

# Execution stay for Arizona inmate granted

By Amanda Lee Myers The Associated Press Arizona Daily Star | Posted: Monday, April 4, 2011 6:22 pm |

PHOENIX — The U.S. Supreme Court granted a stay of execution for an Arizona death-row inmate Monday, less than 24 hours before he was scheduled to die by injection for the gruesome 1987 killings of a man and a teenage boy after he tortured and raped them for hours.

The ruling means the execution of Daniel Wayne Cook, 49, is on hold while the high court considers his lawyers' argument that he had ineffective counsel during his post-conviction proceedings.

The Supreme Court's decision prompted the Arizona Department of Corrections to cancel the execution, which was set for 10 a.m. Tuesday. Cook's death warrant expires Wednesday morning; if a decision isn't reached in time, a new one must be issued. That could take weeks.

"We're very happy," defense attorney Robin Konrad told The Associated Press as she drove to a state prison in Florence to deliver the news to Cook. "We hope the U.S. Supreme Court considers this issue seriously."

Ultimately, Konrad is seeking a new sentencing for Cook in hopes that he will get life in prison instead of the death penalty.

Konrad said Cook's attorneys during his post-conviction proceedings were ineffective because they did not present to Judge Steven Conn evidence that Cook endured extreme physical and sexual abuse throughout his childhood.

Cook suffered numerous rapes at the hands of family members and a group-home worker, was burned with cigarettes and was forced to have sex with his sister, according to attorneys and court documents.

Cook has acknowledged his guilt, but has been arguing strongly for a sentence of life in prison. He only recently was diagnosed with post-traumatic stress disorder and brain dysfunction stemming from the abuse, and the prosecutor who tried Cook in 1988 has said he would not have sought the death penalty had he known about it.

Assistant Attorney General Kent Cattani said it is Cook's own fault that his trial judge did not know about the abuse because Cook represented himself during his trial and didn't tell him about it. He also said Cook's crime is the "worst of the worst" and that if anyone deserves the death penalty, it's him.

"I think eventually when the court considers the petition they will find that Cook has not established a valid basis for relief and that ultimately, the sentence will be carried out," Cattani said.

A clemency board denied Cook's request to recommend that his sentence be reduced to life in prison. And while the board members voiced concerns about his abuse, they ruled that the crimes he committed were too severe to merit anything other than the death penalty.

Cook's attorneys also have argued that he shouldn't be executed until the state implements a new single-drug method of lethal injection, a change that Arizona Department of Corrections Director Charles Ryan recently announced because of "perceived concerns" about the current three-drug method. He said the change would begin after Cook's execution.

Cook's attorneys say the state broke federal law when it imported sodium thiopental from Great Britain because it was listed in forms as being intended for "animals (food processing)," rather than humans. His lawyers also say the sodium thiopental could be ineffective, leading to severe pain during an execution.

Cattani has denied that Arizona broke the law, and said the paperwork mistake came from a clerical error by the federal Food and Drug Administration.

He said the state is switching to one drug because of a U.S. shortage of sodium thiopental, not because of any alleged ineffectiveness.

A three-judge panel with the 9th U.S. Circuit Court of Appeals in San Francisco on Friday upheld a lower court's ruling dismissing Cook's lawsuit over the drug issues, and the full court declined to address the issue over the weekend.

Cook was convicted of two counts of first-degree murder in the July 1987 deaths of Kevin Swaney, 16, and Carlos Cruz-Ramos, 26, in Lake Havasu City, in far western Arizona.

Court documents say Cook and his roommate and co-worker, John Matzke, were drunk and high on methamphetamine when they stole \$97 from Cruz-Ramos, who worked with the men at a Bob's Big Boy Restaurant and had just moved in with them. After they robbed the Guatemalan immigrant, they overpowered him, gagged him and tied him to a chair.

Over the next six hours, Cruz-Ramos was cut with a knife, sodomized by Cook, burned with cigarettes on his stomach and genitals, and beaten with fists, a metal pipe, and a wooden stick, according to court documents. After both men tried to strangle Cruz-Ramos, Matzke said he stood on a pipe over his throat until he died.

Swaney, a runaway and occasional guest at the apartment who also worked at the Big Boy, showed up about two hours later.

Cook and Matzke tied him naked to a chair and gagged him, but Matzke said he wouldn't participate in the teen's torture and fell asleep. He awoke to see Swaney crying, and Cook told him that he had sodomized the teen and that they had to kill him, according to court records.

The two tried to strangle the boy with a sheet. When that failed, Cook said, "This one's mine," and strangled him by hand, according to Matzke. They put Swaney's body in the closet on top of Cruz-Ramos, and court records say his heart was still beating when he was left for dead.

Cook was arrested after Matzke went to police the next day. Matzke later testified against Cook to get a lighter sentence and was released in 2007.

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**Sanchez, Ramona F.**

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**From:** Sanchez, Ramona F.  
**Sent:** Tuesday, April 05, 2011 2:15 PM  
**To:** (b)(6)  
**Attachments:** Texas AZ Executions Stayed by High Court.docx

(b)(6) for your reading—more on sodium thiopental; another execution stay in TX

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# Texas, Arizona executions stayed by high court

By Bill Mears, CNN Supreme Court Producer  
April 5, 2011 4:29 p.m. EDT

- Ruling gives lawyers more time to file appeals
- At issue are the drugs used for lethal injections
- A nationwide shortage of sodium thiopental forced Texas officials to switch to pentobarbital

**Washington (CNN)** – The Supreme Court for the second time this week has stopped a pending execution, giving lawyers for the condemned inmates more time to file their appeals.

The justices Tuesday morning issued an order granting a stay of execution for Cleve Foster, about eight hours before his scheduled lethal injection. The Gulf War veteran was convicted along with another man of the 2002 murder of Nyanuer "Mary" Pal, a Sudanese immigrant he met at a Fort Worth bar.

The court said it needed more time to rule on the inmate's claims of prior ineffective assistance of counsel, and related claims of innocence of the murder. The state has now been given 30 days to respond to Foster's request for a rehearing of his appeals. The high court will then revisit the petition, and could then decide the execution can go forward. The court's brief order noted Justice Antonin Scalia would have denied the stay of execution.

This is the second time Foster, 47, has been granted a reprieve. His scheduled execution was stopped in January after he had already been given his last meal.

It was to be the state's first execution using a new sedative, the first in the lethal drug cocktail. A nationwide shortage of sodium thiopental forced corrections officials to recently announce they would use pentobarbital, a barbiturate that has alternately been used to put animals to sleep.

Foster's lawyers challenged that change, saying Texas foisted the new protocols so late, with little time for legal or medical review.

