may be required to participate in additional training sessions.

3.4.6 Documentation of IV/Medical Team members' qualifications, including training of the team members, shall be maintained by the Director, or designee.

3.5 Media Relations Office

3.5.1 The Media Relations Office shall coordinate the release of information to news media outlets. All Department and contract staff are expressly prohibited from providing information not readily available in the public domain.

3.5.2 The Media Relations Office shall be responsible for:

3.5.2.1 Providing all press releases, media briefings, and any news or noteworthy information related to the execution to the media.

- 3.5.2.2 Organizing and directing a media room on the day of execution wherein members of the media may gather and have access to internet on the day of execution.
- 3.5.2.3 Organizing and directing a media briefing, to be held in the identified media room.
- 3.5.2.4 Providing all necessary paperwork to members of the media chosen as Media Witnesses.
- 3.5.2.5 Providing all necessary paperwork to members of the media chosen as a member of the Media Corps.

3.6 Designation of ADCRR Staff and Others Selected to Assist with the Execution

- 3.6.1 The Administrative Team shall review the current teams' rosters and recommend retention or replacement of staff and alternates.
- 3.6.2 The Administrative Team shall forward final recommendations to the Director for approval.
- 3.6.3 In the selection and retention of section leaders and Housing Unit 9 Team members, the Administrative Team shall consider:
 - 3.6.3.1 Professionalism and employee conduct. No employee who was suspended or demoted, including voluntary demotion, in the past 12 months shall be considered. Any staff currently under investigation is also ineligible.
 - 3.6.3.2 Special consideration may be given to staff with pertinent specialized training and qualifications.
 - 3.6.3.3 Staff with less than two years employment with the Department shall not be considered.
 - 3.6.3.4 No staff serving on any team shall be related to the inmate by blood or marriage or have any other legal relationship with the inmate, their family or the crime victim(s).
- 3.6.4 Staff participation in the execution process is strictly voluntary. No Department employee is required to attend or participate in an execution. Any staff volunteers may withdraw from performing their assigned duties specific to the execution at any time by advising their team leader, advising a team member or advising their immediate chain of command. All staff participating in the execution shall be required to sign a Notice of Execution Involvement, Form 710-8.

4.0 COMMUTATION HEARING PROCEEDINGS

- 4.1 The Arizona Board of Executive Clemency (ABOEC) shall advise the Department of its plans to convene a Commutation Hearing and its date and time. Upon receipt of the notice, the Warden of the prison complex where the inmate is housed shall arrange for a location in which the Commutation Hearing will be held.
 - 4.1.1 If the ABOEC Commutation Hearing is held at the prison, the Department shall:

- 4.1.1.1 Require those in attendance to adhere to dress code as outlined in DO #911, Inmate Visitation.
- 4.1.1.2 Comply with the open meeting laws as it applies to ABOEC hearings pursuant to A.R.S. § 38-431.08.

5.0 DESIGNATION OF WITNESSES BY DIRECTOR

5.1 The Director or designee shall be present during the execution.

5.1.1 The Director shall invite:

- 5.1.1.1 The Arizona Attorney General. A.R.S. § 13-758.
 - 5.1.1.2 Twelve or more reputable citizens, including up to five members of the media.
 - 5.1.1.3 Up to five Media Witnesses selected as representatives, from print/digital, television/streaming, radio/digital audio, and the local market where the crime occurred. These Media Witnesses shall agree to speak to the members of the Media Corps as part of the media briefing.
 - 5.1.1.3.1 All Media Witnesses shall be held to the same standard as all other witnesses.
 - 5.1.1.4 Law Enforcement and prosecutors from the jurisdiction where the crime occurred.
 - 5.1.1.5 Any crime victims and survivors of the crime for which the sentence of death will be imposed, once the Victim Services Team identifies those persons and provides to the Director a list of victim witnesses within 14 days prior to the scheduled execution.
 - 5.1.1.6 In the event that the inmate wishes to designate one or more of their attorneys or other members of their legal team (not to exceed a cumulative three persons) to witness the execution, then the inmate shall identify these witnesses 21 days prior to the execution, and these witnesses shall sign and timely submit a Witness Agreement, Form 710-6, whereupon the Director shall invite these legal witnesses to attend the execution in accordance with Section 11.0, subsection 11.2.1.1.
- 5.1.2 Minors shall not be permitted to witness an execution. A.R.S. § 13-758.
- 5.1.3 All witnesses are subject to a background check. Selection to participate is contingent upon security clearance and Witness Agreement to adhere to the provisions stipulated in the Witness Agreement and Media Witness Agreement, Forms 710-6 and 710-7. The Director shall retain full discretion as to the selection of and any changes in the witnesses selected for each scheduled execution.

6.0 STATE AND LOCAL LAW ENFORCEMENT BRIEFING; SITE CHECKS

6.1 The Office of the Inspector General shall ensure state and local law enforcement is periodically briefed and adequately prepared for the execution.

- 6.2 All of the equipment necessary to the administration of the execution shall be available on site and in good working order including:
 - 6.2.1 Transportation vehicles
 - 6.2.2 Communication devices with inter-operability capability and restricted frequencies
 - 6.2.3 Climate control
 - 6.2.4 Tool control
 - 6.2.5 Safety equipment
 - 6.2.6 Audio/visual equipment
 - 6.2.7 Utility infrastructure
 - 6.2.8 Key control/locking devices
 - 6.2.9 Medical emergency response capability
- 6.3 The Administrative Team shall take all necessary steps to timely rectify deficiencies.

7.0 THIRTY-FIVE DAYS PRIOR TO THE DAY OF EXECUTION – COMPLEX

- 7.1 The Warden or designee of the prison complex where the inmate is housed shall confirm in writing the following steps were completed: *[Revision – December 16, 2025]*
 - 7.1.1 Read the Warrant to the inmate and provide a copy of any forms the inmate will need to fill out.
 - 7.1.2 Outline for the inmate how conditions of confinement will be modified over the next 35 days and briefly describe the relevant aspects of the execution process.
 - 7.1.3 Offer the inmate the opportunity to contact their Attorney of Record by phone and to speak with a facility chaplain.
 - 7.1.4 Obtain the inmate's current height and weight and provide that information to the Administrative Team.
 - 7.1.4.1 The Administrative Team shall provide the current height and weight to the Director or designee.

8.0 THIRTY-FIVE DAYS PRIOR TO THE DAY OF EXECUTION – CENTRAL OFFICE

- 8.1 The Administrative Team:
 - 8.1.1 Identifies and assigns team leaders and members, with documented approval by the Director, and upon approval shall activate the teams.
 - 8.1.2 Confirms preventive maintenance in Housing Unit 9 occurs and that an equipment inventory is completed, and appropriate and timely action is taken.
 - 8.1.3 Activates the training schedule ensuring staff participating in the execution receives adequate training, written instruction and practice, all of which is documented.

8.2 The Healthcare Services Division designee:

- 8.2.1 Directs ADCRR's Healthcare Services staff or Contracted Healthcare Provider (CHP) to conduct a medical records file review to identify any prescribed medication(s) and dosages the inmate is currently or was recently taking. Healthcare Services staff or ADCRR's CHP shall modify prescribed medications as may be necessary.
- 8.2.2 Directs Healthcare Services staff or CHP to dispense all inmate medications in unit doses and when available in liquid form. No medication including over-the-counter medications shall be provided or maintained by the inmate as Keep-on-Person.
- 8.2.3 Ensures Healthcare Services staff or CHP continuously monitors for significant changes in the inmate's medical or mental health and reports findings immediately to the Department's Director and General Counsel.

8.3 The Media Relations Office:

- 8.3.1 Issues a press release announcing the date of the execution.
- 8.3.2 Facilitates up to one non-contact interview with the inmate by phone, per day, with media from the day the Warrant is issued until the day before the sentence of death is imposed excluding weekends and state and federal holidays. No interviews will be permitted within 24 hours of the actual execution. The inmate and Attorney of Record may select among these requests that are submitted to the Media Relations Office and recommend the order in which they occur. The inmate may refuse any or all media requests for interviews.

8.4 The Office of Victim Services:

- 8.4.1 Identifies and advises victims of the crime for which the inmate has been sentenced to death of the issuance of the Warrant of Execution and the scheduled date and time of the execution.

9.0 TWENTY-EIGHT DAYS PRIOR TO THE DAY OF EXECUTION - CENTRAL OFFICE

9.1 The Media Relations Office:

- 9.1.1 Media representatives requesting to witness an execution must submit written requests to the Media Relations Office no later than 28 days prior to the execution. Each request must include their full name, name of their news organization, phone number and email and any information requested to conduct background checks. Only those news organizations that have submitted written requests within the stated time frame shall be considered. *[Revision – December 16, 2025]*

10.0 TWENTY-ONE DAYS PRIOR TO THE DAY OF EXECUTION – CENTRAL OFFICE

10.1 The Media Relations Office:

- 10.1.1 Forwards potential and/or selected Media Witness requests to the Inspector General for background investigation. The Inspector General shall advise the Director of any issues arising from such investigations. *[Revision – December 16, 2025]*

- 10.1.2 Sends Media Witness Agreement forms (Witness Agreement, Form 710-6, and as applicable, Media Witness Agreement, Form 710-7) to selected Media Witnesses who have passed the background investigation and establishes a deadline for the return of all such forms.
- 10.1.3 All selected Media Witnesses shall sign and timely submit a Witness Agreement, Form 710-6, prior to being cleared and added to the witness list.

11.0 FOURTEEN DAYS PRIOR TO THE DAY OF EXECUTION – CENTRAL OFFICE

- 11.1 The Inspector General or designee:
 - 11.1.1 Finalizes arrangements with the Medical Examiner Office for the disposition of the body, security for the Medical Examiner's vehicle and the custodial transfer of the body.
 - 11.1.2 Obtain a body bag and tag from the Medical Examiner's Office.
- 11.2 The Director's Office:
 - 11.2.1 Finalizes a list of all witnesses including legal witnesses, victim witnesses, inmate witnesses, Media Witnesses, and any other witnesses through coordination with the Office of Victim Services and Media Relations Office, for the Director's review and documented approval.
 - 11.2.1.1 Upon documented approval the Director or designee shall prepare a written invitation to each chosen witness. (See Attachment A)
- 11.3 The Media Relations Office:
 - 11.3.1 Issues a press release announcing the date and time of the execution.

12.0 SEVEN DAYS PRIOR TO THE DAY OF EXECUTION – COMPLEX

- 12.1 Transfer the inmate to the single-person cell on Death Row at Browning Unit or the Lumley Unit that has been retrofitted expressly for the purpose of holding the inmate.
 - 12.1.1 Before transferring the inmate into the cell, the inmate shall be strip searched, screened on the body scanner and then issued a new set of clothes and shoes to wear.
 - 12.1.2 The single-person cell shall be thoroughly searched prior to placing the inmate in the cell.
- 12.2 Place the inmate on 24-hour Continuous Observation and post staff to the inmate's cell on an on-going basis to maintain visual contact with the inmate until such time as the inmate is transferred to Housing Unit 9 at ASPC-Eyman.
- 12.3 Establish an Observation Record to chronicle staff's observations of the inmate's activities and behavior until the sentence of death is imposed.
- 12.4 Conditions of Confinement – The ASPC-Eyman or ASPC-Perryville Warden shall:

- 12.4.1 Ensure none of the inmate's personal property is transferred with the inmate, except as provided in this section.
- 12.4.2 Have the inmate's personal property inventoried in their presence before the transfer of cells occurs and then have it boxed, sealed, and removed from the cell. Store the inmate's property pending receipt of written instruction by the inmate regarding disposition of property or otherwise dispose of the property as outlined in Section 2.0.
- 12.4.3 Ensure all remaining property possessed by the inmate in the cell comply with indigent status items; any exceptions must be pre-approved in writing by the Administrative Team. The inmate may retain limited consumable commissary items until the time of the last meal.
- 12.4.4 Allow the inmate to keep in the cell one box each of legal and faith-based materials, a pencil and paper, and a book or periodical.
- 12.4.5 Issue the inmate a new mattress, pillow, and bedding.
- 12.4.6 Provide the inmate necessary hygiene supplies, including a towel and washcloth, and exchange these items on a daily basis.
- 12.4.7 Issue the inmate a clean set of clothing and bedding daily.
- 12.4.8 Ensure all inmate medications are unit-dosed and, when available issued in liquid form, and none of the inmate's medication including over-the-counter medications be dispensed or maintained by the inmate as Keep-on-Person.
 - 12.4.8.1 CHP staff shall deliver the inmate's medication to the single-person cell on Death Row at Browning Unit or the Lumley Unit.
- 12.4.9 Ensure the inmate has access to a Department television set and does not have access to any other appliances.
- 12.4.10 Ensure the inmate has access to their Department-issued tablet, if applicable.
- 12.4.11 Continue to provide outdoor exercise and showers, non-contact visits and phone calls per the current schedule for other Death Row inmates in Browning Unit or the Lumley Unit.
- 12.4.12 Allow other items, if recommended by the Administrative Team and approved by the Director.
- 12.5 Upon a showing of a valid safety or security concern the inmate may be transferred to a single-person cell on Death Row at Browning Unit or the Lumley Unit any time from receipt of a warrant of execution up and until seven days prior to the execution. Sections 12.1 through 12.4.12 remain applicable.
 - 12.5.1 Any request to transfer the inmate prior to seven days before the execution must be made in writing and approved by the Director.

13.0 SEVEN DAYS PRIOR TO THE DAY OF EXECUTION – CENTRAL OFFICE

- 13.1 The Administrative Team:

- 13.1.1 Directs the initiation of the Continuous Observation Log commencing on the seventh day prior to the day of the execution. The log shall follow the inmate from ASPC-Eyman or ASPC-Perryville to Housing Unit 9 and be maintained until the execution occurs or a stay of execution is issued.

14.0 TWO DAYS PRIOR TO THE DAY OF EXECUTION

14.1 The Administrative Team:

- 14.1.1 Schedules and conducts on-site scenario training sessions.
- 14.1.2 Confirms adequate staffing and vehicles are in place for regular operations and the execution.
- 14.1.3 Confirms staff assigned to the Maintenance Response Team (MRT) are scheduled and will be on-site or on call at least eight hours prior to the time scheduled for the imposition of sentence.
- 14.1.4 Restricts access to Housing Unit 9 to those with expressly assigned duties.
- 14.1.5 Readies Housing Unit 9 for the transfer of the inmate.
- 14.1.6 Verifies execution inventory, including the chemicals to be used, and equipment checks are completed and open issues resolved.

15.0 TWENTY-FOUR HOURS PRIOR TO THE DAY OF EXECUTION

15.1 The Administrative Team will ensure:

- 15.1.1 On-site training exercises continue.
- 15.1.2 Final preparation of Housing Unit 9 is completed. Each room receives final evaluation specific to its functions including security, climate control, lighting, sound, sanitation, and that separation screens and appropriate restraints are at the ready.
- 15.1.3 Detailed staff briefings are provided.
- 15.1.4 The ASPC-Eyman or ASPC-Perryville Warden provides the inmate their last meal by 1900 hours. Every reasonable effort to accommodate the last meal request will have been made. All eating utensils and remaining food and beverage shall be removed upon completion of the meal, no later than 2100 hours.
- 15.1.5 The ASPC-Eyman or ASPC-Perryville Warden allows non-contact visits and phone calls until 2100 hours, at which time they are to be concluded.
 - 15.1.5.1 The inmate's communication privileges shall be terminated at 2100 hours the day prior to the execution, excluding calls from the inmate's Attorney of Record and others as approved by the Administrative Team.
 - 15.1.5.2 The inmate's visitation privileges shall be terminated at 2100 hours the day prior to the execution. The inmate will be permitted two hours of in-person visitation with no more than two Attorneys of Record, concluding one hour prior to the scheduled execution.

15.1.6 The inmate may be offered a mild sedative.

15.1.7 The inmate is prepared for transfer to Housing Unit 9 by the prescribed means.

16.0 TWELVE HOURS PRIOR TO AND THROUGH THE EXECUTION

16.1 Restricting Access to Institution Property – During the final 12 hours prior to the execution, access to ASPC-Eyman or ASPC-Perryville is limited to:

16.1.1 On-duty personnel.

16.1.2 On-duty contract workers.

16.1.3 Volunteers deemed necessary by the Wardens.

16.1.4 Approved delivery vehicles.

16.1.5 Law enforcement personnel on business-related matters.

16.1.6 Restrictions to these facilities shall remain in effect until normal operations resume, at the direction of the Administrative Team, after the execution or a stay of execution is issued.

16.2 Transfer of the inmate from Browning Unit or Lumley Unit to Housing Unit 9

16.2.1 At the direction of the Administrative Team:

16.2.1.1 The inmate shall be secured and transferred by the Restraint Team per the prescribed means at least five hours prior to the execution.

16.2.1.2 The Restraint Team shall take custody of the inmate and the Observation Log. Staff shall assume maintenance of the log until the execution is completed or a stay of execution is issued.

16.2.1.3 Upon the inmate's arrival, the inmate may be offered a mild sedative.

16.2.1.4 No later than five hours prior to the execution, the inmate shall be offered a light meal. All eating utensils and remaining food shall be removed upon completion of the meal.

16.2.2 These time frames may be adjusted, with the approval of the Administrative Team, as necessary in the event of a stay of execution or other exigencies.

16.3 Housing Unit 9 Conditions of Confinement

16.3.1 The inmate shall remain on Continuous Watch upon transfer to Housing Unit 9. Staff shall record observations and make entries in the Observation Record during the final five hours in hours and minutes.

16.3.2 The inmate shall be issued one pair each of pants, undergarments and socks, and a shirt on the morning of the execution.

16.3.3 The cell shall be furnished with a mattress, pillow and pillowcase, one each top and bottom sheet, a blanket, a washcloth and towel, and toilet paper.

- 16.3.4 The inmate may have a pencil and paper, faith-based items, a book or periodical and necessary hygiene supplies (liquid soap, toothpaste) and a toothbrush and comb. Female inmates shall be provided feminine hygiene, as necessary. These items may be made available only for the duration of the use and shall be removed immediately thereafter. Any other requested property shall require approval by the Administrative Team, and shall be documented.

16.4 Additional Operations Requirements

- 16.4.1 Witness Escort Teams shall process, transport, and remain with pre-approved witnesses, including inmate witnesses, legal witnesses, Media Witnesses, and victim(s) witnesses through the conclusion of the execution and their return to designated staging areas per prescribed means.

- 16.4.1.1 Other than inmate witnesses and legal witnesses, which may be combined, teams shall ensure each witness group is separated from the other witness groups at all times, to the greatest extent possible.

- 16.4.2 Witness Escort Teams shall provide a brief overview of the execution for all witnesses. Witness Escort Teams shall advise witnesses that the curtains in the execution chamber may be drawn prior to the conclusion of the execution in the event of a legitimate penological objective which would merit such closure and then reopened when the execution resumes, and that an IV/Medical Team member will enter into the chamber and physically manipulate the inmate to check consciousness. The brief overview shall also include information on what a particular witness group may or may not bring into Housing Unit 9 along with pertinent safety information about Housing Unit 9.

- 16.4.2.1 In the event the inmate has designated an attorney to witness the execution, temporary office space will be provided for the inmate's counsel in a designated location during the scheduled day of execution. One attorney and two additional members of the legal team may be permitted to remain in the office space during the execution. The inmate's legal team will be permitted to bring into the temporary office space one mobile phone, one tablet, and one laptop. One member of the inmate's legal team will be permitted to bring one ADCRR-provided notepad and one ADCRR-provided writing utensil into HU9. While the attorney witness is in the witness room, a member of the Witness Escort Team shall hold one Department-issued mobile phone, to be made available to the attorney in exigent circumstances. The mobile phone may not be used inside the witness room. *[Revision – December 16, 2025]*

- 16.4.3 Upon the direction of the Director to proceed:

- 16.4.3.1 The IV/Medical Team shall enter the holding cell to medically assess the inmate.

- 16.4.3.2 Once the IV/Medical Team has completed their medical assessment of the inmate, the Administrative Team Leader shall direct the Housing Unit 9 Section Leader to prepare the inmate for escort into the execution chamber.

- 16.4.3.3 Prior to moving the inmate from the holding cell to the execution table, the Director shall confer with the Attorney General or designee and the Governor or designee to confirm there is no legal impediment to proceeding with the lawful execution.
- 16.4.3.4 When the inmate is secured on the execution table by the team and readied by the IV/Medical Team, the Administrative Team Leader shall advise the Director.
- 16.4.3.5 The Director shall reconfirm with the Attorney General or designee and the Governor or designee that there is no legal impediment to proceeding. Upon oral confirmation that there is no legal impediment to proceeding with the execution, the Director may order the Administrative Team Leader to proceed with the execution.
 - 16.4.3.5.1 If there is a legal impediment the Director shall instruct the Administrative Team Leader to stop, and to notify the inmate and witnesses that the execution has been stayed or delayed. The Administrative Team shall also notify the Witness Coordination Team Leader to notify the Media Relations staff who shall advise the media in the media room.
- 16.4.3.6 The Housing Unit 9 Section Leader shall read aloud a summary of the Warrant of Execution. The Housing Unit 9 Section Leader shall ask the inmate if they wish to make a last statement. The microphone will remain on during the last statement. It will be turned off in the event the inmate uses vulgarity or makes intentionally offensive statements. If the microphone is turned off, it will be turned back on immediately after the completion of the last statement.
- 16.4.3.7 The Director shall instruct the IV/Medical Team to initiate disbursement of chemicals by the prescribed means.
- 16.4.4 Pronouncement and Documentation of Death
 - 16.4.4.1 Upon completion of the execution process, the IV/Medical Team will confirm death and notify the Director. The Housing Unit 9 Section Leader shall announce that the sentence of death has been carried out as ordered by the court and the execution has been completed.
 - 16.4.4.2 Pursuant to A.R.S. § 13-759(B), upon the execution of a sentence of death, the Director or designee shall return the death warrant to the court which pronounced the sentence and the Arizona Supreme Court, showing the time, mode, and manner in which it was executed. (See Attachments B and C)
 - 16.4.4.3 In coordination with the Office of the Inspector General, the Medical Examiner or their designee shall take custody of the body and issue a Certificate of Death.

- 16.5 Stay of Execution – Upon receipt of notification that a court has issued a Stay of Execution; the Director shall consult with the Attorney General’s Office and advise the Administrative Team.

- 16.5.1 Upon receipt of notification, the Housing Unit 9 Section Leader shall:

16.5.1.1 Advise the witnesses a Stay of Execution has been issued.

16.5.1.2 Following consultation with the Director, direct that the IV lines be removed by the IV/Medical Team, if applicable, and direct the Restraint Team to return the inmate to the holding cell.

- 16.5.2 The Administrative Team shall inform the following teams of the Stay of Execution:

16.5.2.1 Traffic Control Team Leader

16.5.2.2 Population Assessment

16.5.2.3 ESU Team Leader

16.5.2.4 Media Relations Director

16.5.2.5 Victim Services Team Leader

16.5.2.6 Witness Escort Team Leader

- 16.5.3 The Traffic Control Team Leader shall notify the Protest Team of the issuance of the Stay of Execution.

- 16.5.4 The Witness Escort Team shall commence escorting witness groups from Housing Unit 9 as set forth herein.

- 16.5.5 Upon the Administrative Team’s instruction, the inmate shall be transported from Housing Unit 9 back to Death Row at Browning Unit or Lumley Unit and their personal possessions returned. Following the transport, the inmate will be permitted to consult with the inmate’s attorney(s) upon request.

17.0 POST-EXECUTION

- 17.1 Post-Execution Procedures

17.1.1 Upon the pronouncement of death, the Director shall notify the Governor or designee and the Attorney General or designee via telephone that the sentence has been carried out and the time of death.

17.1.2 A Criminal Investigations Unit Investigator and the Medical Examiner or their designee(s) will take photos of the inmate’s body.

17.1.2.1 While in restraints prior to being placed in the body bag,

17.1.2.2 Without restraints prior to being placed in the body bag,

17.1.2.3 Sealed in the body bag, and

17.1.2.4 A photo of the seal in place on the bag.

- 17.1.3 The inmate's body will be placed on a Medical Examiner's gurney and released into the custody of a Medical Examiner's Office.
- 17.1.4 Once the inmate's body is placed in a Medical Examiner's transport vehicle, it will be escorted off the premises. The Medical Examiner's transport vehicle will take the inmate's body to the Medical Examiner's Office designated by the county.
- 17.2 Removing Witnesses from Housing Unit 9
 - 17.2.1 After the pronouncement of death, witnesses shall be escorted in the prescribed order from the facility by the Witness Escort Team.
 - 17.2.1.1 Each group of witnesses will continue to be kept separate from the other groups at all times.
 - 17.2.1.2 Media Witnesses will return to the media staging area, prior to returning to the media room to participate in the media briefing.
 - 17.2.1.3 Victim witnesses planning to attend the media briefing will return to their staging area, prior to returning to the media room to participate in the media briefing.
 - 17.2.2 Media may remain on site in a designated location outside the secure perimeter for a limited time to complete live broadcasts.
- 17.3 Debriefing
 - 17.3.1 Immediately following the execution, the Administrative Team will conduct a debriefing with the team members involved in the execution.
- 17.4 Site Clean Up
 - 17.4.1 At the direction of the Administrative Team, the Maintenance Response Team will ensure Housing Unit 9 is cleaned and secured.
 - 17.4.2 Institutional staff trained in infectious diseases preventive practices will utilize appropriate precautions in cleaning Housing Unit 9.
- 17.5 Normal Operations
 - 17.5.1 Department personnel shall be deactivated at the direction of the Administrative Team.
- 17.6 Post-Execution Review
 - 17.6.1 Within 14 days of the execution, a full review of the execution will be initiated. This includes a review of training and preparation activities, day-of execution procedures and documentation, and necessary process revisions. The Post-Execution Review must be documented in a report, and will include, at a minimum, the following:
 - 17.6.1.1 Director
 - 17.6.1.2 General Counsel
 - 17.6.1.3 Inspector General

17.6.1.4 Administrative Team

17.6.1.5 Housing Unit 9 Section Leader

17.7 Execution Documentation

- 17.7.1 The Administrative Team shall be responsible for gathering all documents pertaining to the execution and forwarding to the Department's General Counsel for archive. The General Counsel shall maintain the official record of the execution.

