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From: McCleave, Kelly@CDCR [/o=CA/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Kelly.McCleave]
on behalf of McCleave, Kelly@CDCR
Sent: 6/3/2014 3:58:14 PM
To: [REDACTED]@CDCR [/o=CA/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=[REDACTED]]
Subject: RE: Emailing: Lethal Injection Photos Angel Diaz's Botched Execution in Florida New Republic

Sorry. I was out of the office yesterday. Had to finish up some landscaping I was doing and couldn't quite complete over the weekend. I'm here today.

Kelly L. McCleave

Attorney III

Legal Affairs Division

916/323-5448

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From: [REDACTED]@CDCR
Sent: Monday, June 02, 2014 11:22 AM
To: McCleave, Kelly@CDCR
Subject: Emailing: Lethal Injection Photos Angel Diaz's Botched Execution in Florida New Republic

I do not know where or how they got these pictures! This was a while back

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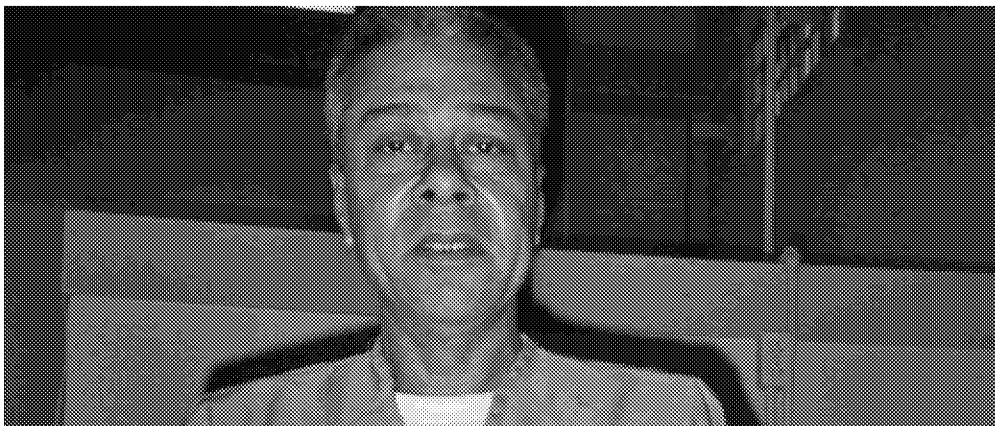
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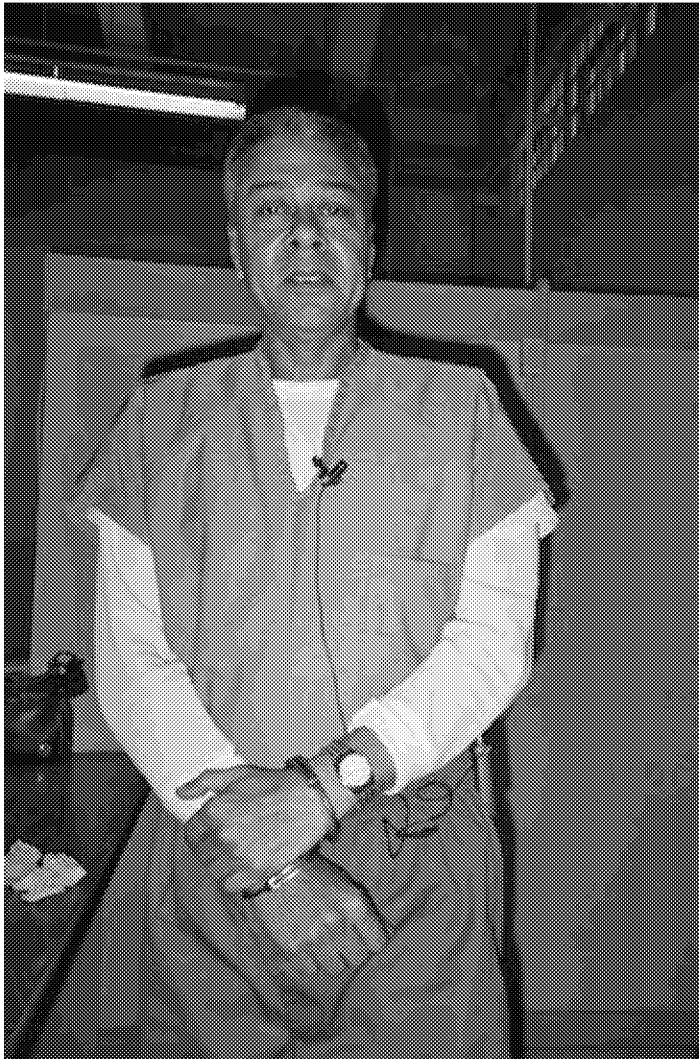
May 29, 2014

Photos from a Botched Lethal Injection An exclusive look at what happens when an execution goes badly

By [Ben Crair @bencrair](#) Photo: [Tito Guzman/EL NUEVO DIA de/Newscom](#)

Warning: This article contains graphic images from the autopsy of an executed prisoner.