"I'm enormously relieved on behalf of my client and his family, and I'm glad that the Supreme Court will be looking, at least preliminarily, at the important issues we've raised," Maurie Levin, representing Foster, told CNN. "I'm very relieved Texas will not be going forward in light of all the questions and chaos using their new execution protocol."

Levin said she and her legal team were up late filing their appeals, saying the process was "very emotional." She said she has not been able to contact her client.

A Texas corrections spokeswoman said the change in chemicals was prompted by an expiration date at the end of March for the state's ready supply of sodium thiopental.

Foster's execution was to be one of seven scheduled in Texas through August. Two men had already been executed this year in the nation's busiest execution state.

The justices had also stopped Tuesday's planned execution in Arizona of Daniel Wayne Cook, issuing an order the previous evening.

He was convicted of the 1987 murder/rape/torture of two men. His lawyers had filed appeals similar to Foster's: contesting his earlier legal representation; and contesting the drugs to be used in the lethal injection, claiming they were illegally imported and may be unsafe. Cook now has several more weeks to challenge his capital punishment, and the Supreme Court may not revisit the petition perhaps until the fall.

Arizona officials had executed another inmate last week, and they had also planned on using the anesthetic pentobarbital in future executions.

Pentobarbital has become the new legal flashpoint over capital punishment. It was used in a U.S. execution for the first time in December, when it was administered as the first ingredient in a three-drug cocktail used in a lethal injection given to an Oklahoma inmate. It also has limited Food and Drug Administration approval in smaller doses for humans as a mild anesthetic and to treat some seizures. Many physicians say they no longer administer it to people for medical purposes. Ohio last month became the first state to use the chemical as a single lethal dose. There were no reported complications and this could encourage other states to follow suit, barring any future constitutional challenges to this drug's safety and application. An execution is scheduled there next week.

In 2009, Ohio became the first state to perform an execution with a single drug, using a higher concentration of sodium thiopental. Washington is the only other state that would use a single drug. The nation's only manufacturer of sodium thiopental had announced it was stopping production. Many capital punishment opponents claim sodium thiopental, which renders the prisoner unconscious, can wear off too quickly, and that some prisoners would actually be awake and able to feel pain as the procedure continued.

The second drug -- pancuronium bromide -- paralyzes all muscle movement. The third drug, potassium chloride, induces cardiac arrest and death.

Some physicians warned against using pentobarbital, which is not commonly used on humans as either an anesthetic or lethal injection. Dr. David Varlotta, a board member of the American Society of Anesthesiologists, said he has not used the drug in 25 years.

"If departments of corrections are moving toward pentobarbital, they're moving away from the expertise of anesthesiologists," he said.

The European manufacturers of both pentobarbital and sodium thiopental have opposed using their products for executions in the United States.

**Pentobarbital is widely available and has been used for physician-assisted suicide, including in Oregon, where the practice is legal in limited circumstances.**

**Thirty-four states have the death penalty. Illinois Gov. Pat Quinn in March signed legislation abolishing capital punishment for his state, following New Mexico and New Jersey in recent years.**

**The Texas case is Foster v. Texas (10-8317).**

**The Arizona case is Cook v. Arizona (10-9742).**

**Sanchez, Ramona F.**

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**From:** Sanchez, Ramona F.  
**Sent:** Tuesday, April 12, 2011 9:38 AM  
**To:** (b)(6)  
**Attachments:** Execution drug is seized.docx

FYI—re: ST

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# Execution drug is seized

## Ky., Tenn. surrender supplies of sedative to federal agents

by Roger Alford and Kristin M. Hall - Apr. 2, 2011 12:00 AM  
Associated Press

FRANKFORT, Ky. - The U.S. Drug Enforcement Administration has taken supplies of a key lethal-injection drug from Kentucky and Tennessee, effectively preventing any executions in three states while it investigates how the drug was imported during a national shortage.

States have been scrambling over the past year to find a new supplier of sodium thiopental, a fast-acting sedative in a three-drug cocktail used when putting inmates to death, since its primary manufacturer in the United States stopped making the drug.

In March, the DEA took Georgia's entire supply, putting a hold on executions there following claims from a defense attorney for a death-row inmate that the state bought the drug from a fly-by-night outfit in the United Kingdom.

Kentucky officials confirmed Friday that they turned their supply over to the DEA, and Tennessee officials said Friday that they relinquished theirs on March 22.

An execution was carried out in Arizona last Tuesday using thiopental that came from the same London pharmaceutical-supply house, and another is scheduled for this Tuesday. Two weeks ago, the Federal Public Defender's Office in Phoenix asked U.S. Attorney General Eric Holder to also have the DEA investigate Arizona's supply of the drug, and the lawyers asked again Thursday in light of information that the Arizona import broker who brought the drugs into the country from England misrepresented the shipment on federal import documents.

So far, there is no indication that the DEA or any other agency intends to investigate the Arizona supplies.

The DEA and state officials have given few details about the Georgia-Kentucky-Tennessee investigation except to say there were questions about whether it was imported properly.

Kentucky officials said that they are cooperating in an unspecified federal investigation and that the state willingly turned over its entire supply, enough for three executions.

"There was no court order and no search warrant," said Jennifer Brislin, spokeswoman for the Kentucky Justice Cabinet.

Brislin declined to comment further about the case Friday, as did DEA Special Agents Jim Balcom in Louisville and Chuvalo J. Truesdell in Atlanta.

"I think the DEA recognizes that this was likely illegally obtained," said Kentucky public defender David Barron, who represents a Kentucky man sentenced to death for killing a sheriff and a deputy.

Dorinda Carter a Tennessee Department of Corrections spokeswoman, said there is no allegation that Tennessee did anything improper in purchasing the drug.

Carter said the state did not purchase the drug directly from any foreign vendor, but records obtained by the Associated Press show the sales agreement sent to Tennessee for the purchase of the drug noted it would be going through U.S. customs. Hospira Inc. of Lake Forest, Ill., stopped making thiopental in 2009. As supplies of sodium thiopental dwindled, at least seven states - Arizona, Arkansas, California, Georgia, Kentucky, Nebraska and Tennessee - obtained the drug overseas, with several of them citing Georgia as the trailblazer.

It's not immediately known whether the DEA is seeking to take the drug from all those states.

Some states have considered switching from thiopental to pentobarbital, a sedative that has a range of medical uses and is used to euthanize animals. Pentobarbital has already been used to execute prisoners in Ohio and Oklahoma.

