

URGENT ACTION

NEVADA EXECUTION DELAYED BUT STILL PURSUED

A judge stayed Nevada's first execution in over 11 years, scheduled for 14 November, due to concerns about the lethal injection protocol. The state had asked for the stay to allow it to appeal her order to remove one of the drugs from the protocol.

Nevada was due to carry out its first execution since 26 April 2006 on the evening of 14 November. Like in the cases of 11 of its 12 previous executions since the US Supreme Court upheld new capital laws in 1976, the prisoner scheduled for execution has waived his appeals. In August 2017, a month after a judge signed the death warrant, the Nevada Department of Corrections (NDOC) announced it would be using a combination of diazepam (a sedative), fentanyl (an opioid) and cisatracurium (a muscle relaxant) for the execution. None of these three drugs has previously been used in an execution in the USA.

On 9 November, the judge who signed the death warrant granted a request from the NDOC to stay the execution. She had earlier said that while she was "loath to stop the process", she was directing NDOC to remove cisatracurium from the execution protocol after considering medical evidence that it could cause the prisoner to experience "air hunger" and suffocate to death, while masking signs that he was conscious and suffering. She said the execution could go forward using the other two drugs only, but the state asked for a stay of execution so that it could appeal her order. Announcing the stay, NDOC said it "stands by the integrity of the protocol", noting that the three-drug protocol had been developed in consultation with the state's Chief Medical Officer (who has since resigned). NDOC said it expected an "expedited" appeal to be filed in the Nevada Supreme Court. The judge said on 9 November it was for that court to decide whether the use of cisatracurium was acceptable.

Twenty-two countries have abolished the death penalty for all or ordinary crimes since Nevada last conducted an execution. Today 142 countries are abolitionist in law or practice. Since Nevada's last execution, six states in the USA have abolished the death penalty and governors in three others have imposed moratoriums on executions. Nevada should impose an immediate moratorium on executions as a step towards passing abolitionist legislation. This would be consistent with international human rights principles and repeated resolutions at the UN General Assembly over the past decade calling for a moratorium on executions, pending abolition of the death penalty.

Please write immediately in English or your own language:

- Expressing your opposition to the death penalty in all cases, and calling for a moratorium on executions in Nevada and for the state administration to work with the legislature to abolish the death penalty;
- Noting that since Nevada last carried out an execution, six states in the USA have abolished the death penalty and a number of others have imposed moratoriums on executions, and another 22 countries have abolished the death penalty for all or ordinary crimes, with 142 countries now abolitionist in law or practice;
- Pointing to the repeated resolutions at the UN General Assembly calling for a moratorium on executions with a view to abolition of the death penalty.

PLEASE SEND APPEALS BEFORE 25 DECEMBER 2017 TO:

Governor Brian Sandoval
State Capitol Building, 101 N. Carson
Street, Carson City, NV 89701, USA
Email: <http://gov.nv.gov/Contact/Email-the-Governor/>
Fax: +1 775 684-5683
Salutation: Dear Governor

Attorney General Adam Paul Laxalt
Office of the Attorney General
100 North Carson Street
Carson City, NV 89701, USA
Fax: +1 775-684-1108
Email: aginfo@ag.nv.gov
Salutation: Dear Attorney General

Nevada Board of Pardons
Commissioners
1677 Old Hot Springs Road, Suite A,
Carson City, NV 89706, USA
Email: info@parole.nv.gov
Salutation: Dear Commissioners

Also send copies to diplomatic representatives accredited to your country. Please insert local diplomatic addresses below:

Name Address 1 Address 2 Address 3 Fax Fax number Email Email address Salutation Salutation

Please check with your section office if sending appeals after the above date. This is the first update of UA 250/17. Further information:

www.amnesty.org/en/documents/amr51/7400/2017/en/

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ADDITIONAL INFORMATION

Since Nevada last conducted an execution, concerns about the costs, risks, inconsistencies and inequities of capital justice in the USA have deepened. In 2008, the then most senior Justice on the US Supreme Court argued that “the time for a dispassionate, impartial comparison of the enormous costs that death penalty litigation imposes on society with the benefits that it produces has surely arrived”. He said that his 30 years on the Court had led him to conclude “that the imposition of the death penalty represents the pointless and needless extinction of life”. In 2015, two more Justices argued that it was time for the Court to consider the constitutionality of the death penalty because of the evidence of errors and arbitrariness in its application and its declining use in the USA and beyond.

In an increasingly abolitionist world, Nevada and other US states have had difficulties sourcing drugs for their lethal injection regimes. In September 2016 Nevada issued an “Invitation to Bid for Pharmaceutical Drugs Used for Lethal Injections” in an attempt to procure hydromorphone and midazolam for the state’s two-drug protocol. However, the state received no bids. On 17 August 2017, the Nevada Department of Corrections (NDOC) announced it would be using a combination of diazepam (a sedative), fentanyl (an opioid) and cisatracurium (a muscle relaxant) for the execution that is now scheduled for 14 November. None of these three drugs has previously been used in an execution in the USA; as such Nevada can be said to be engaging in what four US Supreme Court Justices described in 2015 as “in effect human experimentation” in the ongoing efforts of death penalty states to overcome their challenges in acquiring lethal injection drugs. The three-drug combination was chosen by the NDOC Director, after consultation with the Chief Medical Officer. On 30 October 2017, the Chief Medical Officer resigned with immediate effect after little more than a year in the job. He has said his resignation was unrelated to the execution issue.

Twenty-two people were sentenced to death in Nevada between 2002 and 2016. From 1986 to 2000, there were exactly four times this many death sentences passed in Nevada – 88. This reflects a broader pattern of declining use of the death penalty in the USA in the past decade or so, a decline in use that all officials should seize upon to lead the USA away from this punishment altogether.

The death penalty is the ultimate cruel, inhuman and degrading punishment. It has not been shown to have a special deterrent effect. It tends to be applied discriminatorily on grounds of race and class. It denies the possibility of rehabilitation. It can prolong the suffering of the murder victim’s family, and extend that suffering to the loved ones of the condemned prisoner. It diverts resources that could be better used to work against violent crime and assist those affected by it.

For further background on Nevada’s death penalty and the phenomenon of prisoners waiving their appeals against their death sentences see *USA: Intent to kill, intent to die* (<https://www.amnesty.org/en/documents/amr51/7392/2017/en/>). Guatemala has abolished the death penalty for ordinary crimes since this was published, bringing to 22 the number of countries that have abolished the death penalty for all or ordinary crimes since Nevada’s last execution. See *Abolitionist and Retentionist Countries as of 8 November 2017* (<https://www.amnesty.org/en/documents/act50/6665/2017/en/>), and on the Guatemala situation, see <https://www.amnesty.org/en/documents/act50/7412/2017/en/>.

Amnesty International opposes the death penalty unconditionally. There have been 1,465 executions in the USA since the US Supreme Court upheld new capital statutes in 1976. There have been 23 executions in the USA this year.

Further information on UA: 250/17 Index: AMR 51/7452/2017 Issue Date: 13 November 2017

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