

**House Judiciary Committee
February 15, 2024
House Bill 2782
Testimony of Donna Schneweis
Kansas Coalition Against the Death Penalty
Opposed**

Chairperson Humphries and Members of the Committee:

My name is Donna Schneweis and I appear today on behalf of the Kansas Coalition Against the Death Penalty. Our membership includes individual and organizations from throughout Kansas with moral and practical concerns about capital punishment. We oppose HB 2782.

Our Coalition includes persons who have lost loved ones to homicide. One of our board members is murder victim family member Celeste Dixon from Larned. Her mother Marguerite was murdered in Texas in 1986 and the offender ultimately executed in 2007. Celeste has submitted written testimony as she could not be away from her workplace today to join us. In her testimony she notes “When I heard about how things went in the recent nitrogen gas execution in Alabama, I cannot even imagine what it would be like as a family member to have witnessed that. Given the reports of all that happened, it didn’t appear to be either peaceful or quick.”¹ I encourage you to read the rest of her testimony.

In addition to the perspective of a victim, there is another reality to consider. There’s the saying that the only 2 certain things in life are death and taxes. I’ll add a third—things don’t always go according to plan. That is true also with executions. No matter how hard the prison staff tries to get things right, to follow protocol, things can AND DO go awry.

Professor Michael Radelet, Professor Emeritus at the University of Colorado in Boulder, has compiled a list of fifty nine well known examples of botched executions from August 10, 1982 to December 6, 2022. On the list are two lethal gas executions:

September 1983, Jimmie Lee Gray, Mississippi “Officials had to clear the room eight minutes after the gas was released when Gray’s desperate gasps for air repulsed witnesses..... “A

defense attorney said “Jimmy Lee Gray died banging his head against a steel pole in the gas chamber while the reporters counted his moans (eleven, according to the Associated Press)”

April 1992, Donald Eugene Harding, Arizona “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.”²

Before you say “but only 2 though”, please note that in the United States in the same time frame (August 1982 to December 6, 2022) there only were 10 executions by lethal gas.³

This legislation also allows for changes in lethal injection drugs. Dr. Zivot has already spoken of the autopsy results of inmates killed by lethal injection. What appears painless and peaceful to onlookers can hide a very different reality in the body. The respiratory efforts of someone with pulmonary edema (the body’s attempt to compensate for the fluid) is not visible, if for example, a paralytic was used as part of the drug regimen. The chest muscles are paralyzed. The lungs are filling with fluid and the person cannot breathe.

KCADP submits that these examples of lethal gas botched executions and the impact of lethal injection on the body point to the cruel nature of these methods, which harm not just the inmate, but also can impact correctional staff and other witnesses. It calls into question whether either of them can be “swift and humane”.

When this bill was requested, it was stated “nitrogen hypoxia as an alternate execution method”. We oppose this legislation also because of the additional physical risk it could pose to correctional staff.

In the execution last month in Alabama, the method of nitrogen delivery was a mask, with plastic tubing that exited the execution chamber and appeared to go into the control room.⁴

If at any point there is disruption of the seal of the mask, or if the mask and tubing become disconnected, nitrogen would flow into the area around the inmate. Should prison staff have to come close to the inmate for any reason, they could be exposed to an odorless, colorless gas and not know it. Workers at risk of nitrogen gas exposure in industry have to be in protective gear or have environment modification in order to protect them from severe injury or death.⁵

This risk of exposure to the lethal gas poses the risk of physical harm in addition to their already present risk of post traumatic stress disorder from participation in executions.⁶

In conclusion, the provisions of this bill create a climate that expands government power over life. It makes hypoxia inducing method and lethal drug choice a “whatever DOC decides”. It potentially puts correctional staff at physical risk. If enacted, this bill creates a climate with more secrecy, less safeguards, and a real risk of botched executions. This is not limited government. This is not responsible government. We urge you to oppose this bill.

Donna Schneweis
Board Chair

References:

1. Celeste Dixon to Kansas House Judiciary Committee, February 15, 2024
2. Death Penalty Information Center, “Botched Executions” <https://deathpenaltyinfo.org/executions/botched-executions>
3. Death Penalty Information Center, “Lethal Gas Executions” graphic <https://deathpenaltyinfo.org/news/past-to-present-100-years-since-the-united-states-first-lethal-gas-execution-a-recently-renewed-practice>
4. *New York Times*, “A Select Few Witnessed Alabama’s Nitrogen Execution. This Is What They Saw.” February 1, 2024
5. The Hazards of Nitrogen Asphyxiation, US Chemical Safety and Hazard Investigation Board https://www.csb.gov/assets/1/20/nitrogen_asphyxiation_bulletin_training_presentation.pdf
6. Psychology Today, “Prison Executioners Face Job-Related Trauma”, October 11, 2018 [https://www.psychologytoday.com/us/blog/talking-about-trauma/201810/prison-executioners-face-job-related-trauma#:~:text=Despite such measures, guards can,traumatic stress disorder \(PTSD\).](https://www.psychologytoday.com/us/blog/talking-about-trauma/201810/prison-executioners-face-job-related-trauma#:~:text=Despite such measures, guards can,traumatic stress disorder (PTSD).)

See also American Psychological Association, “Vicarious trauma among the nation's prison staff”, September 1, 2020. <https://www.apa.org/monitor/2020/09/jn>

See also National Public Radio, The Hidden Toll of Working on Prison Executions, November 17, 2022 <https://www.npr.org/transcripts/1137380268>