Charles Ryan, Arizona Department of Corrections director, has stated publicly that after Tuesday's execution, Arizona will likely consider changing drugs as well, possibly to a one-drug protocol. Last week, it came to light that the drugs used in Arizona executions in October and March and the drugs to be used next week entered the country identified as drugs for animal use. Ryan dismissed the misrepresentation as a "clerical error"; but since then, it has been learned that the import documents contained other misrepresentations as well, including listing the drug wholesaler as its manufacturer.

**Republic reporter Michael Kiefer contributed to this article.**

**Sanchez, Ramona F.**

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**From:** Sanchez, Ramona F.  
**Sent:** Thursday, April 14, 2011 4:13 PM  
**To:** (b)(6)  
**Subject:** FW: Legal questions re: Thiopental

(b)(6) I don't want to overburden you with news on the thiopental issue, but at the same time I'd rather you have the information than not. This was in today's clips in case you missed it.

Ramona

**Legal Questions Are Raised as States Seek Death Penalty Drug  
New York Times 04/14/2011**

A shortage of one of the three drugs used in most lethal injections has caused disarray as states pursue a desperate and sometimes furtive search that might run afoul of federal drug laws.

At the same time, it has given death-penalty opponents fresh arguments for suing to block executions.

Until recently, states that use the drug, the barbiturate sodium thiopental, got it from a domestic supplier, Hospira Inc. But that company stopped making the drug in 2009 because of manufacturing problems and announced this year that it would stop selling the drug altogether. International pressure on suppliers by groups opposed to the death penalty has further restricted access to the drug. States had to find a new source, but importation of sodium thiopental is highly restricted under federal law.

Recently released documents emerging from lawsuits in many states reveal the intense communication among prison systems to help one another obtain sodium thiopental, and what amounts to a legally questionable swap club among prisons to ensure that each has the drug when it is needed for an execution.

In depositions from Arkansas officials, Wendy Kelley, a deputy director of the Department of Correction, said she obtained sodium thiopental from a company in England after hearing about it from corrections officers in Georgia. Her state, she said, at various times had given the drug to Mississippi, Oklahoma and Tennessee free of charge, and obtained the drug from Texas -- she traveled to Huntsville herself -- and from Tennessee.

"I went wherever they had them," Ms. Kelley said. "As best as I'm aware, the agreement my director had with other directors, any time there was an exchange, was that there would be a payback when needed."

When Kentucky went searching for execution drugs this year, the state's corrections commissioner, LaDonna H. Thompson, wrote in a memo that she had contacted departments in Georgia, Nebraska, South Dakota and Tennessee. A Georgia official "referred me to a distributor in Georgia that he thought might have a supply," she wrote, adding that she had gotten information on "an organization in India," Kayem Pharmaceuticals. (That company halted shipments to the United States last week under international pressure.)

Bradford A. Berenson, a Washington lawyer who on behalf of death row inmates has urged the Food and Drug Administration and the attorney general, Eric H. Holder Jr., to block the importation of unapproved execution drugs into the United States, said the states had been "pretty heedless of the legal lines" regarding the purchase and importation of powerful drugs like sodium thiopental. It was as if "because this was death-penalty related, it was somehow exempt from all the normal rules," Mr. Berenson said. "As a legal matter that was not true."

States sometimes took remarkable measures to obtain the drugs, the documents suggest.



Georgia prison officials were clearly growing anxious last summer as their supply of sodium thiopental neared expiration and a shipment from England lay stalled for weeks in Memphis. Customs agents had detained the package pending inspection by the Food and Drug Administration. By July 6, a corrections official sent a terse e-mail to a colleague asking, "Any word?"

The response: "We got word but not the 'good' word." The shipment was still held up. "I continue to track the package several times each day."

So officials explored a new tactic, the documents show: instead of going through the usual channels of ordering the drug through a Georgia health care company and a local pharmacy, might the British company simply send the drug directly to the department?

The owner of Dream Pharma, a wholesaler run out of the back room of a driving academy's offices in London, replied, "I am more than happy to assist." Matt Alavi, the owner, also warned that a certain carrier was "very stringent with U.S. customs." A Georgia corrections official approved the deal -- "Yes. Make it happen" -- with instructions to seek a supply with long expiration dates, and the drugs were soon on their way to the United States.

This approach may well have broken federal drug laws, said John T. Bentivoglio, a former associate deputy attorney general, in a February letter to Mr. Holder on behalf of a Georgia death row prisoner, Andrew Grant DeYoung. The Drug Enforcement Administration seized Georgia's drugs last month, and this month Kentucky and Tennessee turned over theirs as well.

"I think it's quite reasonable to expect a state criminal justice agency like a department of corrections to abide by federal law," Mr. Bentivoglio said in an interview.

Other documents show close cooperation among the states. A California road trip that transported sodium thiopental from Arizona to San Quentin emerged in nearly 1,000 pages of documents released by the A.C.L.U. of Northern California late last year. They showed e-mails from Scott Kernan, under secretary for operations for California's Department of Corrections and Rehabilitation, telling aides of a "secret and important mission," and warning that it was "very political and media sensitive."

Mr. Kernan sent a thank-you note to Charles Flanagan, the deputy director of Arizona's Department of Corrections, that read, "You guys in AZ are life savers," adding, "by you a beer next time I get that way."

When Arizona ordered its own shipment in September, documents show, the state worked closely with Customs and Food and Drug Administration officials to prevent the kind of delays that plagued Georgia, and made sure that the port of entry was Phoenix, where its own broker could help. The shipments were labeled as being for veterinary use, which lawyers for the prisoners argue was intended to get the drugs lighter regulatory scrutiny.

"Based upon our review of documents released by federal agencies, it appears that there was a culture of premeditated deception," said Dale Baich of the federal public defender's office in Arizona. "Someone came up with a plan to bypass the process that would have stopped the drugs at the border."

Kent E. Cattani, chief counsel for capital litigation in the Arizona attorney general's office, called the accusation "absurd," and cited correspondence going back as far as December with the Food and Drug Administration explicitly stating that the drugs were necessary "for carrying out an execution warrant."

Representatives of the Food and Drug Administration, the Drug Enforcement Administration and the Department of Justice said agencies' policies did not allow comment on pending litigation.

Until the drug shortage, the routine for lethal injections had been a fairly settled process. States allowed little change for fear of deviating too far from practices that have been declared constitutional. The three-drug protocol widely used for a quarter-century involves sodium thiopental or a similar sedative, pentobarbital, to render the prisoner unconscious. A second drug, pancuronium bromide, brings on paralysis and a third,



potassium chloride, stops the heart.

