

# The Death Penalty is #BrokenBeyondRepair

## California's new lethal injection protocol won't fix anything

On November 6<sup>th</sup>, the California Department of Corrections and Rehabilitation (CDCR) made public proposed regulations for a new lethal injection protocol. This triggered the public comment period under California's Administrative Procedures Act (APA), which ensures the public has a right to participate in every step of the regulatory process so that our concerns are addressed in a meaningful way.

The purpose of this process is to ensure that the CDCR engages in transparent decision-making and adequate study when it comes to such important, life and death decisions.

**We are committed to meaningful and substantive engagement in this process, but we can't do it without your help.**

**Nationally, the death penalty is in decline and a majority of states have abandoned it in law or in practice.**

Even as public support for the death penalty continues to decline nationwide, California is undertaking another lengthy, costly and futile process to develop a new lethal injection protocol. The state has already spent almost a decade trying to create a legally sound execution protocol, but it has failed repeatedly and there is no evidence to suggest that this time will be any different.

**A new lethal injection protocol will not solve the problem.**

Even if an execution protocol is created through this process, many questions will remain unanswered due to inherent flaws in the death penalty system. A new lethal injection protocol will not address larger problems such as the cost of the death penalty, the real risk of executing an innocent person, and how or if the death penalty can ever be applied fairly in California.

**The reality is that the death penalty is doomed to fail in California.**

The death penalty is broken beyond repair from start to finish. The only solution to California's multi-billion dollar boondoggle is to replace the death penalty with life in prison without the possibility of parole. It's time to end this charade.

**TAKE A STAND to END THE CHARADE!**

**Send in your comments by January 22, 2016:**

CDCR, Regulation and Policy Management Branch

PO Box 942883, Sacramento, CA 94283-001

By email: [LI.comments@cdcr.ca.gov](mailto:LI.comments@cdcr.ca.gov)

By fax: (916) 324-6075

**For more information, please visit [www.aclunc.org/lethalinjections](http://www.aclunc.org/lethalinjections)**

## SAMPLE LETTER

[Date]

CDCR, Regulation and Policy Management Branch  
P.O. Box 942883  
Sacramento, CA 94283-0001  
Email: [LI.comments@cdcr.ca.gov](mailto:LI.comments@cdcr.ca.gov)

Re: Comment on Proposed Lethal Injection Regulations, Number 15-10

Dear Mr. Lockwood:

I am deeply concerned about the CDCR's new proposed lethal injection regulations. The CDCR has a troubled past with regards to lethal injection, as do many other states that continue go through extreme measures to salvage a death penalty system that we all know is broken from start to finish.

Specifically, I am concerned about the following in the new proposed regulations:

- 1) **Inadequate fiscal impact statement:** The CDCR has not performed an adequate economic impact assessment in proposing these regulations by failing to account for all of the costs associated with carrying out executions. Indeed, the Legislative Analyst's Office has recently estimated annual costs associated with the death penalty to be \$150 million annually.
- 2) **Procedure for botched executions:** The regulations fail to provide a procedure in the event a botched execution occurs. This is specifically concerning given the gruesome botched executions in Oklahoma and Arizona last year.
- 3) **Visiting:** The regulation should allow for family visiting up until three hours prior to the scheduled execution, and phone access thereafter. Losing a family member to execution is a severe and lasting trauma, and the CDCR should ensure surviving family members can say goodbye in the final hours.
- 4) **Drug Experimentation:** The regulations name two drugs (amobarbital and secobarbital) that have never been used in lethal injection. If the CDCR is going to resume executions, it must use methods that are well-understood and well researched. I do not support my tax dollars being used in this type of "innovation," which amounts to human experimentation.
- 5) **Great uncertainty with respect to lethal drugs:** The proposed regulations do not make clear which of the four drugs will be used in any given execution or how and when the "inmate's choice" comes into play. Nor does the proposed regulation clearly state whether the drugs will be manufactured and FDA-approved or compounded and how that decision will be made. The Department should only procure drugs for execution in a manner that complies with all applicable laws, but the proposed regulation does not make clear that it will. Given the confusing way the proposed regulations are drafted, I am constrained about how to even direct or focus my comments related to the selection, procurement, and validity of the lethal drug to be used.

In conclusion, I support eliminating the death penalty in California and I oppose implementing the proposed regulations on lethal injection as drafted.

Sincerely,

[Name]

[Mailing address and email]