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Appendix One, When Legislatures Delegate Death: The Troubling Paradox Behind State Uses of Electrocution and Lethal Injection and What it Says About Us

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APPENDIX 1

TABLE 1
METHODS OF EXECUTION BY STATE IN 2001*

SINGLE METHOD STATES (29)	
LETHAL INJECTION (27) Arizona • Arkansas • Colorado Connecticut • Delaware Georgia • Illinois • Indiana Kansas • Kentucky • Louisiana Maryland • Mississippi Montana • Nevada New Jersey • New Mexico New York • North Carolina Ohio • Oklahoma • Oregon Pennsylvania • South Dakota Tennessee • Texas • Wyoming	ELECTROCUTION (2) Alabama • Nebraska

CHOICE STATES (9)
LETHAL INJECTION OR HANGING (2) New Hampshire • Washington
LETHAL INJECTION OR FIRING SQUAD (2) Idaho • Utah
LETHAL INJECTION OR ELECTROCUTION (3) Florida • South Carolina • Virginia
LETHAL INJECTION OR LETHAL GAS (2) California • Missouri

*Statutory and case law documentation for each state can be found in *infra* app. 2.

TABLE 2
 CHANGES FROM ELECTROCUTION TO LETHAL INJECTION BY STATE
 1888-1953*

Y E A R	S T A T E	HANGING TO ELECTROCUTION	ELECTROCUTION TO LETHAL GAS	ELECTROCUTION TO LETHAL INJECTION
1888	NY	NY		
1896	OH	OH		
1898	MA	MA		
1906	NJ	NJ		
1908	VA	VA		
1909	NC	NC		
1910	KY	KY		
1912	SC VT	SC VT		
1913	AR IN NE OK PA TN	AR IN NE OK PA TN		
1923	AL FL TX	AL FL TX		
1924	GA	GA		
1927	IL	IL		
1929	NM	NM		
1935	CT NC	CT	NC	
1939	SD	SD		
1940	LA MS	LA MS		
1949	WV	WV		
1951	OK		OK	

NO CHANGE IN
EXECUTION METHOD

CHANGE IN EXECUTION
METHOD

*Statutory and case law documentation for each state can be found in *infra* app. 2.

TABLE 3
CHANGES FROM ELECTROCUTION TO LETHAL INJECTION BY STATE:
1954-2001*

Y E A R	S T A T E	HANGING TO ELECTROCUTION	ELECTROCUTION TO LETHAL GAS	ELECTROCUTION TO LETHAL INJECTION
1954	MS		MS	
1955	NM		NM	
1965	VT+ WV+			
1977	TX			TX
1982	MA			MA++
1983	AR IL NJ			AR IL NJ
1984	MA+ SD			SD
1990	LA PA			LA PA
1993	OH			OH++
1994	VA			VA++
1995	CT IN NY SC			CT IN NY SC++
1998	KY TN			KY TN
2000	FL GA			FL++ GA
2001	OH++			OH+++

NO CHANGE IN
EXECUTION METHOD

CHANGE IN EXECUTION
METHOD

*Statutory and case law documentation for each state can be found in *infra* app. 2.

+The year these states abolished the death penalty.

++Choice states. For example, if a state (e.g. Massachusetts) changes from one execution method (electrocution) to a choice between that method and a new method (a choice between electrocution and lethal injection in 1982), the new method (lethal injection) only is shown in this table.

+++Formerly a choice state. Ohio is unique in terms of changing from a choice state to a single method state.