Supporters of the death penalty criticize the recent challenges as yet another delaying tactic in a long history of try-anything challenges. Kent S. Scheidegger, the legal director of the Criminal Justice Legal Foundation in California, said the conflicts "seem to be accelerating the switch to pentobarbital," which is more readily available, but also show vulnerabilities inherent in lethal injection. He recently called for a return to the gas chamber, using nontoxic gases that would displace oxygen in the chamber.

Douglas A. Berman of Ohio State University, an expert on sentencing and punishment, says the recent legal challenges concerning death penalty drugs are more than a mere inconvenience to the process. "This mess is a speed bump," he said, "but one that does raise serious issues about the death penalty." The bigger issue beyond what he called the "Keystone Kops" fumbling of state officials, Professor Berman said, is what the disruption to the process says about the temperamental nature of what death-penalty abolitionists call the "machinery of death."

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**Sanchez, Ramona F.**

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**From:** Sanchez, Ramona F.  
**Sent:** Tuesday, March 15, 2011 4:33 PM  
**To:** (b)(6)  
**Attachments:** AP News Break Sodium thiopental.docx

(b)(6)

This just jumped on the wire. The issue came up locally sometime ago. A reasonable question for any reporter would be if Arizona's supplies would also be taken (which of course we wouldn't say or suggest anything.)

(That said, do we have anything like this in the works?)

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## **AP News Break: DEA seizes key execution drug in Ga.**

The Associated Press

ATLANTA — A Drug Enforcement Administration official says the agency has seized Georgia's supply of a key lethal injection drug because of questions about how the drug was imported to the U.S.

DEA spokesman Chuvalo Truesdell confirmed Tuesday the sodium thiopental had been seized from Georgia. He didn't know if other states' supplies were also being taken.

Georgia executed a convicted killer in January, despite questions about where the state had obtained the drug and whether or not they had expired.

Sodium thiopental is sedative that has been in short supply since the sole U.S. manufacturer decided to stop producing it.

Georgia prison officials say they are not worried about the quality of their drug supply. An Associated Press review earlier this year showed Georgia had about 20 grams of the drug.

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March 15, 2011 07:04 PM EDT

**Sanchez, Ramona F.**

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**From:** Sanchez, Ramona F.  
**Sent:** Tuesday, March 15, 2011 5:26 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Re:

(b)(5),(b)(7)(A),(b)(7)(E)

(b)(6)

This message was sent from my Blackberry Wireless Device.

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**From:** (b)(6)  
**To:** Sanchez, Ramona F.  
**Sent:** Tue Mar 15 20:22:26 2011  
**Subject:** RE:

Nothing in the works. Of course, if controlled substances are to be imported into this country, we would obviously have a role if there was a potential issue with how they were acquired.

(b)(6),(b)(7)(C)

***Assistant Special Agent in Charge  
U.S. Drug Enforcement Administration  
Phoenix Division***

(b)(6),(b)(7)(C)

**From:** Sanchez, Ramona F.  
**Sent:** Tuesday, March 15, 2011 4:33 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:**

(b)(6)

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(That said, do we have anything like this in the works?)

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(b)(6),(b)(7)(C)

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**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, March 28, 2011 11:41 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: Prison unauthorized possession of Sodium Thiopental Schedule 3N - Have attached the news report

I would talk to the Diversion ASAC in Atlanta. If we do this, it's going to be National news. Let's make sure we have more than a GS asking us to make this move. May want to loop in HQ as well and let them know the

(b)(5),(b)(7)(A),(b)(7)(E)

The guy in AZ has been on record as saying that he has the proper paperwork from DEA on this. May want to have (b)(6) check and see what's on file.

(b)(6),(b)(7)(C)

**Assistant Special Agent in Charge  
U.S. Drug Enforcement Administration**

(b)(6),(b)(7)(C)

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**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, March 28, 2011 11:13 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** FW: Prison unauthorized possession of Sodium Thiopental Schedule 3N - Have attached the news report

FYI

(b)(6),(b)(7)(C)

**Assistant Special Agent in Charge  
Drug Enforcement Administration  
Phoenix Division**

(b)(6),(b)(7)(C)

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**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, March 28, 2011 11:10 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** FW: Prison unauthorized possession of Sodium Thiopental Schedule 3N - Have attached the news report

(b)(6),(b)(7)(C) and I are looking to send a DI and a SA down to the Florence facility tomorrow.

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**From:** (b)(6)

Sent: Monday, March 28, 2011 7:54 AM

To: (b)(6)

Subject: Prison unauthorized possession of Sodium Thiopental Schedule 3N - Have attached the news report

**As reported in the DEA NEW Clips:**

**DEA registrants in your area may or may not have in their possession the controlled substance sodium Thiopental please do a check of said prisons in your area and see if they have now or in the past requested or received this drug via unauthorized means. Please attempt to confiscate any and all controlled substances and you may use the AFD case number (G3-11-2022) on your DEA 7 and 7a's for drugs and documents pertaining to the illegal acquisition of this drug. I will grant those who will need access to impact on an as need basis. Thanks**

ATLANTA | Prison officials across the country have been going to extraordinary and in at least one case, legally questionable lengths to obtain a scarce lethal-injection drug, securing it from middlemen in Britain and a manufacturer in India and borrowing it from other states to keep their executions on schedule, according to records reviewed by the Associated Press.

"You guys in AZ are life savers," California prisons official Scott Kernan emailed a counterpart in Arizona, with what may have been unintentional irony, in appreciation for 12 grams of the drug sent in September. "Buy you a beer next time I get that way."

The wheeling and dealing come amid a severe shortage of sodium thiopental, a sedative that is part of the three-drug lethal-injection solution used by nearly all 34 death penalty states. The shortage started last year, after Hospira Inc., the sole U.S. manufacturer of the drug and the only sodium-thiopental maker approved by the Food and Drug Administration, stopped making it.

As supplies dwindled, at least six states Arizona, Arkansas, California, Georgia, Nebraska and Tennessee obtained sodium thiopental overseas, with some citing Georgia as the trailblazer.

Documents obtained through open-records requests show Georgia managed to execute inmates in September and January after getting the drug from Dream Pharma, a distributor that shares a building with a driving school in a gritty London neighborhood. Dream Pharma's owner has not returned several calls and emails for comment, and an AP reporter who visited the office last week was told the owner was not available.

Recently, however, the Drug Enforcement Administration seized Georgia's entire supply effectively blocking the scheduling of any further executions because of concerns over whether the state circumvented the law. "We had questions about how the drug was imported to the U.S.," agency spokesman Chualo Truesdell said, declining to elaborate.

