

Criminal Justice Issues and Prisoners' Rights

<https://www.acluohio.org/en/news/new-execution-methods-cant-disguise-same-old-death-penalty-problems>

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Ohio made history today by becoming the first state to use the two-drug combination of midazolam and hydromorphone in the execution of Dennis McGuire. State officials decided to use this experimental combination of powerful sedatives and painkillers after supplies of approved execution drugs ran dry. These shortages have caused other states to begin using experimental and downright dangerous methods to carry out executions.

One of the most popular alternatives has been for states to seek out drugs from compounding pharmacies. These drugs are made to order and have no accountability measures or oversight from the Food and Drug Administration (FDA) to ensure the drugs work as they are intended. The resultsome, if not all, batches of drugs from compounding pharmacies may be ineffective and would not have passed traditional FDA approval. This greatly increases the risk that the condemned will experience torturous pain while they are executed. Even those who may strongly agree with the death penalty must admit that conducting state business in secret without accountability is no way for government to run. Even if execution itself has not (yet) been found a violation of the U.S. Constitutions ban on cruel and unusual punishment, certainly a torturous death using experimental drug combinations is.

Unfortunately, Ohio tends to be a trailblazer in devising new ways to execute people. It was the first state to use single drugs, sodium thiopental and then pentobarbital, in executions. These changes in execution methods underscore the tremendous problems that have plagued Ohios lethal injections over the last several years. Spanning from 2006-2009, Ohio had three botched executions culminating in the failed execution attempt of Romell Broom, who is still awaiting his second execution date on death row.

These experimentations are not the only area where Ohio has entered the macabre. Dennis McGuire was not supposed to be the first Ohioan executed by this new drug combination. Ronald Phillip was scheduled to be executed in November 2013, but received a last-minute reprieve from Governor Kasich in order to explore whether Mr. Phillip could donate his organs.

The recent move by states to experiment with lethal injection drugs is outrageous, but also rather futile. While we continue to experiment with new drugs to execute human beings, we ignore the underlying problems with the death penalty.

As Ohio executed Dennis McGuire with this experimental drug cocktail, a state taskforce commissioned by the Ohio Supreme Court readies its final recommendations to address how the death penalty is administered in the state. They have identified troubling issues such as large racial and geographic disparities in capital convictions, the use of the death penalty on severely mentally ill people, and the overall arbitrariness of the death penalty.

None of this is new information in Ohio or the rest of the nation. Scholars, criminal justice experts, and human rights leaders have long pointed to these issues as indicative of how broken the death penalty is in America. And yet, the machinery of the death penalty carries on in vain with new drugs, methods, and experiments. Try as we might, these new methods cannot disguise the fact that the death penalty in America is simply not working.

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