

Father of lethal injection defends it

• Competent application of drugs would quiet talk of pain, Chapman says

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SANTA ROSA -- Thirty years ago, Oklahoma Medical Examiner Dr. Jay Chapman marched into the Oklahoma Statehouse and dictated the formula for a cocktail of three drugs to a lawmaker looking for a more humane way to execute the condemned.

As Chapman spoke, Rep. Bill Wiseman scribbled on a legal yellow pad. That afternoon, Wiseman introduced the bill that made Oklahoma the first state to adopt lethal injection.

Chapman's method has since been taken up by 37 states in all, the federal government and the U.S. military and has been used to execute 900 U.S. prisoners.

But the formula and the way it is administered are now under broad legal assault around the country as a violation of the constitutional ban on cruel and unusual punishment, with activists arguing that Chapman's protocol was hastily conceived and that some prisoners suffer excruciating pain without being able to cry out.

Chapman still sees it as a humane way to kill the worst criminals.

"Everything is political correctness and everyone wants to be a victim today," said the cantankerous 68-year-old Chapman, who lives alone in Santa Rosa when he is not teaching medicine in Nepal or trekking in the Himalayas. "All of a sudden, the person on death row is a victim. I reject that thinking, by and large, because these people made choices to do what they did."

Next week, California's attorney general is due to submit the state's revised execution plan to a federal judge who ruled in December that officials improperly carried out lethal injections and may have caused inmates to suffer needlessly.

California has had a capital punishment moratorium since February 2006, when U.S. District Court Judge Jeremy Fogel called off the execution of rapist and murderer Michael Morales.

Fogel ruled that the state's executioners have been poorly trained, have worked in dim, cramped quarters and have failed to properly mix the lethal drugs. He also found evidence that the last six men executed at San Quentin State Prison might have been conscious and still breathing when the lethal drugs were administered.

Other states are grappling with similar issues:

- On Wednesday, Tennessee lifted its brief moratorium on capital punishment and lethally injected a condemned man after prison officials revised execution guidelines that were a jumble of conflicting instructions.
- Nine other states, including California, have suspended executions while they evaluate their lethal injection procedures, many of which have not been updated in two decades.
- And a Florida execution in December required a second dose of drugs after the first was mistakenly injected into the prisoner's flesh instead of his veins.

A recent study in the online journal PLoS Medicine said some inmates suffer extreme pain during lethal injections because of insufficient and haphazard doses of the chemicals, including the painkiller that is the first drug in the three-part combination.

Chapman blames incompetent executioners.

"This protocol will work if it's administered as it should be," he said. "If it is competently administered, there will be no question about this business of pain and suffering."

Decades after he developed the protocol, defense lawyers, doctors and death penalty foes publicly question the amount of scientific research that went into the creation of lethal injection.

Chapman said he consulted a toxicologist and two anesthesiologists. But he said it didn't actually require much research because the three chemicals -- a painkiller, a muscle-paralyzing agent and a heart-stopper -- are well-known to physicians.

"It's simply an adaptation of a medical procedure," Chapman said this week. "It is anesthetizing someone for a surgical procedure, but simply

carried to an extreme."

Chapman began thinking about a more humane way to mete out the ultimate punishment in 1976, after watching the debate in Utah about whether to execute killer Gary Gilmore by firing squad or hanging. That notion brought him to Wiseman's office in the Oklahoma Statehouse in 1977.

The former lawmaker remembers the short meeting vividly, down to the corduroy jacket Chapman wore that day.

Wiseman, a death penalty foe, nonetheless voted to reinstate capital punishment "because I didn't want to lose the next election." But he later introduced the bill establishing lethal injection as the method to soothe his guilty conscience. Previously, Oklahoma used the electric chair.

Wiseman said he now regrets introducing the world to lethal injection, because it makes capital punishment less gory and thus more acceptable.

Chapman, for his part, said he was surprised by how widespread his concoction became, and how quickly. But he said he has no regrets.

He moved to Santa Rosa in 1982 to work as a forensic pathologist for the Sonoma County coroner and said that until recently, he had stopped thinking about his role in dramatically changing the way executions are carried out in the United States.

"He is a man whose fame has come late and bizarrely," said Jamie Fellner, director of the anti-death penalty U.S. arm of Human Rights Watch. "I think Chapman proceeded in good faith. But the notion that you can have a humane execution is an oxymoron."

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