Federal regulations require states to register with the DEA before importing a controlled substance and to notify the agency once they have it. John Bentivoglio, a former Justice Department attorney who represents a condemned Georgia inmate, said in a February letter that Georgia appears to have broken those rules, and that such violations mean "adulterated, counterfeit or otherwise ineffective" sodium thiopental could be used in executions, subjecting prisoners to extreme pain in violation of the

constitutional ban on cruel and unusual punishment.

Georgia Corrections Department spokeswoman Joan Heath said only that the state is cooperating with federal investigators to "make sure we're in regulatory compliance with the DEA over how we handle controlled substances."

Kathryn Hamoudah of Georgians for Alternatives to the Death Penalty praised the DEA for forcing Georgia to "give up its black market drugs."

Defense attorneys elsewhere have called on the Justice Department to investigate whether their states broke the law in the way they obtained sodium thiopental. But most of the states that swapped or imported it have said they followed protocol. And the DEA has refused to say whether it is investigating them.

(b)(6)

**Group Supervisor**  
**DE Atlanta Division**

(b)(6)

**Sanchez, Ramona F.**

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**From:** Sanchez, Ramona F.  
**Sent:** Monday, March 28, 2011 5:17 PM  
**To:** (b)(6)  
**Attachments:** npr GA May Have broken the law by Importing drug.docx

Another FYI—an NPR report on the recent seizure of thiopental in GA.

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*Website: [www.dea.gov](http://www.dea.gov)*



**npr**

## **Georgia May Have Broken Law By Importing Drug**

by Kathy Lohr

March 17, 2011

There can be no more executions in Georgia for now after the Drug Enforcement Administration seized the state's supply of sodium thiopental, one of three drugs used in lethal injection. The government has questions about whether the drug was imported illegally from Britain.

Several other states may also have to answer questions about how they obtained their supplies.

### **Drug Becomes Rare In U.S.**

There's been a lot of secrecy surrounding how states have been getting sodium thiopental since a U.S. company stopped making the sedative in 2009.

Records show Georgia bought the drug from an English distributor, Dream Pharma. In court, the Georgia Department of Corrections said it was not worried about the quality of its supply. But defense attorneys got records that showed the state may have violated federal law in obtaining the drug.

"Georgia has engaged in a pattern of illegality and shady misconduct to get drugs to execute people," says William Montross, an attorney with the Southern Center for Human Rights in Atlanta.

Montross says that Georgia bought sodium thiopental from a secondary distributor, a company that operated out of the back of a London driving school. He says that many defense attorneys condemned the practice, and question the quality of the drugs.

"This stuff was going on for months and months beforehand," Montross says, "and it was in court, and federal and state judges had an opportunity to do something — and no one did anything. They just turned a blind eye. And then finally, DEA steps in."

### **Testing And Controls Urged**

Since the shortage of sodium thiopental began, some suggested the Food and Drug Administration should inspect the quality of the drugs being imported. But the agency declined to get involved.

The DEA has not said whether it will seize supplies of sodium thiopental in other states. But some who are following the issue say the agency should.

"You know, we've already seen the shortage has delayed executions in a number of states — Arizona, Arkansas, California, Georgia and Tennessee — and all those states have had to go to England for their supply of the drug," says Fordham Law School professor Deborah Denno. "So it bears investigating whether those states have been engaging in the same kind of activity as Georgia has been."

A DEA spokesman in Atlanta says the agency is working with the Georgia Department of Corrections to make sure it complies with federal regulations; he declined further comment. The Georgia Department of Corrections did not return phone calls.

### **Drug Reportedly Sold To State Of Kentucky**

But defense attorneys cite another problem. They say Georgia officials sold some of their supply of sodium thiopental to Kentucky officials. That raises more questions about where the drugs might end up.

"Once the drug enters the country, there's a real risk of diversion," says Megan McCracken, who is with the death penalty clinic at the University of California, Berkley.

"There's no guarantee that the drug will remain within this closed system of capital punishment," McCracken says. "In the past month, we've learned that the state of Kentucky purchased sodium thiopental from a private company in Georgia. And so if a private company is selling it, we now have sort of realization of this risk, of the drug entering the stream of commerce."

An open records request in Kentucky revealed that the state purchased sodium thiopental from CorrectHealth, a Georgia company that provides all medical services for the Georgia Department of Corrections. The head of that company denied selling the drug.

As questions remain over the supply of sodium thiopental, states are seeking alternatives. Texas officials just announced they will join two others states, Ohio and Oklahoma, and switch to using the sedative pentobarbital. Texas plans to use the new drug in an execution scheduled for next month.

###





(b)(6),(b)(7)(C)

**From:** (b)(6)  
**Sent:** Monday, March 28, 2011 2:44 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Re: Sodium Thiopental

I have range in the morning, it is a make up day I need to attend, can (b)(6),(b)(7)(C) brief me later?  
(b)(6)

**From:** (b)(6),(b)(7)(C)  
**To:** (b)(6),(b)(7)(C)  
**Sent:** Mon Mar 28 17:32:26 2011  
**Subject:** Fw: Sodium Thiopental

Can u be there also?

**From:** (b)(6),(b)(7)(C)  
**To:** (b)(6)  
**Sent:** Mon Mar 28 17:30:01 2011  
**Subject:** RE: Sodium Thiopental

Very good-I'll be there.

**From:** (b)(6)  
**Sent:** Monday, March 28, 2011 2:29 PM  
**To:** (b)(6),(b)(7)(C)  
**Cc:** (b)(6),(b)(7)(C)  
**Subject:** Sodium Thiopental

(b)(6),(b)(7)(C) As you are probably aware, the sodium thiopental situation has been very active in our local media. It has made its way to the Administrator and AG's radar as well. I spoke to Rannazzisi at length today about some (b)(5),(b)(7)(A),(b)(7)(E)

To make sure that all of us are on the same page with what HQS wants us to do, let's meet tomorrow at 10:30am. (b)(5),(b)(7)(E)

(b)(6),(b)(7)(C) Please be sure to bring any paper or documentation you may have to the meeting. (b)(5),(b)(7)(A),(b)(7)(E)

(b)(6),(b)(7)(C) Invite whoever else we need to invite.

(b)(6) We can do this in the SAC's conference room at 10:30.

(b)(6),(b)(7)(C) Please plan on attending.

(b)(6),(b)(7)(C)

***Assistant Special Agent in Charge***

***U.S. Drug Enforcement Administration***

***Phoenix Division***

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

**From:** (b)(6),(b)(7)(C)  
**Sent:** Friday, March 25, 2011 12:57 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** FW: AZ DOC acquisition of Sodium Thiopental  
**Attachments:** March 24 States' thiopental caches questioned.docx  
**Importance:** High

Please advise if you want to discuss this matter with us. I don't believe she has received any significant feedback from Public Affairs or anything from OD. Ramona and I discussed this briefly and she is going to check with the Congressional Affairs people in HQS.

