

- EXPEDITE
- No hearing set
- Hearing is set

HONORABLE CHRIS WICKHAM

SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR THURSTON COUNTY

DAROLD R. J. STENSON,

Plaintiff,

v.

ELDON VAIL, Secretary of Washington  
Department of Corrections (in his official  
capacity); STEPHEN SINCLAIR,  
Superintendent of the Washington State  
Penitentiary (in his official capacity);  
MARC STERN, Director of Health  
Services (in his official capacity);  
CHERYL STRANGE, Office of  
Correctional Operations Deputy Secretary  
(in her official capacity); WASHINGTON  
DEPARTMENT OF CORRECTIONS; and  
DOES 1-50,

Defendants.

No. 08-2-02080-8

FIRST AMENDED AND SUPPLEMENTAL  
COMPLAINT FOR DECLARATORY  
JUDGMENT AND INJUNCTIVE RELIEF

Darold R. J. Stenson, by and through his undersigned attorneys for his complaint  
against the above-captioned Defendants, alleges as follows:

FIRST AMENDED AND SUPPLEMENTAL  
COMPLAINT FOR DECLARATORY  
JUDGMENT AND INJUNCTIVE RELIEF – 1

68695-0001/LEGAL14833831.1

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I. NATURE OF ACTION

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3 1. Plaintiff Darold R. J. Stenson brings this action for declaratory and injunctive  
4 relief for violations and threatened violations of his right, under the Washington  
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6 Constitution, art. I, §§ 14 and 3 of the Washington Constitution, and the Eighth and  
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8 Fourteenth Amendments to the United States Constitution to be free from cruel and unusual  
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10 punishment and arbitrary and capricious action caused by the State of Washington's  
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12 Department of Corrections ("DOC") protocols, procedures and/or actions.

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14 2. Plaintiff is under a sentence of death imposed by the State of Washington.  
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16 The State of Washington has elected to use lethal injection as the presumptive method of  
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18 execution, and DOC has implemented a policy by which it plans to carry out lethal  
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20 injections in the State. A death-sentenced inmate in the State of Washington may elect  
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22 death by hanging.

23  
24 3. Plaintiff does not in this action challenge his underlying conviction or  
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26 sentence. Rather, Plaintiff challenges the manner and means by which DOC intends to  
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28 execute him under its former policy, DOC Policy Number 490.200 (dated June 21, 2007)  
29  
30 (the "Policy"), attached to Plaintiff's Complaint as Exhibit A, or its amended policy, dated  
31  
32 October 25, 2008, which was revised after Plaintiff initiated this action and is attached as  
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34 Exhibit A hereto, and any other policy, protocol, or other guideline or practice addressing  
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36 the method of execution in Washington. Methods of lethal injection that would comply with  
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38 the United States and Washington constitutions exist and are available for Defendants' use.

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40 4. Lethal injection, as that method of execution is currently administered in  
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42 Washington under the Policy, unnecessarily risks the infliction of torturous pain and  
43  
44 suffering. The nature of the chemicals used by Defendants to effectuate execution by lethal  
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46 injection, coupled with Defendants' failure to implement sound procedures and guarantee  
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1 the use of properly-trained and qualified personnel, unnecessarily risks and creates a highly  
2 foreseeable probability that Plaintiff will experience excruciating pain and suffering during  
3 execution.  
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7 5. The alternative elective method of execution, death by hanging, is also  
8 unconstitutional under the constitutions of the State of Washington and United States  
9 because it unnecessarily risks and creates a highly foreseeable probability that Plaintiff will  
10 experience excruciating pain and suffering during execution.  
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14 6. Furthermore, Defendants' failure to provide a complete set of the execution  
15 procedures and an opportunity for Plaintiff to review and object to those procedures violates  
16 due process and fundamental fairness guaranteed by the constitutions of the State of  
17 Washington and United States.  
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21 7. In implementing and modifying the Policy, Defendants have not acted  
22 pursuant to any authority, and/or any proper authority, granted to them by the Washington  
23 Legislature.  
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26  
27 8. Defendants have not been given by the Legislature, nor have they  
28 promulgated, sufficient procedural standards, safeguards or guidelines for the  
29 implementation or modification of the Policy or to test the constitutionality of these actions  
30 after promulgating the Policy or other critical guidelines or practices for implementing the  
31 death penalty.  
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35 9. Plaintiff seeks declaratory and injunctive relief to prevent Defendants from  
36 carrying out his execution by means of lethal injection, as that method of execution is  
37 currently performed in the State of Washington.  
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1 the Court held that the Eighth Amendment to the United States Constitution is violated when  
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3 the State subjects an individual to conditions presenting the risk of future harm that are  
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5 likely to cause serious illness and needless suffering and give rise to sufficiently imminent  
6  
7 dangers.

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9 25. The State of Washington's methods of execution create a substantial risk of  
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11 serious harm and wantonly expose death-sentenced prisoners to objectively intolerable risks  
12  
13 of harm for purposes of Article I, § 14 of the Washington Constitution, and the Eighth  
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15 Amendment to the United States Constitution.

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17 26. Alternatives to the State's methods of execution exist that effectively address  
18  
19 the substantial risk of serious harm posed by the State's current methods and that are  
20  
21 feasible, readily implemented, and in fact significantly reduce a substantial risk of severe  
22  
23 pain. The State lacks a legitimate penological justification for adhering to its current  
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25 methods of execution. By refusing to adopt the available constitutionally sufficient  
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27 procedures, the State is violating the prohibitions on cruel and unusual punishment set forth  
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29 in Article I, § 14 of the Washington Constitution, and the Eighth Amendment to the United  
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31 States Constitution.

## 32 33 V. GENERAL ALLEGATIONS

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35 27. All prior allegations set forth above are re-alleged as if set forth entirely  
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37 herein.

### 38 39 A. Lethal Injection

40  
41 28. The State of Washington has elected to use lethal injection as the  
42  
43 presumptive method of execution. *See* RCW § 10.95.180(1). Under state law, death  
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45 sentences "shall be supervised by the superintendent of the penitentiary and shall be inflicted  
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1 by intravenous injection of a substance or substances in a lethal quantity sufficient to cause  
2 death and until the defendant is dead.” *Id.* A defendant may elect death by hanging. *Id.*

3  
4 29. The statute prescribes no specific drugs, dosages, drug combinations, or the  
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6 manner of intravenous line access to be used in the lethal injection execution process.  
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9 30. The statute fails to prescribe any certification, training, or licensure required  
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11 for those individuals who participate in the execution process.

12  
13 31. Though the statute does not delegate to DOC or any agency the authority to  
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15 establish or implement execution policies and fails to set forth any administrative or  
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17 procedural standards safeguards or guidelines to be followed when enacting policy or  
18  
19 otherwise acting to implement the statute, all of the details and methods involved in the  
20  
21 execution process have been determined by DOC and at DOC’s sole discretion.

22  
23 32. The Policy sets forth the protocol by which the DOC has determined that  
24  
25 lethal injections are to be carried out in the State of Washington.

26  
27 33. On information and belief, DOC intends to execute Plaintiff by the lethal  
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29 injection procedure as set forth in the Policy. The Policy, and the manner and means by  
30  
31 which lethal injections are currently performed, violate state and federal constitutional  
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33 provisions that prohibit cruelty, pain, and torture.