18.0 PROCEDURES FOR NEWS MEDIA

- 18.1 Reasonable efforts will be made to accommodate representatives of the news media before, during, and after a scheduled execution. However, the Department reserves the right to regulate media access to ensure the orderly and safe operations of its prisons.
- 18.2 The Media Relations Office shall provide the news media with regular briefings or updates if new or noteworthy events transpire.
- 18.3 News Media Attendance
- 18.3.1 Members of the media may be invited as either Media Witnesses or Media Corps reporters.
- 18.3.1.1 Media Witnesses refers to the individual(s) who have requested and been selected to witness an execution and following the execution they shall agree to speak to the Media Corps as part of the media briefing to share their remarks, observations and answer questions in front of the Media Corps prior to the filing or reporting their story.
- 18.3.1.2 Media Corps reporters refers to a group of journalist, reporters, and media representatives who are collectively working on reporting on a specific subject, location or person.
- 18.3.2 Media Witnesses invited to witness the execution are expected to provide an accounting of the execution to the Media Corps reporters gathered in the media room for the media briefing.
- 18.3.3 Approved members of the Media Corps will be invited to the media room prior to and during the execution, in order to report out the statements made by Media Witnesses and other appropriate witnesses during the media briefing.
- 18.4 Media Orientation and Releases – The Media Relations Office shall provide and work with members of the media (those identified as Media Witnesses and those identified as Media Corps) with all necessary forms to ensure approval and general information regarding date, time, and location of the media room and media briefing to check in for reporting on the execution.
- 18.4.1 The Media Relations Office will inform the media if they have been selected as Media Witnesses and will advise those chosen of the witness procedures.
- 18.4.2 Those selected as Media Witnesses shall be required to complete and sign a Media Witness Agreement, Form 710-7, in addition to the Witness Agreement, Form 710-6, prior to the execution.

18.5 Media Room Operations

- 18.5.1 All members of the media who have been approved to be onsite on the day of the execution, either as a Media Witness or as a member of the Media Corps will report to the media room.
- 18.5.2 When it is time for Media Witnesses to move from the media room to the execution viewing area, they will be escorted. The movement process may include a short stay in a Media Witness staging area. When the execution is over, the Media Witnesses will be escorted back to the media room, and the movement process after the execution may include a short stay in the Media Witness staging area.
- 18.5.3 Members of the Media Corps will stay in the media room throughout the execution.
- 18.5.4 The Media Relations Office will commence the media briefing after the execution. The start time will be dependent on witnesses, including any from the families of the victims.
- 18.5.5 Media Witnesses will provide their remarks, observations, and answer questions in front of and to the Media Corps prior to filing or reporting their story.

18.6 Briefing Packets and Updates

- 18.6.1 The Media Relations Office shall provide media briefing packets.
- 18.6.2 A brief summary of the inmate's activities during the final 24 hours, activities related to the execution and sequence of events, may be provided.

18.7 Media Witness Selection

- 18.7.1 No more than five members of the media may be selected to witness the execution as witnesses. Media Witnesses will be selected from among any of the following mediums. Selected Media Witnesses shall agree to speak to the Media Corps as part of the media briefing:
 - 18.7.1.1 Print/Digital Print
 - 18.7.1.2 Radio/Digital Audio
 - 18.7.1.3 Television/Streaming
 - 18.7.1.4 Local media representative in the market where the crime was committed
- 18.7.2 Media is held to the same standards for conduct as are all other witnesses.
- 18.7.3 The Administrative Team may exclude any Media Witness at any time if the Media Witness fails to abide by the provisions of the Witness Agreement and Media Witness Agreement (Forms 710-6 and 710-7).
- 18.7.4 Media Witnesses are not permitted to bring unauthorized items into Housing Unit 9. Unauthorized items include:
 - 18.7.4.1 Electronic or mechanical recording devices

18.7.4.2 Still, moving picture or video tape cameras

18.7.4.3 Smart devices or cell phones

18.7.4.4 Broadcasting or streaming devices

18.7.5 Each Media Witness shall be provided a tablet of paper and a pencil or pen to take notes from the time they complete security screening until they are returned to the media room after the conclusion of the execution.

IMPLEMENTATION

The ASPC-Eyman and ASPC-Perryville Wardens shall maintain Post Order #10, Execution Watch Security Officer, delineating post-specific responsibilities.

ATTACHMENTS

Attachment A - Letter of Invitation to Witness an Execution

Attachment B - Return of Warrant Notification - Supreme Court

Attachment C - Return of Warrant Notification - Superior Court

Attachment D - Preparation and Administration of Chemicals

Attachment E – Lethal Gas

FORMS LIST

105-6, Correctional Service Log

710-1, Method of Execution

710-2, Inmate Witness Information

710-3, Disposition of Remains

710-4, Authorized Witnesses for Execution Log (A, B and C)

710-5, Last Meal Request

710-6, Witness Agreement

710-7, Media Witness Agreement

710-8, Notice of Execution Involvement

711-1, Notification in Case of Accident, Serious Illness or Death and Disposition of Property

RELATED POLICIES

DO #201, Legal Services - Records Release

DO #711, Notification of Inmate Hospitalization or Death

DO #911, Inmate Visitation

AUTHORITY

A.R.S. § 1-215(29), Definitions

A.R.S. § 13-105(30), Definitions

A.R.S. § 13-757(B), Methods of Infliction of Sentence of Death

A.R.S. § 13-757(C), Identity of Executioners

A.R.S. § 13-758, Persons Present at Execution of Sentence of Death; Limitations

A.R.S. § 13-759(B), Return Upon Death Warrant

A.R.S. § 13-4021 through 13-4026, Insanity or Pregnancy of Persons under Death Sentence
Arizona Rules of Criminal Procedure, Rule 31.23(c)(3), Date and Time of Execution; Notification to Supreme Court

Document received by the TN Supreme Court.

ATTACHMENT A

SAMPLE - LETTER OF INVITATION TO WITNESS AN EXECUTION

Date

Name

Mailing address

Mailing address

Dear _____

Thank you for expressing interest in serving as a witness.

Please be advised that you are selected to witness the execution of _____
[name] _____ [number], on _____ [date] at _____ [time] subject to the conditions stipulated
in this correspondence.

All witnesses are required to complete the *Witness Agreement* form and return it to the Media Relations Office of the Arizona Department of Corrections, Rehabilitation and Reentry no later than _____ [date] by fax, mail, hand delivery, or as an email attachment.

Please promptly respond to this letter for any requested ADA accommodations.

Failure to fully complete and return on time the required forms with receipt by the Department before 5:00 P.M. on _____ [date], will result in your removal from the list of approved witnesses.

For additional information and to confirm receipt of your materials, you are welcome to contact the Media Relations Office by phone at (602) 542-3133, by fax at (602) 542-2859 or e-mail at MEDIA@azadc.gov.

Sincerely,

Communications Director

Applicable Attachments:

___ *Witness Agreement form*

___ *Media Witness Agreement form*

Document received by the TN Supreme Court.

ATTACHMENT B

SAMPLE - RETURN OF WARRANT NOTIFICATION

Supreme Court

DATE:

The Honorable
Chief Justice of the Supreme Court of Arizona
402 Arizona State Courts Building
1501 West Washington Street
Phoenix, Arizona 85007-3329

RE: Return of Warrant of Execution

State vs.

Supreme Court Number:

County Number:

Chief Justice:

This is to advise you that in accordance with the Warrant of Execution, Supreme Court Number, and pursuant to A.R.S. § 13-759(B), the imposition of the sentence of death of _____ was carried out at the Arizona State Prison Complex-Florence on _____ [date], at _____ A.M./P.M.

The mode and manner of the death was by lethal _____.

Sincerely,

Ryan Thornell, Ph.D
Director
Arizona Department of Corrections, Rehabilitation and Reentry

Document received by the TN Supreme Court.

ATTACHMENT C

SAMPLE - RETURN OF WARRANT NOTIFICATION

Superior Court

DATE:

The Honorable
Presiding Judge
Superior Court of Arizona
In County
_____, Arizona

RE: Return of Warrant of Execution

State vs.

Supreme Court Number:

County Number:

Judge _____:

This is to advise you that in accordance with the Warrant of Execution, Supreme Court Number, and pursuant to A.R.S. § 13-759(B), the imposition of the sentence of death of _____ was carried out at the Arizona State Prison Complex-Florence on _____ [date], at _____ A.M./P.M.

The mode and manner of the death was by lethal _____.

Sincerely,

Ryan Thornell, Ph.D
Director
Arizona Department of Corrections, Rehabilitation and Reentry

Document received by the TN Supreme Court.

ATTACHMENT D

PREPARATION AND ADMINISTRATION OF CHEMICALS

A. Obtaining Chemicals and Equipment

1. Upon receipt of the Warrant of Execution, the Administrative Team shall:
 - I. Confirm the equipment for the procedure and ensure all equipment necessary to properly conduct the procedure is on site, immediately available for use and functioning properly.
 - II. In consultation with appropriate personnel, ensure all medical equipment, including an ultrasound machine for assistance with venous access and a backup electrocardiograph is on site, immediately available for use and functioning/calibrated properly.
 - III. In consultation with appropriate personnel, ensure that complete sets of chemicals are on site, not expired, and immediately available for use. ADCRR will only use chemicals in an execution that have an expiration or beyond-use date that is after the date that an execution is carried out. If the chemical's expiration or beyond-use date states only a month and year (e.g., "June 2027"), then ADCRR will not use that chemical after the last day of the month specified.
2. Upon receipt of the Warrant of Execution, the Director's Office shall ensure the chemicals are ordered, arrive as scheduled and are properly stored. The chemicals shall be stored in a secured, locked area that is temperature regulated and monitored to ensure compliance with manufacturer specifications, under the direct control of the Housing Unit 9 Section Leader.

B. Preparation of Chemicals

1. Prior to the preparation of the chemicals, the Director shall verify the chemicals to be used, the quantity and the expiration date.
2. At the appropriate time, the Director's Office shall transfer custody of the chemicals to the IV/Medical Team to begin the chemical(s) and syringe preparation in the chemical room, under the direct supervision by the IV/Medical Team Leader.
3. The IV/Medical Team Leader will assign a team member(s) to assist preparing each chemical and the corresponding syringe. The IV/Medical Team Leader will supervise the process. The IV/Medical Team Leader shall prepare the designated chemical(s) and syringes as follows:
 - One-drug protocol - One full set of syringes is used in the implementation of the death sentence (Bank "A") and an additional complete set of the necessary chemicals shall be obtained and kept available in the chemical room, but need not be drawn into syringes unless the primary dosages prove to be insufficient for successful completion of the execution.
4. The IV/Medical Team Leader shall be responsible for preparing and labeling the assigned sterile syringes in a distinctive manner identifying the specific chemical contained in each syringe by i) assigned number, ii) chemical name, iii) chemical amount and iv) the designated color, as set forth in the chemical charts below. This information shall be preprinted on a label, with one label affixed to each syringe to ensure the label remains visible.

Document received by the TN Supreme Court.

C. Chemical Charts; Choice of Protocol

- Charts for all chemical protocols follow. The Director shall have the sole discretion as to which drug protocol will be used for the scheduled execution. This decision will be provided to the inmate and their counsel of record in writing at the time the state files a request for Warrant of Execution in the Arizona Supreme Court. If the Department is able to obtain the chemical pentobarbital in sufficient quantity and quality to successfully implement the one-drug protocol with pentobarbital set forth in Chart A, then the Director shall use the one-drug protocol with pentobarbital set forth in Chart A as the drug protocol for execution. If the Department is unable to obtain such pentobarbital, but is able to obtain the chemical sodium pentothal in sufficient quantity and quality to successfully implement the one-drug protocol with sodium pentothal set forth in Chart B, then the Director shall use the one-drug protocol with sodium pentothal set forth in Chart B as the drug protocol for execution.
- A quantitative analysis of any compounded or non-compounded chemical to be used in the execution shall be provided upon request within 10 calendar days after the state seeks a Warrant of Execution. The decision to use a compounded or non-compounded chemical will be provided to the inmate and their counsel of record in writing at the time the state files a request for Warrant of Execution in the Arizona Supreme Court.

CHART A: ONE-DRUG PROTOCOL WITH PENTOBARBITAL

CHEMICAL CHART	
Syringe No.	Label
1A	20mL Sterile Saline Solution, BLACK
2A	2.5gm Pentobarbital, GREEN
3A	2.5gm Pentobarbital, GREEN
4A	20mL Sterile Saline Solution, BLACK

- Syringes 2A, and 3A, will have a dose of 2.5 grams (gm) of Pentobarbital for a total of 5 grams. Each syringe containing Pentobarbital shall have a **GREEN** label which contains the name of chemical, chemical amount and the designated syringe number.
- Syringes 1A, and 4A, each contain 20 milliliters (mL) of a sterile saline solution, and shall have a **BLACK** label which contains the name of the chemical, chemical amount and the designated syringe number.

CHART B: ONE-DRUG PROTOCOL WITH SODIUM PENTOTHAL

Syringe No.	Label
1A	20mL Sterile Saline Solution, BLACK
2A	1.25gm Sodium Pentothal, GREEN
3A	1.25gm Sodium Pentothal, GREEN
4A	1.25gm Sodium Pentothal, GREEN
5A	1.25gm Sodium Pentothal, GREEN
6A	20mL Sterile Saline Solution, BLACK

- Syringes 2A, 3A, 4A, 5A, each contain 1.25gm/50mL of Sodium Pentothal / 1 in 50mL of sterile water in four 50mL syringes for a total dose of 5 grams of Sodium Pentothal. Each syringe containing Sodium Pentothal shall have a **GREEN** label which contains the name of chemical, chemical amount and the designated syringe number.
- Syringes 1A, and 6A, each contain 20mL of a sterile saline solution, and shall have a **BLACK** label which contains the name of the chemical, chemical amount and the designated syringe number.

3. After the IV/Medical Team prepares all required syringes with the proper chemicals and labels as provided in the Chemical Chart, the IV/Medical Team shall attach one complete set of the prepared and labeled syringes to the 2-Gang, 2-Way Manifold in the order in which the chemical(s) are to be administered. The syringes will be attached to the 2-Gang, 2-Way Manifold in a manner to ensure there is no crowding, with each syringe resting in its corresponding place in the shadow board which is labeled with the name of the chemical, color, chemical amount and the designated syringe number.
4. The syringes shall be affixed in such a manner to ensure the syringe labels are clearly visible. Prior to attaching the syringes to the 2-Gang, 2-Way Manifold, the flow of each gauge on the manifold shall be checked by the IV/Medical Team Leader running the sterile saline solution through the line to confirm there is no obstruction.
5. After all syringes are prepared and affixed to the 2-Gang, 2-Way Manifold in proper order, the IV/Medical Team Leader shall confirm that all syringes are properly labeled and attached to the manifold in the order in which the chemicals are to be administered as designated by the Chemical Chart. Each chemical shall be administered in the predetermined order in which the syringes are affixed to the manifold.
6. The quantities and types of chemicals prepared and administered as set forth in this DO may not be changed in any manner without prior documented approval of the Director and publication of an amended DO. The Director's discretion with regard to the quantities and types of chemicals is otherwise limited to what is expressly set forth in this DO. If, after a Warrant of Execution has been issued, the Director determines that it is necessary to change the quantities or types of chemicals to be used in the impending execution, then the Director shall immediately notify the inmate and the inmate's counsel in writing, shall withdraw the existing Warrant of Execution, and shall apply for a new Warrant of Execution.
7. All prepared chemicals shall be utilized or properly disposed of in a timely manner after the time designated for the execution to occur.
8. The chemical amounts as set forth in the Chemical Chart are designated for the execution of persons weighing 500 pounds or less. The chemical amounts will be reviewed and may be revised as necessary for an inmate exceeding this body weight.
9. The Recorder is responsible for completing the Correctional Service Log, Form 105-6. The Recorder shall document on the form the amount of each chemical administered and confirm that it was administered in the order set forth in the Chemical Chart. Any deviation from the written procedure shall be noted and explained on the form.

D. Movement and Monitoring of Inmate

1. Prior to moving the inmate from the holding cell to the execution table, the Director will confer with the Attorney General or designee and the Governor or designee to confirm there is no legal impediment to proceeding with the lawful execution and there are no motions pending before a court which may stay further proceedings.

2. The inmate may be offered a mild sedative through the Contracted Healthcare Provider (CHP) based on the inmate's need. The sedative shall be provided to the inmate no later than four hours prior to the execution, unless it is determined medically necessary. The offer of the mild sedative, the inmate's decision, and the administration of the sedative, if chosen, shall be documented in the watch log.
 - a. Time and dosage of the sedative shall be provided to the IV/Medical Team through the Director or designee.
3. At the designated time, the overhead microphone will be turned on and shall be left on until the completion of the execution, and the inmate will be brought into the execution room and secured on the table by the prescribed means with the inmate's arms positioned at an angle away from the inmate's side. Existing closed-circuit monitors will allow witnesses in the designated witness room to observe this process.
4. The inmate will be positioned to enable the IV/Medical Team Leader and the Housing Unit 9 Section Leader to directly observe the inmate and to monitor the inmate's face with the aid of a high-resolution color camera and a high-resolution color monitor.
5. After the inmate has been secured to the execution table, the Restraint Team Leader shall personally check the restraints which secure the inmate to the table to ensure they are not so restrictive as to impede the inmate's circulation, yet sufficient to prevent the inmate from manipulating the catheter and IV lines.
6. A microphone is outfitted in the execution room. The Administrative Team Leader will confirm that the microphone is functioning properly, and that the inmate can be heard in the chemical room and in the witness room. In the event the microphone in the execution room is not functioning as intended, a microphone will be affixed to the inmate's shirt and shall be left on until the completion of the execution, to enable the persons in the witness room and the IV/Medical Team to hear any utterances or noises made by the inmate throughout the procedure. The Administrative Team Leader will confirm the microphone is functioning properly, and that the inmate can be heard in the chemical room and in the witness room.
7. The IV/Medical Team members will attach the leads from the electrocardiograph to the inmate's chest once the inmate is secured. The IV/Medical Team Leader shall confirm that the electrocardiograph is functioning properly and that the proper graph paper is used. A backup electrocardiograph shall be on site and readily available if necessary. Prior to the day of, and on the day of the execution both electrocardiograph instruments shall be checked to confirm they are functioning properly and calibrated.
8. An IV/Medical Team member shall be assigned to monitor the EKG and mark the EKG graph paper at the commencement and completion of the administration of the lethal chemical(s).
9. Throughout the procedure, the IV/Medical Team Leader shall monitor the inmate's level of consciousness and electrocardiograph readings utilizing direct observation, audio equipment, camera and monitor as well as any other medically approved method(s) deemed necessary by the IV/Medical Team Leader. The IV/Medical Team Leader shall be responsible for monitoring the inmate's level of consciousness.
10. Existing closed-circuit monitors will allow witnesses in the designated witness room to observe the IV/Medical Team's vein assessment and placement of IV catheters in the inmate. In addition, the audio feed from the overhead microphone and from the microphone affixed to the inmate's shirt shall remain on until the completion of the execution.

11. A camera will be focused on the area in the chemical room in which syringes are injected into the IV line, and existing closed-circuit monitors will allow witnesses in the designated witness room to observe the administration of the lethal injection drug(s), including the administration of additional or subsequent doses of the drug(s). All cameras and monitors shall be placed in such a manner so as to ensure and preserve at all times the anonymity of all personnel involved in the execution process.

E. Intravenous Lines

1. The IV/Medical Team Leader will determine the best sites to insert a primary IV catheter and a backup IV catheter in two separate locations in the peripheral veins utilizing appropriate medical procedures and will present that information to the Director. The Director acting upon the advice of the IV/Medical Team Leader shall determine the catheter sites.
2. The IV/Medical Team members shall insert a primary IV catheter and a backup IV catheter. To ensure proper insertion in the vein, the assigned IV/Medical Team members should watch for the flashback of blood at the catheter hub in compliance with medical procedures.
3. The IV/Medical Team Leader shall ensure the catheters are properly secured and properly connected to the IV lines and out of reach of the inmate's hands. A flow of sterile saline solution shall be started in each line and administered at a slow rate to keep the lines open.
4. The primary IV catheter will be used to administer the lethal chemical(s) and the backup catheter will be reserved in the event of the failure of the first line. Any failure of a venous access line shall be immediately reported to the Director.
5. The IV catheter in use shall remain visible to the Housing Unit 9 Section Leader throughout the procedure.
6. The Housing Unit 9 Section Leader shall physically remain in the room with the inmate throughout the administration of the lethal chemical(s) in a position sufficient to clearly observe the inmate and the primary and backup IV sites for any potential problems and shall immediately notify the IV/Medical Team Leader and Director should any issue occur. Upon receipt of such notification, the Director may stop the proceedings and take all steps necessary in consultation with the IV/Medical Team Leader prior to proceeding further with the execution.
7. Should the use of the backup IV catheter be determined to be necessary, a set of backup chemicals should be administered in the backup IV.

F. Administration of Chemicals – One-Drug Protocol

1. At the time the execution is to commence and prior to administering the lethal chemical, the Director will reconfirm with the Attorney General or designee and the Governor or designee that there is no legal impediment to proceeding with the execution. Upon receipt of oral confirmation that there is no legal impediment, the Director will order the administration of the chemical to begin.
2. Upon receipt of the Director's order and under observation of the IV/Medical Team Leader, the IV/Medical Team Leader will instruct the assigned IV/Medical Team member(s) to begin dispensing the chemicals under the chosen drug protocol.
 - a. Pentobarbital - Upon direction from the IV/Medical Team Leader, the assigned IV/Medical Team member will visually and orally confirm the chemical name on the syringe and then administer the first syringe of the sterile saline solution (syringe 1A), followed by the full dose of the lethal chemical (syringes 2A and 3A) immediately followed by the sterile saline solution flush (syringe 4A).

- b. Sodium Pentothal - Upon direction from the IV/Medical Team Leader, the assigned IV/Medical Team member will visually and orally confirm the chemical name on the syringe and then administer the first syringe of the sterile saline solution (syringe 1A), followed by the full dose of the lethal chemical (syringes 2A, 3A, 4A, 5A) immediately followed by the sterile saline solution flush (syringe 6A).
3. Upon direction from the IV/Medical Team Leader, the assigned IV/Medical Team member will visually and orally confirm the chemical name on the syringe and then administer the first syringe of the sterile saline solution, followed by the full dose of the lethal chemical immediately followed by the sterile saline solution flush.
4. When three minutes has elapsed since completing the administration of the lethal chemical, the IV/Medical Team Leader, dressed in a manner to preserve their anonymity, will enter into the room where the Housing Unit 9 Section Leader and inmate are located to physically confirm the inmate is unconscious by using all necessary medically appropriate methods, and verbally advise the Director of the same. The IV/Medical Team Leader will also confirm that the IV line remains affixed and functioning properly.
5. If, after three minutes, the inmate remains conscious, the IV/Medical Team shall communicate this information to the Director, along with all IV/Medical Team input. The Director will determine how to proceed or, if necessary, to start the procedure over at a later time or stand down. The Director may direct the curtains to the witness viewing room be closed, and, if necessary, for witnesses to be removed from the facility, only in the event of a legitimate penological objective which would merit such closure and/or removal.
6. If deemed appropriate, the Director may instruct the IV/Medical Team to administer an additional dose of the lethal chemical followed by the sterile saline solution flush. This may be administered via the primary or backup IV catheter, as determined following consultation with the IV/Medical Team.
7. Upon administering the lethal chemical and sterile saline solution from a backup set, the IV/Medical Team shall determine whether the inmate is unconscious by sight and sound, utilizing the audio equipment, camera and monitor. The IV/Medical Team Leader will again physically determine whether the inmate is unconscious using proper medical procedures and verbally advise the Director of the same.
8. When all electrical activity of the heart has ceased as shown by the electrocardiograph, the IV/Medical Team Leader will confirm the inmate is deceased and the inmate's death shall be announced by the Director.
9. The Recorder shall document on the Correctional Services Log the start and end times of the administration of the lethal chemical.
10. Throughout the entire procedure, the IV/Medical Team members and the Housing Unit 9 Section Leader shall continually monitor the inmate using all available means to ensure that the inmate remains unconscious and that there are no complications.
11. The curtains to the witness room will be closed and the closed-circuit monitors will be turned off following the pronouncement of death.

G. Contingency Procedure

1. An Automated External Defibrillator (AED) will be readily available on site in the event that the inmate goes into cardiac arrest at any time prior to dispensing the chemicals; trained medical staff shall make every effort to revive the inmate should this occur.

2. Trained medical personnel and emergency transportation, neither of which is involved in the execution process, shall be available in proximity to respond to the inmate should any medical emergency arise at any time before the order to proceed with the execution is issued by the Director.
3. If at any point any team member determines that any part of the execution process is not going according to procedure, they shall advise the IV/Medical Team Leader who shall immediately notify the Director. The Director may consult with persons deemed appropriate and will determine to go forward with the procedure, limited to the option provided in Attachment D, §F(6), or to stand down. If the Director determines to stand down, then trained medical staff shall make every reasonable effort to revive the inmate.
4. There shall be no deviation from the procedures as set forth herein, except as expressly allowed herein. There shall be no deviation from the procedures as set forth herein without prior consent from the Director. Although such consent may be verbal or in writing, the Director must memorialize and maintain a written record of having granted any deviations, which record must include a detailed description of the deviation, the basis for the deviation, and the basis for the Director's consent thereto.

H. Post Execution Procedures

1. Upon the pronouncement of death, the Director shall notify the Governor or designee and the Attorney General or designee via telephone that the sentence has been carried out and the time that death occurred.
2. An IV/Medical Team member will clamp any utilized IV lines leaving them connected to the inmate for examination by a Medical Examiner.
3. A Criminal Investigations Unit Investigator and a Medical Examiner will take photos of the inmate's body:
 - While in restraints prior to being placed in the body bag,
 - Without restraints prior to being placed in the body bag,
 - Sealed in the body bag, and
 - A photo of the seal in place on the bag.
4. The inmate's body will be placed on a Medical Examiner's gurney and released into the custody of a Medical Examiner's Office.
5. Once the inmate's body is placed in a Medical Examiner's transport vehicle, it will be escorted off the premises. The Medical Examiner's transport vehicle will take the inmate's body to the Medical Examiner's Office designated by the county.

I. Documentation of Chemicals and Stay

1. In the event that a pending stay results in more than a two-hour delay, the catheters shall be removed, if applicable, and the inmate shall be returned to the holding cell until further notice.
2. The Correctional Service Logs, the list of identifiers and the EKG tape shall be submitted to the Department's General Counsel, upon completion of the execution, for review and storage.

J. Debrief and Policy Review

1. The Administrative, Restraint, and IV/Medical Teams will participate in an informal debriefing immediately upon completion of the event.

2. Upon an assignment to a Team, team members shall review DO #710, Execution Procedures.
3. Periodically, and in the discretion of the Director, a review of DO #710, Execution Procedures along with this attachment may be reviewed to confirm it remains consistent with the law. General Counsel shall advise the Director immediately upon any change that may impact these procedures.