After I hear back from her, I will then reach out (b)(5),(b)(7)(A),(b)(7)(E)

(b)(5),(b)(7)(A),(b)(7)(E)

**From:** Sanchez, Ramona F.  
**Sent:** Friday, March 25, 2011 8:45 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** FW: AZ DOC acquisition of Sodium Thiopental  
**Importance:** High

(b)(6),(b)(7)(C)

FYI—

*Ramona F. Sanchez, SA*  
PIO  
DEA Phoenix Division  
Tel: (602) 664-5725  
Fax: (602) 664-5616  
E-mail: [ramona.f.sanchez@usdoj.gov](mailto:ramona.f.sanchez@usdoj.gov)  
Website: [www.dea.gov](http://www.dea.gov)

**From:** Sanchez, Ramona F.  
**Sent:** Friday, March 25, 2011 8:45 AM  
**To:** (b)(6),(b)(7)(C)  
**Cc:** (b)(6),(b)(7)(C)  
**Subject:** FW: AZ DOC acquisition of Sodium Thiopental  
**Importance:** High

Just wanted to forward you an article in yesterday's AZ Republic on the ongoing issue of sodium thiopental; last week DEA Atlanta seized the state's supply of this substance because of questions about how the drug was imported into the U.S. According to the author of the article (Mike Kiefer), defense attorneys in AZ and Kentucky have asked AG Holder to look into the matter vis-a-vis AZ Department of Corrections.

*Ramona F. Sanchez, SA*  
PIO  
DEA Phoenix Division  
Tel: (602) 664-5725  
Fax: (602) 664-5616

E-mail: [ramona.f.sanchez@usdoj.gov](mailto:ramona.f.sanchez@usdoj.gov)  
Website: [www.dea.gov](http://www.dea.gov)



(b)(6),(b)(7)(C)

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, March 28, 2011 11:07 AM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: Prison unauthorized possession of Sodium Thiopental Schedule 3N - Have attached the news report

(b)(5),(b)(7)(A),(b)(7)(E)

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, March 28, 2011 1:23 PM  
**To:** (b)(6),(b)(7)(C)  
**Cc:** (b)(6),(b)(7)(C)  
**Subject:** RE: Prison unauthorized possession of Sodium Thiopental Schedule 3N - Have attached the news report

Understood (b)(6),(b)(7)(C) -we are willing to send a DI/SA out there tomorrow.

(b)(5),(b)(7)(A),(b)(7)(E)

**From:** (b)(6)  
**Sent:** Monday, March 28, 2011 9:52 AM  
**To:** (b)(6)  
**Subject:** RE: Prison unauthorized possession of Sodium Thiopental Schedule 3N - Have attached the news report

(b)(6),(b)(7)

(b)(5),(b)(7)(A),(b)(7)(E)

**From:** (b)(6)  
**Sent:** Monday, March 28, 2011 12:36 PM  
**To:** (b)(6)  
**Subject:** RE: Prison unauthorized possession of Sodium Thiopental Schedule 3N - Have attached the news report

(b)(6) Does the import/export unit have any documentation showing the importation of these drugs?

**From:** (b)(6)  
**Sent:** Monday, March 28, 2011 7:54 AM  
**To:** (b)(6)  
**Subject:** Prison unauthorized possession of Sodium Thiopental Schedule 3N - Have attached the news report

**As reported in the DEA NEW Clips:**

**DEA registrants in your area may or may not have in their possession the controlled substance sodium Thiopental please do a check of said prisons in your area and see if they have now or in the past requested or received this drug via unauthorized means. Please attempt to confiscate any and all controlled substances and you may used the AFD case number (G3-11-2022) on your DEA 7 and 7a's for drugs and documents pertaining to the illegal acquisition of this drug. I will grant those who will need access to Impact on an as need basis. Thanks**

ATLANTA | Prison officials across the country have been going to extraordinary and in at least one case, legally questionable lengths to obtain a scarce lethal-injection drug, securing it from middlemen in Britain and a manufacturer in India and borrowing it from other states to keep their executions on schedule, according to records reviewed by the Associated Press.

"You guys in AZ are life savers," California prisons official Scott Kernan emailed a counterpart in Arizona, with what may have been unintentional irony, in appreciation for 12 grams of the drug sent in September. "Buy you a beer next time I get that way."

The wheeling and dealing come amid a severe shortage of sodium thiopental, a sedative that is part of the three-drug lethal-injection solution used by nearly all 34 death penalty states. The shortage started last year, after Hospira Inc., the sole U.S. manufacturer of the drug and the only sodium-thiopental maker approved by the Food and Drug Administration, stopped making it.

As supplies dwindled, at least six states Arizona, Arkansas, California, Georgia, Nebraska and Tennessee obtained sodium thiopental overseas, with some citing Georgia as the trailblazer.

Documents obtained through open-records requests show Georgia managed to execute inmates in September and January after getting the drug from Dream Pharma, a distributor that shares a building with a driving school in a gritty London neighborhood. Dream Pharma's owner has not returned several calls and emails for comment, and an AP reporter who visited the office last week was told the owner was not available.

Recently, however, the Drug Enforcement Administration seized Georgia's entire supply effectively blocking the scheduling of any further executions because of concerns over whether the state circumvented the law. "We had questions about how the drug was imported to the U.S.," agency spokesman Chuvalo Truesdell said, declining to elaborate.

Federal regulations require states to register with the DEA before importing a controlled substance and to notify the agency once they have it. John Bentivoglio, a former Justice Department attorney who represents a condemned Georgia inmate, said in a February letter that Georgia appears to have broken those rules, and that such violations mean "adulterated, counterfeit or otherwise ineffective" sodium thiopental could be used in executions, subjecting prisoners to extreme pain in violation of the constitutional ban on cruel and unusual punishment.

Georgia Corrections Department spokeswoman Joan Heath said only that the state is cooperating with federal investigators to "make sure we're in regulatory compliance with the DEA over how we handle controlled substances."

Kathryn Hamoudah of Georgians for Alternatives to the Death Penalty praised the DEA for forcing Georgia to "give up its black market drugs."

Defense attorneys elsewhere have called on the Justice Department to investigate whether their states broke the law in the way they obtained sodium thiopental. But most of the states that swapped or imported it have said they followed protocol. And the DEA has refused to say whether it is investigating them.