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35 34. On information and belief, the lethal injection protocol set forth in the Policy  
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37 was adopted without sufficient medical research or review to determine that an inmate  
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39 would not suffer a painful death.

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41 35. The execution protocol set forth in the Policy was adopted without complying  
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43 with any administrative or procedural standards, safeguards or guidelines.  
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1 **B. The Chemicals Chosen by DOC for Lethal Injection Create an Excessive Risk**  
2 **That Plaintiff Will Suffer Excruciating Pain During Execution**

3  
4 36. The Policy creates a substantial risk that Plaintiff will consciously experience  
5 pain and suffering during execution. Pursuant to the Policy, an “injection team” whose  
6 members, titles and qualifications are undefined by the Policy, will administer intravenously  
7 a three-drug combination to Plaintiff in the following order: (1) thiopental sodium;  
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9  
10 (2) pancuronium bromide; and (3) potassium chloride.  
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12  
13 **1. Thiopental Sodium**

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15 37. Thiopental sodium, the first drug to be administered, is an ultra-short acting  
16 anesthetic intended to cause temporary unconsciousness, the effects of which wear off  
17 quickly. If a sufficient dose of thiopental sodium is not administered properly, the sedative  
18 effect will wear off during the execution process, creating a substantial constitutionally  
19 unacceptable risk of suffocation from the administration of the subsequently-administered  
20 pancuronium bromide and pain from injection of the subsequently-administered potassium  
21 chloride.  
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29 38. Failure to administer properly the entire dose of thiopental sodium necessary  
30 to prevent unconstitutional suffering is a foreseeable consequence of the inadequacy of  
31 DOC’s procedures and training as outlined in the Policy. Proper administration of  
32 thiopental sodium sufficient to render an adequate depth of unconsciousness is crucial to  
33 render the execution humane because the subsequently-administered drugs cause  
34 excruciating pain and suffering if injected into a conscious or inadequately sedated person.  
35 If not fully anaesthetized when injected with the pancuronium bromide and the potassium  
36 chloride, Plaintiff will experience both conscious paralysis and asphyxiation and an  
37 excruciating burning feeling throughout his veins before dying from cardiac arrest.  
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1           39.     The Policy provides that a solution of thiopental sodium will be used in the  
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3     lethal injection procedure and states that solutions for injection will be prepared no more  
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5     than thirty minutes prior to administering them in the execution. The Policy does not outline  
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7     how the drug will be prepared, or by whom, nor does it reasonably assure that the personnel  
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9     who will prepare and deliver the thiopental sodium have adequate training and experience to  
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11    perform these tasks properly and to do so within the thirty-minute time constraint. On  
12  
13    information and belief, other states use licensed pharmacists or physicians to mix the drugs,  
14  
15    including thiopental sodium, for lethal injections.

16           40.     DOC has chosen to create a substantial and foreseeable risk that Plaintiff will  
17  
18    be conscious during the administration of the pancuronium bromide and potassium chloride  
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20    by electing to use thiopental sodium. Anesthesiologists typically administer thiopental for  
21  
22    purposes of temporarily anaesthetizing patients in order to introduce a breathing tube. Once  
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24    the breathing tube has been inserted, other longer-lasting barbiturates are administered to  
25  
26    maintain the patient at a surgical plane of anesthesia throughout the procedure.

27           41.     The American Veterinary Medical Association (AVMA) recommends the use  
28  
29    of a long-acting barbiturate such as sodium pentobarbital in euthanasia, rather than the  
30  
31    thiopental sodium used in Washington executions of death-sentenced prisoners. *See*  
32  
33    American Veterinary Medical Association, *AVMA Guidelines on Euthanasia (Formerly*  
34  
35    *Report of the AVMA on Euthanasia)* (June 2007) at 11, available at  
36  
37    <[http://www.avma.org/issues/animal\\_welfare/euthanasia.pdf](http://www.avma.org/issues/animal_welfare/euthanasia.pdf)>, last visited August 18, 2008.  
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41           **2.     Pancuronium Bromide**

42           42.     After the thiopental sodium, Defendants intend to administer 100 milligrams  
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44    of pancuronium bromide. Pancuronium bromide is a neuromuscular blocking agent that  
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46    paralyzes all voluntary muscles, including the respiratory muscles, thereby causing  
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1 asphyxiation. Pancuronium bromide does not diminish cognition, consciousness, or the  
2 ability to feel pain or suffocation. As a result, if an individual is not fully unconscious when  
3 pancuronium bromide is administered, that person will experience the physical and  
4 psychological agony of conscious suffocation, but because of the paralysis, the person will  
5 be unable to communicate that suffering and the pain will not be visible to an observer.  
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11 43. Pancuronium bromide substantially increases the risk that Plaintiff will be  
12 conscious during the injection of potassium chloride, an extremely painful drug. Once  
13 paralyzed by pancuronium bromide, an inadequately anesthetized person will appear to be  
14 serene and unconscious throughout the execution procedure and will be unable to speak or  
15 move or otherwise inform the execution personnel that he is conscious and experiencing  
16 torturous pain. Indeed, administered by itself to a conscious person, pancuronium bromide  
17 would cause the person to suffocate to death slowly while remaining fully conscious.  
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25 44. Pancuronium bromide serves no medical purpose or legitimate function in an  
26 execution. The chemical is used to prevent the executioners and witnesses from knowing  
27 whether the condemned inmate is adequately anesthetized. In cases in which the thiopental  
28 sodium is not successfully delivered to the inmate's circulation and/or the condemned  
29 inmate is not adequately anesthetized, pancuronium bromide will create the appearance of a  
30 serene death while masking the fact that the person is experiencing conscious paralysis,  
31 suffocation, and the agony of cardiac arrest from the administration of potassium chloride.  
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45. On information and belief, pancuronium bromide is banned in most states for  
use in animal euthanasia because it inhibits the ability to determine if the patient is

1 experiencing pain during the procedure. Washington's statutory and administrative  
2 provisions express a strong preference for pentobarbital-based drugs. See RCW §§  
3 16.52.011; 69.50.310; WAC §§ 246-886-020 & 246-886-030.  
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6  
7 46. Pancuronium bromide substantially and foreseeably increases the risk that  
8 Plaintiff will be conscious during the injection of the potassium chloride that follows. Once  
9 paralyzed, he will be unable to indicate to the execution personnel that he is conscious and  
10 experiencing torturous pain. When pancuronium bromide is administered after an initial  
11 dose of thiopental sodium, as the Policy calls for, it creates the real, gratuitous, and  
12 unacceptable risk that Plaintiff will be paralyzed by the pancuronium bromide but conscious  
13 and able to feel the severe pain caused by the potassium chloride. Administering the  
14 combination of thiopental sodium and pancuronium bromide thus creates the  
15 unconscionable possibility that Plaintiff will consciously experience the agony of  
16 suffocation by the pancuronium bromide and the intense burning as the potassium chloride  
17 moves through his veins, followed by cardiac arrest, without being able to indicate that he  
18 was still conscious or had regained consciousness.  
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31 **3. Potassium Chloride**