Document received by the TN Supreme Court.

ATTACHMENT E

LETHAL GAS

1. Approximately 10 minutes before the execution, Chemical Operators #1 and #2 shall sequentially pour 6 QUARTS OF DISTILLED WATER and 5 PINTS OF SULPHURIC ACID into the mixing pot (9). THE WATER SHOULD BE POURED FIRST. UPON COMPLETION OF POURING THE WATER, 5 PINTS OF SULFURIC ACID SHOULD BE POURED NEXT. RUBBER GLOVES AND GLASS FUNNEL SHALL BE USED. THE ACID MUST BE POURED SLOWLY TO PREVENT SPLATTERING. This mixture should remain in the mixing pot (9) for approximately 10 minutes so as to attain an adequate mix and maximum temperature. Keep away from acid fumes and possible splatter caused by boiling. This mixture will yield a 41.5% concentration.
 - Chemical Operator #1 shall ensure that the mixture shall not pass to the chair receptacle until after the Chamber door is closed and instructions received from the Chamber Operator.
 - The Caustic Soda Neutralizing solution shall be prepared by Chemical Operator #2 immediately after the completion of the acid mixture.
 - Chemical Operator #2 shall put on rubber gloves and dissolve 1 pound of CAUSTIC SODA into 2½ gallons of water already in a pour-spout can. Once the mixing process is complete, this solution should be kept near the mixing on the floor in close proximity to the mixing pot (9).
 - Chemical Operator #2 shall dissolve 30 grains of Phenolphthalein Solution in 4 ounces of alcohol. If the solution is pre-mixed, then skip this step.
 - Chemical Operator #2 shall relay to the Housing Unit 9 Team Leader that the chemical mixing process is complete.
 - The Housing Unit 9 Team Leader will notify the Director that the chemical mixing is complete and the chamber is ready.
 - The Director will instruct the Housing Unit 9 Team Leader to move the inmate to the chamber.
2. The inmate shall be brought into the execution room and placed in the Chamber and strapped in the chair by the Restraint Team. The internal Chamber microphone will be turned on and a microphone will be affixed to the inmate's shirt and also turned on; both microphones shall remain on until the completion of the execution (the microphones will remain on during any last statement by the inmate, but will be turned off in the event the inmate uses vulgarity or makes intentionally offensive statements; if the microphones are turned off, they will be turned back on immediately after the completion of the last statement) to enable the persons in the witness room and the Housing Unit 9 Team Leader to hear any utterances or noises made by the inmate throughout the procedure. The Housing Unit 9 Team Leader will confirm that the microphones are functioning properly and that the inmate can be heard in the operations room and in the witness room.

- a. Closed-circuit monitor(s) will allow witnesses in the designated witness room to observe this process and shall remain on until the completion of the execution. All cameras and monitors shall be placed in such a manner so as to ensure and preserve at all times the anonymity of all personnel involved in the execution process.
3. Chemical Operator #2 shall place 4 petri dishes containing the Phenolphthalein Solution inside the chamber so as to be clearly visible to the Chamber Operator. (Location should be at each designated corner of the chamber.)
4. After the inmate is strapped in the chair, Chemical Operator #2 shall verify that the petri dishes containing Phenolphthalein are still in their proper place.
5. Chemical Operator #2 shall inspect the GAS VALVE LEVER (1) and GAS VALVE POT (10) to ensure that it is dry and in the Closed position. Once this is confirmed, Chemical Operator #2 shall place the sodium cyanide packets in the GAS VALVE POT (10) under the chair.
6. Chemical Operator #2 and the Chamber Operator shall close the Chamber door and ensure that it is properly sealed.
7. The Chamber Operator shall ensure that the fan damper is in the closed position. Once this is confirmed, the chamber fan shall be activated and left on.
 - The manometer H pressure gauge readings on the chamber shall be monitored to determine air tightness of Chamber.
 - The Chamber will be considered air-tight if the manometer gauge to the right has a higher reading than the left.
 - If the readings on both the manometer H gauges remain equal, the Chamber Operator shall notify the Housing Unit 9 Team Leader immediately.
8. The Chamber Operator shall position themselves at the GAS VALVE LEVER (1).
9. The Chamber Operator shall ensure that the Outlet Valve (4) is closed. This Outlet Valve (4) shall remain closed until the chamber is cleared.
10. Chemical Operator #2 shall proceed back to the Chemical preparation room.
11. The Housing Unit 9 Team Leader shall notify the Director that the chamber is ready.
12. Chemical Operator #1 and the Chamber Operator shall release the mixed acid and water from the mixing pot (9) into the Gas Generator by opening the Acid Mixing Pot Valve (Red lever) and Inlet Valve (3). Chemical Operator #1 shall visually observe the liquid drain from the mixing pot. Once fully drained, Chemical Operator #1 shall close the Acid Mixing Pot Valve and place it in the Closed Position.
13. Chemical Operator #1 shall notify the Chamber Operator that the acid mixture is fully drained.
14. The Chamber Operator shall close the inlet valve (3) and advise the Chemical Operators when complete.
15. Chemical Operator #2 shall fill the mixing pot (9) with the Caustic Soda solution.

16. The Chamber Operator shall then advise the Housing Unit 9 Team Leader that the Chamber is ready for use.
17. The Housing Unit 9 Team Leader shall notify the Director that everything is ready to proceed. The Director shall make the final notifications to the Attorney General.
18. The Director shall instruct the Chamber Operator to remove the locking pin of the GAS VALVE LEVER (1) (Sodium Cyanide immersion lever) and open the immersion valve, to drop the pellets into the acid in the gas generator. The Gas Valve Lever (1) shall remain open until the clearing process of the chamber is initiated.
19. With the Chamber in operation, the Housing Unit 9 Team Leader will observe and inform the Recorder as necessary. A member of the IV/Medical Team shall monitor the Inmate and EKG and shall advise the Director when the inmate has expired, providing the corresponding time of death.
20. The Director will announce that the execution has been completed. The Housing Unit 9 Team Leader will instruct the Operators to "Clear the Chamber".
 - NOTE: The length of time required shall be determined by a member of the IV/Medical Team and the Housing Unit 9 Team Leader. It is recommended that this period should be no less than 10 minutes.
21. When the Housing Unit 9 Team Leader announces "Clear the Chamber", the Chamber Operator shall move the exhaust fan damper lever (5) into the open position.
22. The Chamber Operator shall close the GAS VALVE LEVER (1) into the closed position for clearing.
23. Chemical Operator #1 and the Chamber Operator shall drain the Caustic Soda Solution into the gas generator. Chemical Operator #1 shall open the Acid Mixing Pot Valve (9). The Chamber Operator shall open the Inlet Valve (3) and allow caustic soda to fully drain into the gas generator.
24. Chemical Operator #1 shall monitor the CAUSTIC SODA SOLUTION until the Acid Mixing Pot is fully drained and empty.
25. Once the Acid Mixing Pot (9) is empty, Chemical Operator #1 shall close the mixing pot valve (Red Valve) and instruct the Chamber Operator to close the Inlet Valve (3).
26. The Chamber Operator shall inform the Chemical Operators once the Inlet Valve (3) is closed.
27. The Chemical Operator shall fill the mixing pot with water.
28. The Chamber Operator shall open the air manifold intake lever (2), which may be opened with graduated steps.
29. The Chamber Operator shall open the Outlet Valve (4), opening the gas generator drain valve first, and then opening the Inlet Valve (3).
30. Once the Inlet and Outlet Valves are fully open, the Chamber Operator shall inform the Chemical Operators to begin flushing.
31. The Chemical Operators shall open the water faucet, allowing additional water to flow into the mixing pot (9).

- The Chemical Operators shall observe the drainage of water from the mixing pot to ensure that the flushing is proceeding properly. During this period, the Chamber Operator shall perform the following functions:
 - a. The Chamber Operator and Chemical Operator #1 shall fully open the anhydrous ammonia tank valve, then open ammonia control valves (7) and (8) (on the regulators) gradually to reach the saturation to allow the effective neutralization of the residual chemicals in the chamber, gas generator and plumbing. After 30 seconds, both Operators shall close the ammonia tanks in the following sequence: The tank valves shall be closed first, and, after approximately 30 seconds, the regulator valves (7) and (8) shall be closed. This will allow the ammonia to drain from the piping. Anhydrous ammonia valves should be CLOSED OUT AT LEAST THREE MINUTES BEFORE OPENING THE CHAMBER DOOR.
 - b. After the Chamber is completely evacuated of gas and purged of the ammonia fumes, the Phenolphthalein in the petri dishes should turn red (pinkish) in color. This color change is an indication that the Chamber door may be safely opened. A member of the IV/Medical Team and Restraint Team now may enter, using masks for protection from any residual ammonia fumes. The Chamber Operator shall close the air valve lever (2).
 - CAUTION: Although smoke tests suggest that the Chamber is purged in approximately 3 to 5 minutes, it is recommended that the period between opening the exhaust and air inlet valves and opening the Chamber door be about 15 minutes. As a precautionary measure, it is recommended that the Physician and the Restraint Team removing the body wear hydrocyanic acid gas masks or approved respirators and rubber gloves and that the hair of the deceased inmate be ruffled in order to allow any residually trapped gas to escape. Close the Chamber door, but not tightened more than contact with the gasket, and aerate for one hour as necessary to clear any residual ammonia.
32. The Restraint Team shall hose down all the surfaces and the deceased inmate prior to removal from the chair.

Criminal Justice

Court Settlement Ends Isolation for the Only Woman on Tennessee's Death Row

After being sentenced to death for murder, Christa Pike has spent nearly 30 years in solitary confinement

By **Steven Hale**

September 17, 2024



A full brick jail cell. Credit: Allan Swart / Getty Images

As the only woman sentenced to death in Tennessee, Christa Pike has spent years living in something akin to solitary confinement at the Debra K. Johnson Rehabilitation Center northwest of downtown Nashville. That's where she's been incarcerated since she was convicted in 1996 for the murder of Colleen Slemmer.

But this week, Pike's attorneys finalized a settlement with the state that will bring an end to her isolation. The agreement will grant her the behavior-dependent opportunities afforded to the men on Tennessee's death row, giving her more time out of her cell and allowing her to work a job and share meals with other incarcerated women.

“This settlement will be life-changing for Christa Pike,” said Angela Bergman, one of the attorneys who represented Pike in a lawsuit against the state over the conditions of her confinement. “For the last nearly 30 years, Ms. Pike has been subjected to solitary confinement in a cell the size of a parking space, where she has had nearly no meaningful human contact. These conditions have had a devastating impact on her mental and physical health. ... For Christa, this not only means a reprieve from decades of harmful and unconstitutional conditions, but an opportunity to have a meaningful, positive impact on those around her.”

Bergman and other attorneys from Bass, Berry & Sims filed suit on Pike’s behalf in 2022, arguing that the state had been violating her rights in a number of ways and subjecting her to cruel and unusual punishment. While men on Tennessee’s death row are kept separate from the general population, they can work jobs, eat together and spend their days outside of their cells with good behavior. Pike, the suit argued, was effectively being held in solitary confinement “based on the arbitrary fact that she is the only woman sentenced to death in Tennessee.” With a few exceptions over the years, they wrote, Pike had been isolated in her “seven-by-twelve foot space with only a bed, shelves, sink, and commode, for twenty-two to twenty-four hours per day, every day.”

“The cumulative effect of this extreme punishment, and a corresponding deprivation of adequate psychological and medical care while under a sentence of death, has deprived Ms. Pike of basic constitutional guarantees of humane treatment,” the attorneys wrote in the 2022 complaint.

Under the terms of an agreement filed in court Monday, Pike will be able to earn more privileges, freedom of movement and interaction with other people after set periods of time without disciplinary infractions.

Pike, who is now 48, was 18 when she killed Slemmer while they were attending a job training program for troubled teens in Knoxville. The murder came after Pike reportedly became convinced that Slemmer was trying to steal her boyfriend, Tadaryl Shipp. According to court documents, Pike, Shipp and another teen girl, Shadolla Peterson, lured Slemmer to the woods where they tortured and killed her. Pike later confessed to beating Slemmer and slashing her throat and body with a box cutter. Slemmer had also been hit over the head with a large piece of asphalt and a pentagram was carved on her chest. Although Pike denied being responsible for the pentagram, police later found a piece of Slemmer’s skull in her jacket pocket.

In 2004, Pike was convicted of attempted murder following an altercation with another incarcerated woman during a fire evacuation.

Pike’s attorneys have argued that the crime for which she was sentenced to death should be seen in the context of her youth at the time and a “horrific childhood” that started with her mother drinking heavily while pregnant.

“Before she was even born, she suffered brain damage,” Pike’s attorneys wrote in a 2021 filing opposing the state’s motion seeking an execution date. “Then, from the time she was a small child, she endured abuse, neglect, multiple violent rapes, and suffered from severe mental illness.”

After her trial, Pike became the youngest woman sentenced to death in the modern era of the death penalty. If she'd been a year younger when the murder was committed — like Shipp, who was then 17 — she would not have been eligible for the death penalty. Today, she is one of only 52 women on death row in the United States and, if executed, would be the first woman killed by the state in Tennessee in more than 200 years.

Although they were never housed together, Pike's incarceration did overlap with the only other Tennessee woman sentenced to death since the death penalty was reinstated in the United States in 1976. But Gaile Owens, who'd been convicted in 1986 for hiring a hitman to murder her husband, was allowed to live with the general population for a decade. She was later put into isolation but brought out again after litigation over her confinement. Gov. Phil Bredesen commuted Owens' death sentence in 2010 and she was released on parole in 2011. Owens died in 2019.

“When a person is incarcerated, the State still has a responsibility to treat them fairly and to refrain from incarcerating them in conditions that violate the Eighth Amendment's prohibition on cruel and unusual punishment,” Bergman said. “By filing this lawsuit and reaching this settlement, Ms. Pike has the opportunity to experience basic human interaction needed by all persons.”

FORENSIC PSYCHOLOGICAL EVALUATION

CLIENT: Christa Gail Pike

DOB: 3/10/1976

DATE OF REPORT: July 29, 2023

I was asked to provide a psychological assessment of Christa Pike with the goal of determining if she suffers from any psychological disorder(s), and to assess her for exposure to trauma and/or neglect; furthermore, if I determined that Ms. Pike had a psychological disorder(s) and/or had experienced trauma or neglect, I was asked to opine whether either the disorder(s) and/or history of trauma or neglect contributed to her criminal behavior on January 12, 1995.

My Qualifications

I am a licensed clinical psychologist (Maryland license 3126) with expertise in the assessment, treatment, and research of trauma-related disorders. I am a Professor of Psychology at Towson University with over 30 years of clinical and research experience. As the Director of the Clinical Focus program at Towson University, I have taught courses about diagnosing and treating psychiatric disorders for 25 years. I earned my Ph.D. in clinical community psychology at the University of Maryland and completed training at Johns Hopkins Hospital, George Washington University Hospital, and the Trauma Disorders program at Sheppard Pratt Health System. I have received a variety of research, clinical, and teaching awards including the highest research award given within the state of Maryland's colleges, the Board of Regents Award. I am an Associate Editor for the *Journal of Trauma & Dissociation* and I am a reviewer for a number of professional journals. I have published over 100 peer-reviewed articles, book chapters, and other scientifically-based publications. I am a co-author of two books that describe the assessment and treatment of dissociation and other trauma-related symptoms published by Oxford University Press. I have written a book about the assessment of dissociation in press with the American Psychological Association (APA); I was invited to write this book due to my reputation as an international expert in dissociation. I have several research studies related to trauma underway, including one that clarifies how to distinguish genuine dissociative disorders from feigned dissociative disorders. I am a Fellow within professional organizations including the American Psychological Association. I have served as a co-author on several national and international task forces developing guidelines for the assessment and treatment of complex trauma. I provide psychotherapy to patients in my private practice, as well as conduct forensic assessments and consultations. I have served as a trauma expert for civil and criminal cases, including state, federal and capital cases, and a Supreme Court case in Australia. I have been qualified as a trauma expert in every case in which my testimony has been sought.

Sources of Information

Document received by the TN Supreme Court.

This report reflects my professional opinion based on my clinical interviews, examination, and testing of Christa Pike on 1/5/2023 and 1/6/2023 for a total of approximately 12.5 hours. I have also reviewed collateral data and voluminous records provided to me. See Appendix A for a listing of this material.

Christa Pike's Life History Relevant to This Case

I refer to Ms. Pike as Christa throughout this report. Christa's life has been characterized by poverty, extreme and chronic sexual, physical, and emotional abuse as well as neglect in childhood. As a trauma expert, I routinely evaluate individuals who have endured severe childhood abuse and neglect. Compared to those I have encountered in over 30 years of practice, Christa's childhood abuse and neglect are truly extreme. The level of trauma she was subjected to as a preschooler through her 18th year, when she was arrested, is almost impossible to grasp because it is so severe. Exposure to such devastating trauma from caregivers as well as strangers is highly likely to create enduring psychological, emotional, and biologically based impairments that reverberate throughout a child's development, putting them at risk for psychological disorders, relationship difficulties, impulsive and high-risk behaviors, and substance abuse throughout their lives.

This report will recount Christa's development, history of neglect and trauma exposure, and psychiatric symptoms and disorders, and my professional opinion about the impact of these life experiences on her. I will conclude with my opinion about the likely impact of her psychological disorders and history of trauma and neglect on her criminal behavior.

Developmental and Trauma History

Christa Pike was born in Beckley, West Virginia into a family with a long history of extreme interpersonal violence, substance abuse, and child abuse, along with a great deal of chaos and frequent, highly disruptive moves from one home to another, often across state lines. Typically, the moves were prompted by her parents' and extended families' emotional chaos and turbulent relationships. Dr. Diana McCoy's social history and 2009 testimony described the following family history, which was corroborated by my interviews with Christa as well as other experts' reports.

Christa's maternal grandfather, Chris Fotos, was expelled from school in the eleventh grade after he and his brother beat up a teacher. After beating up his own father at age 16, he left home. He eventually started a meat butchering business. When Chris Fotos was 26, he married Zola Privett, who was 15 and had a 6th grade education. Zola's father, Henry Privett, was a violent alcoholic who reportedly sadistically physically abused all his eight children. The Ku Klux Klan reportedly tarred and feathered Zola's father due to his extreme abuse of his children and left him for dead. However, he survived. His children developed psychological problems, including Zola.

Zola was described by her daughter, Carrie Ross, Christa's maternal aunt, as a very troubled woman who was a pathological liar and sexually preoccupied. One of Zola's sisters, Dorothy, married a man, Bill Howell, who served time for raping a little girl. Bill Howell physically abused Dorothy so badly that she was hospitalized. Another sister, Christa's Aunt Norma, was physically violent and emotionally abusive when she babysat Christa's aunt Carrie, and Christa's mother, Carissa. Despite knowing that Norma was abusive to children, Carissa later had Norma babysit

Christa and her sister, Alicia; Norma abused them as well. As described below by Christa, Norma gave the girls Alka Seltzer to drink when they told her they were thirsty. Furthermore, she made Christa sit in a bathtub with cold water for hours at a time.

After having surgery, Chris Fotos became addicted to painkillers which he injected. He abused painkillers for over 20 years, according to his daughter Carrie (Penalty Trial Testimony). He was charged with income tax evasion and went to court with a concealed gun. After yelling at the judge, U.S. Marshalls restrained him. He was fined and put on probation. When Chris Fotos was interviewed by Christa's legal team at the time of trial, he said, "Any woman who screws around with a god damned nigger deserves to die". Further, he added that he would "throw the switch" to electrocute his own granddaughter.

As a preschooler, Christa went to her grandfather's slaughterhouse where she watched him slaughter animals. Christa's mother sent her there with her grandfather so he could babysit while her mother worked. Christa became attached to some of the animals, even putting a flower on one of the animal's heads, which was later brutally slaughtered and disemboweled in front of her, with the flower near the skull.

Christa's maternal grandmother Zola was an angry, mean alcoholic. She verbally abused Christa, telling her she would go to hell and that she was a liar. Zola's verbal abuse was confirmed by her daughter, Carrie (Penalty Trial Testimony). Christa and her older sister, Alicia, witnessed frequent physical violence between Zola, their Aunt Carrie, and their mother; this violence often occurred when Zola was drunk. Zola died at age fifty-five due to cirrhosis of the liver caused by alcoholism.

Carissa, Christa's mother, had a serious blood disorder (dyscrasia) that required many hospitalizations. Carissa failed the first grade due to being hospitalized so often. Nonetheless, Carissa graduated from high school and, at age 17, married James Ferguson. James was extremely physically abusive to Carissa. For example, he shot at Carissa when she was carrying their child, Alicia. They divorced in 1974 after being married for only a few years. Carissa later completed training as a nurse. Even though she was an alcoholic, Carissa managed to work as a nurse.

Carissa subsequently married Glenn Pike, who is Christa's father. Christa was born on March 10, 1976. She was born two months prematurely and was delivered by C-section. She weighed only five pounds, seven ounces. Although Carissa denies that she was smoking cigarettes or marijuana, or drinking alcohol during her pregnancy with Christa, her father, Glenn, reports that Carissa was drinking approximately once a week and getting high twice per month during her pregnancy.

Carissa went into labor after being assaulted by a patient at the psychiatric ward where she worked as a nurse. Christa was born with significant health problems. She was immediately moved from the local hospital where she was born to a hospital that offered more specialized care to sick newborns. This hospital was far from the family home, so Carissa was unable to visit or bond with the newborn, according to her Aunt Carrie (Penalty Trial Testimony). Christa was on a respirator for a week due to having serious respiratory problems. She was also born with a hyaline membrane and hip dysplasia. For the first year of her life, Carissa reported that Christa had to be put in three diapers so that her legs were forced apart and, over time, her leg bone pushed into her hip bone long enough to groove out a socket. Children who need extensive medical treatment, particularly

those who are hospitalized right after birth with serious health problems, are at greater risk for not developing attachment to their parents.

In addition to the lack of maternal bonding at the critical infant stage due to Christa's health condition, her mother was extremely fragile psychologically following the birth. Carissa suffered from untreated depression and attempted to kill herself after Christa's birth. Carissa's depression put Christa at genetic risk for developing a mood disorder.

Depressed mothers have difficulty developing attachment to their children. Healthy attachment is a critical, foundational requirement for children to develop emotionally healthy and flourish. Children who do not have secure attachment with their mothers, and who feel unloved and unprotected by them, are at considerable risk for being abused by others and for developing a wide range of psychological problems (Sroufe et al., 2005). Furthermore, depressed mothers often have impaired ability to show love in words or in behavior such as hugging their children; this often makes their children feel unloved, as was true for Christa (Goodman et al., 2011; Noll et al., 2009). Finally, Carissa was verbally abusive and critical of Christa, and did not protect her from abuse from many people. All of these variables contributed to Christa developing psychological problems and being at high risk for additional abuse by others.

Another factor seriously weakened the relationship between Carissa and Christa: Carissa was rarely at home due to working so much. Carissa returned to work three weeks after Christa was born. She worked two shifts each day; thus, she was gone from the home from 9 AM until midnight Monday through Friday working at a nursing home. Carissa also worked 12-hour shifts on the weekends. Carissa reported that during Christa's first year of life, she had only 12 days off work.

In contrast, Christa's father was typically not working at all. Carissa would come home from her exhausting shifts to find Glenn drinking beer and smoking. Glenn's mother moved in with the family and checked on Christa during the night, even during the first six months of her life when she slept in her parents' bedroom.

Christa's Aunt Carrie described coming to visit and finding Christa crawling around on the floor despite there being "piles of dog stool all over the house" (Penalty Trial Testimony). She described the home as always being filthy with dirty dishes piled everywhere. As Christa got older, Carrie would sometimes bring her and her older sister, Alicia, back to her home so that they could have a meal. She explained that Carissa was often neglectful of the girls, spending money on clothing for herself to go out partying, while the girls often did not have adequate clothing or food. When Christa was a toddler, Carrie and Carissa were at a bar one night while Zola babysat Christa. Christa began having a seizure. Zola called the bar to tell them Christa was having a seizure. Carissa wanted to stay at the bar, saying Christa would be fine. Carrie insisted that they go home and take Christa to the hospital (Penalty Trial Testimony).

Beginning at 8 months, Christa crawled out of her crib so she could sleep with her paternal grandmother, Delfa Pike. She continued to sleep with her grandmother during periods when they were in the same home until Delfa died when Christa was 12 years old. Carissa admitted that Grandmother Delfa was more of a mother to Christa than she was.

Grandmother Delfa was Christa's only reliable source of consistent love and kindness. Delfa cried when she witnessed Christa's parents "disciplining" Christa, but she could not or did not stop them from being verbally and physically abusive.

Delfa tried to make up for her son's deficits as a father by taking care of Christa. Unfortunately, Grandmother Delfa moved out of the family's home in 1978 when Christa was just two years old so that she could live with her boyfriend, Ernest Johnson. While Delfa lived with Ernest, traveling between Kentucky, West Virginia and Florida, Christa was sometimes able to visit Delfa. However, during the visits, Ernest sexually and emotionally abused Christa.

When Christa was not staying with Delfa and her abusive husband Ernest, her alcoholic Grandmother Zola babysat Christa while her mother worked. Christa's father refused to take care of her. Eventually Zola's drinking became so severe that Christa was put into daycare for six months prior to starting kindergarten.

Although Grandmother Delfa was Christa's most consistent loving family member, her son Glenn was an absentee father who could not hold a job or maintain a faithful relationship. Glenn Pike was born and raised in West Virginia and quit school in the 11th grade. Glenn's father, who was a coal miner, died of a heart attack when Glenn was 13. Glenn and his mother Delfa both worked jobs so they could keep making payments on the family farm. In 1966, Glenn was drafted and served in Vietnam. He contracted hepatitis and was shot in the neck. When he was discharged, he moved back home with his mother. After working odd jobs, he re-enlisted and was stationed at Fort Bragg, North Carolina until he was honorably discharged in 1976. He married a woman named Jo Anne Lilly in 1975 but they divorced within a few months. In that same year, he married Carissa.

Glenn was fired from a job at the post office because he would not get up early enough to get to work on time. He was fired from other jobs as well. Carissa worked two jobs to support the family which meant she was very rarely at home. Glenn reportedly did not want Alicia. Alicia was eventually sent away to her maternal grandparents to be raised by them and her Aunt Carrie.

A few years into the marriage, Carissa found Glenn in bed with another woman. Carissa divorced Glenn in 1977. Subsequently, he lost all his money gambling.

Carissa and Glenn remarried in 1979, just two years after their divorce. Apparently, this remarriage occurred because Glenn visited Carissa in the hospital after Carissa overdosed. She decided that him visiting her must mean he truly loved her. He was also working again and was engaged to another woman; this woman reportedly taunted Carissa about being engaged to Glenn. However, Glenn quit his job soon after he and Carissa were married again.