On December 13, 2006, the state of Florida botched the lethal injection of Angel Diaz. The execution team pushed IV catheters straight through the veins in both his arms and into the underlying tissue. As a result, Diaz, who was convicted of murder in 1986, required two full doses of the lethal drugs, and an execution scheduled to take only ten to 15 minutes lasted 34. It was one of the worst botches since states began using lethal injection in the 1980s, and Jeb Bush, then the governor of Florida, responded with a moratorium on executions.



Tito Guzman/EL NUEVO DIA de/Newscom

Angel Diaz on Dec. 12, 2006, the day before his execution.

Other states hardly heeded Diaz's death at all. Since he died, states have continued to botch lethal injections: A [recent study by Austin Sarat](#) at Amherst College estimated that at least 7 percent of all lethal injections have been visibly botched. The most controversial was in Oklahoma this past April, when the state executed a convicted murderer and rapist named Clayton Lockett using a three-drug protocol, like most other death-penalty states. The execution team struggled for 51 minutes to find a vein for IV access, eventually aiming for the femoral vein deep in

Lockett's groin. Something went wrong: Oklahoma first said the vein had "blown," then "exploded," and eventually just "collapsed," all of which would be unusual for the thick femoral vein if an IV had been inserted correctly. Whatever it was, the drugs saturated the surrounding tissue rather than flowing into his bloodstream. The director of corrections called off the execution, at which point the lethal injection became a life-saving operation. But it was too late for Lockett. Ten minutes later, and a full hour-and-forty-seven minutes after Lockett entered the death chamber, a doctor pronounced him dead.

Witnesses to the execution say Lockett writhed, clenched his teeth, and mumbled throughout the procedure. We won't better understand what happened until Oklahoma releases an autopsy report some time this summer. But we do know what happened to Angel Diaz, who died under similar conditions. While the details of his execution have been known since 2006, *The New Republic* is publishing for the first time photographs of the injuries Diaz sustained from the lethal injection. I discovered the photographs in the case file of Ian Lightbourne, a Florida death-row inmate whose lawyers submitted them as evidence that lethal injection poses an unconstitutional risk of cruel and unusual punishment.

States adopted lethal injection in order to make the death penalty seem more peaceful, like an ordinary medical procedure. "No pain, no spasms, no smells or sounds—just sleep then death," said Bill Wiseman, the Oklahoma state representative who led the first push for lethal injection in 1977. But even back then, Jay Chapman, the Oklahoma chief medical examiner who wrote the protocol, warned, in the words of *The Daily Oklahoman*, that "the major hazard of using lethal drugs in the execution of criminals is missing the vein in establishing an intravenous 'pathway' for the drugs." That is what happened to Diaz and appears to be what happened to Lockett. A death-penalty method that was supposed to be less barbaric than its predecessors, it turns out, can still mutilate the human body. These photos, taken by a Florida medical examiner during the autopsy of Diaz's body, are evidence of how.

Diaz died at 6:36 p.m., and the medical examination began the next morning. His body arrived at the medical examiner's office in the clothes he died in, with the IVs still in his arms.



Diaz's body at the beginning of the autopsy, with the execution IVs still in both arms.