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33 47. The third and final chemical Defendants intent to administer is potassium  
34 chloride, an extremely painful chemical which causes death by disrupting the heart's  
35 contractions, leading to cardiac arrest and death. As potassium chloride travels through the  
36 bloodstream from the site of injection towards the heart, the chemical activates sensory  
37 nerve fibers inside the veins, causing a prolonged and intense burning sensation. In the  
38 foreseeable event that a person is not adequately anesthetized throughout the execution  
39 procedure, the potassium chloride will cause the person to consciously experience the  
40 agonizing pain of this excruciatingly painful chemical coursing through his veins and of  
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1 cardiac arrest, while being incapable of expressing his suffering due to the paralytic effects  
2 of the pancuronium bromide.  
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4 48. The AVMA condemns the use of potassium chloride as the sole agent for  
5 animal euthanasia. *See* AVMA Guidelines, *supra*, at 12. If potassium chloride is to be used  
6 at all, the AVMA requires the practitioner administering the potassium chloride to have  
7 proper training and knowledge to ensure that the euthanized animal has reached a surgical  
8 plane, which is characterized by the loss of consciousness, loss of reflex muscle and loss of  
9 response to noxious stimuli. The Policy lacks even these basic protections.  
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11 49. The Policy creates a substantial risk that Plaintiff will not be fully  
12 anaesthetized when the potassium chloride is administered and therefore will be conscious  
13 and experience torturous pain as a result.  
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23 **C. Deficiencies in the DOC's Lethal Injection Protocol Create a Substantial and**  
24 **Excessive Risk That Plaintiff Will Suffer Excruciating Pain During Execution**

25 50. On information and belief, the State of Washington does not use a lethal  
26 injection procedure and/or employ safeguards substantially similar to those used by the State  
27 of Kentucky. *See Baze v. Rees*, \_\_\_ U.S. \_\_\_, 128 S.Ct. 1520, 170 L.Ed. 2d 420 (2008).  
28

29 51. The Policy fails for many reasons including, but not limited to, those stated  
30 below.  
31

32 52. The Policy fails to set forth a back-up plan in the event of failed intravenous  
33 insertion or other errors in administration of the chemicals.  
34

35 53. On information and belief, the State does not select or assemble the lethal  
36 injection team until 60 to 90 days prior to the execution date, thereby creating the substantial  
37 risk that the members of the injection team will not have adequate training to perform  
38 executions in a constitutionally compliant manner.  
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1           54.     The Policy fails to set forth the procedures for establishing properly the  
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3 intravenous lines through which the lethal solutions will flow. This failure creates a  
4  
5 substantial, intolerable risk of serious harm that the drugs will not be properly administered,  
6  
7 specifically, that an adequate dose of thiopental sodium will not reach Plaintiff and render  
8  
9 him unconscious on a surgical plane of anesthesia, and that therefore Plaintiff will suffer  
10  
11 suffocation from the administration of the pancuronium bromide and the excruciating pain  
12  
13 akin to fire running through his veins from injection of the potassium chloride.

14           55.     The Policy does not identify who will set the intravenous lines, where and the  
15  
16 manner in which the intravenous lines will be set, or sufficient credentials, qualifications,  
17  
18 training, or experience of such person or persons.

19           56.     The Policy does not provide a time frame during which the intravenous lines  
20  
21 must be established or a backup plan for vein access in the event that the initial attempt to  
22  
23 establish the intravenous lines is unsuccessful. The protocol set forth in the Policy fails to  
24  
25 identify whether the intravenous access will be attempted first through peripheral sites, such  
26  
27 as arms, hands, or legs, before more invasive measures are attempted.

28           57.     The Policy does not prohibit the use of "cut downs" to access veins for the  
29  
30 intravenous lines. A cut down is a painful procedure that involves surgically exposing a  
31  
32 vein, inserting a catheter, and closing the skin with suturing, and would be performed prior  
33  
34 to the administration of the thiopental sodium.

35           58.     The Policy does not provide for persons who possess sufficient expertise to  
36  
37 insert an intravenous line properly to be present in the chamber with the inmate to watch for  
38  
39 signs of intravenous line problems, such as blockage and infiltration, and what necessary  
40  
41 measures to take in the event of such instances.  
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1           59.     The Policy does not provide for a standard time for the lethal solutions to be  
2 administered or how much time should elapse between administration of the solutions.  
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4           60.     The Policy fails to specify where the injection team and injection team leader  
5 are to be located during the administration of the intravenous lethal solutions or how the  
6 execution facilities are set up, thereby creating the substantial risk that there will be not be  
7 adequate monitoring for purposes of assessing unconsciousness and whether intravenous  
8 tubes are and remain properly inserted into veins.  
9

10           61.     The Policy fails to provide sufficient methods to ensure and monitor that the  
11 proper level of unconsciousness is maintained following administering of the sodium  
12 thiopental to ensure that an inmate will not experience suffocation or the excruciating  
13 burning pain caused by the second and third drugs, *i.e.*, whether the inmate is on the surgical  
14 plane of anesthesia prior to administration of pancuronium bromide and potassium chloride.  
15 In light of the known risk that a person not completely and deeply unconscious will  
16 experience torturous pain and suffering as a result of the last two drugs to be administered,  
17 the lack of safeguards creates a substantial intolerable risk of serious harm and wantonly  
18 exposes death-sentenced prisoners to that risk.  
19

20           62.     The Policy does not provide how the syringes containing the lethal solutions  
21 will be labeled to ensure that the injection team administers the drugs in the correct order  
22 and dosage.  
23

24           63.     The Policy does not provide where or how the lethal solutions will be stored  
25 upon arrival to the Washington State Penitentiary to guarantee that the integrity of the  
26 chemicals is not compromised prior to the execution.  
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28           64.     The Policy's inadequate procedures and lack of safeguards for establishing  
29 and maintaining the IVs, administering the lethal solutions and maintaining the  
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1 unconsciousness of the condemned creates a substantial intolerable risk of serious harm to  
2  
3 Plaintiff.

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5 65. The Policy delegates the assignment of all staff to be involved in the  
6  
7 execution, including the administration of the medical procedures, as well as the  
8  
9 determination whether expert advice should be sought as to whether to deviate from the  
10  
11 Policy's procedures for inmate-specific physical or medical reasons, to the Superintendent  
12  
13 of the Washington State Penitentiary (Superintendent), a position that, on information and  
14  
15 belief, does not require any medical certification, training, experience, or knowledge.

16  
17 66. The Policy lacks any guidelines for injection team members or other  
18  
19 personnel to rely upon if they are required to exercise their discretion during the lethal  
20  
21 injection process.

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23 67. The Policy provides that briefing and rehearsals are to be conducted only "as  
24  
25 necessary," but fails to provide what will be rehearsed, and whether and what type of  
26  
27 follow-up will take place in the event that the rehearsal reveals deficiencies, difficulties, or  
28  
29 flaws with the personnel or procedures.

30  
31 68. A physical examination of the person, may, but need not, be performed. The  
32  
33 Policy does not state who is to review the medical file the requirements for that person's  
34  
35 credentials or qualifications. There is no guidance as to who will conduct the physical  
36  
37 examination, when a physical examination will be performed or the scope of the  
38  
39 examination. The Policy provides that, based upon the physical examination, the  
40  
41 Superintendent "may" but need not consult with "appropriate experts" to determine whether,  
42  
43 based on the medical file, any deviation from the policy is advisable. There is no guidance  
44  
45 as to what the credentials and qualifications of these "appropriate experts" must be, or  
46  
47 whether they must have any experience administering lethal injections.