In 1982, Carissa found out that Glenn was having another affair. Glenn reportedly came into the house, and in front of guests, announced to Carissa that his girlfriend was pregnant with a son. The family dog had disappeared a couple of weeks earlier, which was heartbreaking for the girls. Carissa approached the trailer where she had been told Glenn was staying with his girlfriend. His truck was there, and Carissa could hear the family dog barking inside. No one answered the door when she knocked, so Carissa kicked a hole in the door. The woman came to the door and told her

Glenn was not there. Glenn finally came out and told Carissa to do what she needed to do. The next day Carissa filed for divorce. Glenn never returned to the family home. This time the divorce was final.

Eventually Glenn married Kathleen Allman in 1986. This was his fourth marriage. They had two children. He worked for the National Park Service until 1989, when he was laid off. He remained unemployed for the next 13 years. Kathleen divorced him and moved back to her home in Canada, taking the children with her.

In 1982, Carissa and Christa, who was five years old, moved in with Christa's maternal grandparents, where her sister Alicia and Aunt Carrie were also living. Carissa began dating. In 1983 or 1984 Carissa and Christa moved to North Carolina to live with Carissa's boyfriend Danny Thompson. Carissa left Alicia behind with Aunt Carrie and her mother. Christa was seven or eight when they moved. Christa's mother married her third husband, Mr. Thompson.

In 1984, Carissa, Christa, and Thompson moved back to West Virginia because Grandmother Zola was dying from cirrhosis. Zola died in 1985. Christa and her mother moved back to North Carolina in 1986. The constant moving was highly disruptive to Christa's academic learning and the development of a sense of stability. Eventually Thompson stole a farm tractor and riding lawn mower; both he and Carissa were indicted for this. Carissa was arrested but later released. The charges were dropped when Thompson got rid of the tractor and lawn mower.

Thompson had been married twice before marrying Carissa and had two daughters who came to live with them when they moved back to North Carolina. The girls complained to their mother about how strict Carissa was. Mr. Thompson made his daughters pack up immediately and he deposited them at their mother's doorstep. They never visited him again, nor did his two sons.

During this time, the family had been living in a trailer park that was infested with rats and snakes. Eventually Carissa broke up with Thompson and moved out of that trailer to her own trailer. Thompson later moved in and out at least once. The trailer was cold and mildewy. There was not enough food or money, although Christa noted that her mother always had enough money to buy herself alcohol. Christa recalls often being very hungry when she was living with her mother.

Thompson was physically violent and cruel to Christa. One time he refused to share two bags of fast food he brought home, even though the family was desperately hungry. This is described below in detail; it led to Carissa finally breaking up for good with Thompson.

In five years, Carissa and Thompson had broken up and gotten back together approximately 10 times. This level of food insecurity, constantly moving homes and changing schools, and chaos within the "family" home, was highly detrimental to young Christa. During these years, she was shuffled back and forth between her mother and Grandmother Delfa, (since her father would not care for her), and frequently changing school districts, often across state lines. This level of chaos prevented Christa from developing solid friendships with peers and prevented her from developing a sense of belonging at home, school, or in her neighborhoods. Chaos of this magnitude is highly damaging to children. Unfortunately, they learn the same unhealthy relationship patterns that they see their parents using with their ever- shifting partners. This had a strong, negative impact on

Christa's academic performance and her ability to have healthy relationships with peers and romantic partners.

Carissa started dating Steve Kyaw before her divorce from Thompson was finalized. Carissa moved herself and Christa to Hillsborough, North Carolina in 1989 to move in with Kyaw. Kyaw emotionally, physically and sexually abused Christa, as described below. One time after Kyaw abused Christa, the court got involved and mandated mediation. Carissa bailed Kyaw out of jail but they had to remain separated due to the court's stipulation. Carissa insisted that Kyaw had not abused Christa, despite Christa telling the juvenile court psychologist and several of her friends that he had abused her.

In 1991, Carissa moved herself and Christa into their own apartment and began dating another man, Gerard Hansen. Christa believes that her mother settled down considerably once she married Hansen. Christa feels close to Hansen, and refers to him as her step-father. Unfortunately, he came into the family too late to be of any help in getting Christa back on a healthy path. She had been neglected and abused for too long by too many people. Her troubles were pronounced and she was not receiving any treatment despite her parents having been told to get her treatment. Carissa moved into a small apartment with Hansen and they married a few months later in 1992; he was her fifth husband.

Christa was doing poorly in school, and often skipped school. She was often angry and refused to follow rules at home. Christa was sent to Swannanoa Youth Development Center, a training school, at about the time Hansen became involved with her mother.

When Christa returned from Swannanoa two years later, they all moved to a larger home outside Hillsborough. Carissa allowed Christa to have a live-in boyfriend, Brian, who slept in her bedroom with her when she was 17. Carissa allowed this unusual arrangement thinking that she might have more control and influence on Christa if she were living with them with her boyfriend. However, Carissa and Hansen disapproved of Brian because he was so lazy; they made him move out. Christa went with him, and for several months, she lived on the streets with Brian.

The police came to the house looking for Christa until she left to attend Job Corps in the fall of 1994. The police did not reveal why they were looking for Christa.

In general, Carissa's own troubles affected Christa negatively. Carissa had been arrested several times, for theft charges and for DUI. Christa reported her mother would come home from her various jobs and begin drinking. Carissa would drink right up until bedtime; Christa worried that her mother would die of cirrhosis just like her maternal grandmother. Carissa also smoked marijuana, including smoking it with Christa when she was only 17. Carissa also smoked marijuana with her daughter Alicia. Both girls and their maternal grandmother grew marijuana in the grandmother's greenhouse, although Zola herself did not smoke it. Rather, she gave away the plants.

Christa was exposed to marijuana and began smoking it at the remarkably young age of nine. She was regularly smoking it by age 12 or 13; her sister, Alicia, who was approximately 17 or 18,

would smoke marijuana in front of Christa. Alicia reported that she was frightened by how “wild” Christa became when she smoked marijuana, so she only smoked with Christa twice.

Christa acknowledges that she followed her mother’s example of being too dependent on men for her sense of being loved and secure. Aunt Carrie, Carissa’s younger sister, said that Carissa would go with any man who “pats her on the head”. Thus, it seems the intergenerational pattern of not feeling sufficiently loved and protected due to a lack of attachment to one’s parents resulted in both mother and daughter being *desperate* for acceptance and security from men.

After her relationship with Brian ended, Christa later became enamored with Tadaryl Shipp, her co-defendant, because he was the first boy who ever bought her flowers. Christa’s equating flowers with love is reminiscent of her mother remarrying her father because he showed up at the hospital after she overdosed. It seems both women had very limited ability to accurately judge others’ characters; they could not identify when a man was psychologically healthy and stable enough to be a good choice as a partner.

Christa has several half-siblings. As noted above, her half-sister, Alicia, is five years older. They share the same mother but different fathers. Although Christa reported they are close, they do not speak often. Alicia lives in Hawaii and is divorced with three adult children. Christa is the middle child. Christa has a younger half-sister, Lindsay, to whom she is not close. They share the same father but have different mothers. She had a half-brother named Max who died in 2015. They had the same father. Christa reported that Max owed someone money for drugs; the person gave him drugs allegedly laced with battery acid which killed him. Christa was close to Max and often spoke to him. She has a self-inked tattoo on her arm honoring Max; Christa still misses him. These are the individuals that Christa considers her siblings. She did not mention any of her step-siblings due to not feeling they are part of her family. Indeed, her step-siblings were rapidly in and then back out of Christa’s life. Even their own fathers often had little to do with them, much like Christa’s father had little contact and little involvement with raising her.

Glenn, Christa’s father, acknowledges that he had little to do with raising Christa, especially after he and Carissa divorced for the second time, and Christa moved with her mother to North Carolina. He knew very little about Christa when her defense team interviewed him. For example, he did not know that Christa wet the bed until she was in the first grade. Bed wetting in an older child can be an indication of stress and/or abuse. He reported that he believes Christa’s problems stem from him not having beat her enough, and from the way Carissa raised Christa.

Carissa stated that Glenn has been an alcoholic ever since she has known him. He never paid child support for Christa. Carissa reported Glenn would occasionally send Christa used clothing he bought at flea markets, although sometimes he would buy something such as a coat if Carissa insisted.

Christa lived with her father for a few weeks in sixth or seventh grade after the incident with Steve Kyaw (see below). She sometimes visited him, such as during summer breaks from school. School records show that Christa was often shuffled back and forth between West Virginia and North Carolina, requiring Christa to get accustomed to a new school, new routine, new teachers, and new peers.

Christa describes her father as “lazy” in contrast to her mother who worked all the time. Christa recalled that her father disciplined her one time for drawing on Alicia’s doll’s face. He told her to go get her favorite doll; when she brought it back, her father smashed the beloved doll to pieces in front of her. Even Alicia was crying over Glenn’s harsh response and tried to help put the doll back together.

Alicia became pregnant at 14. Aunt Carrie had been raising her. Carissa moved back to West Virginia around the time Alicia discovered she was pregnant. The move was ostensibly planned because Carissa’s mother was dying. Although Carrie thought Alicia was much too young to marry, Carissa gave Alicia permission to get married. Alicia married the baby’s father, Brian Hammond, and eventually moved to North Carolina to live with Carissa and Christa for a short while when they moved back there.

Alicia credits the fact that she was raised by Carrie, rather than by her mother, with her doing so much better than Christa. Alicia made straight As in school and only once had a disciplinary problem at school, in contrast to Christa, who did very poorly and was frequently in serious trouble at school. Brian Hammond, Alicia’s husband, was reportedly selling drugs and cheating on Alicia; she eventually divorced him. Just as her mother had relinquished care of Alicia to her family, Alicia relinquished her child, Keith, to his father who took Keith back to West Virginia after the couple divorced. Alicia began dating a man named Matt Wills before her divorce from Brian was finalized. She moved with Matt to Texas once they got married. Alicia eventually regained custody of Keith.

The Impact of Devastating Abuse and Loss on Christa

Additional information about the unrelenting abuse and neglect that Christa experienced is critical to understanding her development and eventual criminal behavior.

The first person to sexually abuse Christa was her paternal grandmother’s boyfriend, Ernest Johnson. Ernest began sexually abusing Christa “before I could walk and talk until kindergarten”. Sharing the story of this abuse was extremely distressing for Christa. She cried as she attempted to describe what he did to her. Christa reported that Ernest orally raped her when she was in preschool. Christa showed utter disgust on her face as she spoke of the smell of this man’s genitals. Christa was still extremely revolted by him, despite more than 30 years having passed.

At one point while talking about Ernest’s abuse of her, Christa stared off into space, disconnecting from the conversation for a few minutes. This appeared to be a manifestation of dissociation. Dissociation is a learned method of escaping when there is no possibility for escaping from the abuser. Dissociation entails disconnecting from one’s surroundings, body, and/or emotions, in an attempt to decrease the emotional pain associated with trauma (Brand, 2023; Putnam, 1985).

Throughout her childhood, Christa was a victim of violent predators with no protection from her depressed mother and absent, uninvolved father. When children have no escape from such abuse, some use “dissociation”(Putnam, 1997). Dissociation is a biologically based survival mechanism that can partially blunt emotional and physical pain and allow the child to detach from ongoing trauma. Dissociation is “the escape when there is no escape” (Putnam, 1992). Dissociation is

particularly likely when a child has experienced betrayal by caregivers, when abuse starts very young, and when there is emotional abuse from and/or a lack of secure attachment to one's mother (Putnam, 1997). All three risk factors were present in Christa's life.

Children who are sexually abused do not understand that pedophiles are the ones to blame for the abuse, and in fact, they are committing felonies when they abuse children. Instead, victims of sexual abuse, including Christa, believe that the abuse happens because they are worthless and dirty. They believe that abuse is what they deserve. This self-blame increases their vulnerability to future victimization and depression (Briere et al., 2020; Classen et al., 2005). Consistent with the research about sexual abuse of girls, early childhood sexual abuse made Christa highly vulnerable to repeated sexual victimization (Briere et al., 2020).

Survivors of childhood sexual abuse typically feel utterly disgusted and revolted by the abuse, especially the associated smells. Preschoolers typically experience choking and difficulty breathing during oral rape(s). The smells, revulsion, and terror of not being able to breathe often haunts survivors of sexual abuse for the rest of their lives. Thus, Christa's difficulty talking about Ernest's horrific abuse supports the validity of her description of him orally raping her.

Ernest did more than rape Christa. He also ensured Christa's silence about him victimizing her by threatening to hurt Christa's beloved pets, her grandmother, and Christa herself if she told anyone about his attacks. Furthermore, Ernest locked Christa in a dark chicken coop where spiders crawled on her and bit her. To this day, Christa remains utterly terrified of spiders. Decades later, Christa still suffers from Specific Phobia of spiders due to Ernest's torture. Early sadistic childhood abuse causes tremendous psychological problems for decades, often throughout adulthood.

Children who have been coerced, manipulated, and threatened into silence and compliance with sexual predators feel terrified that they will get into trouble for the abuse. They cannot comprehend that the pedophile is to blame for the abuse, not them. Children cannot cognitively grasp that sexual abuse is a crime and that they are victims, rather than being at fault. Thus, they rarely tell anyone about the abuse, especially in cases like Christa's where they have been manipulated into silence by threats, violence, and by being held captive in locked spaces. Abuse that starts this early and is this severe is much more likely to cause a child to frequently dissociate. With repeated exposure to such early, vile abuse, the child is at risk for developing a dissociative disorder, which, as will be illustrated below, Christa developed and continues to suffer from.

Eventually Christa made a child-like cry for help. Christa stated, "They figured out I was being abused because I was drawing pictures" at elementary school. The teacher asked the class to draw what they did at home. Christa drew a man with "a huge penis and demon face". The teacher jerked her up by the arm when she saw the drawing. Christa was terrified as the teacher took her out of the classroom and dragged her to the principal's office. Christa does not recall what happened next. This is likely due to dissociation, as such an event would normally be so significant that it would be remembered. CPS did not become involved, despite Christa's drawing being a red flag that she was being abused. Christa began crying as she expressed that she desperately wished that "someone, anyone would have cared enough about me" to investigate and stop Ernest's sadistic abuse.

The next person to abuse Christa was Norma, who was her mother's aunt. Carissa reported that Norma abused her as a child when she babysat. Her Aunt Carrie reported that Norma dragged her, Carrie, around by the hair when she babysat when Carrie was a child. Despite knowing that Norma was deeply disturbed and abusive, Carissa asked Norma to babysit her children. Not surprisingly, Norma was cruel to Christa and Alicia. Norma would forbid Christa to go to the restroom when she needed to, resulting in Christa defecating on herself, which was utterly humiliating. Norma forced Christa to sit in ice cold water in the bathtub for hours at a time. Norma stole Alicia's doll clothes and then put the clothing on her dog. When the girls were thirsty, Norma made them drink Alka-Seltzer. It's not clear if mental illness, sadism, or both prompted Norma's abusive and bizarre behavior. Although Christa and Alicia told their mother about Norma's cruelty, Carissa continued to use Norma as a babysitter until Norma stole a ring from Carissa.

Carissa's pattern was to deny Christa's reality: Carissa simply refused to believe Christa was being abused even when Christa gathered up the courage to tell her mother about the abuse, assaults, and rapes. It is unusual for children to have the nerve to tell their parents that they are being abused. Tragically, Carissa rarely believed Christa, which essentially permitted violent people including pedophiles to victimize Christa; Christa was an easy target due to her mother's lack of protection and her father's lack of involvement.

Christa described Danny Thompson, her mother's third husband, as one of her mother's most abusive husbands. He was extremely verbally and physically abusive to Christa. He made a special whip that had a wooden handle and a long leather strap. Mr. Thompson hung this whip on the wall as a threatening reminder to Christa; he often beat Christa with it to the point of causing cuts and bruises.

Christa described a particularly sadistic experience with Thompson who knew she could not swim. "He threw me in the pool and left me to drown. He said he'd teach me to swim by doing a 'soldier's dive'. He had me do that at the deep end of the pool. I was probably 7. I swam with floaties but didn't have them on. He **shows** me how to do the dive. He tipped me into the pool, and he told me, this is how you learn to swim. You sink or you swim." [Note that Christa changed verb tense from past tense ("He **threw** me in the pool") to present tense: "He **shows** me how to dive". Switching from past tense to present tense verbs when describing trauma can indicate that the person has temporarily lost full awareness that this awful experience is over and occurred in the past.¹ Christa described what happened next, "We had a St. Bernard who jumped into the pool. I was drinking pool water and choking. I held onto her and she pulled me out. I don't remember what Mom said. I think he was being evil. If I had drowned, I think he would have said I fell in and drowned."

¹ This is one of the reasons trauma can be so disruptive to a person's thinking and behavior years, even decades, later. Specifically, trauma can cause the brain to function in such a way that a past event can feel like it is still threatening, or that it is even currently happening (as in a flashback). This is one of ways that traumas can still cause tremendous emotional and physiological upheaval until trauma is discussed and resolved through psychotherapy. The enduring impact of trauma is highly relevant for traumatized people with PTSD. One of the U.S.'s most respected epidemiologists, Dr. Ronald Kessler at Harvard, showed that the average person with PTSD suffers from symptoms of PTSD for over two decades (Kessler, 2000).

Christa was forced to endure Thompson's abuse from approximately the ages of 7 to 11 or 12. Her mother was aware that Thompson was verbally and physically abusive because Christa told her mother, yet again her mother did nothing to stop him or to protect Christa. To the contrary, Christa recalls her mother blaming her for Thompson's beatings. Christa's mother finally recognized Thompson's mistreatment of children when he brought home two full bags of fast food. The children were very hungry and one of them began to eat a French fry and Thompson yelled at Christa's mother, "Get that kid out of my food". The marriage ended after this incident even though it was minor compared to Thompson's severe beatings and throwing Christa into the deep end of a swimming pool.

Next, Christa was raped by a predatory neighbor named Claude Davis when she was between the ages of 9 and 11. Davis was known in the community as a "pervert"; despite being a known pedophile, no one stopped Davis preying on young girls including raping Christa. Once again, when Christa told her Mom, as well as Alicia, about Claude Davis raping her, they did not believe her. Christa developed an infection from the rape that made her very ill. Although apparently her own mother did not believe Christa, a teacher at school noticed that something was terribly wrong with the young girl. Christa was crying and the teacher asked her what was wrong; Christa told her she had been raped. The school called her mother and Child Protective Services. Davis was arrested and pled no contest. According to Christa, he received a short sentence. She had to continue walking around in the neighborhood with him living just a short distance away. She had to see his trailer every day. This kind of constant reminder of trauma is terribly unsettling to rape survivors, even adults. Yet Christa was just a young girl, and she had no support from her family. It was utterly terrifying to live in the same vicinity of the man who raped her and given her a painful infection which made her visibly ill. Christa recalled that neither her sister or mother ever apologized for not believing her. Christa does not recall the family ever talking about it.

Christa described the impact of this rape:

It was horrible. It devastated me that my Mother and sister didn't believe me. My sister said I was lying... It made me feel worthless. I was terrified. He lived right up the street. I could get to his house in less than a minute. He was known as the town pervert. I had to walk by his house to get to the bus stop. The trailer where I babysat two little girls was here, and here was his trailer (demonstrating it by drawing on paper). I could see his house from my house.... And no one believed me so I thought he'd get me again, so I was afraid and hyperaware. No one believed me. I was anxious, was tearful and crying constantly. People would walk up to me and I would be scared.

Christa suffered from nightmares, flashbacks, hypervigilance, and easily being startled after that rape. These are classic symptoms of PTSD. Christa's sense of being totally vulnerable to attack was partially due to PTSD, and it was exacerbated by her family's lack of belief and support. As a result, she felt incredibly vulnerable, and she lived in terror that Mr. Davis or other people could attack her again. Clearly, she was showing signs of PTSD but, unfortunately, Christa's parents did not take her to get psychological treatment for Davis's rape or Ernest's sexual attacks. As a young girl, she was truly on her own, without loving support, treatment, or protection.

Unfortunately, the most terrifying abuse was yet to come. Christa reported that the man who was the “worst” of the perpetrators was her mother’s boyfriend, Steve Kyaw. Christa described Steve Kyaw: “He was disgusting. We (the family) moved in together. He had boxes and boxes of porn.” Apparently, her mother and Kyaw had no concern about having so much pornography around children. When asked to describe what happened with him, Christa stated, “He tried to play wrestle with me and cop feels and twist my nipples. I said, ‘How do you like this?’ and I grabbed and twisted his balls. He ran and told my Mom. He punched me in the face in front of my neighbors.” Kyaw also verbally abused Christa by calling her a slut and a whore.

In addition to Kyaw’s direct physical abuse, Christa was exposed to graphic sexual information and behavior at a young age. Not only did Kyaw keep a stockpile of pornography, Christa overheard and sometimes saw her mother having sex with him. This lack of boundaries in the home led to Christa becoming interested in sexuality much too early, thereby exposing her to opportunities for being around potentially dangerous people and getting into trouble.

Due to living in a home with so much pornography, Christa found a picture of a pierced penis and took it to school. She got in trouble for having a pornographic picture. It seems there was no investigation into how Christa came to have such a graphic image as a young girl. This kind of photo was highly unusual back in the early 1980s before the internet made it easy to find sexual images. Questions should have been raised about where Christa was being exposed to pornography.

In addition to being exposed to adult sexual activity, Christa was constantly exposed to substance abuse by all of her caretakers. Namely, her mother’s alcoholism and her father’s drug use; but also a number of her mother’s husbands and extended family members. Parents with drug and alcohol abuse problems provide damaging role models to children, and often fail to protect their children. For example, Christa began to drink alcohol at her mother’s parties. Furthermore, children whose parents struggle with substance abuse inherit a genetic risk for addiction. With this risk of addiction, along with the lack of attention and protection that results when parents have untreated addictions, it is not surprising that Christa began drinking alcohol at a very young age. She told me, “I could drink grown men under the table at age 12.” She told me that she drank alcohol with her mother and one of her partners; at 16 she reportedly “drank them under the table”. Christa reported that at her most severe level of drinking, she would, “Drink until I puked and then drink more. I never had a blackout... I could drink the whole bottle of hard liquor or almost all of it.” Despite drinking so much, Christa denied having hangovers or withdrawal symptoms. She did not develop legal problems directly related to drinking.

It is very common for youngsters who have been abused and assaulted to begin drinking alcohol, using drugs, and/or engaging in self-harm soon after having been abused to distract from their pain and to suppress the memories and emotions related to abuse. Indeed, Christa developed all three of these problems. She began cutting herself as well as drinking alcohol and smoking marijuana soon after Claude Davis raped her. Before I met with Christa, she had not recognized the connection between being raped followed by beginning to heavily use substances and cutting herself to help manage the overwhelming emotions and memories of the attack. She made that connection when I asked her if she began cutting or using substances following any of the early traumas.

Tragically, Claude Davis’s attack was soon followed by one of the most devastating events that occurred during Christa’s childhood. Her beloved Grandmother Delfa’s long struggle with cancer ended and she died when Christa was approximately 12 years old. Grandmother Delfa was the only person who consistently took notice of, and showed love to, Christa. Christa adored her. Unfortunately, her grandmother had been very ill with cancer for a long time. Even though she was only a young girl, Christa did her best to take care of her grandmother during her chemotherapy treatment. Christa recalls her grandmother being extremely ill with frequent vomiting. This was exquisitely painful to witness. Christa was not able to do anything to ease her grandmother’s pain or nausea. Her grandmother had to drink Ensure to get some nutrition and calories, but she often vomited the Ensure. Losing the one trustworthy, consistent, loving adult in her life caused Christa to plummet into depression. “I can’t look at Ensure without having to vomit.” This loss was profoundly distressing for Christa.

Christa grew so depressed that she “gave up” after losing her grandmother. Following this devastating loss, Christa became so depressed she attempted suicide for the first time. She stated, “I cared about nothing after that. I wanted to go with her. I didn’t care about anything. That was the first time I tried to kill myself. I OD’d. It was my stupidity that did it (meaning kept her from dying) – I took too many pills.” She vomited the pills she had taken. She told the adults that she had merely been trying to get high so that they would not put her in a psychiatric hospital. Her parents took her to a mental health professional, but this doctor did not hospitalize her. Christa did not receive follow up psychiatric treatment despite having overdosed.

Academics

With the non-stop chaos, trauma, frequent moves, and lack of parental support, it would have been impossible for any child to do well in school. Due to her parents’ chaotic lives, Christa attended four elementary schools and three middle or junior high schools; some were in West Virginia and others in North Carolina. Christa was retained in 3rd and 7th grade due to her poor grades and poor attendance. She was ordered to attend Swannanoa training school when she was in the 9th grade. She stayed there for about two years. This was the last grade she completed. She eventually earned her GED.

Christa told me she “hated school because I didn’t learn like everyone else did.” She described difficulty sitting still and concentrating, particularly with subjects that did not include hands-on activities. Symptoms of untreated PTSD and bipolar disorder likely caused or at least contributed to her agitation and poor concentration. She did not understand the lessons so doing the homework was not possible. Instead of supporting her in a helpful way, she was beaten and threatened. Christa reported, “Dad forced me to do homework. He’d beat me if I didn’t get the homework done in 20 minutes. He’d beat me and say now you have 20 minutes to finish it.”

As a result of her difficulties attending and learning, Christa avoided studying and she infrequently did homework. She earned many D’s and F’s although she also earned As and Bs in classes such as health or science.

In addition to disliking the academic aspect of school, Christa disliked the social aspects. She was often singled out in classes due to talking so much. She described the impact of this: “I was the ‘plague kid’. They ostracized me by pulling my desk to the back of the class.” Unfortunately, this is the pattern that is often seen with abused and neglected children. The damaging impact of trauma compounded by family and mental health problems show up in the classroom and the playground. Rather than school being a safe haven, teachers rarely understand that the troubled children in their classrooms are expressing the difficulties that stem from trauma and their chaotic families.

Children who have learning difficulties feel “stupid” and their lack of self-confidence and lack of understanding of the lessons exacerbates their difficulties with schoolwork. Teachers and peers begin to view them as unintelligent and or “lazy”, and the student begins to put in less effort on schoolwork. Children like Christa end up in a vicious cycle of poor academic performance, then they put in even less effort, and do even worse at school. These kids tend to be shunned by their peers, except for troubled peers who also often have troubled families; these peers often find each other and encourage each other to skip school and engage in other high-risk behaviors.

