John Duty: human guinea pig in Oklahoma's cruel experiment

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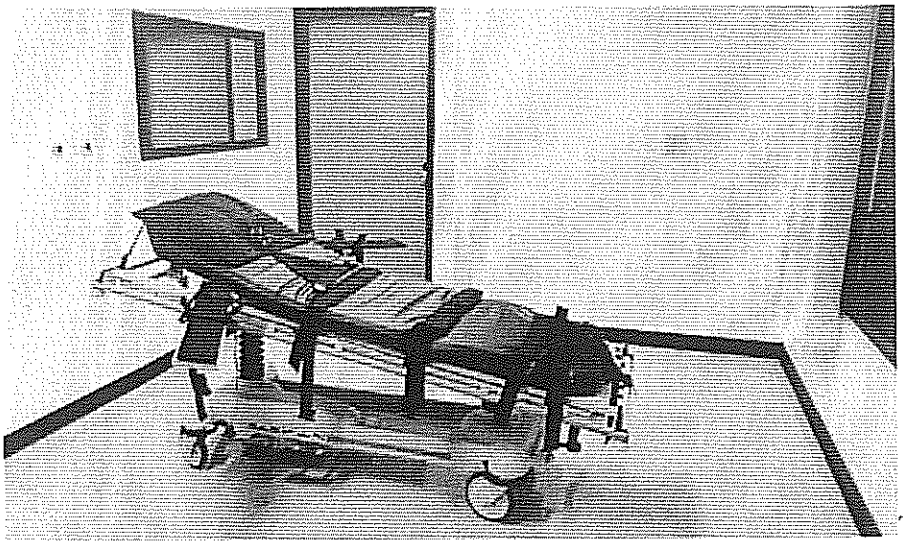
Should we trust that lethal injection with a drug vets use to put down dogs will work painlessly on people?


The chronic shortage of sodium thiopental, used in lethal injections in the US, has driven some states to seek permission to use other poisons – in Oklahoma's case, the veterinary euthanasing agent, phenobarbitol. Photograph: Erik S Lesser/Getty Images

When Texas first used lethal injection on 7 December 1982, it was meant to usher in an era of a kinder, gentler method of capital punishment. "Fry 'em" or "String 'em up" used to be the harsh mottos of the executioner, but after the horrors of the electric chair and the gallows, some hoped that nobody would find the needle so objectionable.

But if there is one lesson I have learned in 25 years representing people on death row, there is no happy way to commit a horrific act – as is being illustrated once again, this time in Oklahoma.

The US uses a cocktail of three drugs to kill people, starting with the anaesthetic sodium thiopental, followed by the paralysing agent pancuronium bromide, and capped with the poison potassium chloride. Since the only US manufacturer of sodium thiopental stopped producing, supplies have dwindled, and America's executioners have been panicking.

Some states have tried to import from abroad: Jeffrey Landrigan was killed two weeks ago with drugs from Britain. This caused embarrassment and consternation among the abolitionist

Europeans, even if the coalition government has, to date, proven too supine to bar the drug's export.

Some find it counterintuitive that an anaesthetic can cause pain during an execution, but if the anaesthetic does not work, then the prisoner is first paralysed and then poisoned in a particularly painful way. Unfortunately, the probability of such a mistake is very high, no matter what the drug the executioner may use.

Doctors' ethics prohibit them from taking part in an execution, so the prison must ask one of its employees to mix up the drugs, and then "administer" them. This helps to explain why postmortems in the three most recent executions in Tennessee show insufficient anaesthetic in the prisoner's bloodstream: he was not rendered unconscious. He did not die the painless death that the executioners advertised, but slowly suffocated as the other drugs took effect, an excruciating death.

It is ironic that sodium thiopental was abandoned by veterinarians on both sides of the Atlantic some years ago, as it was consider unreliable, the side effects unacceptably painful. So, we currently kill people with drugs we would not use on animals.

Perhaps this gave the Oklahoma authorities an idea: the condemned prisoners are, in populist parlance, no better than animals. Rather than look for more sodium thiopental, Oklahoma has chosen to turn to the vets for help. They have asked the court for permission to execute John Duty on 16 December – just in time for Christmas – with phenobarbitol, the drug the vets currently use to kill dogs. This is, they suggest, a kindness. Unfortunately, they have found a judge in Oklahoma to agree with them.

As ever, it is not that simple. Drugs that work for animals may or may not have the same effect on humans. So, John Duty would become a human guinea pig, and we'll just have to see how much he suffers.

One of the sidebars of the execution debate involves the people who design each method of execution. Dr Jay Chapman is generally credited with selecting sodium thiopental 30 years ago for use in executions. No great humanist, he is baffled by the suggestion that we cannot put prisoners to death as we put down animals: "If they have a bit of pain exiting this world, it is of no great concern to me."

Unless the court intervenes, John Duty will die, no doubt suffering, one month from today. Dr Chapman will not care. As we look in the mirror of our civilisation, we must ask whether this is the kind of reflection we wish to see.