1 alternative chemicals and retain qualified medical personnel to administer its chosen  
2 chemicals to ensure the constitutionality of its lethal injection procedure, Defendants have  
3 acted with deliberate indifference and failed to do so. Defendants' current procedures  
4 violate evolving standards of decency.  
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9 **COUNT II:**  
10 **Violation of the Right to be Free from Cruel and Unusual Punishment**  
11 **Pursuant to Eighth Amendment**  
12 **to the United States Constitution (Lethal Injection)**  
13

14 77. All prior allegations set forth above are re-alleged as if set forth entirely  
15 herein.  
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17  
18 78. Defendants, acting under color of Washington law, intend to execute Plaintiff  
19 in a manner and by methods that will cause unnecessary pain, that do not comport with  
20 evolving standards of decency, thereby depriving Plaintiff of his rights under the Eighth  
21 Amendment to the United States Constitution, as made applicable to the State of  
22 Washington by the Fourteenth Amendment to the United States Constitution, to be free from  
23 cruel and unusual punishment.  
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30 79. Although it is possible to conduct executions in a constitutionally compliant  
31 manner, Defendants have chosen not to do so. While Defendants could select additional or  
32 alternative chemicals and retain qualified medical personnel to administer its chosen  
33 chemicals to ensure the constitutionality of its lethal injection procedure, Defendants have  
34 acted with deliberate indifference and failed to do so. Defendants' current procedures  
35 violate evolving standards of decency.  
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**COUNT III:**  
**Violation of the Right to be Free from Cruel Punishment and Arbitrary and  
Capricious Procedures Pursuant to Article I, Sections 3 and 14,  
of the Washington Constitution (Hanging)**

80. All prior allegations set forth above are re-alleged as if set forth entirely herein.

81. Defendants, acting under color of Washington law, intend to execute Plaintiff in a manner and by methods that will cause unnecessary pain, that do not comport with evolving standards of decency, thereby depriving Plaintiff of his rights under Article I, §§ 3 and 14 to the Washington Constitution to be free from cruel punishment.

82. Although it is possible to conduct executions in a constitutionally compliant manner, Defendants have chosen not to do so. While Defendants could select additional or alternative methods of execution to ensure the constitutionality of its procedure, Defendants have acted with deliberate indifference and failed to do so. Defendants' current procedures violate evolving standards of decency.

**COUNT IV:**  
**Violation of the Right to be Free from Cruel and Unusual Punishment  
Pursuant to Eighth Amendment  
to the United States Constitution (Hanging)**

83. All prior allegations set forth above are re-alleged as if set forth entirely herein.

84. Defendants, acting under color of Washington law, intend to execute Plaintiff in a manner and by methods that will cause unnecessary pain, that do not comport with evolving standards of decency, thereby depriving Plaintiff of his rights under the Eighth Amendment to the United States Constitution, as made applicable to the State of

1 Washington by the Fourteenth Amendment to the United States Constitution, to be free from  
2  
3 cruel and unusual punishment.

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5 85. Although it is possible to conduct executions in a constitutionally compliant  
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7 manner, Defendants have chosen not to do so. While Defendants could select additional or  
8  
9 alternative methods of execution to ensure the constitutionality of its procedure, Defendants  
10  
11 have acted with deliberate indifference and failed to do so. Defendants' current procedures  
12  
13 violate evolving standards of decency.

14  
15 **COUNT V:**

16 **Violation of the Right to Due Process Pursuant to**  
17 **Article I, Section 3, of the Washington Constitution**

18  
19 86. All prior allegations set forth above are re-alleged as if set forth entirely  
20  
21 herein.

22  
23 87. Defendants, acting under color of Washington law, fail to set forth, in detail  
24  
25 sufficient for Plaintiff to evaluate, the manner and methods of the execution employed by  
26  
27 the State of Washington as required by Article I, Section 3 of the Washington Constitution.

28  
29 88. As a direct cause of Defendants' failure to adequately describe the manner  
30  
31 and methods of execution employed by the State of Washington, Plaintiff is unable to make  
32  
33 a knowing, voluntary and informed election of his method of execution.

34  
35 **COUNT VI:**

36 **Violation of the Right to Due Process Pursuant to the**  
37 **Fourteenth Amendment to the United States Constitution**

38  
39 89. All prior allegations set forth above are re-alleged as if set forth entirely  
40  
41 herein.

42  
43 90. Defendants, acting under color of Washington law, fail to set forth, in detail  
44  
45 sufficient for Plaintiff to evaluate, the manner and methods of the execution employed by  
46  
47

1 the State of Washington as required by the Fourteenth Amendment to the United States  
2  
3 Constitution.

4  
5 91. As a direct cause of Defendants' failure to adequately describe the manner  
6 and methods of execution employed by the State of Washington, Plaintiff is unable to make  
7  
8 a knowing, voluntary and informed election of his method of execution.  
9

10  
11 **COUNT VII:**  
12 **DOC Unconstitutionally Exceeded Its Jurisdiction**  
13 **in Implementing the Execution Policy**  
14

15 92. All prior allegations set forth above are re-alleged as if set forth entirely  
16  
17 herein.

18  
19 93. The Washington legislature did not delegate authority to DOC to establish or  
20  
21 implement a policy by which executions are to be carried out in the State.  
22

23 94. By acting without a legislative grant of authority in establishing or  
24  
25 implementing an execution policy, DOC exceeded its jurisdiction, and its policy may not be  
26  
27 enforced.  
28

29  
30 **COUNT VIII:**  
31 **Any Delegation of Authority to DOC to Establish or**  
32 **Implement Execution Policy is Improper**  
33

34 95. All prior allegations set forth above are re-alleged as if set forth entirely  
35  
36 herein.

37  
38 96. No Washington statute sets forth which agency, if any, has delegated  
39  
40 authority to establish or implement an execution policy.

41  
42 97. No Washington statute sets forth the scope of authority under which a State  
43  
44 agency might establish or implement an execution policy.  
45  
46  
47



1 C. Declaratory judgment stating that executing Plaintiff by lethal injection using  
2 the execution protocol set forth in the DOC Policy and DOC practices, procedures, acts and  
3 omissions violate Plaintiff's rights under the Eighth and Fourteenth Amendments to the  
4 United States Constitution.  
5  
6  
7

8 D. Declaratory judgment stating that execution by hanging violates Plaintiff's  
9 rights under Article I, §§ 3, 14 of the Washington Constitution and a preliminary and  
10 permanent injunction barring Defendants from executing him by hanging.  
11  
12  
13

14 E. Declaratory judgment stating that execution by hanging violates Plaintiff's  
15 rights under the Eighth and Fourteenth Amendments to the United States Constitution.  
16  
17  
18