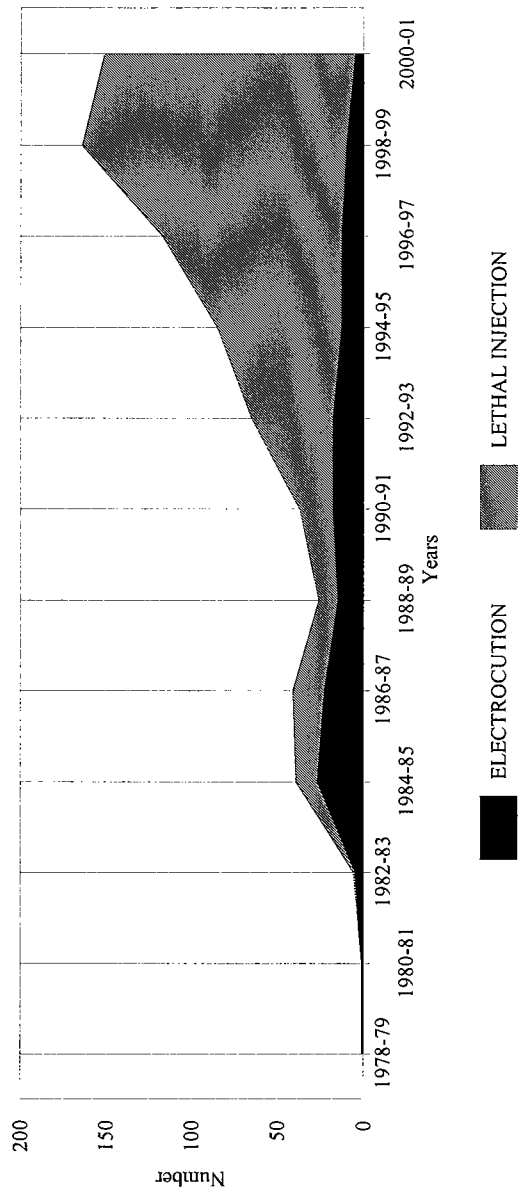
TABLE 4
 NUMBERS AND PERCENTAGES OF ELECTROCUTION AND LETHAL
 INJECTION EXECUTIONS BY YEAR: 1976-2001*

YEARS	ELECTROCUTION	LETHAL INJECTION	TOTAL
1976	0 (0.00)	0 (0.00)	0 (0.00)
1977	0 (0.00)	0 (0.00)	0 (0.00)
1978	0 (0.00)	0 (0.00)	0 (0.00)
1979	1 100%	0 (0.00)	1 (100%)
1980	0 (0.00)	0 (0.00)	0 (0.00)
1981	1 100%	0 (0.00)	1 (100%)
1982	1 50%	1 50%	2 (100%)
1983	4 100%	0 (0.00)	4 (100%)
1984	16 76%	5 24%	21 (100%)
1985	11 61%	7 39%	18 (100%)
1986	7 39%	11 61%	18 (100%)
1987	16 70%	7 30%	23 (100%)
1988	7 64%	4 36%	11 (100%)

YEARS	ELECTROCUTION	LETHAL INJECTION	TOTAL
1989	8 53%	7 47%	15 (100%)
1990	11 48%	12 52%	23 (100%)
1991	7 50%	7 50%	14 (100%)
1992	8 28%	21 72%	29 (100%)
1993	10 28%	26 72%	36 (100%)
1994	6 21%	23 79%	29 (100%)
1995	7 13%	49 87%	56 (100%)
1996	7 16%	36 84%	43 (100%)
1997	6 8%	68 92%	74 (100%)
1998	7 10%	60 90%	67 (100%)
1999	3 3%	94 97%	97 (100%)
2000	5 6%	80 94%	85 (100%)
2001	0 (0.00)	66 100%	66 (100%)
TOTAL (1977-2001)	149 20%	584 80%	733 (100%)