Christa’s father inadvertently compounded Christa’s fear and loathing of school by beating her when she could not do her homework. Being yelled at, belittled, and beaten compounded the impact of trauma and Christa’s burgeoning bipolar disorder. It is unsurprising that Christa began skipping school as she became increasingly plagued by mental health symptoms. Her disinterest in school grew, particularly after her grandmother’s extended, grueling fight with cancer.

Later Adolescence: The Role of Trauma in Contributing to Substance Abuse

Christa did better when she first came back from Swannanoa training school, but she got back involved with her old friends, who were troubled teenagers. She began to have trouble once again.

Christa turned to substances for comfort and relief of symptoms of PTSD and depression. She engaged in “huffing” air freshener aerosols, and later tried cocaine and LSD a few times, although the loss of control from LSD scared her. She tried methamphetamine and enjoyed being able to produce a great deal of artwork while high on it.

Christa was struggling with the impact of unrelenting, severe trauma without the benefit of psychiatric medication or psychotherapy, and without support of her family. Many traumatized youth (and adults) turn to using alcohol and drugs as a form of self-medication to numb the brutally painful memories of being abused. Additionally, drugs and alcohol are often used to the point of causing sedation, so the person cannot think about the humiliation and terror they have been subjected to. Drugs and alcohol can sometimes temporarily quiet the irritability, angry outbursts, terror, nightmares, and hyperarousal caused by untreated trauma and PTSD. As a result, chronic childhood trauma leaves survivors *extremely* vulnerable to drug and alcohol abuse, as these chemicals are a form of “self-medication” for trauma’s myriad crippling symptoms (Back et al., 2000; Najavits & Walsh, 2012).

Unfortunately, the relief from substances quickly wore off, leaving Christa feeling once again agitated, irritable, and restless, and increasingly desperate for relief. Heavy reliance on marijuana followed; from the first time she smoked marijuana, this became Christa’s preferred drug because

it calmed her down. She explained, “It was euphoric to me. It made all my problems disappear. It made me calm down and be good.” Although Christa’s drug use served as an escape from emotional pain, a way to cope with childhood abuse, and a method for calming herself, it also exposed her to youth and adults who were very troubled and who had a damaging influence on her.

Substance abuse and PTSD were only two of the mental health problems that Christa was developing at a very young age. The average age of onset of bipolar disorder is approximately 13 years of age (Kovacs & Pollock, 1995). Consistent with this, Christa began showing early signs of mania or hypomania due to bipolar disorder by early adolescence. She stated, “I could stay up partying for days and couldn’t understand why they (her friends) were all falling asleep.” Being able to stay up for days in a row is a sign of mania. Christa was already suffering from insomnia and excessive energy due to bipolar disorder. She found a way to finally induce sleep despite excessive energy and sleeplessness, “I didn’t know I had bipolar then. I would hitch hike to the beach. I would finally sleep on the beach and the ocean sounds put me to sleep.” She was trying to manage the insomnia associated with bipolar disorder without benefit of psychiatric medications. Hitchhiking and sleeping on the beach as a solo female were very high-risk ways of overcoming severe insomnia. High risk behaviors are classic symptoms of mania, as are excessive energy and insomnia (American Psychiatric Association, 2022).

Each of the types of childhood adversity that Christa experienced are associated with significantly greater risk for developing psychiatric disorders, as well as a wide range of other negative outcomes (discussed later in this report) (Anda et al., 2006). Christa experienced an inordinate number of childhood adversities including physical, emotional, and sexual abuse, childhood neglect, as well as parental divorce, mental illness, and substance abuse. Each of these adversities contributed to her psychological and behavioral problems. These adversities put her on a path that exposed her to increasing risk for dropping out of school and developing friendships with troubled youth and opportunistic, abusive adults.

It is not surprising that by late adolescence, Christa was frequently running away; she was sometimes homeless for periods of time. She recalled how she survived being away from home, “I hung out with carnies. They could have taken advantage of me but they didn’t.”

After making that statement, Christa then recounted a story about a carnie man in his 20s who pressured her to have sex when she was only 14. Her facial expression changed as it dawned on her that this was rape. The adult had taken advantage of her youth and naivete and pressured her to comply with his demands for “sex”, which she was too young to consent to; thus, this was rape. She looked distressed as she said,

“I was so oversexualized. It’s kind of sad.” She elaborated, “Just from the incident that happened when I was so young (Ernest’s abuse) and being around so much porn when I was young. My Dad had it everywhere. Just everything. Steve’s big stack of porn when I was 12.”

Christa’s parents and the other adults in her life failed to protect her, and they failed to model healthy sexuality, healthy methods to manage emotions and stress, and healthy relationships. She

had no idea how to protect herself because she had never known or seen protection. She could not distinguish people who would use and manipulate her from people who would care about her.

When she was 16, Christa became pregnant. She vomited so frequently due to being pregnant that she had to get IV hydration several times at a hospital. The doctor, “Dr. Danford”, worked in the same clinic where her mother was employed as a nurse. Her mother and Dr. Danford told Christa that the fetus was deformed and going to have “handicaps”. Her mother told her that the baby would have expensive medical costs and that Christa would be selfish to bring such a child into the world. Christa reported her mother said her “deformed” child would get abused and picked on. Her mother pressured Christa to have an abortion. Christa had ceased smoking marijuana and drinking when she found out she was pregnant, which according to Glenn Pike, her own mother had not done when she was pregnant with Christa. With all the warnings about her “deformed” baby, Christa eventually capitulated and agreed to get an abortion. However, during her incarceration, Christa had the opportunity to review her medical records including those from when she was pregnant; she learned that all tests indicated she and the fetus were “normal”. None of the tests indicated the baby was “deformed”. Christa was livid that her mother had lied to her and pressured her into having an abortion, which Christa considers “killing my kid for no reason”.

When Christa was approximately 17 years old, she was assaulted again while walking to the store. A man grabbed her and pulled her into the woods. She fought him with all her strength. Christa recalled, “I was fighting him so hard that he barely got started (raping her).” She hit his head with a rock, which allowed her to get away. (It is notable that she hit this man’s head on a rock, which is like what she did to the victim in the incident crime. This brings up the possibility that Christa was unconsciously triggered during the incident with Colleen Slemmer, and lost control of her behavior, in part because she was triggered by the victim, who she experienced as possibly causing her boyfriend to abandon her.) Christa escaped and ran as fast as she could to a friend’s house, who then took her to a hospital. The staff collected a rape kit but there was no semen; she had apparently stopped his attack before he had an orgasm. This man was never identified or caught.

This was the last sexual assault Christa experienced. When asked how she felt sharing so much difficult information with me, she said, “I don’t have feelings about it. I feel tense like I’ve been holding my breath.” I encouraged her to get up and move around to release the tension, and to work to resume normal breathing. Feeling a lack of emotion while discussing so much trauma is a strong indication of dissociation.

Medical History

Christa experienced serious health issues from her premature birth onward. She had seizures when she was 18 months and two years old. Christa reported having severe headaches, which she called migraines, since she was a small child. One was so extreme that her father took her to the hospital as a child. The migraines worsened during her adolescence. Headaches are very common among those who dissociate and those who have experienced child abuse and neglect; headache severity and frequency are associated with childhood abuse among migraine sufferers (Kucukgoncu et al., 2014).

Christa reported having a very poor memory all her life. She is not sure if her memory problems worsened after an extremely severe car accident when her mother's boyfriend Danny was distracted while driving. He ran into another car, causing Christa's head to go through the windshield of the car. Christa was so severely hurt that she had to have two surgeries to repair the damage to her face and skull. She showed me the serious scar on her head from this terrible accident.

In addition to the psychological and emotional scars that Christa bears from so many years of abuse, she has physical scars as well. Dr. Pincus found scars on Christa's legs and back from physical abuse which could have been caused by Danny or her father.

Symptoms of Bipolar Disorder

Christa presents with many classic symptoms of Bipolar Disorder. It is notable that in a 1991 psychological evaluation conducted by Dr. Rosemary Wilson, Christa, who was approximately 15 years old, showed the type of emotional reactivity that characterizes bipolar disorder as well as trauma-related difficulties (Evans et al., in press). Specifically, she responded in an overly emotional, unmodulated manner on a colorful Rorschach inkblot whereas other responses were more controlled. Her Rorschach indicates that she has difficulty thinking when she is highly emotional. When highly emotional, Christa becomes "quite confused and disorganized" (027403). Someone with this tendency is at risk for emotional outbursts that are uncontrolled. This is informative because it shows that years prior to the incident crimes, Christa was showing serious difficulty modulating her intense emotionality.

Even more critically, Christa displayed behaviors which are highly suggestive of being in a manic or at least a hypomanic state around the time of the crimes. Specifically, she was observed to be excited and laughing when she returned to the scene of the crimes the day after they took place. A police officer, Harold Underwood, testified that he saw Christa at the scene with friends from Job Corps, and that she was excited and laughing. Christa asked Mr. Underwood why the area had been marked off and whether there were any suspects. Christa's laughing and appearing excited is bizarre behavior; it is not what would be expected from someone who was thinking in a logical way. If she had been thinking logically, and was in control of her emotions, she would have understood it was critically important to not draw attention to herself or else she might become a suspect. She acknowledged her thinking was not rational in the interview with Detective Randy York; she said, "I wasn't really thinking right" (p. 36).

Christa described the mood symptoms she experiences:

When I'm manic, I get hyper focused if I can listen to the radio. I get more art work done during those times, unless it gets too far gone. Then I can't do art work. (Describe what happens if it gets too far gone) My hair and skin hurt, I'm rocking, my skin is crawling. I want to claw my face off. I have clawed and clawed and clawed the skin on my legs to the point of bleeding. It feels like bugs are crawling under my skin. (How often does it get this bad?) Once every 8 months or so. It lasts until I get something to knock me out and put me to sleep. I can go to sleep for an

hour, or maybe 3 hours. Once recently I had 7 hours in 8 days. My psychiatrist here prescribed Ativan for 3 days in a row so I could sleep.

It is notable that even now, while Christa is taking powerful psychiatric medications, she continues to experience severe symptoms of bipolar disorder that are highly disruptive to her sleep, mood, thinking, and behavior. Even medicated, these severe symptoms are so disruptive to her mental status that she must have additional medications (i.e., Ativan) to interrupt her severe insomnia so she can finally sleep. Sleep is urgently needed when someone is manic; sleep allows their agitated brain to “reset” and begin to get back to a more functional level. However, once someone has become severely manic, it can take days or weeks, and sometimes longer, for them to get back to a level of thinking, mood, energy, behavior, and sleep that is closer to “normal”. Furthermore, getting little or poor sleep can trigger a manic or hypomanic episode.

Christa described what she was like without psychiatric medication:

“I was a complete wreck. I don’t know. I didn’t know something was wrong with me. I stayed drunk or smoked weed constantly. I was self-medicating. The weed helped me a lot. I smoked copious amounts – from morning all day long until night like regular cigarettes.” When asked about whether she was aggressive when she was irritable, she stated, “I was so irritable so I was more aggressive. I would get into fights before and at Job Corp. I was in two other fights.

When asked if her engagement in criminal behavior was impacted by her mental state at the time of the crimes, Christa replied, “I think PMS (Premenstrual Syndrome) and mania both played a part. I’m so emotional with PMS it’s unreal. The day after I was incarcerated, I started my period. I mostly felt irritability, not more depressed, with PMS.”

Although Christa was not aware of this, irritability is a symptom of PTSD as well as of bipolar disorder. Thus, at the time of the crimes, Christa was dealing with three contributing factors that increased her irritability, and therefore, aggression: PTSD, bipolar disorder with manic or hypomanic episode, and PMS.

Experts in Bipolar disorder (Preskorn et al., 2022) warn that individuals with bipolar disorder are at risk for agitation turning into aggression if they are not treated:

...episodes of agitation associated with bipolar disorder are common. Symptoms can range from mild (uneasiness, restlessness) to severe (aggression, violence) and escalation can occur quickly. Patients presenting with agitation require prompt medical attention to facilitate evaluation and to prevent escalation and injury to themselves and medical personnel. (Note: numerous citations have been removed to make reading easier.)

Assessment of Christa Pike

Behavioral Observations

I met with Christa at the Debra K. Johnson Rehabilitation Center where she has been on death row for years. We started by verbally discussing the nature of the assessment, and that the results would not be confidential because I would be conducting a forensic assessment. She gave her consent to proceed with the evaluation.

Christa appeared to have good hygiene. She was dressed in yellow inmate clothing. Her make up was neatly applied. She wore some jewelry and had several tattoos on her left arm, fingers of left hand and left ankle. Some of the tattoos were flowers, butterfly, and ice cream. Christa shared that she has learned to do tattoos while incarcerated, and that she designed and inked her own tattoos. Because she is right-handed, she creates tattoos on her left side. One of her tattoos honors her deceased brother. She was pleasant and solicitous of my well-being (e.g., asking if I needed a break). Christa was respectful and cooperative, despite the very difficult conversations we had to have. She worked to share stories and insights, even when they did not reflect well on her. She was thoughtful, articulate, and funny. At times, her affect was flat even when discussing something emotionally charged or painful. For example, some of the time she talked about experiences of horrific abuse, and she showed no emotion. Instead, she stared or had a blank look on her face. She was also moved to tears as she talked about painful topics. Her thoughts were logical and organized with no signs of psychosis or thought disorder. She completed the questionnaires slowly and carefully.

I did not see signs indicative of flashbacks or rapid mood cycling. However, on one occasion while filling out a questionnaire about trauma, Christa engaged in unusually prolonged staring accompanied by a flat affect. That behavior is indicative of dissociation. She dissociated another time while telling me about Ernest's abuse. At other times, she was able to remain engaged although she was "numb" after sharing her long history of abuse. Numbing is a type of dissociation.

During our meetings, Christa was able to gain insight into the origin of her symptoms and behaviors, such as her beginning to cut herself and use drugs and alcohol after being raped. This indicates that Christa has the capacity for insight and the ability to benefit from psychotherapy.

Psychological Testing Results

Tests and Interviews Administered

In my 12.5 hours of assessment interviews with Christa on two different days, I administered the following measures and interviews:

1. Semi-structured clinical history interview – I interviewed Christa about significant events in her life including her developmental, social, educational, and psychological history.
2. Miller Assessment of Forensic Symptoms Test (M-FAST) – This is a test designed to screen for possible exaggeration of psychological symptoms (i.e., malingering).
3. Life Events Checklist-5 (LEC-5) – This is a self-report measure of stressful or traumatic events that a person may have experienced. I followed up with questions about each event she endorsed.
4. Adverse Childhood Experiences (ACE) Questionnaire – This questionnaire assesses 10 ACEs that may have been experienced in their first 18 years.

5. Childhood Trauma Questionnaire (CTQ) – This is a validated screening questionnaire for child abuse and neglect.
6. Multiscale Dissociation Inventory (MDI) – This is a validated screening measure for dissociative symptoms.
7. Clinician Administered PTSD Scale for DSM-5 (CAPS-5) - This is a semi-structured interview to assess and diagnose possible PTSD.
8. Structured Interview for Dissociative Disorders-Revised (SCID-D-R) – This is a semi-structured interview used to diagnose possible dissociative disorders. It is also helpful in distinguishing dissociative disorders from malingering, psychotic disorders, and other psychiatric disorders.

Validity

There were no indications of unusual responding, symptom exaggeration, or malingering on the M-FAST or TSI-2. I consider this a valid assessment of Christa's psychological functioning.

Trauma Exposure

To provide information on Christa's history of trauma exposure using validated measures, I gave her the ACE Questionnaire, the CTQ, and the LEC.

Adverse Childhood Experiences (Ace) Questionnaire

Christa's childhood can be analyzed through the lens of the Adverse Childhood Experiences (ACE) model. The ACE study, which constitutes one of the most significant public health investigations on the impact of childhood adversity on adult health outcomes, uncovered a graded dose-response relationship between childhood adversities and the leading causes of death, disability, and psychiatric problems (Anda et al., 2006). That is, each childhood adversity significantly increased a person's risk for medical and mental disturbances decades later. Individuals with four ACES or more showed a notably higher risk for a range of medical and mental disorders.

According to my interview with Christa, her responses on the ACE Questionnaire, and my review of collateral sources, she experienced 9 out of 10 ACEs:

- (1) Verbal/Emotional Abuse. Christa reported that two of her mother's boyfriends (Danny Thompson, Steve Kyaw) verbally abused her, as did her maternal grandmother and father.
- (2) Physical Abuse. Christa reported that her mother sometimes physically abused her. However, her father often physically abused her, as well as did her maternal grandmother, her sister, Danny Thompson, and Steve Kyaw.
- (3) Sexual Abuse. Christa reported that Steve sexually abused her. Additionally, she was exposed to numerous severe sexual assaults from individuals who did not live in the home. One of the men who raped her as a youth lived within sight of her home and she had to often walk past his trailer; the possibility that he would attack her again utterly terrified her.
- (4) Emotional Neglect. Christa was often overlooked, unprotected, and disbelieved about having been sexually assaulted and mistreated by a babysitter and various partners of her mother.

(5) Physical Neglect. Christa reported that she often did not have enough to eat when she lived with her mother. She was often sent to school without breakfast or lunch money. She had to wear dirty clothes when at her mother's home. Furthermore, her mother was often too drunk to take care of her.

(6) Parental Separation or Divorce. Christa's parents married, then divorced, then remarried each other, and finally were divorced a second time.

(7) Household Member With Problem Drinking or Drug Use. Christa reported that her mother, father, and maternal grandmother drank heavily and/or used drugs.

(8) Household Member With Mental Health Problems. Christa's mother became so depressed after Christa's birth that she attempted suicide.

(9) Witnessing violence between her parents.

It is *highly* unusual for a child to experience nine ACEs: *Christa experienced more ACEs than 99.3% of the U.S. population* (Giano et al., 2020). Furthermore, as noted above, Christa did not experience a single perpetrator for each of the ACEs. Rather, *many* adults mistreated and abused her in a multitude of ways. I am unaware of any studies that investigated the severity of damage when a child is exposed to *multiple* adults in the household who expose the child to the ACEs; this lack of research about multiple perpetrators of ACEs is likely due to how rare this type of multi-perpetrator abuse is.

Rather than home being a place of safety, protection, and belonging for Christa, it was the source of chaos and being endangered when she was a little girl and through adolescence. This placed an extremely heavy burden of adversity on Christa as a child. High levels of ACEs are associated with a wide range of enduring and negative outcomes, including increasing the risk for difficulties in relationships, psychological disturbances, substance abuse, impulsive and high risk behaviors, and violent offending. For example, high ACE exposures are linked with memory difficulties for childhood (i.e., dissociation), depression, anxiety, panic, sleep disturbance, headaches, early sexual intercourse, many sexual partners, difficulty controlling anger, early smoking, heavy drinking, and drug use (Anda et al., 2006; Brown et al., 2007). *Christa suffers from every one of these outcomes*. This is strong evidence that Christa's psychological disorders, difficulty controlling her angry outbursts and behavior, and drug use stem from the tragic level of abuse and family chaos she was exposed to as a child.

Christa's CTQ scores are consistent with her ACE score. On the CTQ, Christa indicated that she experienced a "severe" level of childhood sexual abuse, physical abuse, emotional abuse and physical neglect within her family. The degree to which she suffered physical neglect was worse than the physical neglect experienced by 99% of the population. Christa indicated that it was "often true" that she did not have enough to eat. She "rarely" knew there was someone to take care of and protect her. Regarding physical abuse, she reported that it was "often true" that she was hit so hard by family members that she was left with bruises. Christa indicated that sometimes someone in the home threatened to "hurt me or tell lies about me unless I did something sexual with them". Christa reported emotional abuse within her family including feeling someone in her family hated her, and that people in her family called her names like "stupid, lazy, or ugly".

On the LEC, which assesses trauma exposure throughout the lifespan, Christa endorsed having a very high number of traumatic experiences. Furthermore, she gave compelling, detailed

descriptions of these traumas which made it clear she had experienced these damaging events. Consistent with the CTQ and ACE questionnaires, Christa acknowledged that she endured a truly horrendous level of frequent childhood sexual abuse by five different perpetrators (Ernest, Steve and rapists who attacked her at age 11, 14, and 17) as well as being physically assaulted by her mother's boyfriend (Danny), maternal grandmother, mother, and her father. In addition, she was exposed to severe human suffering when her beloved grandmother was dying from cancer and in chronic excruciating pain. Watching her grandmother's agony without being able to ease her pain or halt her vomiting left Christa feeling helpless and depressed. Her grandmother had been the only person who consistently loved and paid attention to Christa. Losing her grandmother was a devastating loss that altered the trajectory of her life.

On the LEC, Christa also indicated she was violently abused by her former boyfriend and co-defendant, Tadaryl Shipp. For example, he grabbed her by the throat and pinned her against the wall. She fought back in self-defense as best she could. There were other times he was physically aggressive as well as extremely threatening. One time after shoving Christa, he opened his mouth and showed her that he had a razor hidden in his mouth. He was demonstrating in a menacing way that he could do much worse to her if he decided to. He had a reputation for being extremely violent among their peers at Job Corps. He had threatened another teenager by holding the boy over a bridge, threatening to drop him. As a teenager coming from a home with a great deal of neglect and abuse, Christa felt that her boyfriend's aggressiveness meant that she was safe. This type of extremely illogical thinking can result when a child is raised in a chaotic, violent world. Rather than being afraid of violent people, she (falsely) believed that if she was the girlfriend of an aggressive male, she would be safe. She felt that Tadaryl would protect her. Unfortunately, it meant she was exposed to Tadaryl's violence. He also lied and cheated on her, including having a sexual relationship with the victim. This kind of incredibly troubled boyfriend increased the odds that she, too, would become involved in violence, which is exactly what happened. Ultimately Christa and Tadaryl become involved in the lethal attack on Colleen Slemmer, the girl with whom Tadaryl was having an affair.

In summary, this constant abuse, neglect, and chaos put Christa at very high risk for mental illness, substance abuse, and chaotic relationships, all of which heightened her risk for being aggressive (Anda et al., 2006).

Given the life-long, almost constant level of threat to her life, it is not surprising that Christa suffers from severe PTSD symptoms. On the gold-standard interview for PTSD, the CAPS-5, Christa meets the criteria for PTSD with severely disruptive symptoms. As noted above, many of these symptoms began in early childhood and adolescence and were problematic at the time of her crimes.

PTSD's symptoms are grouped into four categories. In the category of intrusive symptoms, Christa experiences:

1. Repeated disturbing memories of the traumatic experiences (especially being orally raped by Ernest as a preschooler).
2. Feeling very upset when something reminds her of the traumas.

3. Having strong physical reactions when something reminds her of the traumas (e.g., she gags a few times a month when brushing her teeth along with shuddering and having chills when she remembers being orally raped. One of the times Christa dissociated was while telling me how she gagged while attempting to engage in oral sex with Tadaryl; this shows that PTSD was active and disruptive at the time of the crimes).

In the category of avoidance of stimuli reminiscent of the traumas, Christa experiences:

1. Avoiding memories, thoughts, and feelings related to the traumas. Although Christa has some insight into avoiding traumatic reminders, she is fully aware of how often she avoids thinking about the many abuses she endured. It has become such an ingrained way of surviving that she is not even aware she is avoiding and minimizing being abused.

In the category of negative alterations in cognitions and mood associated with the traumas, Christa experiences:

1. Having difficulty remembering important parts of the abuse
2. Having strong negative beliefs about others (“No one can be trusted”. Christa said that 80% of the time, she feels tremendous mistrust for others).
3. Blaming someone for the traumas (“I blame the ones who abused me 100%. My Mom didn’t know how to be a Mom. My maternal grandmother hated me because I look like my Dad and she hated him.”).
4. Having severe negative feelings (“I feel fear, guilt and shame.” Christa is aware that shame and guilt underlie her fearfulness.)

In the category of marked alterations in arousal and reactivity related to the traumas, Christa experiences:

1. Being on hyper alert (“always”).
2. Feeling jumpy, particularly in response to loud noises or someone walking by her.
3. Having difficulty concentrating to such an extent that reading, writing, and even participating in conversation can be difficult.
4. Having severe trouble falling as well as staying asleep. It can take as long as 3-4 hours to fall asleep at night, then she often repeatedly awakens at night; it can take an hour or more to fall back asleep each time.

On the self-report measures of PTSD, i.e., the TSI-2 and PCL-5, Christa did not report all of her symptoms of PTSD. She did not endorse some symptoms she told me on the CAPS. In my experience, the detailed questions on the CAPS-5 help most trauma survivors recall more examples of symptoms. This contributes to why this interview is considered the gold standard for diagnosing PTSD. Christa’s tendency to not endorse symptoms on the self-report questionnaires indicates she is not attempting to exaggerate her symptoms. Rather, she has adapted to having severe PTSD by avoiding thinking about trauma and her PTSD symptoms, and by minimizing her symptoms. It is typical for individuals to become more avoidant over the years when they have experienced so much trauma and neglect during childhood and adolescence. However, even with minimizing,

Christa reported that a couple of times each year, she begins to feel very distressed and “helpless like a kid” when she recalls having been abused. She also acknowledged that she has dissociative amnesia: “The order (of experiences of abuse) is hard to keep straight. I can feel pieces are missing and my age feels wrong.”

On the TSI-2, Christa scored in the clinical range for the Suicide scale and the Suicidal Ideation subscale. This indicates she has frequent, concerning thoughts about wanting to die. She was careful to say that she has not acted on these thoughts nor does she want to act on them. (Note: I include some of the TSI-2’s questions in quotes to illuminate some of Christa’s endorsements.) She endorsed a number of items that would be consistent with a mood disorder including often “feeling mad or angry inside”, “feeling hopeless”, “having angry thoughts” although she was quick to note that she is now able to prevent herself from acting on those thoughts due to mood stabilizing medications and having received some trauma treatment while incarcerated. She endorsed being “depressed” as well as sometimes “wanting to hit someone or something” and “getting angry when you didn’t want to”.

Feelings of irritability and anger are classic symptoms of both PTSD and bipolar disorder, both of which Christa suffers from. Christa also endorsed a number of symptoms of PTSD including often “trying to forget about a bad time in your life” and sometimes having “trouble getting to sleep or staying asleep because you were feeling tense”, “stopping yourself from thinking about the past”, feeling jumpy, and “trying to block out certain memories”. Christa also endorsed some symptoms of dissociation including sometimes “spacing out”.

To further assess Christa for dissociative symptoms, I gave her a self-report questionnaire (MDI) and the SCID-D-R, which is widely considered to be the “gold standard” interview for reliably diagnosing dissociation and dissociative disorders. On the MDI, Christa scored in the “clinically significant” range for Disengagement. This subscale measures the extent to which an individual emotionally and/or cognitively disengages from the world around them. Importantly, Christa’s score on this subscale matched the average score of people who needed psychiatric treatment due to having experienced interpersonal violence. Her score was higher than approximately 99% of the people in the norming sample who had experienced trauma (Briere, 2002). On this subscale, Christa indicated that she very often experiences being “absent minded and forgetful”, and that often finds herself “not paying attention because you’re in your own world”, “spacing out”, and “staring into space without thinking.”