19 F. Declaratory judgment stating that Defendants' refusal to disclose its  
20 execution procedures relating to lethal injection violates due process and fundamental  
21 notions of fairness, and requiring Defendants to disclose these procedures to Plaintiff in a  
22 timely manner sufficient to allow him to investigate and evaluate the procedure to ensure  
23 that it does not violate prohibitions against cruel and unusual punishment in the Washington  
24 and United States constitutions.  
25  
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30 G. Declaratory judgment stating that Defendants' refusal to disclose its  
31 execution procedures relating to hanging violates due process and fundamental notions of  
32 fairness as provided by the Fourteenth Amendment to the United States Constitution, and  
33 requiring Defendants to disclose these procedures to Plaintiff in a timely manner sufficient  
34 to allow him to investigate and evaluate the procedure to ensure that it does not violate the  
35 prohibitions against cruel and unusual punishment in the Washington and United States  
36 constitutions.  
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44 H. Any further relief, including attorneys' fees and/or costs, that the Court  
45 deems just and proper.  
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DATED: October 29, 2008

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# Exhibit A



STATE OF WASHINGTON  
DEPARTMENT OF CORRECTIONS

APPLICABILITY  
**PRISON**

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10/25/08

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DOC 490.200

**POLICY**

TITLE

**CAPITAL PUNISHMENT**

**REVIEW/REVISION HISTORY:**

Effective: 9/3/93  
Revised: 6/15/98  
Revised: 8/10/01  
Revised: 6/21/07  
Revised: 10/25/08

**SUMMARY OF REVISION/REVIEW:**

Title and Team Name changes throughout  
I.A.1., II.C. & VIII.A.1., & VIII.C.2. – Added clarifying language  
III.B.3. – Added requirements for ISDP incoming mail  
III.B.4.b. & 5.b. – Added clarifying language regarding attorney of record  
Revised IV.A.1. to specify a single media event  
Added IV.B.1. & DOC 21-575 Acknowledgment of Visitor Search Requirements for searches of media representatives  
Revised V.F. regarding search requirement for witnesses  
VI.C. – Revised housing requirements for female ISDP  
VIII.A.2. – Added requirement for 3 practice sessions for lethal injections  
VIII.B. – Removed medical file review, revised physical examination requirement  
IX.A.1.d. – Added that Lethal Injection Team members must be trained; added qualifications  
IX.A.2.a. – Changed Director of Health Services to Superintendent  
IX.A.4.b. & d. – Revised requirements for lethal injection  
IX.A.4.h. – Removed requirement that Lethal Injection Team remove apparatus and saline  
X.A. – Calls to Headquarters will be made to the Department Emergency Operations Center.  
X.F. – Removed requirement that Death Certificate be signed before removal of body  
Several changes to Attachment 1

**APPROVED:**

Signature on File

\_\_\_\_\_  
ELDON VAIL, Secretary  
Department of Corrections

10/23/08

\_\_\_\_\_  
Date Signed

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**REFERENCES:**

DOC 100.100 is hereby incorporated into this policy; RCW 10.95.160-190; WAC 137-48-050; DOC 410.040 Incident Command System (ICS)

**POLICY:**

- I. The Department has established procedures governing capital punishment to meet the requirements of RCW 10.95.160-190. These procedures set forth:
  - A. Security requirements for an Inmate Subject to the Death Penalty (ISDP),
  - B. Protocol for conducting an execution,
  - C. The care provided the ISDP while a valid Death Warrant is in force, and
  - D. The method of execution by lethal injection or hanging.
  
- II. The Department Secretary designates the Assistant Secretary for Prisons to coordinate:
  - A. The responsibilities of the Washington State Penitentiary (WSP) Superintendent, and
  - B. A review of the procedures and all operational decisions in carrying out the execution, as well as the legal status of the Death Warrant.

**DIRECTIVE:**

- I. ISDP Housing
  - A. Upon receipt of an ISDP and prior to receipt of a Death Warrant:
    1. Male ISDPs shall be housed in a single person cell located in a segregated area of WSP.
    2. Female ISDPs shall be housed in a segregated area of the Washington Corrections Center for Women (WCCW). Prior to the execution date, the female ISDP will be transported to WSP for housing and execution.
  
- II. Pre-Execution Procedure
  - A. Consistent with RCW 10.95.190, a log shall be maintained with the Death Warrant in the Superintendent's Office.
  - B. Responsibilities are listed in the Execution Procedures and Assignments Checklist (Attachment 1).

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- C. Only staff assigned by the Superintendent will attend the execution. No facility staff will be required to participate in any part of the execution procedure.

III. Notification to ISDP

- A. After receiving confirmation of a valid Death Warrant, the Superintendent will designate an Associate Superintendent to personally interview the ISDP regarding procedures relating to the execution.
- B. The Associate Superintendent will provide the ISDP with a written summary of procedures, to include mail, visits, telephone usage, and available religious services. The ISDP will be informed of the following:
1. The date of the execution.
  2. The punishment of death shall be by lethal injection.
    - a. The ISDP may elect hanging as an alternate means of execution.
    - b. The procedure to be used will be determined 14 days prior to the execution and the method cannot be changed after that date. If the ISDP elects hanging, it must be stated in writing no later than 14 days prior to the execution date.
  3. Mail procedures for an ISDP with an active Death Warrant will be as follows:
    - a. The Mail Room Sergeant will be instructed, in writing, to forward all incoming mail, unopened, to the designated Associate Superintendent, who will screen and exclude any items which may threaten the order and security of the facility with regard to the ISDP.
      - 1) Mail intended to harass the ISDP will be considered a threat to the orderly operation of the facility and restricted per WAC 137-48-050.
      - 2) Legal mail will be screened, not read.
    - b. The Mail Room Sergeant will maintain a log of all incoming and outgoing mail, noting the date and time of receipt and delivery. A separate log will be maintained for all legal mail.
  4. All visits between the ISDP and authorized visitors will be no contact.



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- a. Visitation for an ISDP will be consistent with the visiting procedures of other offenders housed in the Intensive Management Unit (IMU).
  - b. Seven days prior to the execution, daily visits will be authorized in addition to visits with the attorney of record.
  - c. Twenty-four hours prior to the execution date, all visits and visitors require the approval/denial of the Superintendent.
  - d. After the ISDP is moved to the execution holding cell, visits will be restricted to approved clergy and the attorney of record.
5. The ISDP will have unlimited phone access during the daily yard period. Fourteen days prior to the execution date, an additional daily one hour yard will be provided.
- a. There will be no limit on the number or duration of calls to and from the attorney of record.
  - b. Only calls from the attorney of record will be authorized following transfer to the execution holding cell.

#### IV. Media Relations

- A. The Superintendent/designee will coordinate all requests for information concerning an execution.
  1. A single event to provide representatives of major and local media an opportunity to access the chamber will be authorized by the Superintendent and coordinated by designated staff.
- B. The Superintendent will establish procedures for selecting media witnesses as specified in the Witness Selection section of this policy.
  1. No audio/electronic/video equipment, cameras, telephones, or recording/communication devices will be permitted in the chamber. Media witnesses will be subject to an electronic and pat search. Written consent for search will be required using DOC 21-575 Acknowledgment of Visitor Search Requirements.
  2. The only items that are allowed in the chamber are pens, pencils, and writing tablets supplied by the facility.
- C. Requests from media representatives for access to the Information Center must be submitted in writing.



