

## Using pentobarbital in executions puts the inmates at undue risk of suffering, report says

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Procedures for putting animals to death in the US state of Texas are much stricter than those for executing humans, says a new report from the American Civil Liberties Union (ACLU) and Northwestern University School of Law.

Texas has switched to using pentobarbital instead of thiopental sodium as part of its lethal injection protocol, after supplies of thiopental ran out when the sole US manufacturer pulled out of the market.

But the switch has been done without any proper scientific analysis and despite concerns raised by anaesthesiologists, says the report. Lethal injection procedures on death row are in the hands of correction officials, unlike guidelines for animal euthanasia, which are drawn up by a panel of scientists.

In Texas, changes in chemicals and dosages for lethal injections of death penalty prisoners may be made at the discretion of the director of the Correctional Institutions Division. The current incumbent has an MBA but no medical or scientific qualifications.

David Waisel, associate professor of anaesthesia at Harvard Medical School, testified in a recent lawsuit in Oklahoma: "The use of pentobarbital as an agent to induce anaesthesia has no clinical history and is non-standard . . . Because of these significant unknowns and a lack of clinical history related to using pentobarbital to induce anaesthesia, using pentobarbital as part of a three-drug lethal injection protocol puts the inmate at undue risk of suffering."

The report says Texas has refused to disclose whether any medical authorities were consulted about the substitution, the source of the pentobarbital, and what training personnel who will use it for the first time have received.

"Without any meaningful federal or state oversight, and at the mercy of an institution that has provided no evidence that its execution protocol minimises the risk of human suffering, death row inmates appear to have fewer rights than domesticated animals," it concludes.

Although the Texas code of criminal procedure prohibits the infliction of torture, ill treatment or unnecessary pain during executions, concerns have been raised that pentobarbital may not adequately anaesthetise the prisoner. Paralysed by pancuronium bromide, the second drug in the three-drug protocol, they may experience excruciating pain when the third drug, potassium chloride, which causes cardiac arrest, is injected.

Although pentobarbital is often used for putting down dogs and cats, the American Veterinary Medical Association guidelines state that "a combination of pentobarbital with a neuromuscular blocking agent is not an acceptable euthanasia agent."

The joint report from the ACLU of Texas, the ACLU's foundation capital punishment project and human rights program, and Northwestern law school's center for international human rights, came as Texas prepared to execute its first prisoner using pentobarbital on 5 April.

But in an eleventh hour reprieve, the US Supreme Court granted Cleve Foster a temporary stay of execution while he files a petition to the court for reconsideration of an appeal, which was turned down in January. The appeal raises issues of innocence and inadequacy of legal representation and has nothing to do with the lethal injection protocol.

The report is at [www.aclu.org/files/assets/Regulating\\_Death\\_in\\_the\\_Lone\\_Star\\_State\\_2011-03-31.pdf](http://www.aclu.org/files/assets/Regulating_Death_in_the_Lone_Star_State_2011-03-31.pdf).

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