

From: Kernan, Scott@CDCR
To: McAuliffe, John@CDCR
Subject: FW: California's Lethal Injection Research
Date: Wednesday, August 04, 2010 3:36:23 PM
Attachments: execution (3).doc

Fyi

Scott

From: Allen, Elizabeth@CDCR
Sent: Wednesday, August 04, 2010 2:51 PM
To: [REDACTED]
Cc: Cate, Matt@CDCR; Kernan, Scott@CDCR
Subject: California's Lethal Injection Research

Good Afternoon [REDACTED]

The attached document provides a brief history and a timeline of the steps the CDCR has taken and will be taking to obtain the drugs need for the intravenous injection. Mr. Scott Kernan, the CDCR Operation Undersecretary has been working on this issue. Please feel free to call him at [REDACTED] [REDACTED] if you have any questions and of course, Mr. Cate is also available.

Timeline Pentothal (Sodium Thiopental)

Introduction

Since 1993, California law has authorized capital punishment by lethal injection. This protocol, like those used by the Federal Government and most other states, provides for lethal injection by way of three drugs intravenously injected into the condemned inmate scheduled for execution.

On February 21, 2006, Inmate Michael Morales was scheduled to be executed by lethal injection. Morales' execution was stayed on the challenge that his execution would subject him to unnecessary risk of excessive pain violating the Eighth Amendment to the United States Constitution. Since Morales' stay CDCR has taken it's Lethal Injection protocol through the Administrative Procedures Act (APA) and made it a regulation.

One of these drugs and the first to be injected is Sodium Thiopental. Sodium Thiopental is a fast acting short duration anesthetic supplied as a yellowish, hygroscopic powder in a variety of different containers. The State of California's Lethal Injection Protocol (California Department of Corrections and Rehabilitations: CDCR) calls for a 500 mg/2.5% Kit (25 mg/mL) combination package with contents of 500 mg of Sodium Thiopental powder and a 20 mL flip top vial of sterile water.

Sodium Thiopental (pentothal/thiopental) is a Schedule III controlled substance with a Drug Enforcement Agency (DEA) DEA number of 2100 that can only be procured by a pharmacy and/or medical doctor who has a registered DEA number.

CDCR was forced to focus on hiring a medical doctor from outside the Department from the beginning due to the Receiver refusing to allow CDCR to approach and/or ask CDCR medical staff if they were interested in volunteering to help with executions.

The below timeline will illustrate the efforts CDCR has taken in attempting to procure Sodium Thiopental.

Timeline

- Jan 2007 Lethal Injection Protocol review and revision
- May 2007 Revision completed
- May 2007 Receiver will not allow CDCR to recruit CDCR medical staff
- Nov 2007 New Lethal Injection Facility open for training
- Dec 2007 [REDACTED] contractor for San Quentin State Prison (SQ) pharmacy will not help to procure the Sodium Thiopental
- Jan 2007 CDCR attempts to recruit private doctors to procure drugs
- Apr 2008 Baze v. Rees; United States Supreme Court upholds lethal injection
- Apr 2008 New Federal Receiver will not allow CDCR to recruit medical staff
- Oct 2008 CDCR attempts to recruit [REDACTED] doctors
- Nov 2008 CDCR attempts to recruit [REDACTED] doctors
- Dec 2008 CDCR attempts to seek proposal from Governor's Office to procure

- drugs from [REDACTED]
- Feb 2009 CDCR attempts to recruit doctors from CDCR Adult Paroles Division
 - Apr 2009 APA Filing
 - May 2009 Secretary CDCR sends second request to Federal Receiver to allow to recruit
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- Jan 2010 Federal Receiver approached again
 - Apr 2010 Federal Receiver allows CDCR to recruit medical staff and use SQ pharmacy
 - May 2010 Federal Receiver will not allow CDCR to order drugs from SQ pharmacy
 - May 2010 CDCR reaches out to [REDACTED]
 - May 2010 CDCR recruits three doctors with DEA #'s
 - Jun 2010 Federal Receiver attempts to locate a source to procure Sodium Thiopental. Manufacturer (Hospira) has drug on back order with no predicted new date for availability. First notice to CDCR that Sodium Thiopental has a national shortage.
 - Jun 2010 Federal Receiver's Office gives CDCR list of Compounding Pharmacies as possible vendors.
 - Jun 2010 Contacted [REDACTED] validated there is shortage
 - Jun 2010 [REDACTED] validated there is shortage
 - Jun 2010 [REDACTED] stated all suppliers of Sodium Thiopental in the United States do not have a current inventory and have no plans nor a date as to when they (the suppliers) will be producing the drug.
 - Jul 2010 [REDACTED] calls CDCR and states due to moral and ethical issues will not help CDCR in procuring any drugs for execution.
 - Jul 2010 CDCR researched possible alternatives; Import from Pakistan; [REDACTED]
 - Jul 2010 Contacted DEA for assistance
 - July 2010 Secretary contacts [REDACTED] who agrees to help locate drug.
 - Jul 2010 CDCR finds out for first time that Pancuronium Broide has had a national recall
 - July 2010 Called [REDACTED] for assistance.
 - Aug 2010 DEA working on import exemption for CDCR to allow overseas shipment.
 - Aug 2010 CDCR searching for imports to receive orders
 - Aug 2010 [REDACTED] looking for international importers
 - Notified today that they found international supply. Working on getting ordered. No confirmed date, but anticipating within 30 days. Formal order with shipping instructions and billing data provided.

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- Jan 2007 CDCR attempts to recruit private doctors to procure drugs
- Apr 2008 Baze v. Rees; United States Supreme Court upholds lethal injection
- Apr 2008 New Federal Receiver will not allow CDCR to use any medical staff
- Oct 2008 CDCR attempts to recruit Division of Juvenile Justice (DJJ) doctors
- Nov 2008 CDCR attempts to recruit [REDACTED] doctors
- Dec 2008 CDCR attempts to seek proposal from Governor's Office to procure drugs from [REDACTED]
- Feb 2009 CDCR attempts to recruit doctors from [REDACTED]
- Apr 2009 APA Filing
- May 2009 Secretary CDCR sends second request to Federal Receiver
- Jan 2010 Federal Receiver approached again

- **Apr 2010** Federal Receiver allows CDCR to recruit medical staff and use SQ pharmacy
- **May 2010** Federal Receiver will not allow CDCR to order drugs from SQ
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- **May 2010** CDCR recruits three doctors with DEA #'s
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- **Jul 2010** Contacted DEA for assistance