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1. Information Center access will not be permitted more than 3 hours prior to an execution.
  - D. Media access to a designated area of the facility parking lot will be permitted at a designated time the day prior to the execution.
  - E. Media will not be permitted to film or conduct interviews with facility staff without the prior authorization of the Superintendent/designee.
  - F. All normal facility security procedures will apply. Failure to comply with these procedures, Department policies, operational memorandums, or directions from authorized personnel may be cause for removal from the facility and/or facility grounds. The Superintendent may establish emergency rules and procedures.
- V. Witness Selection
- A. Not less than 20 days prior to an execution, individuals who wish to attend and witness the execution must submit a letter of request (e.g., application) to the Superintendent. The letter must designate the relationship to the ISDP and reason(s) for wishing to attend. Eligible individuals include:
    1. Judicial officers (i.e., the Judge who signed the Death Warrant for the ISDP, the current Prosecuting Attorney or a Deputy Prosecuting Attorney of the county from which the final Judgment and Sentence and Death Warrant were issued, and the most recent attorney of record representing the ISDP),
    2. Law enforcement representatives (i.e., officers responsible for investigating the crime for which the inmate was sentenced to death),
    3. Media representatives,
    4. Representatives of the families of the victims (i.e., immediate family or victim advocates of the immediate family), and
    5. Representatives from the ISDP's immediate family.
  - B. Not less than 15 days prior to the execution, the Superintendent shall determine the total number of individuals, other than Department employees, who will be allowed to attend and witness the execution.
    1. The Superintendent shall determine the number of witnesses allowed in each category of eligible individuals.

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- a. No less than 5 media representatives will be included, with consideration given to news organizations serving communities affected by the crimes or the execution.
  - b. Up to 2 law enforcement representatives will be included. The chief law enforcement officer of the jurisdiction where the crime was committed shall designate the law enforcement representatives.
2. Once the list is composed, the Superintendent shall serve the list on all parties who have submitted a letter (e.g., application) to witness the execution.
- C. Not less than 10 days prior to the execution, the Superintendent shall file the witness list with the Superior Court from which the conviction and Death Warrant were issued. The witness list will be filed with a petition asking that the court enter an order certifying the list as a final order identifying the witnesses to attend the execution. The final order of the court certifying the witness list shall not be entered less than 5 days after the filing of the petition.
  - D. Unless a show cause petition is filed with the Superior Court from which the conviction and Death Warrant were issued within 5 days of the filing of the Superintendent's petition, the Superintendent's list, by order of the Superior Court, will become final and no other party will have standing to challenge its appropriateness.
  - E. In no case may the Superintendent or the Superior Court order or allow more than 17 witnesses to a planned execution, excluding required staff.
  - F. All witnesses must adhere to the facility's search and security provisions in regards to witnessing an execution and may be subject to emergency rules and procedures. Written consent for search will be required using DOC 21-575 Acknowledgment of Visitor Search Requirements.
- VI. Execution Holding Cell
- A. Prior to the execution, but no sooner than 24 hours before, the ISDP will be moved to the execution holding cell.
  - B. The holding cell will contain:
    1. Bedding that includes a mattress, 2 sheets, 3 blankets, a pillow, and a pillow case,
    2. Personal hygiene items that include 2 towels, a washcloth, and a bar of soap,



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3. Approved personal items and clothing that include underwear, facility clothing, legal materials, religious items, jewelry, or other personal items as requested by the ISDP and approved by the Superintendent, and
  4. Other personal items as requested by the ISDP and approved by the Superintendent to be retained by holding cell staff and issued as requested by the ISDP.
- C. A female ISDP may be housed in the WSP Intensive Management Unit (IMU) prior to being moved to the execution holding cell.
- D. Two correctional staff will be posted at the holding cell at all times and a complete log of activities will be maintained.

### VII. Final Meal

- A. At the meal period just prior to the time of execution, the ISDP will be allowed to provide his/her meal selection from a menu prepared and provided by the Food Service Manager. The Food Service Manager will ensure preparation and delivery of the meal to the ISDP.

### VIII. Execution Preparation

- A. The Superintendent will appoint individuals to support the execution process.
1. No staff will be required to participate in any part of the execution procedure.
  2. Briefings and rehearsals will be conducted as necessary to ensure adequate preparation for the execution. For an execution by lethal injection, there shall be a minimum of 3 practice sessions preceding an execution that shall include the siting of intravenous (IV) lines.
- B. Medical Review
1. A physical examination of the ISDP may be conducted to determine any special problems (e.g., collapsed veins, obesity, deterioration of bone or muscular structure) that may affect the execution process. The ISDP's height and weight will be measured during the examination.
  2. Based upon the physical examination, the Superintendent may consult with appropriate experts to determine whether deviation from the policy is advisable to ensure a swift and humane death.
- C. Crowd Control



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1. The Superintendent will notify law enforcement agencies of the date of execution, enabling them to prepare for any traffic and crowd control issues that may arise.
2. Prior to the execution, the Superintendent will hold briefings for local and state law enforcement agencies to determine the manner and extent to which WSP and Department resources will support law enforcement in managing crowd control and potential external threats.
3. An area(s) will be designated for the general public.
4. The WSP Emergency Response Team (ERT) will provide crowd control for the protection of the WSP grounds.
  - a. The ERT Commander(s) will be briefed by the Superintendent prior to the execution.
  - b. In the event that protesters and/or onlookers gather, law enforcement assistance will be requested to direct them to the designated area.

### **IX. Execution Procedure**

#### **A. Lethal Injection**

1. Lethal Injection Materials/Personnel
  - a. All tubing, syringes, saline solution, and other apparatus will be on site and verified no later than 7 days prior to the execution.
  - b. The Superintendent will direct the acquisition of the appropriate quantities of lethal substances. These will be available and on site 7 days prior to the execution date.
  - c. The Superintendent will ensure the security and continued verification of all materials.
  - d. Lethal Injection Team members will have sufficient training or experience to carry out the lethal injection process without any unnecessary pain to the ISDP. Minimum qualifications include one or more years of professional experience as a certified Medical Assistant, Phlebotomist, Emergency Medical Technician, Paramedic, military corpsman, or similar occupation.
2. Lethal Injection Table



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- a. The Superintendent, in conjunction with the Plant Manager, will examine and verify that the lethal injection table is in working order with all restraints available.
3. Preparation of the Execution Area
    - a. The Lethal Injection Team will inspect the area designated for lethal injection and make any final recommendations to the Superintendent.
    - b. The Lethal Injection Team will assemble all necessary materials for transport to the chamber no less than one hour prior to the time of execution. The Lethal Injection Team Leader will secure the lethal substances and personally transport them to the chamber.
    - c. The solutions for injection will be prepared not more than 30 minutes prior to administration.
  4. Execution Process
    - a. The Superintendent will direct that the ISDP be brought to the chamber. The Escort Team will place the ISDP on the lethal injection table and appropriately secure the ISDP to the table. The Escort Team will then leave the room.
    - b. The Lethal Injection Team will establish 2 IV lines and start a normal flow of saline through each line. The Lethal Injection Team will ensure that a slow, normal saline flow is maintained through each line.
    - c. The Superintendent will ask the ISDP if s/he has any last words.
    - d. Upon notification from the Superintendent, the Lethal Injection Team will introduce the following lethal solutions using a bolus injection into the tubing in the order specified:
      - 1) 3 g thiopental sodium
      - 2) 50 cc normal saline
      - 3) 100 mg pancuronium bromide
      - 4) 50 cc normal saline
      - 5) 240 mEq potassium chloride (KCl)
    - e. Either line may be used for injection of solutions as required. The Superintendent shall observe the ISDP for signs of consciousness before the Lethal Injection Team administers the pancuronium

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bromide. If the Superintendent observes that the ISDP is conscious following the first dose of thiopental sodium, s/he shall direct the Lethal Injection Team to administer an additional 3 g dose of thiopental sodium.