Consistent with Christa’s report of dissociative symptoms, I observed her dissociating when we talked about some of the most emotionally painful experiences she has endured. It was while relating some of the most awful trauma stories that she tended to show no feeling and/or stare off into space; this is consistent with what is expected in someone with a dissociative disorder.

Christa’s responses were severe enough that she meets criteria for “severe” levels for **Dissociative Amnesia** due to gaps in her memory more than once per month as well as for lack of recall for daily activities such as whether she has eaten or not. I observed her having difficulty recalling some of the traumas she has endured. She stated, “It hurts my brain. I try so hard to remember.” Her poor memory has caused her to have trouble functioning. For example, as a child her memory was so bad that she could not memorize multiplication tables, no matter how many times she

worked on them and despite desperately wanting to memorize them so her father would not get angry and beat her. At the beginning of our interview, without any prompting from me about memory issues, Christa stated, “My memory is a disaster so I’m not sure when I started it”, referring to not recalling when she began to take the anti-psychotic medication Abilify.

On the SCID-D-R, Christa reported that she experienced depersonalization during the sexual attack when she was 11 years old as well as during the incident that resulted in her being sentenced to death. During both events, she experienced herself outside her body, looking down at herself.

She gave the following compelling description of being in a manic or hypomanic state during days before the incident, which occurred after she stopped self-medication with marijuana (these symptoms are identified in italics). Christa described experiencing an out-of-body experience of depersonalization (this symptom is identified in bold) during the criminal incident:

When I stopped marijuana, *I started staying up all the time*, and I was *irritated and angry* again. I could not be at Job Corps and smoke (marijuana). I had to stop. *I had been up for almost three days when I caught my charge*. It had been over 30 days since I stopped smoking. I passed my drug test so I was clean. I felt like my skin was hurting, like I had the flu. I could feel my hair. *I was angry, irritated*. I didn’t want anyone around me. *I was pissed with everyone and everything*. (How was your appetite?) I don’t know (What were you thinking?) Just remember being what I know now as manic. *Everything was like, everything quickly, I want a response, I need you to do it now*. (She imitated pressured speech and agitation and fast hand gestures). *Any little thing was such an irritant*. (Were you fighting more?) Not with my boyfriend. I don’t remember with anyone else. (Were you taking any risks?) I don’t remember. (How was your libido?) *It was over the top! I was having sex 3 or 4 times a day, as often as he would let me. He’d say, leave me alone*.

Christa spontaneously described dissociation during the first day of interviewing, without realizing that is what she was describing: “It’s so hard for me to tell my own stories of abuse, neglect, and self-harm, and lay myself bare. So I *disconnect myself from these stories like it happened to someone else*.” She began to cry, and then went on describing depersonalization, “This is someone else’s. Like a movie I watched one time.”

Notably, Christa did not endorse all the symptoms of dissociation on the TSI-2, MDI, or SCID-D-R. This gives greater credibility to the dissociative symptoms she endorsed. She denied symptoms of identity confusion and alteration as well as derealization.

Childhood Maltreatment, Bipolar disorder, and Risk for Aggression

Individuals with bipolar disorder report more frequent childhood abuse than do individuals who do not have bipolar disorder, as well higher levels of insecurity about attachment relationships, greater dissociation, and higher anxiety, depression and stress (Kefeli et al., 2018). Childhood trauma exposure increases the risk for bipolar disorder, with emotional abuse being particularly strongly linked to its development (Kefeli et al., 2018). Individuals who experienced emotional

abuse were more than four times more likely to have bipolar disorder than those who were not emotionally abused.

Childhood maltreatment predicts much more severe outcomes for individuals with bipolar disorder. A meta-analysis of research studies found that those who experienced physical abuse in childhood were more likely to have an early onset of bipolar disorder, rapid-cycling moods, psychotic symptoms, more suicide attempts, and more severe manic symptoms, as well as greater risk for PTSD and substance abuse (Daruy-Filho et al., 2011). Those who experienced sexual abuse were also at much higher risk for PTSD and substance abuse. Particularly important in Christa's case, studies have also found that *individuals with childhood abuse and bipolar disorder are at heightened risk for impulsivity and aggression* (Daruy-Filho et al., 2011).

In summary, based on her self-report, testing results, my observations of Christa, and my review of her records, Christa suffers from *eight serious psychological disorders: **Bipolar I Disorder, complex Posttraumatic Stress Disorder, Dissociative Amnesia, Depersonalization/Derealization Disorder, Panic Disorder, Obsessive Compulsive Disorder, Hoarding Disorder*** (hoarding food), and **Specific Phobia** (Spiders). In her youth, she likely also suffered from even more disorders, specifically Trichotillomania, Bulimia Nervosa, and Marijuana Use Disorder. Having *eight* co-occurring psychological disorders is extremely uncommon in the general population but it is not unusual among individuals who have been exposed to severe, chronic complex trauma that began in preschool like Christa endured. Many trauma experts refer to this type of broad and severe symptomatology that develops following complex trauma as "Complex PTSD". Christa was clearly disabled by the impact of these serious, untreated psychological disorders throughout her life, including at the time of her crimes.

I believe elements of reenacted trauma showed up in Christa's behavior in her late teens. Christa was exposed to the brutal slaughtering and disemboweling of animals when her grandfather babysat her at a slaughterhouse as a preschooler. This exposure to animals being killed and decapitated brings up the possibility that Christa was unconsciously reenacting the bloody scenes she had been exposed to as a little girl during two bloody episodes in her teens. Specifically, Christa lost control of her behavior during the incident that led her to being on death row, as well as when she, in her own estimation, went "too far" in beating up a man who raped her when she was 17. The victim in the instant crimes was beaten and badly bloodied. Christa used rocks to hit the head of the victim in the instant crimes as well as the man who attacked when she was 17 years old. This may have been an unconscious attempt to be in control in both situations where she was threatened. In the episode with the man, he surprised her and began raping her. Only after she hit him in the head did he stop raping her and run away. Christa reported to the police that she had tried to get the victim in the instant murder to stop talking to her. Christa was trying to get her to stop calling her the same names one of Christa's abusers had called her. Christa perceived the victim as a threat to Christa in that she had been harassing her, cutting up photos that were precious to Christa, coming into her room at night while she slept, and threatening to steal Christa's boyfriend from her. Christa reported telling the victim repeatedly to stop talking, but the girl refused to stop talking. Christa was triggered by this girl's use of the same slurs as one of her previous abusers, and by the possibility that this girl might cause Tadaryl to abandon her. All of these situations (slaughterhouse, rape at 17, and instant crime) were bloody scenes in which animals and people were severely injured or killed. When triggered and threatened, Christa

becomes disorganized in her thinking. Under serious stress, she is unable to reign in control of her behavior, emotions and thinking, as noted in Dr. Wilson’s and Dr. Engum’s testing. This had tragic consequences.

Prior Experts’ Opinions

Dr. Rosemary Wilson’s 1991 Evaluation

In Dr. Rosemary Wilson’s psychological evaluation of Christa at age 15, Christa showed several signs that are indicative of her having been seriously traumatized. On the Thematic Apperception Test, Christa’s stories were notable for a child being killed in a bus accident, a woman who killed herself, a woman who was killed by someone hitting her with a frying pan, a child who was preoccupied with worry because her parents did not pick her up from the babysitter’s home, and a girl who “beats the butt” of another girl who was “with her boyfriend”. The latter story is strikingly like the incident that resulted in Christa being on death row. The lethal bus accident is reminiscent of Christa being in a very severe car accident that required her to have two surgeries. The characters in her stories did not seek help for their problems by talking to others, nor did they show any other healthy methods of coping. Instead, violence, murder, and suicide were what Christa’s characters relied on; this shows this is what Christa expected. These bleak, violence-filled stories suggest this is what Christa had experienced and learned. These stories show that as a young teenager she was familiar and preoccupied with neglectful parents, forgotten children, suicide, murder, and physical violence. Although it is typical for one, two, or even three stories such as these to occur in the testing of youth who have experienced neglect and abuse, it is rare to see so many stories of trauma and neglect in one individual’s testing. This strongly suggests that Christa’s life was filled with extraordinary amounts of violence and hostility with no sense that anyone could be relied upon for safety or protection.

Similarly, Christa’s Rorschach responses from this evaluation also showed signs suggestive of trauma and abuse as well as the emotional lability characteristic of bipolar disorder. For example, she indicated seeing a “mouth with a busted lip”. This sounds autobiographical in that Christa told me she had been punched in the mouth by one of her mother’s boyfriends, sustaining a “busted lip”. Her perceptions were often distorted and disorganized, suggesting a vulnerability to misperceiving situations and possibly being vulnerable to experiencing psychosis when highly stressed. There was an image of smaller creatures being pulled down and sucked up, ostensibly being destroyed by a bigger creature, suggesting themes of annihilation and vulnerability. Again, this sounds metaphorically like Christa’s lifelong experience of being repeatedly pulled down and violated by “big creatures”, that is, adult men. In Christa’s childhood, small creatures were destroyed by larger creatures; children were brutalized by adults. Images depicting violence, aggression, and vulnerability are commonly found in the Rorschach protocols of youth and adults who have experienced interpersonal violence (Brand et al., 2006).

At the time when Dr. Wilson evaluated Christa, little was known about the impact of trauma on psychological testing. Research had not yet been conducted that demonstrated that the traumatic intrusions Christa showed throughout her testing are emblematic of chronic abuse and neglect. Thus, these myriad signs of trauma were not understood to be indicators of trauma. Rather, it seems that Christa was seen as hostile and enraged, rather than traumatized and understandably angry and with trauma- and bipolar-based irritability.

Christa told Dr. Wilson that Alicia, her older sister, locked Christa in her bedroom and told Christa that she was leaving her there while she, herself, left. Christa reported that being locked up and abandoned by Alicia “scared her to death.” On another occasion, Alicia tricked Christa into putting her fingers in a door which Alicia then slammed on her hand.

Eric Engum, Ph.D., J.D.’s 1995 Evaluation

Dr. Engum conducted neuropsychological testing with Christa when she was 19. His report does not include any review whatsoever of her psychosocial history or chronic exposure to profound abuse and neglect. It appears Dr. Engum conducted the testing and interpreted it without any information about Christa’s background including her history of head trauma, premature birth, repeated seizures, and other risks for brain injury. He based his conclusions solely on the tests he administered. This lack of information about developmental history was unusual even back in 1995. Dr. Pincus testified that it was absurd for Dr. Engum to conclude, as he did in his report, that Christa had no brain damage based solely on his testing.

In my review of Dr. Engum’s report and testing data, in addition to being surprised by the omission of Christa’s psychosocial development, I was struck by Dr. Engum’s failure to mention that Christa elevated on both MMPI-2’s PTSD scales. These are notable findings, yet he completely missed them. The DSM included PTSD as a disorder beginning in 1980 so the symptoms of this disorder were well-known when Dr. Engum assessed Christa. Nonetheless, Dr. Engum did not include any tests that specifically focused on assessing trauma history or trauma-related symptoms; for example, there was no assessment for or mention of dissociation. (Another unusual aspect of Dr. Engum’s report is that he copied whole sections of his report from the computerized reports generated by the companies that publish the psychological tests he used. This is generally not acceptable among psychologists.)

Dr. Engum’s lack of consideration of trauma negatively impacted his understanding of Christa. For example, on the Wechsler Adult Intelligence Scale, he noted the considerable scatter and variability of Christa’s responses. She did exceptionally well on some subtests and poorly on others, and she also missed easy items yet did well on much harder items on some subtests. He did not have an explanation for this. One possibility he failed to consider is the interference from trauma-related triggers. This has been noted to cause variability and scatter in the testing of traumatized, dissociative individuals (Brand et al., 2006). For example, Christa did very well on Comprehension; however, her first failed item was related to why we need child labor laws. She answered that children could get mistreated and physically abused (000056); she did not recognize that they also need to go to school and develop socially. This response is an example of how Christa’s traumatic experiences sometimes were triggered, and intruded on and disrupted her thinking, making it difficult for her to fully understand situations due to the disorganizing influence of traumatic intrusions and triggers. Indeed, this tendency for Christa to get triggered by traumatic intrusions likely played a role in her losing control in the instant offense (see below).

Dr. Engum noted that Christa was elevated on many scales on the MMPI-2 including anxiety, paranoia, angry mistrust, and schizophrenia. He did not note that it is characteristic for chronically abused individuals to show elevations on numerous MMPI-2, MCMI, and Personality Assessment Inventory (PAI) scales including the ones Christa elevated on; this pattern of elevations is

particularly likely in those who have experienced childhood sexual abuse (Brand & Brown, in press; Brand et al., 2016). Relatively little was known about the impact of trauma at the time Dr. Engum conducted his testing, so it is not surprising that he was unaware of the devastating impact of trauma and the patterns with which this devastation shows up in psychological testing. However, that does not explain why he failed to consider PTSD given her elevation on both PTSD scales.

Furthermore, Dr. Engum's report indicated Christa suffered from insomnia and nightmares; these were well-known symptoms of PTSD at the time of his evaluation, yet he did not mention the possibility of Christa having PTSD. Christa endorsed all four items on the PAI that are considered possible evidence of trauma exposure, yet he failed to mention that. It is even more baffling that Dr. Engum did not consider trauma's role given that the computerized interpretation of the PAI suggested that trauma was likely: "The respondent has likely experienced a disturbing traumatic event in the past – an event which continues to distress her and produce recurrent episodes of anxiety" (000038).

Dr. Engum noted Christa suffered from racing thoughts and intense labile mood swings, yet he did not mention these are classic symptoms of bipolar disorder, nor did he mention considering that diagnosis in his report. These symptoms, especially when combined with insomnia, signal that bipolar disorder should have been seriously considered. Christa also endorsed items suggestive of depression including worthlessness, guilt, and low self-esteem; depressive symptoms can occur in bipolar disorder or major depressive disorder. The testing also revealed that Christa was prone to "unusual perceptual or sensory events and/or unusual ideas that may involve delusional beliefs" (000039). Thus, the testing indicates Christa is prone to psychotic level problems with thinking and perception.

Dr. Engum noted that Christa was somewhat elevated on the Negative Impression Management (NIM) scale of the PAI. One interpretation of elevation on the NIM scale is that the individual may be attempting to present themselves in a particularly negative light; that is how Dr. Engum interpreted this elevation. However, research shows that this scale includes items (e.g., having few positive memories for childhood) that are so commonly endorsed by traumatized individuals with dissociative symptoms that this scale has questionable validity in people with complex trauma histories, particularly those with dissociative symptoms (Stadnik et al., 2013).

Dr. Engum diagnosed Christa with depressive disorder not otherwise specified, cannibus (sic) dependence, and borderline personality disorder. Trauma experts have convincingly shown that the symptoms of borderline personality disorder are, in fact, more accurately understood as stemming from the damaging impact of trauma, particularly when it occurs in childhood (J.L. Herman, 1992; J. L. Herman, 1992; Herman et al., 1989). When treated for trauma, these individuals often no longer appear as labile, and may no longer meet criteria for borderline personality disorder. Dr. Engum was either not aware of, or failed to consider, the lifelong impact of trauma on Christa, including in making diagnostic conclusions about her.

Stuart Grassian, M.D.'s 2001 Affidavit

Dr. Grassian was involved in assessing whether Christa was able to rationally withdraw her post-conviction appeals, particularly considering her having been in solitary confinement for over five years, starting at the vulnerable age of 19. Dr. Grassian described Christa having "grown up with

a profound experience of childhood abandonment” He warned that Christa could become disorganized and terrified by threats of abandonment. (As noted below, I agree with his assessment and believe the threat of abandonment played a role in Christa losing control of herself in this incident.) He wrote that Christa’s “feelings can become blinding, screaming all-consuming” (p. 3) when she feels she could be abandoned. Further, he opined that, “When individuals such as Ms. Pike are placed under great stress, their capacity for voluntary choice is of course not totally extinguished, but it is inevitably severely compromised” (p. 3). Dr. Grassian wrote that in response to the damaging impact of solitary confinement, individuals can begin to have psychotic, dissociative, and obsessive-compulsive symptoms.

Dr. Grassian mentioned understanding that Christa likely suffers from bipolar disorder. He raised serious questions about Christa’s ability to rationally decide to withdraw her appeals.

George Woods, M.D.’s 2001 Evaluation

Dr. George Woods reviewed records from previous evaluations of Christa, and concluded that Christa showed signs of mania or hypomania. His report notes that Christa had a history of staying awake for two or three days, a pattern that he acknowledged met criteria for both bipolar I and bipolar II. He noted she was easily distracted and clearly showed an increase in goal-directed activity and psychomotor agitation. Further, he referenced Christa having a history of excessive involvement in pleasurable activities that have a high potential for painful consequences. He mentions her sexual behaviors as one example of this type of manic or hypomanic behavior. He refers to Dr. Engum’s finding that Christa suffers from racing thoughts, noting that they are “a cardinal symptom of mania, as is insomnia” (p. 3). He diagnosed Christa with bipolar II disorder and PTSD.

Dr. Woods’ report notes that children who have been subjected to overwhelming trauma often have themes of violence show up in their play. I agree with Dr. Woods; furthermore, trauma survivors often unconsciously reenact aspects of their trauma history even in adulthood. For example, some survivors of sexual abuse end up acting out their sexual abuse by having a great number of sexual partners; this is seen as an attempt to undo the helplessness they experienced in childhood, by being in control and triumphing over partner after partner in adulthood. This is likely true for Christa who reported having as many as 50 sexual partners prior to her arrest at 18. It is also likely that she engaged in excessive sexual activity during episodes of mania or hypomania. I think another form of reenactment took place during the crimes (see below).

Jonathan Pincus, M.D.’s 2001 Evaluation and Subsequent Testimony

Dr. Pincus noted throughout his report the devastating impact of the extreme, chronic level of trauma that Christa had endured. He stated, “She is the product of an almost unbearably abusive background.” In addition to the many traumatic experiences recounted above, Dr. Pincus’ report included a story about her sister Alicia purposefully burning her with a curling iron, resulting in a scar that was still visible to Dr. Pincus. He noted that Christa witnessed violence between her parents. He described Christa surviving her horrific childhood by retreating into dissociation; specifically, she escaped into a vivid fantasy world in her mind that was so real that she could speak with her deceased paternal grandmother (Grandmother Delfa). He commented that on the Millon Clinical Multiaxial Inventory, she showed an elevation on avoidance which is consistent with PTSD and trauma.

Dr. Pincus’s neurological examination found evidence that Christa had abnormal neurological problems that he felt were probably related to her premature birth and neonatal events. She had an Apgar score that was very concerning (i.e., 3) and she had seizures at 18 months and again at two years. He described that Christa was “vaulted through the windshield of a car” when her mother’s boyfriend was playing the radio too loud and distracted by drumming along with the music. Christa lost consciousness for several minutes. Dr. Pincus indicated all of these events put Christa at risk for brain damage.

Dr. Pincus insightfully recognized that Christa was triggered by the “code words” of “slut” and “whore” that Colleen Slemmer hurled at her during the incident that led to Christa being on death row. These were the precise humiliating words her mother’s boyfriend Steve Kyaw used in his abuse of her. Being called those names by Slemmer triggered the intense shame, worthlessness, and rage that Christa had felt when she was degraded by the same words by Kyaw. Dr. Pincus indicated that Slemmer calling Christa these “code words” triggered such an overwhelming surge of rage that Christa utterly lost control of her behavior. I agree with Dr. Pincus and elaborate on this below.

Dr. Pincus concluded that Christa had “dissociative states”. He diagnosed Christa with a severe dissociative disorder, PTSD, obsessive compulsive disorder, depression, and intermittent explosive disorder. It is crucial to note that he linked Christa’s multiple neurological impairments, head trauma, and likely brain damage with her developing intermittent explosive disorder.

Dr. Pincus’s report did not mention the many symptoms of mania that Christa experienced including irritability, agitation, and severe insomnia. It appears he was not aware of these symptoms. However, in his testimony at Christa’s post-conviction trial, he noted that Christa had been diagnosed with bipolar disorder and that her symptoms of that disorder had drastically improved after she had been treated with Lithium, which is a first line medication for bipolar disorder. Thus, Dr. Pincus acknowledged that Christa had bipolar disorder when he testified on this later date.

William Kenner, M.D.’s 2002 Evaluation

Dr. Kenner evaluated Christa regarding her competency to make rational choices, specifically to waive her post-conviction appeals. Dr. Kenner acknowledged and considered Christa’s exposure to sadistic adults, sexual and physical abuse, and neglect throughout her childhood. He also noted that she had been exposed to pornography beginning as early as four years old. His report notes that Christa has a “bad memory” which she attributed to smoking marijuana; however, trauma and dissociative amnesia can also contribute to poor memory for one’s life experiences (Brown et al., 2007).

Dr. Kenner’s report is the most thorough of any prior expert’s in terms of reviewing records of Christa’s symptoms and behavior while she was placed in a home for troubled adolescents in 1991. Notably, those records include the following observations of Christa: she was “a bundle of energy”, repeatedly excessively talking, and repeated mentions of her being “hyper”, “total change of attitude”, “too restless”, and “Christa has an amazing amount of energy, even when sick”. Staff also noted that she had difficulty focusing on tasks and that she showed a highly variable mood.

These behaviors are strongly suggestive of symptoms of bipolar disorder. Dr. Kenner noted that Dr. Grassian and Dr. Woods had a conversation about Christa having bipolar disorder. He also noted that Dr. Engum's report mentioned insomnia and racing thoughts.

Dr. Kenner documented Christa's mental status "changed drastically" between his numerous visits which included observing her after she had not slept for up to 72 hours and after she had been treated with Lithium. She was suffering from visual hallucinations on March 13, 2002, which he attributed to her having an adverse reaction to the mood stabilizer Depakote. He noted that Christa's "mental status had changed dramatically for the better" following beginning treatment with Lithium. Prior to being treated with Lithium, Christa had presented at times with loud, pressured speech; "intense rage and irritability"; aggressive thoughts; and racing thoughts when she was not getting sleep. Critically important, Christa reported that she had been sleeping only one or two hours per night before the murder.

Christa reported a history of these types of manic symptoms, as well as not being able to speak her thoughts as rapidly as they were coming to her and engaging in high-risk behaviors when she had been awake for days. Christa reported having these classic symptoms of bipolar disorder, along with periods of depression, extending back into her early adolescence. Further evidence of mania included her report of having had as many as 50 sexual partners.

Christa expressed feeling much better, having control of her behavior, and sleeping well when treated with Lithium. She said that her moods made sense when they shifted when she was medicated, whereas prior to being treated for bipolar disorder, her mood changed erratically for no reason.

Dr. Kenner documented that Christa's symptoms changed when she was treated with mood stabilizers, according to testing completed by Dr. Pamela Auble. When untreated, she had referred to having racing thoughts on Incomplete Sentences and having a "defective" mind. Prior to treatment, she was highly elevated on scales measuring anxiety and depression, but after receiving treatment, both scales had dropped significantly, such that both anxiety and depression were in the normal range. Prior to treatment, mania scales were elevated on the PAI and MMPI-2, but after treatment with mood stabilizers, her mania scale on the PAI was in the average range and on the MMPI-2 it was still high but much closer to normal.

Christa reported to Dr. Kenner that she was afraid of how out of control she can become when she is agitated and manic. She did not want to hurt anyone.

Dr. Kenner's report documents that Christa was permitted to drink with her mother and her boyfriend when she was 16; she reported that she "drank both of them under the table".

Dr. Kenner assessed for dissociation. Christa told him about experiencing severe depersonalization, that is, seeing herself leaning over and holding her dead grandmother's body at her funeral. She also indicated that she had a similar experience of severe depersonalization during the incident that resulted her being on death row. "When the incident happened, I was looking down on myself and watching it", Christa reported.

Dr. Kenner diagnosed Christa with bipolar II disorder which he stated she had suffered from since her early teenage years. Although he did not specifically diagnose PTSD or a dissociative disorder, he clearly indicated throughout his report that Christa suffered damage from years of abuse and neglect and that she had symptoms consistent with PTSD including dissociation.

My Review of Other Experts' Reports and Testimony

No expert at the time of trial testified about the full impact of the extraordinary level of trauma Christa was exposed to, nor did the experts link her chronic trauma history to the development of her numerous psychiatric disorders and subsequent criminal behavior. Without evidence of Christa's history of complex trauma history and multiple mental health disorders that directly affect her ability to process and respond to stressful situations, and her inability to regulate her emotional lability due to the impact of trauma and her psychiatric disorders, the jury was left without the essential information it needed to understand Christa's actions.

I reviewed the psychological testing reports of the assessments performed by previous experts who presented some of Christa's psychosocial history. Unfortunately, none of these professionals used any research-based tests or interviews to assess the presence and/or severity of dissociation, PTSD, and childhood trauma. Furthermore, none of the prior mental health professionals fully assessed Christa's trauma history and the crucial link between complex, chronic trauma, emotional dyscontrol, bipolar disorder, and risk for aggression. Without understanding these aspects of Christa's personality and neurobiology, and her inability to regulate her emotions due to bipolar disorder and the impact of incessant trauma, it was not possible for her defense team to fully understand or explain Christa's actions in her trial.

Had a trauma expert conducted the full assessment I conducted, they could have provided a clinical explanation for Christa's extreme aggression towards the victim. In my professional opinion, Christa's rage and subsequent aggression occurred for several reasons:

1. Christa was experiencing untreated intense bipolar emotional reactivity. It is very likely she was at least hypomanic if not manic at the time of the crimes. Research clearly documents that individuals with bipolar disorder are at risk for irritability and aggression when untreated.
2. Christa was suffering from untreated trauma and PTSD. Irritability and hyper-reactivity to perceived threats are symptoms of PTSD.
3. Christa was deeply threatened by the fear of losing her boyfriend to the victim. While individuals without a history of trauma, PTSD, and bipolar disorder may not have been so threatened by the possibility of losing a boyfriend, Christa was saddled with all three of these psychological vulnerabilities. As noted by several experts, when Christa perceived she was possibly going to be abandoned, her thinking could become disorganized and illogical. As Dr. Grassian described it, "feelings (when abandonment was possible) can become blinding, screaming all-consuming" (p. 3).
4. Christa was just 18 years old, with a brain that was not yet fully developed. The human brain is not fully developed until the mid-20s. Prior to that, youth do not have the ability to think through impulses, fully consider the consequences of their actions, nor "put the brakes on" their intense behavioral impulses.