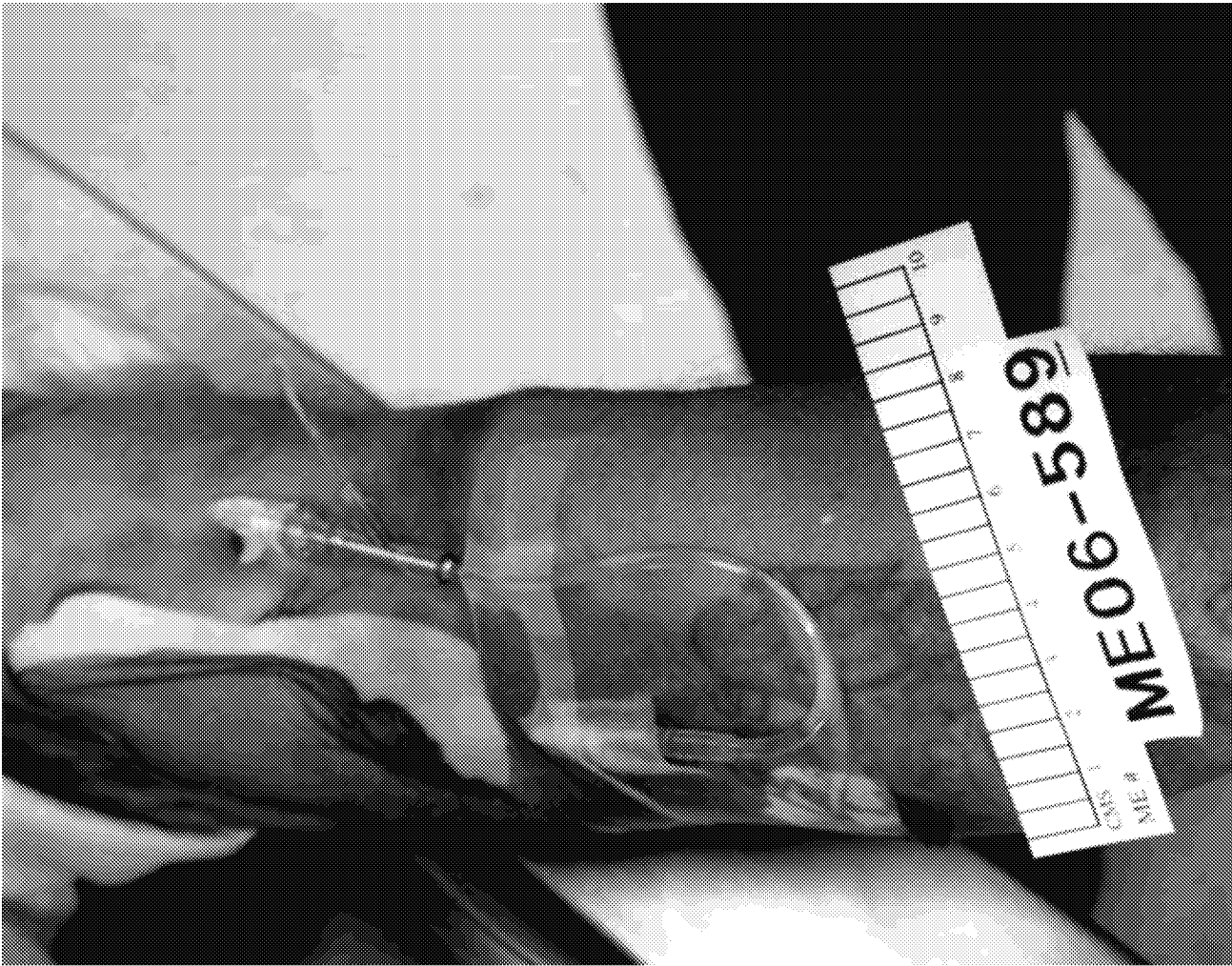
The most common way states botch lethal injections is by subjecting prisoners to several needle pricks over a long period of time as they search for IV access. Prisoners are often overweight, inactive, and former drug users, and finding a vein can be difficult. In Diaz's case, the execution team member—Florida never disclosed this person's name or qualifications—did not struggle to locate veins in both forearms. However, this person, either unknowingly or wantonly, pushed the catheters through both veins and into subcutaneous soft tissue—an error that is known in medicine as "infiltration." As a result, the drugs flowed between layers of soft tissue in Diaz's arms rather than into his bloodstream.

This created large chemical burns. On the right arm, the burn zone was 12 by 5 inches, with numerous blisters (or "bullae," as they're known medically) and a sloughing off of superficial skin. On the left arm, the burn zone was 11 by 7 inches. The blisters, according to the autopsy report, were filled with "watery pink-tinged fluid." By the time the autopsy began, the medical examiner noted there had been "extensive skin slippage," revealing white and pink subcutaneous skin.

Injury on Angel Diaz's left arm



Diaz's left arm had an 11-by-7 inch chemical burn from the lethal drugs. By the time the autopsy began, the superficial skin had sloughed off, revealing white subcutaneous skin.



The epidermis was gray and discolored in the burned areas.



"Extensive skin slippage" on Diaz's left arm.



A "watery pink-tinged fluid" filled the burn blisters.

"I've never seen anything like this from IV infiltration," said Jonathan Groner, a professor of clinical surgery at the Ohio State University College of Medicine who has studied lethal injection, when I showed him the photos. Groner described the injuries as severe second-degree, or "deep partial thickness," burns. "That is the kind of injury we see when a kid has fallen in a campfire or set his arm on fire," Groner said. "My guess is someone who got this when alive would need skin grafts to heal."

