

House Judiciary Committee
February 15, 2024
House Bill 2782
Testimony of Dora Schriro, EdD, JD
Opposed

Chairperson Humphries and Members of the Committee:

I am Dr. Dora Schriro, a Corrections Expert. In the course of my career, I served as Warden of the jail in St. Louis City from 1989 to 1993, Commissioner of two city jail systems (St. Louis City from 2001 to 2003 and New York City from 2009 to 2014), and Department Director of two state correctional systems, Missouri from 1993 to 2000, and Arizona from 2003 to 2009, both of which are capital punishment states. Over the course of my tenure as DOC Director in those two jurisdictions, I presided over 35 executions. That to which I testify today is based on my considerable experience administering the death penalty. I have grave concerns about H.B. 2782, and I strongly urge this Committee to oppose this bill.

“Hypoxia” As an Execution Method

It is well-settled that the Constitution requires the government’s method of execution to be swift and humane. My understanding is that, even before the introduction of H.B. 2782, Kansas statutory law required this as well.¹ There is no scientific evidence that “hypoxia” as a method to impose the penalty of death would be “swift” or “humane,” and certainly not both. Instead, the execution of Kenny Smith in Alabama on January 25, 2024, failed on both counts. Reputable news accounts, as well as the testimony of others before this committee, document that up to 30 minutes lapsed from the time that nitrogen gas was dispensed by correctional personnel until he was pronounced deceased. Mr. Smith suffocated slowly and painfully as he was conscious for much of this time, as foretold by medical experts. There can be no confidence in this method of execution moving forward.

Issues for Corrections Staff & Witnesses

On my second day as Director of the Missouri DOC, I oversaw the first of the 35 executions that would occur during my tenure. I spent most of that day at the facility observing final preparations, speaking with staff including those who would participate. I also talked with the condemned, Martsay Bolder, in a holding cell nearby the execution chamber. I asked if he had any advice for me as the new Director. He did. He urged me to take good care of my officers; they had difficult and sometimes dangerous jobs, but Mr. Bolder believed they did their best. To this day, I agree with him and have tried to lead by example throughout my career.

The nitrogen gas method that the Alabama DOC employed last month when executing Mr. Smith was not only cruel, but it placed the correctional personnel who participated in his execution at unnecessary risk of exposure to gas, should there be leak in the gas line or issues with Mr. Smith’s mask fit. Clearly, this method of execution is contrary to the commitment that we care for our corrections staff.

¹ K.S.A. 22-4001.

As to executions overall, I cannot overstate the gravity of the work that line officers and their supervisors undertake when they participate in an execution. I am still haunted by the memory of a correction officer who volunteered to participate in an execution by means of lethal injection in Arizona. His post was in the death chamber; his assignment to push one of two syringes. The procedure was without incident and the prisoner passed quickly. Still, the officer shuddered throughout, and after its conclusion. The enormity of what we do when we take a life and its impact on others cannot and must not be underestimated or overlooked.

Thus, consideration of the cumulative effect on staff health and well-being was a chief concern. During my time in office, I seized opportunities to mitigate the trauma to which the workforce was exposed.

- The number of executions in which staff could volunteer in Missouri and Arizona was limited and those assignments rotated;
- When a new facility was constructed nearby the existing facility that housed capital punishment prisoners in Missouri, I allocated space in the new facility for executions, thereby separating where those on “death row” were incarcerated pending the imposition of the penalty of death, and where the penalty would be imposed, to diminish staff role and responsibilities in each of those facilities;
- In Arizona, initially, I established a team of first responders to support staff experiencing trauma in their personal or professional lives. I expanded its mission to provide support and render aid to those who participated in the agency’s executions.

To me, the suffocation method that H.B. 2782 endorses is neither swift nor humane and contravenes what should be the goal of protecting Kansas DOC staff and crime victims and survivors. As discussed above, the potential for vicarious trauma to corrections staff and witnesses, too, many of whom are victims and survivors, is immense. If we endorse the goal of caring for DOC staff as well as inmates in the state’s custody, and crime victims and survivors, then we should conclude that this bill does not support that goal.

Delegation to the DOC

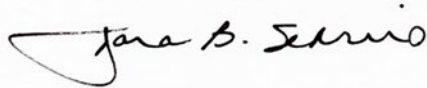
The imposition of the penalty of death is different. The overwhelming majority of people who plead or are proven guilty are sentenced by the court to prison *as* punishment, but the death penalty is the only instance when a guilty party is sent to prison *for* punishment. Whereas force is to be employed only as last resort throughout a “normal” sentence, capital prisoners are incarcerated pending the imposition of their penalty: deadly force. As such, the DOC must take special care in carrying out these sentences to ensure they are neither cruel nor unusual.

This bill removes the role of the Kansas Department of Health and Environment and in its place, delegates to the DOC the power to secure the necessary certifications and assurances of safety for hypoxia or lethal injection. However, my understanding is that the Kansas DOC has little-to-no in-house healthcare professionals, and that it contracts with an outside provider, Corizon Health, for all such matters. This bill therefore abdicates state oversight to a private provider and does so on an assignment with no room for error.

In the 8th grade, I took Latin. Each chapter began with a sentence in Latin. Chapter 1 began with this one, “Who will guard the guards?” Now I wonder, what will happen when DOC delegates the manner of death to a contracted healthcare provider? If H.B. 2782 becomes law, Kansas may discover its best intentions failed to produce a procedure that was swift or certain.

When the State takes the life of another, it is a punishment unlike any other. It cannot be reversed. It is irrevocable. All too often, it is also cruel and unusual. There is every indication that the means by which Alabama executed Kenneth Eugene Smith was cruel and unusual. The bill before you, well intended as it may be, only increases the already high likelihood of the death penalty going awry again in Kansas. I oppose this bill for all the reasons submitted and urge this Committee to do the same.

Respectfully Submitted,

A handwritten signature in black ink that reads "Dora B. Schriro". The signature is written in a cursive style with a large, sweeping initial "D".

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