5. The victim, Colleen Slemmer, called Christa the exact derogatory sexual terms used by one of the sexual predators who abused Christa. Traumatized individuals respond to being triggered with an intense flood of emotion that impairs their ability to think logically and control their behavior, and to recognize consequences until it is too late. There was a tragic synergistic impact of these factors: Christa, who was already in a hypomanic or manic state, was severely triggered by these slurs. She was so stressed by her emotions and the possibility of losing Tadaryl, her boyfriend, that she dissociated, seeing herself high above the scene. This perceptual distortion is an indicator that Christa was extraordinarily overwhelmed by stress and emotion. She spontaneously dissociated to escape, at least perceptually, up into the tree above what was actually happening during the incident. Her tendency to dissociate had become a conditioned response to threat and danger due to her extremely abusive childhood. It is tragically predictable that in such an emotionally charged, high-stress situation, a youth with untreated bipolar I disorder and other untreated disorders would not be able to slow down and regulate their emotions and develop a more reasonable, mature, and non-violent way to deal with a peer's threats and verbal badgering.

I believe that it is likely that Christa's heavy abuse of, followed by attempting to quit using marijuana on her own without treatment, combined with bipolar disorder and the impact of trauma, likely impacted her brain functioning and behavior. I recommend that a medical doctor with expertise in these areas examine and opine whether Christa's judgement, behavior, and self-control were likely impacted by these factors.

The Cumulative Impact of Trauma

As the number and type of childhood traumas increase, so does the severity and breadth of difficulties a traumatized person struggles with, often for the rest of their lives, unless they get trauma treatment (Anda et al., 2006; Cloitre et al., 2009). When maltreatment is this severe, it can cause enduring and complex changes in the person's brain structure and functioning; stress response system; beliefs about themselves and others; relationship skills; ability to regulate emotions and behavior; ability to attend, remember, learn from experience, and ability to think through and solve problems adaptively rather than impulsively or immaturely. Children exposed to extreme childhood maltreatment are at very high risk for developing chronic psychological, academic, behavioral, social, and neurocognitive (including poor attention) difficulties (Cicchetti, 2016; Cowell et al., 2015; Flynn et al., 2014; International Society for the Study of Dissociation et al., 2011; Macfie et al., 2001; Teicher et al., 2003). They do not develop a sense of themselves as a good person, others being trustworthy, authorities being protective and ethical, or that the world is safe and can be enjoyed so that the child can relax and let down her guard (e.g., (Courtois & Ford, 2009)).

Traumatized girls often exhibit difficulty focusing their attention as well as difficulties with other types of executive functioning, such that their concentration is poor. Poor attention interferes with academic success and their ability to remember and learn. This in turn contributes to them feeling "stupid" and inferior to others, which further erodes their sense of self which is already damaged due to trauma. This may have contributed to Christa's lack of enjoyment of school, and her dropping out of school after the 9th grade.

Depressed and damaged, people like Christa, tend to either not see warning signs that others are potentially dangerous or untrustworthy, or if they do notice some warning signs, they tend to ignore them or simply endure the ongoing mistreatment because being mistreated is all they know. They do not expect to be treated fairly and respectfully. The degree to which they expect others to be violent sets the stage for traumatized individuals being extremely vulnerable to being continually abused and manipulated by others outside the home throughout their youth and into adulthood, exactly as occurred with Christa. A child raised amongst violent, abusive people has not been taught to resolve conflict in healthy ways, or how to set self-protective boundaries in relationships, or that they should end relationships that are exploitive, violent, and/or sexually abusive. They have not been taught how to manage their emotions, and they tend to feel either too much (e.g., rather than feel happy, they skyrocket into mania or hypomania) or too little (e.g. feeling numb due to dissociation). They have no healthy ways to manage all the symptoms caused by trauma, such as how to manage depression and shame. They are prone to using self-destructive methods like drug and alcohol use to disconnect from their overwhelming painful feelings, horrible memories of abuse, and out-of-control psychiatric symptoms. These difficulties contribute to many traumatized, dissociative children struggling and failing in school, in social relationships in childhood and adolescence (DePrince et al., 2009; International Society for the Study of Dissociation et al., 2011; Teicher et al., 2003; Teicher et al., 2010).

Several of the previous evaluators note in their reports that Christa is highly dependent on others for support and vulnerable to feeling terrified if she feels she may be abandoned. The early experiences of being locked up and left behind, combined with continual neglect and abuse by her parents coupled with abuse by many adult men, created a tremendous fear of being abandoned. Christa's mother prioritized her relationships with men, purchasing clothing for herself, and buying alcohol above her daughters, as evidenced by her sending Alicia away to be raised by her sister and by her years of neglect of Christa. Christa's father also refused to take proper care of her, and relied on beating her to assert control, rather than actually teaching and parenting her. These experiences contributed to Christa being desperate for what she perceived as love in later relationships, including the one with Tadaryl Shipp.

Current Psychiatric Treatment

Christa did not receive psychiatric medication before she was incarcerated. Christa's psychiatric medications as of June 13, 2023 were Bupropion (Wellbutrin) 200mg at noon and bedtime; Aripiprazole (Abilify) 10mg at noon; and Propranolol 20mg at noon and bedtime. Bupropion and Aripiprazole are medications that treat depression and psychosis and bipolar disorder, respectively. Propranolol was added to manage the side effect of hand tremors that Christa developed after taking Aripiprazole.

Christa has found medications to be remarkably helpful in decreasing her moods swings and reducing her profound depression, as well as being somewhat helpful with calming her life-long anxiety. She reported having tried other anti-depressants and Depakote in the past that were not helpful or caused intolerable side effects. Since starting her current medications, Christa feels she can function more normally despite the incredible stress of living on death row in a unit that is often highly chaotic.

While incarcerated, Christa has worked to heal the impact of childhood abuse and neglect. In addition to the mood stabilizing medications that she is cooperatively taking, Christa reports having been helped a great deal by a therapist, Dr. Ali Winters, who provided her with treatment. Dr. Winters no longer lives near the prison, so can no longer treat Christa, although she still visits Christa regularly. It has been powerful for Christa to gradually feel less like an unworthy, unlovable “plague kid”. She has learned much from talking to Dr. Pincus and Dr. Winters about her trauma history, and learning how it has impacted her behavior, thinking, feelings, and relationships, as well as her criminal behavior. She now expresses regret and sorrow about her actions in this case, recognizing that all of the youth involved were “troubled kids.” Christa is afraid of losing control of her behavior but feels this is unlikely now that she is being medicated for bipolar disorder. As noted by Dr. Kenner, Christa has clearly benefited tremendously by receiving medication for bipolar disorder and psychotherapy for her traumatic upbringing.

Conclusion

Christa Pike’s life demonstrates the tragic and life-long consequences of growing up with constant abuse, violence, and abandonment, with no protection. Decades of being brutally raped, molested, beaten, humiliated, emotionally abused, ostracized and screamed at profoundly damaged her, leaving her with a multitude of untreated psychological disorders. Without protection from the adults who were supposed to have protected her, and without treatment for bipolar disorder and her other psychological disorders, Christa managed her volatile emotions and trauma-related problems as she had learned from her parents: through self-medication with marijuana and drinking. At barely 18 years old, her immature, traumatized brain made her exceptionally vulnerable to impulses and extremely poor decisions. Unmedicated and untreated, she was not able to put the “brakes on” her bipolar- and trauma-triggered emotions. Tragically, she was unable to manage the upsurge of extreme rage and fear she felt when triggered by taunts and threats to the source of love she believed she had found with her boyfriend. The impact of trauma and untreated psychiatric disorders had tragic consequences.

However, after years of psychotherapy and medications to treat her mental illness, Christa is thoughtful, even-tempered, bright, funny, and hopeful. She exhibits deep remorse for her actions that resulted in Colleen Slemmer’s death. However, Christa has matured and learned to process her trauma, and she is truly a different person than she was at the time of the murder. Christa will always carry that history of trauma with her, but she now has the tools to control her emotions and deal with life’s stressors.

Please do not hesitate to contact me if you have any questions.

Sincerely,

Bethany Brand, Ph.D.
Licensed Psychologist and Professor

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document was filed and served via the Court's electronic filing system on the 12th day of June 2026.

/s/ Luke P. Ihnen
Luke P. Ihnen
Assistant Federal Defender

Document received by the TN Supreme Court.

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED

07/10/2026

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. CHRISTA GAIL PIKE

Criminal Court for Knox County
No. 58183A

No. M2020-01156-SC-DPE-DD

ORDER

Christa Gail Pike, a death-row inmate scheduled for execution on September 30, 2026, has filed a “Motion and Request to Appoint a Special Master Pursuant to Tenn. Sup. Ct. R. 12(4)(E).”¹ In her motion, Ms. Pike asserts facial and as-applied challenges to Tennessee’s current lethal injection protocol and requests the appointment of a special master “to develop the facts to support these claims.” Ms. Pike also contends that Tennessee Supreme Court Rule 12(4)(E) is unconstitutional and otherwise unlawful and requests that the Court reconsider and amend the rule. The State filed a response in opposition.

As this Court clarified in a previous order, a motion under Rule 12(4)(E) must “incorporate [a] . . . motion for a stay of execution.” Order, *Pike v. Skrmetti*, No. M2026-00667-SC-UNK-CV (May 12, 2026). Ms. Pike’s motion does not expressly request a stay of her execution. But because the motion asks this Court to permanently enjoin state officials from carrying out her execution pursuant to the current lethal injection protocol, in the interest of judicial economy we will construe her motion as requesting a stay of execution.

Upon due consideration, the Court appoints a special master under the conditions set forth below:

(1) The Honorable Mark Ward, Senior Judge, is hereby appointed as

¹ This Court’s execution order was entered under case number M2020-01156-SC-DPE-DD. Ms. Pike mistakenly filed this motion in *Pike v. State*, No. M2026-00667-SC-UNK-CV, which concerns a Davidson County Chancery Court proceeding challenging the constitutionality of Tennessee’s lethal injection protocol. Despite the error, we dispose of her application under the correct case number, and we order that all future filings related to this application shall be directed to this case number.

Special Master to conduct an evidentiary hearing and any other additional hearings the Special Master deems appropriate on the matters specifically referred by this order;

(2) The Special Master, pursuant to Rule 53 of the Tennessee Rules of Civil Procedure, is hereby directed to receive evidence and fix the time and place for beginning and closing the hearings on the issues referred by this order;

(3) The Special Master shall have and exercise such other powers as are appropriate and applicable under Rule 53 of the Tennessee Rules of Civil Procedure;

(4) Upon completion of the hearing, the Special Master shall transmit to this Court the record of the proceedings and the Special Master's report of findings of fact and conclusions of law not later than August 21, 2026;

(5) Any objections to the Special Master's report shall be filed within five days of the filing of the report but no later than August 28, 2026; and

(6) The clerk of the trial court shall make all necessary accommodations required by the Special Master, including making a courtroom available for hearings.

The Court refers the following specific issues to the Special Master:

(1) Given Ms. Pike's diagnosis of thrombocytosis, whether achieving peripheral IV access pursuant to the current lethal injection protocol would make it "*sure or very likely*" that the challenged protocol will "cause [Ms. Pike] serious illness and needless suffering," *see Baze v. Rees*, 553 U.S. 35, 50 (2008) (plurality opinion) (quoting *Helling v. McKinney*, 509 U.S. 25, 33 (1993));

(2) Given Ms. Pike's cited history of sexual assault and asserted diagnosis of Post Traumatic Stress Disorder ("PTSD"), whether the movement of Ms. Pike to Riverbend Maximum Security Prison before the execution, where she would be observed by male prison officials for two weeks prior to the execution, would make it "*sure or very likely*" that the challenged protocol will "cause [Ms. Pike] serious illness and needless suffering," *see id.*;

(3) Given Ms. Pike's allegedly small and compromised veins, whether achieving peripheral IV access pursuant to the current lethal injection protocol would make it "*sure or very likely*" that the challenged protocol will

“cause [Ms. Pike] serious illness and needless suffering,” *see id.*;

(4) Whether Ms. Pike’s proposed alternative methods of execution would “significantly reduce a substantial risk of severe pain,” *id.* at 52; and

(5) Whether TDOC is required to permit or would be willing to permit Ms. Pike to have a clergy member or spiritual advisor in the execution chamber during her execution.

Issues not specifically referred to the Special Master are hereby held in abeyance pending completion of the Special Master’s report. The Court will set a briefing schedule on those issues upon receipt of the Special Master’s report.

Ms. Pike’s motion also raises challenges to Tennessee Supreme Court Rule 12(4)(E). Those challenges do not require factual development and can be decided based on the parties’ briefs. Additional briefing regarding Ms. Pike’s challenges to Rule 12(4)(E) may be filed by no later than July 17, 2026.

PER CURIAM

Kyle A. Hixson, J., not participating.

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED
BY ANNE E. HARRISON
2026 JUL 30 AM 11:42

KNOX COUNTY CHANCERY COURT
KNOX COUNTY, TENNESSEE

State of Tennessee)
) Supreme Court Case No. M2020-01156-SC-DPE-DD
v.) Knox County Case No. 58183A
) CAPITAL CASE (Execution Date: Sept. 30, 2026)
Christa Gail Pike)

Motion to Compel Expedited Discovery

Christa Gail Pike, through counsel, submits this Motion to Compel Expedited Discovery pursuant to Rules 37.01 and 53.02 of the Tennessee Rules of Civil Procedure. For support, Ms. Pike shows the following:

INTRODUCTION

Christa Gail Pike is scheduled to be executed on September 30, 2026 — just 62 days from the date of this filing. The Tennessee Supreme Court appointed a Special Master to resolve disputed factual issues through an evidentiary hearing, including highly technical questions about vascular access, blood disorders, and psychiatric diagnoses. Yet Ms. Pike is being forced to do so blind because the State refuses to engage in any factual discovery. Ms. Pike hereby moves for expedited discovery because she cannot meaningfully contest these complex medical and scientific issues at a hearing without any advance notice of the evidence or opportunity to test it.

The State cannot simultaneously concede that a fact-finding hearing is necessary to resolve these issues while denying Pike any means of discovering the facts to be found. Both the Court's Order and Tennessee Rule of Civil Procedure 53 contemplate fact discovery. The State's refusal violates fundamental due process and

Document received by the TN Supreme Court.

would reduce the evidentiary hearing to a hollow exercise. Accordingly, Ms. Pike seeks relief from the Special Master to compel expedited fact discovery.

FACTUAL AND PROCEDURAL BACKGROUND

This matter proceeds before the Court under its execution order in *State of Tennessee v. Christa Gail Pike*, Criminal Court for Knox County No. 58183A, docketed as No. M2020-01156-SC-DPE-DD. The Respondent, the State of Tennessee, includes the Tennessee Department of Correction (“TDOC”) officials responsible for Ms. Pike’s execution: Commissioner Frank Strada; Kenneth Nelsen, Warden of Riverbend Maximum Security Institution; and Jordan Clark, Warden of the Debra K. Johnson Rehabilitation Center.

On June 12, 2026, Ms. Pike filed a motion requesting, in relevant part, the Court to appoint a Special Master under Tennessee Supreme Court Rule 12(4)(E) and Tennessee Rule of Civil Procedure 53 “to develop the facts” supporting her facial and as-applied challenges to Tennessee’s lethal injection protocol. On July 10, 2026, the Court appointed the Honorable Mark Ward as Special Master. The Order directed the Special Master to conduct an evidentiary hearing and any other hearings he deems appropriate, to “receive evidence,” and to exercise such powers as appropriate under Rule 53. The Order only gave the Special Master roughly six weeks to file a report of findings of fact and conclusions of law.

The Order assigned five issues to the Special Master:¹ (1) whether Ms. Pike’s thrombocytosis makes it “sure or very likely” that achieving peripheral IV access will cause serious illness and needless suffering; (2) whether her history of sexual assault and PTSD diagnosis makes it “sure or very likely” that pre-execution transfer to and observation by male officials at Riverbend will cause serious illness and needless suffering; (3) whether her small and compromised veins make it “sure or very likely” that achieving peripheral IV access will cause serious illness and needless suffering; (4) whether her proposed alternative execution methods would “significantly reduce a substantial risk of severe pain”; and (5) whether TDOC would permit a spiritual advisor in the execution chamber.

On July 15, 2026, the parties met and conferred to propose a joint scheduling order. The proposal from Ms. Pike offered an abbreviated timeline for modest discovery. *See* Pike Initial Proposed Scheduling Order, attached as **Exhibit A**. The proposal from the State omitted any discovery deadlines or motions practice.² The parties thusly submitted a joint proposed scheduling order omitting any discovery deadlines or motions practice. *See* Parties Agreed Proposed Scheduling Order, attached as **Exhibit B**. The Court entered an order on July 23, 2026. *See* Scheduling Order, attached as **Exhibit C**.

¹ The Order requires the Special Master to transmit the hearing record and a report of findings of fact and conclusions of law to the Court no later than August 21, 2026, with any objections due August 28, 2026. The Order further specified that Ms. Pike’s remaining challenges would be held in abeyance pending the Special Master’s report.

² The State proposed pre-trial briefing.

On Friday, July 24, 2026, counsel for the parties again met and conferred in the spirit of narrowing the issues presented to the Special Master. Counsel for Ms. Pike again requested to propound limited interrogatories and requests for admission. The parties orally agreed to exchange discovery requests for review before proceeding. On July 27, 2026, counsel for Ms. Pike submitted a limited set of thirteen interrogatories and eleven requests for admission to counsel for the State. On July 28, 2026, counsel for the State again reiterated its position that the Tennessee Supreme Court Order appointing the Special Master did not contemplate discovery and rejected the same.

Ms. Pike's proposed discovery requests, attached hereto as Exhibit D, seek limited information necessary to prepare for the hearing. Such discovery is anticipated under the Court's Order, the Tennessee Rules of Civil Procedure, and the most basic elements of due process.

ARGUMENT

Expedited discovery is necessary for the fair evaluation of the facts to be determined by the Special Master. First, contrary to the State's position, both the Court's Order appointing the Special Master and Rule 53 contemplate that the parties will develop and present evidence on the referred issues: the Order directs the Special Master to "receive evidence" and to exercise "such other powers as are appropriate and applicable under Rule 53." It would be illogical to order the development of a factual record but forgo the mechanisms by which facts are developed. Second, the absence of prompt factual development threatens Ms. Pike's

due process right to a meaningful opportunity to be heard on her claims that the current lethal injection protocol is sure or very likely to cause her serious illness and needless suffering. This is particularly true where the State holds nearly all the information at issue and a prohibition on any discovery, implicit or not, jeopardizes Ms. Pike's ability to adequately prepare for the ordered hearing. Finally, the burden of expedited discovery here is modest: the Court has narrowed the universe of discoverable issues to five discrete questions, the discovery sought by Ms. Pike is tailored to the same, and much of what is sought has already been gathered by the State in other lethal injection litigation. In other words, the burden on the State to produce responses to Ms. Pike's discovery is minimal.

The stakes could not be higher. Ms. Pike is scheduled to be executed on September 30, 2026, and the Special Master's report is due in mere weeks. Given the highly technical and fact-intensive nature of the issues referred—including medical evidence regarding Ms. Pike's thrombocytosis, vascular access, and psychological condition, as well as evidence concerning TDOC's capacity to implement the alternative methods and safeguards Ms. Pike has proposed—the compressed schedule set by the Order leaves insufficient time to obtain the necessary discovery through ordinary procedures. Expedited discovery is therefore necessary to ensure that the record developed before the Special Master is adequate to resolve, on a life-or-death timeline, the referred issues before Ms. Pike's execution date. Ms. Pike requests that the State be provided seven days to respond to the discovery in Exhibit D.

I. Rule 53 and the Text of the Rule 12 Order of Reference Contemplate and Explicitly Allow for Factual Discovery.

Both the Tennessee Rules of Civil Procedure regarding special master proceedings and the Order of reference to the Special Master here plainly contemplate that the Parties may take discovery to be entered into evidence in this proceeding.

Pursuant to Tennessee Rule of Civil Procedure 53.02, the Special Master enjoys broad powers to effectuate fact-finding on the issues referred to him: “Subject to the specifications and limitations stated in the order, the master has and shall exercise the power to regulate all proceedings in every hearing before him or her and to do all acts and take all measures necessary or proper for the efficient performance of the duties under the order.” Tenn. R. Civ. P. 53.02. Specifically, the Special Master is empowered to “require the production before him or her of evidence . . . including the production of all books, papers, vouchers, documents, and writings applicable thereto” so long as doing so is not inconsistent with the order of reference. *Id.* Thus, the Special Master is empowered to order the State to respond to Ms. Pike’s written discovery requests and appear for the hearing.

The Order does not otherwise impose any limitations on the Special Master’s broad statutory powers that would curtail discovery in this proceeding. Broadly, the Special Master was appointed to “conduct an evidentiary hearing” and issue a “report of findings of fact and conclusions of law.” (Order at 2.) In relevant part, the Order provides:

- (1) The Honorable Mark Ward, Senior Judge, is hereby appointed as Special Master to conduct an *evidentiary hearing and any other additional hearings the Special Master deems appropriate* on the matters specifically referred by this order;
- (2) The Special Master, pursuant to Rule 53 of the Tennessee Rules of Civil Procedure, is hereby *directed to receive evidence* and fix the time and place for beginning and closing the hearings on the issues referred by this order; [and]
- (3) The Special Master shall *have and exercise such other powers as are appropriate and applicable under Rule 53* of the Tennessee Rules of Civil Procedure[.]

(*Id.* (emphasis added).) Taken together, and in the context of the overarching fact-finding mission with which the Special Master is charged here, a plain reading of the Order and common sense dictate that discovery may be compelled.

Indeed, the State concedes that there should be at least some discovery prior to the ordered evidentiary hearing—the parties agreed to a Scheduling Order that includes expert disclosures and reports from both Ms. Pike and the State. The State has offered no explanation, let alone a persuasive one, for agreeing to engage in expert discovery while simultaneously refusing to engage in fact discovery. The Special Master should compel the State to respond to the propounded written discovery requests and to designate representative(s) and appear pursuant to Ms. Pike’s hearing subpoena.

The State’s position that no discovery should occur would render the evidentiary hearing a nullity. The Tennessee Supreme Court appointed a Special Master specifically “to develop the facts” supporting Ms. Pike’s claims. The issues referred to the Special Master are factual questions requiring evidentiary support.

These questions cannot be answered in the abstract—they require factual development, which is the very purpose of the discovery process.

II. The State’s Refusal to Engage in Factual Discovery Violates Pike’s Rights to Due Process.

Ms. Pike has a due process interest in a fair evaluation of the facts as ordered by the Tennessee Supreme Court. The federal Due Process Clauses of the Fifth and Fourteenth Amendments protect individuals from deprivations of life, liberty, or property without due process of law. U.S. Const. Amend. V; U.S. Const. Amend. XIV. Tennessee’s Constitution provides that no person shall be deprived of life, liberty, or property but by the judgment of peers or the law of the land. Tenn. Const. Art. 1, § 8. While the United States Supreme Court’s interpretations of the United States Constitution establish a minimum level of protection, this Court is “always free to extend greater protection to its citizens.” *Seals v. State*, 23 S.W.3d 272, 277 (Tenn. 2000) (citing *Doe v. Norris*, 751 S.W.2d 834, 838 (Tenn. 1988)).

When determining what procedural protections are due under the Fourteenth Amendment, courts apply a balancing test that examines (1) the private interest at stake; (2) the risk of erroneous deprivation of the interest through the procedures used and the probable value, if any, of additional or substitute safeguards; and (3) the government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail. *Seals*, 23 S.W.3d at 227 (citing *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)). Here, each element weighs heavily in favor of compelling limited discovery.

First, the private interest at stake is among the most substantial interests our legal system recognizes: Ms. Pike’s federal and state constitutional rights to be free from cruel and unusual punishment and to be free from needless suffering when the State puts her to death. The Court’s Order specifically contemplates the evaluation of five discrete factual issues to this end, including whether Ms. Pike’s thrombocytosis and small, compromised veins will cause suffering under the current lethal injection protocol; whether her transfer to a men’s facility where she will be observed by male corrections officers will exacerbate her complex PTSD stemming from childhood sexual assault; and whether her proposed alternative methods would significantly reduce the substantial risk of harm. The thoughtful evaluation of these issues requires basic information that must be learned through discovery.

Second, the risk of an erroneous deprivation of interest is substantial where the State refuses to engage in any fact discovery. The issues referred by the Tennessee Supreme Court are fundamentally factual inquiries, and the Court ordered the Special Master to make findings of fact. Ms. Pike cannot meaningfully litigate these issues without access to basic information about TDOC’s protocols, its assessment of her medical conditions, and the qualifications of the personnel who will conduct her execution.³ Denying discovery would force the Special Master and this

³ The risk of error is not hypothetical. This Court need look no further than the attempted execution of Tony Carruthers two months ago, where the State could not establish a backup IV line as required by the protocol and the physician TDOC hired—and presumably plans to use in Ms. Pike’s execution—to insert a central line was unable to do so, resulting in the execution being abandoned after approximately one and a half traumatic hours. Ms. Pike’s medical conditions present even greater challenges than those encountered in the Carruthers execution.

Court to evaluate the State's assurances about its protocol without the ability to test them, transforming the evidentiary hearing into a perfunctory performance.

Third, the government's interest and the administrative burden on the State is minimal. The State has been litigating execution protocol issues and responding to similar questions in multiple forums over the past year. See e.g., *Burns v. Strada*, No. 25-0414-IV (Davidson Ch. Ct. March 14, 2025). The limited requests that Ms. Pike makes seek information that is easily ascertainable and within TDOC's exclusive possession. Indeed, much of it has already been gathered for other litigation, requiring minimal or no independent investigation or new analysis.

The government cannot claim undue burden when it exclusively controls all information necessary to resolve the factual disputes about which this Court has ordered the Special Master to make findings. TDOC alone knows what assessments it has conducted regarding Ms. Pike's medical conditions and how they may affect the execution; what training and qualifications the IV Team and Physician possess; what contingency plans exist if IV access fails; what accommodations, if any, have been considered for Ms. Pike's PTSD during the death watch period; and what testing has been performed on the pentobarbital to be used. The State cannot refuse to provide fact discovery on the one hand, and then argue that Ms. Pike has failed to prove her claims on the other. Such a procedure would be fundamentally unfair and inconsistent with basic notions of due process. Without discovery, Ms. Pike would be relegated to speculation while the State rests on untested assertions that its protocol will work as intended. Compelling limited and expedited discovery is necessary to

ensure a fair proceeding.⁴

III. The Factual Discovery Sought is Reasonable and Presents a Limited Burden to the State.

Tennessee courts have long recognized that discovery serves to “do away with trial by ambush,” instead bringing “out the facts prior to trial so the parties will be better equipped to decide what is actually at issue.” *Ingram v. Phillips*, 684 S.W.2d 954, 958 (Tenn. Ct. App. 1984). “The law favors making all relevant evidence available to the trier of fact.” *Boyd v. Comdata Network, Inc.*, 88 S.W.3d 203, 212 (Tenn. Ct. App. 2002). As identified in Exhibit D, Ms. Pike seeks limited written discovery. Ms. Pike has taken pains to ensure that the requested discovery is not overly burdensome and relates only to the issues presented to the Special Master for review.