- f. The Lethal Injection Team Leader will signal the Superintendent when all of the solutions have been administered.
- g. At a time deemed appropriate by the Superintendent, the curtains will be closed. The Superintendent will call for the physician to examine the body and make a pronouncement of death.
- h. After the pronouncement of death, the Lethal Injection Team will remain in the area until directed to leave.
- i. Post-execution procedures will be followed.

**B. Hanging**

- 1. The gallows area trap door(s) and release mechanisms will be inspected for proper operation.
- 2. A determination of the proper amount of drop of the ISDP through the trap door will be made. The following standard military execution drop chart will be used:

<u>WEIGHT (Pounds)</u>	<u>DROP DISTANCE</u>
120	8'1"
125	7'10"
130	7'7"
135	7'4"
140	7'1"
145	6'9"
150	6'7"
155	6'6"
160	6'4"
165	6'2"
170	6'0"
175	5'11"
180	5'9"
185	5'7"
190	5'6"
195	5'5"

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200	5'4"
205	5'2"
210	5'1"
220 and over	5'0"

### 3. Equipment

- a. Hood – The hood will be a neutral color with an outer surface made of rough material, split at the open end so that it will come down over the chest and back.
- b. Collapse Board – A board will be provided for use in case the ISDP collapses.
- c. Restraints – Restraints will be used to ensure that the hands and arms of the ISDP are securely held to his/her front and sides.
- d. Rope – The rope will be manila hemp, at least ¾ inch and not more than 1¼ inches in diameter and approximately 30 feet in length. The rope will be soaked and then stretched while drying to eliminate any spring, stiffness, or tendency to coil. The knot will be treated with wax, soap, or clear oils ensuring a smooth sliding action through the knot. The knot will be tied according to Army regulations.

### 4. Execution Process

- a. Restraints will be placed on the ISDP by assigned staff.
- b. The Escort Team will escort the ISDP to the gallows area. The ISDP will be placed, standing, in the spot designated by the Superintendent. The Superintendent will ask the ISDP if s/he has any last words.
- c. The hood will be placed on the ISDP and leg restraints applied. If a collapse board appears to be necessary, the Escort Team will put the board in place.
- d. The noose will be placed snugly around the ISDP's neck in such a manner that the knot is directly behind the left ear.
- e. The Superintendent will direct the trapdoor be released.
- f. The Escort Team will move to the lower floor location to assist with removal of the deceased ISDP. The curtains will be closed.

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- g. At a time deemed appropriate by the Superintendent, the physician will be called to make a pronouncement of death.

**X. Post-Execution Procedure**

- A. The Assistant Secretary for Prisons will notify the Secretary and Incident Command Center of the time of death. Necessary calls to Headquarters will be made to the Department Emergency Operations Center.
- B. The Superintendent will inform a designated staff of the time of death, who will then inform the witnesses.
- C. The witnesses will be escorted out of the execution area immediately after the pronouncement of death.
- D. The media witnesses will be escorted to the Information Center.
- E. The Chaplain will provide official notification to the family of the time of death.
- F. The body will be removed from the facility by a pre-determined route.
- G. A post-trauma specialist and the Chaplain will be available to staff preceding, during, and after the execution. Staff will also be provided a confidential list of off-site locations where counseling and/or spiritual support will be available.
- H. Within 20 days after the execution, the Superintendent shall return the Death Warrant to the clerk of the trial court from which it was issued, along with the log identified in the Pre-Execution Procedure section of this policy.

**DEFINITIONS:**

Words/terms appearing in this policy may be defined in the glossary section of the Policy Manual.

**ATTACHMENTS:**

Execution Procedures and Assignments Checklist (Attachment 1)

**DOC FORMS:**

DOC 21-575 Acknowledgment of Visitor Search Requirements

**DEPARTMENT OF CORRECTIONS  
WASHINGTON STATE PENITENTIARY  
EXECUTION PROCEDURES AND ASSIGNMENTS CHECKLIST**

Inmate:

Date of Execution:

DATE COMPLETED/ STAFF INITIALS	TASK	ASSIGNED PERSONNEL
Compliance Date: Approximately 30 days prior to the scheduled execution		
	Superintendent appoints an Execution Incident Commander.	
	Execution Incident Commander determines the Incident Command System (ICS) objectives, strategies, tactical direction, and organizational structure needed for the execution event and identifies planning elements required.	
	Execution Incident Commander develops a draft Incident Action Plan (IAP) for the execution and submits to the Superintendent for approval. The IAP will contain, at a minimum, all elements identified in this checklist.	
	ISDP is informed of the statutory requirements regarding the method of execution and is advised the Superintendent will request s/he submit his/her election of alternate method in writing.	
	ISDP is given opportunity to designate family members as witnesses.	
	ISDP has been provided a written summary of the procedures governing mail, visitation, telephone use, and available religious services.	
	<p>Mail Room Supervisor is informed, in writing, of the ISDP's name and execution and instructed that:</p> <p><input type="checkbox"/> All incoming mail addressed to ISDP will be forwarded unopened to a designated Associate Superintendent</p> <p><input type="checkbox"/> A log will be maintained of all incoming/outgoing mail noting date and time of receipt and distribution</p> <p><input type="checkbox"/> A separate log will be maintained for legal mail</p>	

DATE COMPLETED/ STAFF INITIALS	TASK	ASSIGNED PERSONNEL
	The facility Public Information Officer has been informed of scheduled date and directed to prepare a media plan.	
	The Intensive Management Unit (IMU) Manager has been informed of mail, visit, telephone use, and available religious services as they apply to the ISDP.	
	ISDP is placed on 30 minute check. Observed behavior is entered in designated log.	
	Chaplain is assigned as Religious Specialist and briefed.	
	Sources and procedures for acquiring the substances necessary for lethal injection have been investigated. Plans being made for acquiring all necessary equipment essential to carry out either mode of execution.	
	Coordination meeting with local law enforcement is scheduled.	
	Lethal Injection Team or Hanging Team, as necessary, is identified and notified.	
	Individuals eligible to witness execution are identified. Appropriate letters sent.	
<b>Compliance Date:</b> Not less than 20 days prior to the execution		
	Superintendent completes changes to IAP and returns to the Execution Incident Commander.	
	Staff assigned an organizational role within the ICS structure are identified and briefed.	
	ICS organization completes identified planning elements, required forms, and documentation for the IAP.	
	Letters received from potential witnesses have been processed.	