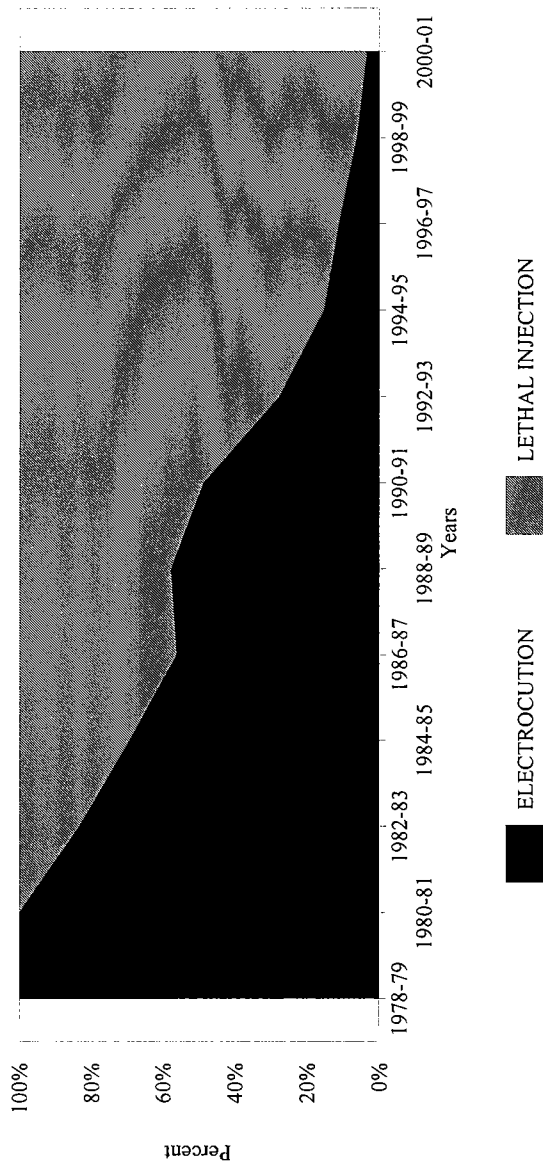
*Death Penalty Information Center, *List of Those Executed by Year Since 1976*, at <http://www.deathpenaltyinfo.org> (last visited January 7, 2002). From 1976 to 2001, executions from other methods (hanging, shooting, and lethal gas) constituted 2.14% of the total number of executions and are excluded from this table.

TABLE 5
 NUMBERS OF ELECTROCUTIONS AND LETHAL INJECTIONS:
 1976-2001*



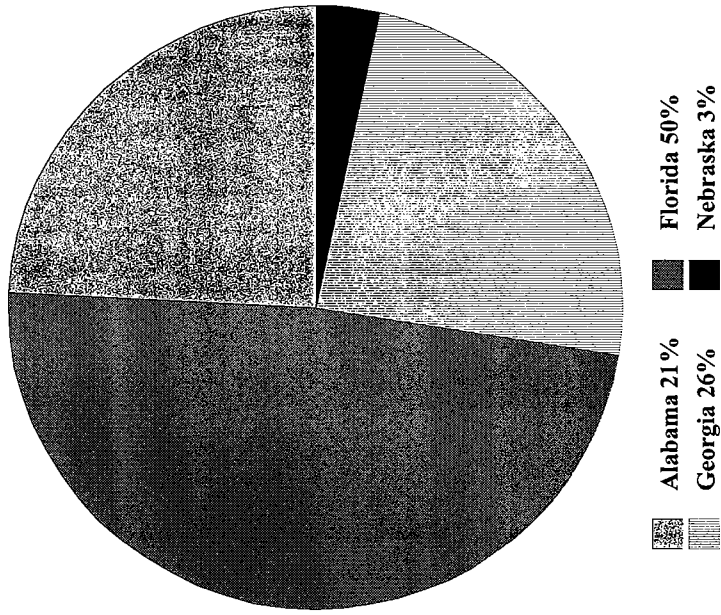
*Death Penalty Information Center, *List of Those Executed by Year Since 1976*, at <http://www.deathpenaltyinfo.org> (last visited January 7, 2002). From 1976 to 2001, executions from other methods (hanging, shooting, and lethal gas) constituted 2.14% of the total number of executions and are excluded from this table.

TABLE 6
 PERCENTAGES OF ELECTROCUTIONS AND LETHAL INJECTIONS:
 1976-2001*



* Death Penalty Information Center, *List of Those Executed by Year Since 1976*, at <http://www.deathpenaltyinfo.org> (last visited January 7, 2002). From 1976 to 2001, executions from other methods (hanging, shooting, and lethal gas) constituted 2.14% of the total number of executions and are excluded from this table.