(b)(6)

**Group Supervisor**  
**DE Atlanta Division**

(b)(6)

(b)(6)

---

**From:** (b)(6)  
**Sent:** Tuesday, March 29, 2011 10:59 AM  
**To:** (b)(6)  
**Subject:** FW: News article

FYI – Looks like controlled substances were imported from Britain to Arizona according to this article sent by GS (b)(6)

---

**From:** (b)(6)  
**Sent:** Monday, March 28, 2011 6:58 AM  
**To:** (b)(6)  
**Subject:** News article

### **Importing of execution drugs raises questions Associated Press**

ATLANTA | Prison officials across the country have been going to extraordinary and in at least one case, legally questionable lengths to obtain a scarce lethal-injection drug, securing it from middlemen in Britain and a manufacturer in India and borrowing it from other states to keep their executions on schedule, according to records reviewed by the Associated Press.

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(b)(6)

Diversion Group Supervisor  
Cincinnati Resident Office

(b)(6)

Man is not judged by the words he speaks ... he is judged by the actions he takes.

Unknown

(b)(6)

(b)(6),(b)(7)(C)

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, March 28, 2011 2:50 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Re: Sodium Thiopental

Ok tks.

**From:** (b)(6)  
**To:** (b)(6),(b)(7)(C)  
**Sent:** Mon Mar 28 17:30:01 2011  
**Subject:** RE: Sodium Thiopental

Very good-I'll be there.

**From:** (b)(6)  
**Sent:** Monday, March 28, 2011 2:29 PM  
**To:** (b)(6),(b)(7)(C)  
**Cc:** (b)(6),(b)(7)(C)  
**Subject:** Sodium Thiopental

(b)(6),(b)(7)(C) As you are probably aware, the sodium thiopental situation has been very active in our local media. It has made its way to the Administrator and AG's radar as well. I spoke to Rannazzisi at length today

(b)(5),(b)(7)(A),(b)(7)(E)

(b)(6) Please be sure to bring any paper or documentation you may have to the meeting.

(b)(5),(b)(7)(C)

(b)(6),(b)(7)(C) Invite whoever else we need to invite.

(b)(6),(b)(7)(C) We can do this in the SAC's conference room at 10:30.

(b)(6),(b)(7)(C) Please plan on attending.

(b)(6),(b)(7)(C)

*Assistant Special Agent in Charge*  
*U.S. Drug Enforcement Administration*  
*Phoenix Division*

(b)(6)

(b)(6)

(b)(6),(b)(7)(C)

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, March 29, 2011 2:33 PM  
**To:** Boggs, Gary  
**Subject:** Re: Sodium Thiopental

Will-do.

**From:** Boggs, Gary  
**To:** (b)(6),(b)(7)(C)  
**Sent:** Tue Mar 29 17:20:10 2011  
**Subject:** RE: Sodium Thiopental

(b)(6)

Please coordinate with us prior to taking action. Thanks

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, March 29, 2011 5:13 PM  
**To:** (b)(6),(b)(7)(C)  
**Cc:** Boggs, Gary  
**Subject:** RE: Sodium Thiopental

(b)(6),(b)(7)(C) Gary Boggs is the primary point of contact. I have copied him on your email. One of us will get back with you (probably tomorrow).

(b)(6),(b)(7)(C) *Chief*  
*Regulatory Section*

*Office of Diversion Control*

(b)(6)

---

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, March 29, 2011 3:16 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** FW: Sodium Thiopental

(b)(5),(b)(6),(b)(7)(A),(b)(7)(C),(b)(7)(E)

Please advise at your earliest ability. The State of AZ apparently had an execution today and another one is scheduled for April 5<sup>th</sup>. Thanks. (b)(6),(b)(7)(C)

---

**From:** (b)(6),(b)(7)(C)





(b)(6),(b)(7)(C)

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, March 29, 2011 4:45 PM  
**To:** (b)(6)  
**Subject:** RE: Sodium Thiopental

Thanks

**From:** (b)(6),(b)(7)(C)  
**Sent:** Tuesday, March 29, 2011 3:54 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Sodium Thiopental

(b)(5),(b)(7)(A),(b)(7)(C),(b)(7)(E)

I'll let you know

what they decide. Thanks

(b)(6),(b)(7)(C)

***Assistant Special Agent in Charge  
U.S. Drug Enforcement Administration  
Phoenix Division  
(602) 664-5605 (Office)  
(602) 722-3832 (Cell)***

(b)(6)

**From:** Sanchez, Ramona F.  
**Sent:** Wednesday, March 30, 2011 10:33 AM  
**To:** (b)(6)  
**Subject:** ST

**In today's clips:**

**Texas Death Row Inmates Sue Over Execution Drug  
USA Today 03/30/2011**

Legal challenges to the way execution drugs are being selected and acquired for lethal injections across the U.S. are now targeting Texas, home to the country's busiest execution chamber.

Attorneys for two condemned inmates urged a state district court Tuesday to halt the executions because they say recent changes to the long-standing lethal injection protocol have been illegally shrouded in secrecy.

A national shortage of sodium thiopental, part of the three-drug cocktail used in lethal injections across the country, has triggered a scramble for execution drugs in Texas and several other states, leading to controversial changes in way death row prisoners are put to death.

One of the condemned inmates in Texas — convicted murderer Cleve Foster, who is scheduled to die April 5 — alleges in court documents that state officials failed to respond to "numerous pleas for information" about how he would be executed. The state acknowledged late last year that its supply of the sedative sodium thiopental was due to expire March 1.

Texas, which has executed 466 inmates since the reinstatement of the death penalty in 1976, said March 15 that it was replacing sodium thiopental with pentobarbital, a drug used in euthanizing animals. Foster's death would mark the first change in execution drugs used by the state in more than 30 years.

"There are so many questions about the manner in which Texas proceeds with executions, this (protocol change) is only one of them," said Maurie Levin, part of the legal team representing Foster and Humberto Leal, who is scheduled to die July 7.

Texas Department of Criminal Justice spokeswoman Michelle Lyons declined to comment, saying the agency does not discuss pending litigation.

The legal action in Texas comes as other states, including Arizona, Georgia and Oklahoma, have been snared in separate legal battles over their efforts to either find additional supplies of sodium thiopental or substitute the sedative with pentobarbital. Serious shortages of sodium thiopental began to appear last year and accelerated when Hospira, the lone federally approved U.S. manufacturer of the drug, said in January that it was ceasing production.

Among the developments:

- In Georgia, U.S. Drug Enforcement Administration agents this month seized the state's supply of sodium thiopental as part of an inquiry into how the drug was obtained in wake of the U.S. shortage.

- In Arizona, convicted murderer Eric John King was executed Tuesday after his attorney unsuccessfully challenged the state's acquisition of sodium thiopental from Great Britain.