Mark Heath, an anesthesiologist at Columbia University who has studied lethal injection and testified extensively about the procedure, called the gray skin on Diaz's arms "hallmark discoloration from sodium thiopental"—the first drug in the three-drug protocol that was used to kill Diaz. The thiopental needs to be dissolved in a caustic alkaline solution before it's administered: The solution will be diluted when it enters the bloodstream, but it can burn when it infiltrates living muscle or the fat of the arm. It is unclear the extent to which the thiopental solution continued to act on Diaz's soft tissue after he passed away. What is certain is that thiopental was in his left arm for more than 30 minutes (and his right arm for a shorter length of time) between the first injection and the pronouncement of death. Tim Westveer, an inspector for the Florida Department of Legal Enforcement, observed Diaz's body from a distance of eight to ten feet immediately after the execution and noticed redness along Diaz's arms unlike any he had seen in prior executions.

Injury on Angel Diaz's right arm



Diaz's right arm had a 12-by-5 inch chemical burn from the lethal drugs. Its skin had also begun to slough off when the autopsy began, revealing subcutaneous skin.



Another view of the chemical burn.



Discolored epidermis and fluid at the burn site.

The intended purpose of the thiopental was to make Diaz unconscious. Then the second drug, a paralyzing agent called pancuronium bromide, would shut down Diaz's control of voluntary muscles. Finally, a third drug, potassium chloride, was supposed to stop his heart. According to an official state review of the execution, a member of the execution team noticed more resistance in the syringe than usual when he or she began to pump thiopental into Diaz's left arm. This person was able to complete the dosage, and then began to administer pancuronium bromide through the same IV. The resistance grew, however, until the point where he or she could push the plunger no further. The execution team switched to the IV in Diaz's right arm to complete the dosage of pancuronium bromide and then applied potassium chloride. When it failed to stop Diaz's heart, the execution team administered another full cycle of the three-drug cocktail, switching back midway from his right arm to his left.

Drugs work differently subcutaneously than they do intravenously. "If thiopental infiltrates, it will not produce anesthesia," said Heath. In previous botched executions, thiopental accidentally administered subcutaneously has failed to knock prisoners unconscious: A few months before Diaz's execution, Joseph Clark, a convicted murderer in Ohio, remained awake after receiving thiopental in a collapsed vein, and executioners had to find a new vein before restarting his execution. And thiopental is the most important drug in the execution, from the prisoner's perspective: If it fails, he will be awake to feel the torturous effects of the other two drugs. The second drug, pancuronium bromide, paralyzes the prisoner, including his diaphragm and lungs: In clinical settings, patients must be put on ventilators to continue breathing. And pancuronium bromide, unlike thiopental, works even when it's administered subcutaneously: "Infiltrated pancuronium still accumulates in the circulation in fully effective concentrations, and so the prisoner will become 'chemically locked in' over a period of ten to twenty minutes," said Heath. The third drug, potassium chloride, is known to be painful intravenously. In order to cause cardiac arrest, a single large dose needs to hit the heart through the bloodstream—which we know didn't happen in Diaz's case.

In all likelihood, Diaz remained conscious as the drugs pooled in his arms and the pancuronium bromide began to paralyze him. Diaz would have become chemically locked in—that is, mentally aware but without control of any voluntary muscles—and he would have starved for air as his diaphragm shut down and he slowly suffocated. In the autopsy report, the medical examiner noted "bilateral venous jugular distention"—an abnormal swelling of both jugular veins in Diaz's neck that could be a sign he struggled for air.



Venous jugular distention in Diaz's neck—a sign he may have struggled for air.

Witnesses to the execution reported Diaz moved throughout the procedure, suggesting he was awake and trying to overcome the onset of paralysis. Chris Tisch, a *St. Petersburg Times* reporter who witnessed the execution, wrote that Diaz immediately began grimacing and appeared to speak at the start (his words could not be heard by the witnesses because a glass window separates the death chamber from the viewing room). He repeatedly squinted his eyes and lifted his chin. Ten minutes into the execution—around the time he was expected to die—he turned his head to the right and began to cough. Sixteen minutes into the execution, he was still moving his mouth and chin.

By the twenty-second minute, he appeared to have stopped moving—but then two minutes later his body “jolted,” according to Tisch, and his eyes opened more widely. At 6:34, a doctor checked Diaz’s vital signs. He or she left the execution chamber, returned a minute later, checked again, and at 6:36 an execution team member pronounced Diaz dead.