TABLE 7
PERCENTAGES OF EXECUTIONS IN KEY ELECTROCUTION STATES: 1976-2001*



*Total number of executions = 91. There were no executions by electrocution in 2001.

TABLE 8*
BOTCHED ELECTROCUTION EXECUTIONS FOLLOWING
*GREGG V. GEORGIA***

1. **John Spenkelink, May 25, 1979, Florida:** It took three separate jolts of electricity spread over five minutes to kill Spenkelink. After the first jolt, smoke filled the room and a three-inch wound was scorched on his right leg.
2. **Frank J. Coppola, August 10, 1982, Virginia:** After a second jolt of electrical current, the death chamber filled with the smell and sizzle of burning as Coppola's head and leg burst into flames.
3. **John Louis Evans III, April 22, 1983, Alabama:** Three separate jolts over fourteen minutes were required to kill Evans. Flames erupted from the electrode tied to his leg, and smoke was seen coming from his head and leg.
4. **Robert W. Williams, December 14, 1983, Louisiana:** When the electricity was applied, smoke and sparks appeared from Williams's head. Witnesses reported the smell of "burning flesh" and "excessive burning."
5. **Alpha Otis Stephens, December 12, 1984, Georgia:** It took two two-minute jolts of 2,080-volt electricity, eight minutes apart, to kill Stephens. After the first jolt, doctors had to wait six minutes for the body to cool down before examining it. During this time, Stephens took about twenty-three breaths.
6. **William E. Vandiver, October 16, 1985, Indiana:** Indiana's seventy-two-year-old electric chair took over seventeen minutes and five jolts of electricity to kill Vandiver.
7. **Alvin Moore, June 9, 1987, Louisiana:** When examined after his execution, Moore was severely burned on the top of his head and his epidermis was found to be missing in a wide circular pattern.
8. **Wayne Robert Felde, March 15, 1988, Louisiana:** Felde's body evidenced severe third and fourth degree burns. His leg was mutilated, his skin was coming loose, and "chunks of skin" had been "burned off the left side of his head . . . revealing his skull bone."
9. **Horace F. Dunkins, July 14, 1989, Alabama:** An incorrectly wired chair took nineteen minutes to kill the mentally retarded Dunkins.

10. Jesse Joseph Tafero, May 4, 1990, Florida: For four minutes, the executioner applied three 2,000-volt jolts of electricity, causing flames to shoot from Tafero's head. The medical examiner could not determine whether Tafero survived the first two jolts.

11. Robert T. Boggs, July 19, 1990, Virginia: Boggs required two fifty-five second applications of 2,500-volts of electricity.

12. Wilbert Lee Evans, October 17, 1990, Virginia: During the execution, blood poured from Evans's eyes and nose. Witnesses heard an audible moan, suggesting suffering.

13. Derick Lynn Peterson, August 22, 1991, Virginia: Peterson's death occurred after thirteen minutes and two separate jolts of electricity. After the first series of jolts, Peterson's heart appeared to still be beating.

14. Roger Keith Coleman, May 20, 1992, Virginia: Executioners applied two 1,700-volt jolts to kill Coleman. A witness spoke of smoke coming from Coleman's leg during the execution.

15. Gregory Resnover, December 8, 1994, Indiana: When the electricity was applied, Resnover rose suddenly "from his chair in a giant spasm . . . His head jerked back and smoke and spark-like flames came out of the top of his head."

16. Jerry White, December 4, 1995, Florida: There were reports that White lunged and screamed during his execution.

17. Larry Lonchar, November 14, 1996, Georgia: Lonchar moaned and "seemed to gasp for air" as the executioner applied two jolts of 2,000 volts each to Lonchar's body before he was pronounced dead.