Amy Rizzonico, spokeswoman for Arizona Attorney General Tom Horne, said the drug was obtained properly.

•In Oklahoma, a federal judge in November approved the use of pentobarbital to replace sodium thiopental in lethal injections. At the time, Oklahoma Assistant Attorney General Stephen Krise said the state was "forced" to find an alternative because of the shortage of sodium thiopental.

Levin, the lead defense attorney in the Texas litigation, said the state circumvented legal requirements by approving a new lethal injection drug without soliciting public comment. "Executions, and the manner in which we carry them out, are of unique public interest and importance, and precisely the sort of decisions and procedures that should be aired in the light of day."

*Ramona F. Sanchez, SA*

*PIO*

*DEA Phoenix Division*

*Tel: (602) 664-5725*

*Fax: (602) 664-5616*

*E-mail: [ramona.f.sanchez@usdoj.gov](mailto:ramona.f.sanchez@usdoj.gov)*

*Website: [www.dea.gov](http://www.dea.gov)*

(b)(6),(b)(7)(C)

**From:** (b)(6),(b)(7)(C)  
**Sent:** Friday, April 01, 2011 5:12 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Re:

Definitely

----- Original Message -----

**From:** (b)(6),(b)(7)(C)  
**To:** (b)(6),(b)(7)(C)  
**Sent:** Fri Apr 01 20:08:48 2011  
**Subject:** Re:

Ok let's just wait

----- Original Message -----

**From:** (b)(6)  
**To:** (b)(6),(b)(7)(C)  
**Cc:**  
**Sent:** Fri Apr 01 20:07:52 2011  
**Subject:**

DIs (b)(6),(C) and (b)(6),(b)(7)(C) have been briefed and (b)(5),(b)(7)(A),(b)(7)(E)

(b)(6),(b)(7)(C)

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, April 04, 2011 5:46 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** RE: DOC-Florence

thanks

**From:** (b)(6),(b)(7)(C)  
**Sent:** Monday, April 04, 2011 5:46 PM  
**To:** (b)(6),(b)(7)(C)  
**Subject:** Re: DOC-Florence

It was relayed to me that he was still waiting on a call back from HQ

(b)(6),(b)(7)(C)

**From:** (b)(6),(b)(7)(C)  
**To:** (b)(6),(b)(7)(C)  
**Sent:** Mon Apr 04 19:27:55 2011  
**Subject:** DOC-Florence

Any word from Mr. (b)(6),(b)(7)(C) on the Sodium Thiopental?

(b)(6),(b)(7)(C)

**From:**

(b)(6),(b)(7)(C)

**Sent:**

Tuesday, April 05, 2011 1:49 PM

**To:**

(b)(6),(b)(7)(C)

**Subject:**

As requested...

Mr. (b)(6),(b)(7)(C) Here is the information that we had discussed:

- ARIZONA STATE PRISON-FLORENCE  
CARSON A., WARDEN  
1305 Butte Avenue  
P.O. Box 629  
Florence, AZ 85232  
Hospital/Clinic  
DEA #FA2203571
- I confirmed with two people that ASP-Florence is the only death row/execution location in AZ.



U. S. Department of Justice  
Drug Enforcement Administration  
8701 Morrissette Drive  
Springfield, Virginia 22152

[www.dea.gov](http://www.dea.gov)

NOV 15 2010

Stephen Sinclair  
Superintendent of the Washington State Penitentiary  
Department of Corrections  
P.O. Box 41100  
Olympia, Washington 98504-1103

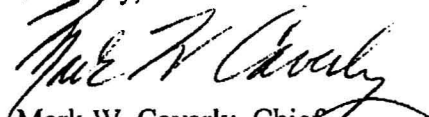
Dear Superintendent Sinclair:

This correspondence is in response to your letter dated August 13, 2010, to the Drug Enforcement Administration (DEA). In your letter, you stated that one of your roles as Superintendent is to carry out the sentences imposed by the courts of the state of Washington, to include the sentence of death by lethal injection. You also stated that pancuronium bromide (a non-controlled substance) and thiopental sodium (a schedule III non-narcotic) are two of the drugs needed to carry out the sentence, and both are experiencing national shortages. As a result, you are requesting a waiver from registration with DEA so that you may import these drugs from a provider outside the United States. DEA has reviewed the information you provided and must deny your request as outlined below.

DEA records indicate that the Washington Department of Corrections location you mentioned in your letter is registered with DEA as a hospital/clinic. A hospital/clinic registration does not permit the importation of controlled substances as a primary or coincident activity. Any person seeking to import a controlled substance into the United States must obtain a DEA registration pursuant to 21 U.S.C. §§ 957 and 958(c) and utilize the services of a DEA registered importer. DEA has no authority to waive a statutory requirement. Please note that since pancuronium bromide is a non-controlled substance, it is outside DEA's jurisdiction.

I trust that this letter adequately clarifies the matter. For additional information regarding DEA's Office of Diversion Control, please visit [www.DEAdiversion.usdoj.gov](http://www.DEAdiversion.usdoj.gov). You may also find on this website copies of the Federal regulations and statutes listed above. If you have any further questions on this issue, please contact DEA's Import/Export Unit at (202) 307-7969.

Sincerely,

  
Mark W. Caverly, Chief  
Liaison and Policy Section  
Office of Diversion Control





STATE OF WASHINGTON  
**DEPARTMENT OF CORRECTIONS**  
P.O. Box 41100 • Olympia, Washington 98504-1103 • (360) 725-8903

August 13, 2010

Drug Enforcement Administration,  
Attn: Office of Diversion Control/OD,  
8701 Morrisette Drive,  
Springfield, VA  
22152

Exception Administrator:

Good day to you. I am the Superintendent of the Washington State Penitentiary in Walla Walla, and one of my roles as Superintendent is to carry out the sentences imposed by the courts of our state; this includes the sentence of death by lethal injection.

Two of the drugs needed to carry out the sentence are currently on the national drug shortage list. This presents an immense challenge in that it directly impacts our ability to provide a seamless, safe and effective method to carry out the sentence as provided in the Revised Code of Washington (RCW) 10.95.

I am seeking a special waiver of registration to import Pancuronium Bromide, and Thiopental Sodium to be purchased from a provider outside of the United States. Our DEA registration number is **FS1269059**.

I appreciate your consideration in this urgent matter. I can be contacted by phone at 509-526-6300, or by email at [stephen.sinclair@doc.wa.gov](mailto:stephen.sinclair@doc.wa.gov). should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen Sinclair".

Stephen Sinclair  
Superintendent of the Washington State Penitentiary

**"Working Together for SAFE Communities"**