Tisch wrote in his notes that for several minutes Diaz’s mouth was “flexing like a fish out of water”—a sign he was struggling for air. Ron Word, an Associated Press reporter, also witnessed the execution. Afterwards, he wrote: “It seemed like Angel Nieves Diaz would never die.”

The Florida Department of Corrections originally said that Diaz’s execution took longer than expected because he had liver problems that slowed the chemicals. But the autopsy showed that his liver was healthy. And doctors said even if Diaz did have liver problems, they would have sped up his death rather than slowed down his death.

Two days after Diaz died, Governor Bush put a moratorium on all Florida executions. He also assembled a panel of experts to review and revise Florida’s lethal injection protocol. This panel, which included doctors and state politicians, found that the execution team lacked appropriate training and that the team did not follow the proper protocols. However, it said “it is impossible for the Commission to reach a conclusion as to whether inmate Angel Diaz was in pain.” It made several recommendations to better train the execution team, reinforce the command structure, improve documentation, and monitor more closely the prisoner’s condition. It also recommended the “Florida Department of Corrections on an ongoing basis explore other more recently developed chemicals for use in a lethal injection execution with specific consideration and evaluation of the need of a paralytic drug like pancuronium bromide in an effort to make the lethal injection execution procedure less problematic.” In 2008, Florida’s new governor, Charlie Crist, lifted the moratorium on the death penalty. In a statement, the Florida Department of Corrections noted it had updated the execution protocol since Diaz’s execution. “Carrying out the sentence of a court in a capital case is the Florida Department of Corrections’ most solemn duty, and the Department remains committed to doing everything it can to ensure a humane and dignified lethal injection process,” the statement read.

After a nationwide shortage in thiopental, Florida replaced the first drug in the three-drug cocktail with midazolam in 2013. Unlike thiopental, which is used in the clinical context to make patients deeply comatose before surgery, doctors typically use midazolam as a sedative to calm patients or to induce amnesia of surgery. Last October, Florida executed its first prisoner with midazolam, a convicted murderer and rapist named William Happ. The Associated Press reporter who witnessed the execution wrote, “It appeared Happ remained conscious longer and made more body movements after losing consciousness than other people executed recently by lethal injection under the old formula.”

Oklahoma also executed Clayton Lockett using midazolam as the first drug—though the dosage was only a fifth of the amount Florida used for Happ. After the botch, Oklahoma said Lockett died from a heart attack. One cause might have been the potassium chloride, though that is unlikely if the drug was not entering his bloodstream. It could have been from something else, such as air entering his vein. It also could just be incorrect, as was Florida’s report of “liver problems” for Angel Diaz immediately after his execution.

After his death, Lockett’s body went to the state medical examiner’s office for an autopsy; then it was sent to Dallas for a second autopsy by an independent forensic pathologist. The results of these autopsies have not yet been released. Unlike Bush, who appointed an independent panel to review Diaz’s execution, Oklahoma Governor Mary Fallin ordered just Michael Thompson, the state commissioner of public safety, to investigate the Lockett execution and recommend changes to the state protocol.

It is important to note that a botched execution would not necessarily cause any physical injuries at all. One of the main concerns with lethal injection is the integrity of the drugs, especially since the shortage in thiopental sent states scrambling for untested replacements. Even if the drugs are administered perfectly through an IV, the prisoner would still suffer if the first drug does not knock him out. “How enviable a quiet death by lethal injection,” Supreme Court Justice Antonin Scalia wrote in 1994, comparing the deaths of executed prisoners to the violent deaths of their victims. In some cases, though, it is the quietness of three-drug lethal injection, inflicted by the paralyzing drug that may have suffocated Angel Diaz, that is most cruel about it.

Ben Crair is a story editor at *The New Republic*. Follow him [@bencrair](#).

Correction: The article originally stated that the drug midazolam is in the narcotics class when, in fact, it is in the benzodiazepines class.

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on behalf of McCleave, Kelly@CDCR
Sent: 1/16/2014 7:37:33 PM
To: Reiser, Philip@CDCR [/o=CA/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Philip.Reiser]
Subject: RE: Ohio Execution

Yeah, I was running around early this morning calming people. What they witnessed was snoring. It's very common with Midazolam and seen quite often in surgery. These drugs are very well known and there is plenty of information as to how they will work/perform. So this big hoopla is beyond ridiculous.... but not at all unexpected.

From: Reiser, Philip@CDCR
Sent: Thursday, January 16, 2014 11:10 AM
To: McCleave, Kelly@CDCR
Subject: Ohio Execution

Please see attached.