18. Pedro Medina, March 25, 1997, Florida: "Blue and orange flames up to a foot long shot from the right side of Mr. Medina's head and flickered for six to ten seconds, filling the execution chamber with smoke."

19. Allen Lee Davis, July 8, 1999, Florida: After being jolted with 2,300 volts, blood poured from Davis's face, and soaked a large portion of his shirt. Testimony indicated that the strap placed across Davis's mouth hindered his breathing and partially asphyxiated him prior to and during the electrocution.

*Documentation for, and fuller descriptions of, each botched electrocution can be found in Denno, *Electrocution*, *supra* note 1, at 664-74, and Denno, *Getting to Death*, *supra* note 1, at 412-24, as supplemented by *Provenzano v. Moore*, 744 So.2d 413, 414, 433-35 (Fla. 1999) (Shaw, J., dissenting) (describing the Allen Lee Davis execution on July 8, 1999).

**423 U.S. 153 (1976).

TABLE 9*
BOTCHED LETHAL INJECTION EXECUTIONS FOLLOWING
*GREGG V. GEORGIA***

1. **Charles Brooks, Jr., December 7, 1982, Texas:** In what was the first execution by lethal injection, an overdose of sodium thiopental took seven minutes to kill Brooks. Witnesses stated that Brooks "had not died easily."
2. **James D. Autry, March 14, 1984, Texas:** Autry took ten minutes to die, complaining of pain throughout. Officials suggested that faulty equipment or inexperienced personnel were to blame.
3. **Thomas Andy Barefoot, October 30, 1984, Texas:** A witness stated that after emitting a "terrible gasp," Barefoot's heart was still beating after the prison medical examiner had declared him dead.
4. **Stephen Peter Morin, March 13, 1985, Texas:** It took technicians over forty minutes to locate a suitable vein to insert the lethal injection needle, and another eleven minutes for Morin to die.
5. **Randy Woolls, August 20, 1986, Texas:** Because of his history of drug addiction, Woolls had to assist execution technicians in finding an adequate vein for insertion.
6. **Elliot Rod Johnson, June 24, 1987, Texas:** Johnson's execution was plagued by repetitive needle punctures and took executioners approximately thirty-five minutes to find a vein.
7. **Raymond Landry, December 13, 1988, Texas:** Two minutes into the execution, after a lengthy search for an adequate vein, the syringe came out of Landry's vein, "spewing deadly chemicals toward startled witnesses."
8. **Stephen McCoy, May 24, 1989, Texas:** In a violent reaction to the drugs, which experts attributed to a weak dosage, McCoy "choked and heaved" during his execution.
9. **George "Tiny" Mercer, January 6, 1990, Missouri:** A medical doctor was required to perform a cutdown on Mercer's groin.
10. **George Gilmore, August 31, 1990, Missouri:** According to a witnessing doctor, force was used to stick the needle into Gilmore's arm.
11. **Charles Troy Coleman, September 10, 1990, Oklahoma:** Technicians had difficulty finding a vein and the execution was delayed by ten minutes.
12. **Charles Walker, September 12, 1990, Illinois:** There was some indication that, while appearing calm on the outside due to the paralyzing drugs, Walker suffered excruciating pain. There were reports of faulty equipment and inexperienced personnel.