DATE COMPLETED/ STAFF INITIALS	TASK	ASSIGNED PERSONNEL
	The chamber has been inspected to ensure the following systems are functional: <input type="checkbox"/> Plumbing <input type="checkbox"/> Lighting <input type="checkbox"/> Emergency Lighting <input type="checkbox"/> Mechanical Systems <input type="checkbox"/> Locking Systems <input type="checkbox"/> Telephones <input type="checkbox"/> Sanitation <input type="checkbox"/> Furnishings <input type="checkbox"/> Toilet Facilities	
	Execution Incident Commander ensures all staff assigned to positions within the chamber receive a briefing and notification of the date and time of "on-site" rehearsal.	
	Execution Incident Commander ensures a written report detailing the condition of the chamber has been submitted to the Superintendent citing any deficiencies. A schedule of corrective actions will be provided.	
<b>Compliance Date:</b> 15 days prior to the execution		
	All changes, improvements, or renovations to the chamber have been completed.	
	Total number of individuals to attend/witness the execution, other than staff, has been identified.	
	Witness applicants have been notified of the final witness list.	
<b>Compliance Date:</b> 14 days prior to execution		
	ISDP is authorized one additional hour of yard time each day.	
	ISDP is provided final opportunity to choose alternate method of execution.	
	All equipment has been procured for either mode of execution.	
	Notification to staff/ISDP for program changes if needed (e.g., visiting, etc.).	
	Arrangements made to ensure Death Certificate will be available. Superintendent is advised.	
<b>Compliance Date:</b> Not less than 10 days prior to the execution		

DATE COMPLETED/ STAFF INITIALS	TASK	ASSIGNED PERSONNEL
	List of authorized witnesses is filed with Superior Court in county of conviction from which Death Warrant issued.	
	Physical examination is conducted, if needed.	
	The following have been checked: <input type="checkbox"/> All equipment required for lethal injection <input type="checkbox"/> All equipment required for hanging, if necessary.	
	Conduct at least 3 lethal injection practice sessions, if necessary, including siting of IV lines.	
	Gallows area trap door(s) and release mechanisms are inspected for proper operation, if necessary.	
	Proper amount of drop of ISDP through the trap door is determined, if necessary.	
	IAP specifically details crowd control strategies and tactics and identifies the operational supervisor/leader.	
<b>Compliance Date:</b> 7 days prior to the execution		
	Execution Incident Commander submits final IAP to the Superintendent and receives signature approval.	
	ISDP is authorized daily visits (in addition to with attorney of record).	
	Instructions are provided to staff on entrance and egress routes.	
	Mobile restroom facilities are placed in the designated demonstration area.	
	Post-execution handling of ISDP is coordinated.	
	Lethal solutions, if required, have been obtained and placed in security lock box.	
	The specific route and mode of body removal is determined and information transmitted to: <input type="checkbox"/> Superintendent <input type="checkbox"/> Execution Incident Commander <input type="checkbox"/> Captain <input type="checkbox"/> Shift Commander <input type="checkbox"/> Washington State Patrol	
	Menu for final meal is prepared and presented to Superintendent for approval.	
<b>Compliance Date:</b> Approximately 5 days prior to the execution		

DATE COMPLETED/ STAFF INITIALS	TASK	ASSIGNED PERSONNEL
	On-site rehearsal has been conducted with all Execution Event staff participating.	
	The holding cell area has been inspected and is ready for occupancy.	
	Security inspections of the entire chamber have been conducted.	
	<p>The holding cell is prepared and equipped with:</p> <input type="checkbox"/> 1 Mattress <input type="checkbox"/> 2 Sheets <input type="checkbox"/> 3 Blankets <input type="checkbox"/> 1 Pillow <input type="checkbox"/> 1 Pillowcase <input type="checkbox"/> 2 Towels <input type="checkbox"/> 1 Washcloth <input type="checkbox"/> 1 Bar of Soap	
	Chamber and all systems have been checked for operation and readiness. All equipment present and functional.	
	Notices are issued to any contract/volunteer staff and/or construction workers of planned suspension of their activities.	
	Arrangements for Death Certificate are confirmed and communicated to the Superintendent/Execution Incident Commander.	
<b>Compliance Date:</b> Approximately 4 days prior to the execution		
	Coordination briefings with local law enforcement agencies have been conducted.	
	<p>All staff assignments made:</p> <input type="checkbox"/> Chamber Security Team <input type="checkbox"/> Correctional Program Managers <input type="checkbox"/> Captain <input type="checkbox"/> Chamber Media Escort Team <input type="checkbox"/> Visiting Room Media Monitor <input type="checkbox"/> Chaplain <input type="checkbox"/> Transport/Restraining Team <input type="checkbox"/> Holding Cell Security Team <input type="checkbox"/> Health Care Manager 2 <input type="checkbox"/> Incident Command Post Staff (Security/Communication) <input type="checkbox"/> Specialty Team Group Supervisor/ERT Leader <input type="checkbox"/> Specialty Team Group Supervisor/SERT Leader	

DATE COMPLETED/ STAFF INITIALS	TASK	ASSIGNED PERSONNEL
	Staff escorts assigned for all non-WSP individuals attending.	
<b>Compliance Date:</b> 24 hours prior to execution		
	Superintendent approves all visitors.	
	ISDP is requested to designate disposition of his/her property/remains in writing.	
	A thorough security inspection of the entire chamber area, including search of cells, has been conducted.	
	Clocks are coordinated.	
	ISDP is moved from IMU to holding cell. Visitors limited to approved clergy and attorney of record.	
	Upon arrival at the holding cell, ISDP is informed of conditions of confinement.	
	The IAP is initiated and Incident Command Post opened and staffed.	
	Main facility is briefed at roll call of extraordinary security measures.	
	A designated staff to operate PBX reports for work.	
<b>Execution Day</b>		
	Chamber Access Security Team (Shift A) reports to duty station in chamber.	
	Cell Security Team (Shift A) reports to duty station in chamber.	
	Lethal solutions, if needed, are transferred to the injection room in the chamber.	
	Final meal is prepared and served to ISDP.	
	Chamber Access Security Team Shift B relieves Shift A.	
	Cell Security Team Shift B relieves Shift A.	
	Authorized media representatives are allowed access to the facility and are briefed by the Superintendent/designee.	
	All witnesses have been assigned escorts and allowed access to the facility.	
	All traffic through information desk area, visitor tunnel is cleared.	
	All staff designated as participants are at duty stations in the chamber.	

DATE COMPLETED/ STAFF INITIALS	TASK	ASSIGNED PERSONNEL
	Department Secretary has been contacted by telephone from the Incident Command Post/Communications Center and an open line from the Department Emergency Operations Center to the chamber is established.	
	Incident Command Post/Communications Center contacts the Attorney General's Office by telephone and maintains an open line.	
	Lethal Injection Team enters and the equipment for injection mode and back-up equipment is tested, if necessary.	
	Hanging Team enters the gallows area and the equipment and back-up equipment is tested, if necessary.	
	Open line participants verify and concur no stay has been received. The time is _____ or later and the execution is to proceed.	
	Superintendent is in place in chamber.	
	ISDP is placed in restraints and escorted to the appropriate execution area.	
	All pre-execution preparations are completed. All participants are in place.	
	Assistant Secretary confirms that no stays have been granted.	
	Assistant Secretary informs Superintendent that there are no stays.	
	Superintendent signals the execution to proceed.	