Similarly, for the same reasons described above that the State has minimal interest in prohibiting narrow fact discovery, the burden on the State in responding to these narrowly tailored requests will be minimal. All of the requested information is (or should be) in the State’s possession already; indeed, the requested information that is not specific to Ms. Pike is likely already searched and aggregated from the numerous other proceedings relating to the same lethal injection protocol.

Yet, despite Ms. Pike’s efforts to narrowly tailor her requests and the minimal attendant burden on the State, the State has refused to engage in any such discovery.

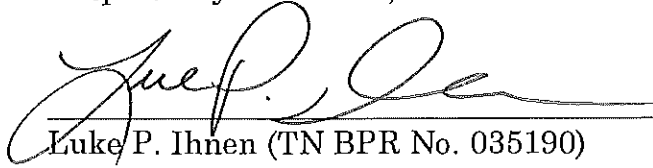
⁴ By making this motion and seeking limited discovery, Ms. Pike does not intend to waive any argument regarding the sufficiency of the proceedings as a whole and the extraordinary time constraints under which the parties are operating.

In instances such as this, where one party refuses to participate in some portion of the discovery process, the requesting party may file a motion to compel under Tennessee Rule of Civil Procedure 37. Rule 37.01 provides in part “if a party . . . fails to permit inspection as requested, the discovering party may move for an order compelling an answer, or a designation, or an order compelling inspection in accordance with the request.” Tenn. R. Civ. P. 37.01. Here, the State’s blanket refusal to engage in any factual discovery has necessitated that Ms. Pike seek relief from the Special Master to compel Ms. Pike’s limited requested discovery, as this court is accustomed to doing. *See, e.g., Sanders v. Millard Mall Services, Inc.*, 2010 WL 11053337, at *1 (Tenn. Cir. Ct. Aug. 3, 2010) (granting motion to compel production of plaintiff’s medical, psychological, and counseling records pursuant to Tenn. R. Civ. P. 26 and 37).

CONCLUSION

Given the charge from the Tennessee Supreme Court, the Rules of Civil Procedure, and the reasonable discovery at issue, Ms. Pike respectfully requests that the Special Master compel the State to respond within seven days to the requests in Exhibit D.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Luke P. Ihnen", is written over a horizontal line.

Luke P. Ihnen (TN BPR No. 035190)

Stephen A. Ferrell (TN BPR No. 025170)

Susanne Bales (TN BPR No. 017868)

FEDERAL DEFENDER SERVICES

OF EASTERN TENNESSEE, INC.

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Luke_Ihnen@fd.org

Stephen_Ferrell@fd.org

Susanne_Bales@fd.org

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APP-000790

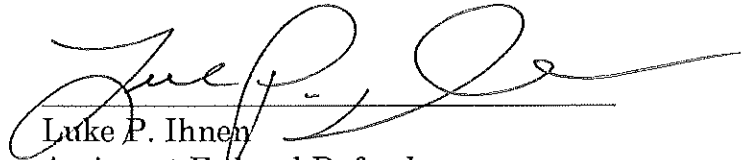
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document was filed and served on the following on this 30th day of July 2026:

John W. Ayers, Esq.
Office of the Tennessee Attorney
General
P.O. Box 20207
Nashville, Tennessee 37202
(615) 741-6739
Will.Ayers@ag.tn.gov

w/ electronic copy to:

David Wickenheiser, Esq.
Catherine Cline, Esq.
Samantha Morris, Esq.
Matthew Kubicek, Esq.
Paul Bruno, Esq.


Luke P. Ihnen
Assistant Federal Defender

Document received by the TN Supreme Court.

Exhibit A

Luke Ihnen

From: Luke Ihnen
Sent: Wednesday, July 15, 2026 10:09 AM
To: 'Will Ayers'; Stephen Ferrell
Cc: David Wickenheiser; Matthew Kubicek; Samantha Morris; Catherine Cline; Susanne Bales
Subject: RE: Conferring on Pike
Attachments: Pike Proposed Scheduling Order.docx

Hi folks,

This is a proposed scheduling order we have come up with. We can discuss this afternoon.

Thanks,

Luke P. Ihnen
Assistant Federal Defender

From: Will Ayers <Will.Ayers@ag.tn.gov>
Sent: Tuesday, July 14, 2026 3:03 PM
To: Luke Ihnen <Luke_Ihnen@fd.org>; Stephen Ferrell <Stephen_Ferrell@fd.org>
Cc: David Wickenheiser [REDACTED]; Matthew Kubicek [REDACTED]; Samantha Morris [REDACTED]; Catherine Cline [REDACTED]
Subject: RE: Conferring on Pike

How about 2pm ET? I can send a Teams invite.

From: Luke Ihnen <Luke_Ihnen@fd.org>
Sent: Tuesday, July 14, 2026 1:53 PM
To: Will Ayers <Will.Ayers@ag.tn.gov>; Stephen Ferrell <Stephen_Ferrell@fd.org>
Cc: David Wickenheiser [REDACTED]; Matthew Kubicek [REDACTED]; Samantha Morris [REDACTED]; Catherine Cline [REDACTED]
Subject: RE: Conferring on Pike

We are free after 1:30pm EDT? We've been looking at our calendars and can send over some proposed dates in the morning before the call.

Luke P. Ihnen
Assistant Federal Defender

From: Will Ayers <Will.Ayers@ag.tn.gov>
Sent: Tuesday, July 14, 2026 2:42 PM
To: Luke Ihnen <Luke_Ihnen@fd.org>; Stephen Ferrell <Stephen_Ferrell@fd.org>
Cc: David Wickenheiser [REDACTED]; Matthew Kubicek [REDACTED]; Samantha Morris [REDACTED]; Catherine Cline [REDACTED]
Subject: Conferring on Pike

Luke and Stephen, are y'all available tomorrow afternoon to talk about dates and procedure for the Pike hearing?

Will Ayers
Assistant Attorney General
Office of the Tennessee Attorney General
Law Enforcement and Special Prosecutions Division
P.O. Box 20207
Nashville, TN 37202-0207
(615) 253-3856
will.ayers@ag.tn.gov



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Pike Proposed Scheduling Order

Deadline for Discovery Requests: **July 24**

Pursuant to Tenn. R. Civ. P. 26, 33, 34, 36

Deadline for Discovery Responses: **July 31**

Deadline for Discovery Motions **Aug. 3**

Deadline for Expert Disclosures: **Aug. 5**

Pursuant to Tenn. R. Civ. P. 26.02

Deadline for Witness/ Hearing Exhibit Disclosures: **Aug. 7**

Hearing Dates: **Aug. 11 – Aug. 14 (AM)**

Exhibit B

Document received by the TN Supreme Court.

APP-000796

Luke Ihnen

From: Luke Ihnen
Sent: Friday, July 17, 2026 10:44 AM
To: Will Ayers; [REDACTED]
Cc: Stephen Ferrell; Susanne Bales; Matthew Kubicek; David Wickenheiser; Samantha Morris; Catherine Cline
Subject: RE: State v. Pike, Case No. 2020-01156-sc-dpe-dd
Attachments: Proposed Scheduling Order.pdf

Paul:

I am attaching the parties' proposed agreed scheduling order for Judge Ward's consideration. We are conferring on several other issues and may be able to narrow the issues for the hearing.

Please let us know if you have any questions.

Luke P. Ihnen
Assistant Federal Defender

From: Will Ayers <Will.Ayers@ag.tn.gov>
Sent: Tuesday, July 14, 2026 5:11 PM
To: Luke Ihnen <Luke_Ihnen@fd.org>; paul.bruno@tncourts.gov
Cc: Stephen Ferrell <Stephen_Ferrell@fd.org>; Susanne Bales <Susanne_Bales@fd.org>; Matthew Kubicek [REDACTED]; David Wickenheiser [REDACTED] Samantha Morris [REDACTED]; Catherine Cline [REDACTED]
Subject: RE: State v. Pike, Case No. 2020-01156-sc-dpe-dd

Paul, I've attached the following documents:

1. The State's response to Pike's Rule 12 motion in the Tennessee Supreme Court
2. Pike's Chancery Court complaint
3. Chancery Court motion to dismiss briefing

If you have any questions, please reach out anytime.

Will Ayers
Assistant Attorney General
Office of the Tennessee Attorney General
Law Enforcement and Special Prosecutions Division
P.O. Box 20207
Nashville, TN 37202-0207
(615) 253-3856
will.ayers@ag.tn.gov



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From: Luke Ihnen <Luke_Ihnen@fd.org>

Sent: Tuesday, July 14, 2026 2:12 PM

To: [REDACTED]

Cc: Stephen Ferrell <Stephen_Ferrell@fd.org>; Susanne Bales <Susanne_Bales@fd.org>; Will Ayers <Will.Ayers@ag.tn.gov>; Matthew Kubicek [REDACTED]; David Wickenhelser [REDACTED]; Samantha Morris [REDACTED]; Catherine Cline [REDACTED]

Subject: [WARNING: AMP - ATTACHMENT(S) MAY CONTAIN MALWARE]State v. Pike, Case No. 2020-01156-sc-dpe-dd

Paul:

I am attaching Ms. Pike's Rule 12 Motion and the Appendix filed with the Tennessee Supreme Court.

Best personal regards,

Luke P. Ihnen

Assistant Federal Defender

FEDERAL DEFENDER SERVICES OF EASTERN TENNESSEE, INC.

Capital Habeas Unit

800 South Gay Street, Suite 2400

Knoxville TN 37929

(p) 865.637.7979

(f) 865.637.7999

Luke_Ihnen@fd.org

Document received by the TN Supreme Court.

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

State of Tennessee v. Christa Gail Pike

Criminal Court for Knox County
No. 58183A

No. M2020-01156-SC-DPE-DD

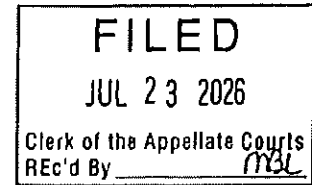
Proposed Scheduling Order

Pike deadline for expert disclosures:	July 31
State of Tennessee deadline for expert disclosures:	Aug. 3
Pike deadline for expert reports:	Aug. 5
State of Tennessee deadline for expert reports:	Aug. 7
Parties' deadline for witness/ hearing exhibit disclosures:	Aug. 7
Parties' deadline for pre-trial briefs:	Aug. 7
Hearing dates:	Aug. 11 – Aug. 14*
Parties' deadline for filing Findings of Fact and Conclusions of Law:	Aug. 18

* Aug. 13 PM only. Aug. 14 AM only (if needed).

Document received by the TN Supreme Court.

Exhibit C



IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

STATE OF TENNESSEE)

v.)

CHRISTA GAIL PIKE)

) Supreme Court Case No. M2020-01156-SC-DPE-DD
) Knox County Case No. 58183A
) Death Penalty Case

FILED
BY MIKE HAMMOND

JUL 23 2026

SCHEDULING ORDER

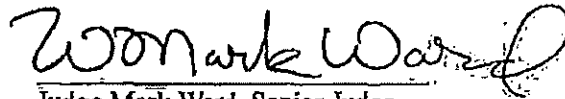
KNOX COUNTY CRIMINAL COURT
KNOXVILLE, TN

Pending before the Court is Christa Gail Pike's *Motion and Request to Appoint a Special Master Pursuant to Tenn. Sup. Ct. R. 12(4)(E)*. On July 10, 2026, the Court appointed Senior Judge Mark Ward to act as Special Master to conduct an evidentiary hearing on specific matters. Pursuant to that order, the Special Master sets the following deadlines and hearing date:

1. Christa Gail Pike shall disclose the names and CVs of the experts she intends to present at the evidentiary hearing by July 31, 2026.
2. The State of Tennessee shall disclose the names and CVs of the experts it intends to present at the evidentiary hearing by August 3, 2026.
3. Christa Gail Pike shall provide to the State the reports of all experts she intends to present at the evidentiary hearing as well as all items used by the experts to formulate their opinions by August 5, 2026.
4. The State of Tennessee shall provide to Ms. Pike the reports of all experts the State intends to present at the evidentiary hearing as well as all items used by the experts to formulate their opinions by August 7, 2026.
5. The parties shall disclose their witnesses and exhibits by August 7, 2026.
6. The parties shall file pre-trial briefs by August 7, 2026.
7. An evidentiary hearing regarding the motion will be held August 11-14, 2026, in Division III of the Knox County Criminal Courts.
8. The parties shall file their proposed Findings of Fact and Conclusions of Law by August 18, 2026.

The parties shall provide a copy of the disclosures, expert reports, witness and exhibit lists, pre-trial briefs, and proposed Findings of Fact and Conclusions of Law to Judge Mark Ward and to Paul Bruno.

IT IS SO ORDERED this 23rd day of July, 2026.

A handwritten signature in black ink, appearing to read "Mark Ward", with a stylized flourish at the end.

Judge Mark Ward, Senior Judge
Special Master

Exhibit D

TENNESSEE SUPREME COURT

STATE OF TENNESSEE

v.

CHRISTA GAIL PIKE

) **Criminal Court for Knox County**
) **No. 58183A**

) **No. M2020-01156-SC-DPE-DD**

) **Special Master Judge Mark Ward**

**PIKE'S EXPEDITED INTERROGATORIES AND REQUESTS FOR ADMISSION TO
THE TENNESSEE DEPARTMENT OF CORRECTION**

Pursuant to the Supreme Court's Order appointing a special master on July 10, 2026, Rules 26, 33, 36, and 53 of the Tennessee Rules of Civil Procedure, Christa Pike respectfully requests that the Tennessee Department of Corrections serve responses to Expedited Interrogatories and Requests for Admission within seven (7) days on the undersigned counsel.

DEFINITIONS AND INSTRUCTIONS

1. Each Interrogatory shall be answered separately and fully in writing under oath.
2. If you object to any Interrogatory in whole or in part, state in complete detail the nature of your objection and answer any portion of the Interrogatory to which you do not object. An objection to part of an Interrogatory does not excuse a failure to answer the remainder.
3. If you cannot fully answer any particular Interrogatory after exercising due diligence to make inquiry and to secure the necessary information, state whatever information or knowledge you have concerning the unanswered portion, explain your inability to answer more fully, and identify all persons who may possess additional responsive information.
4. If you claim that any information responsive to an Interrogatory is privileged, protected by work product, or otherwise exempt from disclosure, provide for each such item: (a) the nature of the privilege or protection asserted; (b) the factual basis supporting the claim of privilege or protection; (c) the date of the communication or document; (d) the identity of all persons who authored, sent, received, or were present for the communication; and (e) the general subject matter of the withheld information, described in sufficient detail to enable the Court to assess the claim of privilege without revealing the protected information.

Document received by the TN Supreme Court.

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5. These Interrogatories are continuing in nature. If you obtain or become aware of additional information responsive to any Interrogatory after serving your initial answers, you are obligated to supplement your responses promptly in accordance with the Tennessee Rules of Civil Procedure.
6. Each Interrogatory shall be construed to request all information within your possession, custody, or control, or within the possession, custody, or control of your agents, employees, representatives, attorneys, or any other person or entity acting on your behalf.
7. Where the answer to an Interrogatory may be derived or ascertained from the records of the party, the responding party may specify and produce business records (including electronically stored information) in lieu of or in addition to providing a response, if the response may be sufficiently derived from the produced records and the burden of identifying the answer is substantially the same for both parties.

DEFINITIONS

1. As used in these Interrogatories and Requests for Admission, the following terms have the meanings set forth below:
2. "TDOC" or "the Department" means the Tennessee Department of Correction, including all of its divisions, offices, units, facilities, predecessors, successors, and any agent, employee, representative, contractor, or other person acting on its behalf.
3. "RMSI" means Riverbend Maximum Security Institution, including all of its personnel, predecessors, successors, and any agent, employee, representative, or other person acting on its behalf.
4. "DJRC" means the Debra K. Johnson Rehabilitation Center in Nashville, Tennessee, including all of its personnel, predecessors, successors, and any agent, employee, representative, or other person acting on its behalf.
5. "Commissioner" means Frank Strada, Commissioner of TDOC, as well as any predecessor or successor, and any agent, representative, or designee acting on his behalf.
6. "Warden" means Kenneth Nelsen, Warden of RMSI, and Jordan Clark, Warden of DJRC, as applicable, as well as any predecessor or successor to either, and any agent, representative, or designee acting on their behalf.
7. "Protocol" or "current protocol" means the Tennessee Department of Correction Lethal Injection Execution Protocol signed by the Commissioner on or about January 8, 2025, attached hereto as Exhibit A, including all appendices, forms, post orders, and any amendments, revisions, modifications, or deviations thereto.
8. "Execution Team" means each and every individual who has previously served or may serve in a role identified as part of the Execution Team under the Protocol, including but not limited to the Commissioner's designee, the Warden, the Special Operations Team, the Restraint Team, the Escort Team, the IV Team, and the Physician, as those terms are used in Exhibit A.

9. "IV Team" means the specially trained non-department personnel selected to establish IV lines for the administration of lethal injection chemicals, as described in Exhibit A, Section II, p. 8, and Section III, pp. 11–12.
10. "Physician" means the non-department physician selected by the Commissioner to determine that the inmate is deceased and to establish central line IV access if necessary, as described in Exhibit A, Section II, p. 8.
11. "LIC" or "lethal injection chemicals" means pentobarbital and any other drug or chemical that may be or could be used in carrying out an execution by lethal injection under the Protocol.
12. "Execution Drugs" means pentobarbital; any active pharmaceutical ingredient used to produce pentobarbital; sterile saline solution; and any other drug, chemical, or substance that may be or could be used during an execution under the Protocol.
13. "Pike" or "Movant" means Christa Gail Pike, TDOC inmate currently housed at DJRC under sentence of death.
14. "Communication" means any transmission of information by any means, whether oral, written, electronic, graphic, pictorial, or otherwise, including but not limited to telephone conversations or messages, letters, emails, text messages, memoranda, meetings, videoconferences, and personal conversations.
15. "Document" or "documents" means all written, recorded, or graphic matter of any kind, however produced or reproduced, including but not limited to correspondence, letters, emails, text messages, memoranda, notes, reports, studies, analyses, records, policies, manuals, protocols, guidelines, contracts, agreements, invoices, photographs, video and audio recordings, and electronically stored information, including all drafts, originals, and non-conforming copies containing deletions, insertions, handwritten notes, or comments.
16. "Identify" or "identification," when used with respect to a person, means to state the person's full name, title or position, employer, business address, and business telephone number. When used with respect to a document, it means to state the document's title, date, author, addressees, present location, and a brief description of its contents. To the extent an "identity" is protected by the execution secrecy statute, the remainder of the Interrogatory should be answered and the identity of the individual or persons may be omitted.
17. "Describe" means to provide a full, complete, and detailed narrative account.
18. "You," "your," and "yours" refer to the Tennessee Department of Correction, including all persons and entities encompassed within the definition of "TDOC" above.
19. "Relate to," "related to," or "relating to" means constituting, containing, recording, referencing, memorializing, describing, discussing, summarizing, disclosing, concerning, reflecting, or referring to, in whole or in part.

20. The connectives “and” and “or” shall be construed disjunctively or conjunctively, as necessary, to include in the response all information that might otherwise be excluded.

INTERROGATORIES

INTERROGATORY NO. 1: Describe with specificity every assessment, evaluation, or review TDOC has conducted, or caused to be conducted, regarding how Christa Pike’s thrombocytosis, myeloproliferative disorder, small and compromised veins, complex PTSD, and bipolar disorder may affect the efficacy of the current lethal injection protocol or the risk of harm to Pike during execution, including the identity of every person who participated in or contributed to each such assessment, the date on which it occurred, and all conclusions reached.

INTERROGATORY NO. 2: Describe with specificity every modification, deviation, or accommodation to the current lethal injection protocol that the Commissioner has ordered, reviewed, or declined to order to address Christa Pike’s individual medical and psychological conditions, including the date and substance of each such decision and the identity of all persons involved in making it.

INTERROGATORY NO. 3: For the Physician designated for Pike’s execution, describe with specificity the Physician’s qualifications, training, certifications, licensure status, and experience in the placement of IVs and central venous lines, including the number of central lines the Physician has placed, the dates on which they were placed, and whether the Physician has placed a central line within the last ten years.

INTERROGATORY NO. 4: For each member of the IV Team designated for Pike’s execution, describe with specificity each member’s qualifications, certifications, training, licensure status, and experience in achieving and maintaining peripheral IV access on patients with small, compromised, or difficult-to-access veins, including whether any member has received training on the use of 23-gauge butterfly needles and whether any member has ever attempted to draw blood from or insert an IV into Christa Pike.

INTERROGATORY NO. 5: Describe with specificity all testing, including testing for potency, sterility, and endotoxins, that has been performed or will be performed on the pentobarbital to be used in Pike’s execution, the specific tests conducted, the dates on which testing occurred or will occur, and the results of each test. If endotoxin testing has not been performed, state the reasons why.

INTERROGATORY NO. 6: Describe with specificity TDOC’s contingency plan if the execution team cannot achieve or maintain peripheral IV access on Pike, including: (a) the maximum number of IV insertion attempts permitted before an alternative method of access is attempted; (b) the procedure for transitioning to central line access; (c) the criteria for determining that an execution should be halted; and (d) all provisions, if any, for the delivery of medical care or resuscitation to Pike in the event of a failed or botched execution.

INTERROGATORY NO. 7: State the purpose, justification, and factual basis for imposing a fourteen-day isolation period on inmates who select or default to lethal injection, as compared to the three-day isolation period imposed on inmates who select electrocution, and describe all steps

TDOC has taken or plans to take to address the impact of the fourteen-day isolation period on Pike given her complex PTSD, bipolar disorder, history of sexual assault, and nearly thirty years of prior solitary confinement.

INTERROGATORY No. 8: Identify qualifications, certifications, licenses, training, and sex of all members of the Special Operations Team, Restraint Team, Escort Team, and guards who will be responsible for monitoring Pike during the isolation period and 48-hours preceding execution.

INTERROGATORY NO. 9: Describe with specificity all procedures, processes, or measures used or taken by TDOC to determine whether an inmate is conscious, experiencing pain, or suffering during an execution under the current protocol, including all assessments of consciousness performed, the training of personnel conducting such assessments, and the medical or scientific basis for TDOC's conclusion, if any, that such measures will accurately determine whether an inmate is experiencing pain.

INTERROGATORY NO. 10: State whether TDOC has evaluated how Pike's thrombocytosis will interact with pentobarbital's known propensity to cause pulmonary edema and identify any measures TDOC has taken or plans to take to mitigate the heightened risk of a conscious drowning death for Pike.

INTERROGATORY NO. 11: For each alternative method of execution alleged in Pike's motion (a) the use of a 23-gauge butterfly needle inserted by qualified and trained medical staff to achieve and maintain peripheral IV access; (b) the placement of a central venous line by a qualified, trained, and certified medical doctor who has placed a central line within the last decade; and (c) execution by hanging), describe with specificity all facts known to TDOC that tend to render each alternative unavailable, infeasible, or not readily implementable, and whether TDOC contends the alternative would not significantly reduce the substantial risk of serious illness and needless suffering posed by the current protocol as applied to Pike.

INTERROGATORY NO. 12: State the name and, if known, the address and telephone number of each individual likely to provide relevant information or testimony—along with the subjects of that information or testimony—that TDOC may use to support its claims or defenses at the evidentiary hearing currently scheduled for August 11–14, 2026, unless the use would be solely for impeachment.

INTERROGATORY NO. 13: Provide a description by category and location of all documents, electronically stored information, and tangible things that TDOC may use to support its claims or defenses at the evidentiary hearing currently scheduled for August 11–14, 2026, unless the use would be solely for impeachment.

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1: Admit that the current lethal injection protocol does not require TDOC to evaluate an inmate's medical history, physical condition, or veins prior to execution.

REQUEST FOR ADMISSION NO. 2: Admit that the current lethal injection protocol does not account for unique physical, medical, or psychological characteristics of individual inmates that may affect the efficacy of the protocol or the risk of harm during execution.

REQUEST FOR ADMISSION NO. 3: Admit that Christa Pike suffers from thrombocytosis, a blood condition characterized by a marked elevation in platelet levels, which is due to a rare form of blood cancer called myeloproliferative disorder, and that TDOC records confirm this diagnosis.

REQUEST FOR ADMISSION NO. 4: Admit that pentobarbital has been known to cause acute pulmonary edema.

REQUEST FOR ADMISSION NO. 5: Pike's thrombocytosis will very likely produce an even more severe pattern of pulmonary edema than experienced by inmates without that condition

REQUEST FOR ADMISSION NO. 6: Admit that medical staff at the Debra K. Johnson Rehabilitation Center currently use a 23-gauge butterfly needle to perform blood draws on Pike because of her small, compromised veins.

REQUEST FOR ADMISSION NO. 7: Admit that the current lethal injection protocol does not provide for the provision of medical care, resuscitation, or emergency medical intervention to the inmate in the event of a failed or botched execution, and that the protocol's only contingency if the inmate is not deceased after administration of Primary Set A and a 5-minute waiting period is to prepare and administer a Backup Set B of syringes.

REQUEST FOR ADMISSION NO. 8: Admit that during the attempted execution of Tony Carruthers on May 21, 2026, the execution team could not establish a backup IV line as required by the current protocol; the physician hired by TDOC to insert a central line was unable to do so; and the attempted execution was abandoned after approximately one and a half hours.

REQUEST FOR ADMISSION NO. 9: Admit that Christa Pike suffers from complex PTSD and bipolar disorder, that TDOC records confirm both diagnoses, and that Pike's complex PTSD results from a history of repeated sexual and physical assault from childhood through age 17.

REQUEST FOR ADMISSION NO. 10: Admit that after transfer to Riverbend Maximum Security Institution, a men's facility, 48 hours before her execution, Pike will be isolated and observed constantly by male corrections officers until her execution, and that the current protocol does not provide for female corrections officers to observe female inmates during the death watch period.

REQUEST FOR ADMISSION NO. 11: Admit that autopsies of Byron Black, executed on August 5, 2025, and Harold Wayne Nichols, executed on December 11, 2025, each revealed the presence of pulmonary edema.