13. **Maurice Byrd, August 23, 1991, Missouri:** The machine used to inject the lethal dosage malfunctioned.
14. **Rickey Ray Rector, January 24, 1992, Arkansas:** It took almost an hour for a team of eight to find a suitable vein. Eventually, Rector himself assisted in finding the vein.
15. **Robyn Lee Parks, March 10, 1992, Oklahoma:** There were reports that Parks violently gagged and bucked in his chair after the drugs were administered. One witness said that his death looked "painful and inhumane."
16. **Billy Wayne White, April 23, 1992, Texas:** White's death required forty-seven minutes because executioners had difficulty finding a vein that was not severely damaged from years of heroin abuse.
17. **Justin Lee May, May 7, 1992, Texas:** According to a witness, May gasped and reared against his restraints during his nine-minute death.
18. **John Wayne Gacy, May 10, 1994, Illinois:** Complications caused by a faulty delivery tube resulted in Gacy's execution lasting eighteen minutes.
19. **Emmitt Foster, May 3, 1995, Missouri:** Foster took twenty-nine minutes to die. The delay was attributed to the difficulty in finding an adequate vein and incorrectly fitted equipment.
20. **Ronald Allridge, June 8, 1995, Texas:** Allridge's execution was conducted with only one needle, rather than the standard two, because a suitable vein could not be found in his left arm.
21. **Richard Townes, Jr., January 23, 1996, Virginia:** It took twenty-two minutes for medical personnel to find an adequate vein.
22. **Tommie J. Smith, July 18, 1996, Indiana:** The execution team required a total of thirty-six minutes to find a vein. Officials acknowledged that they had known beforehand that Smith's unusually small veins might cause problems.
23. **Luis M. Mata, August 22, 1996, Arizona:** Mata remained strapped to a gurney with the needle in his arm for one hour and ten minutes while his attorneys argued his case. When injected, his head jerked, his face contorted, and his chest and stomach sharply heaved.
24. **Scott Dawn Carpenter, May 8, 1997, Oklahoma:** Carpenter gasped and shook for three minutes following the injection. He was pronounced dead eight minutes later.
25. **Michael Eugene Elkins, June 13, 1997, South Carolina:** Liver and spleen problems had caused Elkins's body to swell, requiring executioners to search almost an hour – and seek assistance from Elkins – to find a suitable vein.

26. Joseph Cannon, April 23, 1998, Texas: Cannon's vein collapsed and the needle popped out after the first injection. These events caused him to make a second final statement and be injected a second time behind a closed curtain.

27. Genaro Ruiz Camacho, August 26, 1998, Texas: Camacho's execution was delayed approximately two hours due to last-minute appeals and problems finding suitable veins in Camacho's arms, which had been damaged by his drug problem.

28. Roderick Abeyta, October 5, 1998, Nevada: The execution team took twenty-five minutes to find a vein suitable for the lethal injection.

29. Bennie Demps, June 8, 2000, Florida: The execution team had to forfeit the second injection (Florida protocol demands two injections) after a thirty-three minute search failed to locate a suitable second vein. Demps complained of pain and bleeding in his final statement.

30. Bert Leroy Hunter, June 28, 2000, Missouri: In a violent reaction to the drugs, Hunter lost consciousness and his body convulsed against his restraints during what one witness called "a violent and agonizing death."

31. Joseph Martinez High, November 7, 2001, Georgia: For twenty minutes, prison technicians attempted unsuccessfully to locate a vein in High's arms. Eventually, they inserted a needle in High's chest, after a doctor cut an incision there, while they inserted the other needle in one of High's hands.

*Documentation for, and fuller descriptions of, each botched execution can be found in Denno, *Getting to Death*, *supra* note 1, at 428-38 (for executions 1-23); Michael J. Radelet, *Post-Furman Botched Executions*, in *FACING THE DEATH PENALTY: ESSAYS ON A CRUEL AND UNUSUAL PUNISHMENT* (Michael L. Radelet ed., 1989), available at <http://www.deathpenaltyinfo.org/botched.html> (last visited Jan. 7, 2002) (for executions 24-26, 28-30); Michael Gretzky, *Killer Executed for Triple Slaying in 1988 Kidnap*, *AUSTIN-AMERICAN STATESMAN*, Aug. 7, 1998, at B8 (for execution 27); and Doug Gross, *Lethal Injection Draws Criticism; Anti-death Penalty Foe Upset That Killer's Vein Was Hard to Find*, *JACKSONVILLE (FLA.) TIMES-UNION*, Nov. 12, 2001, at B1 (for execution 31).

**423 U.S. 153 (1976).

TABLE 10
TYPES OF LETHAL INJECTION STATUTES

I. LETHAL INJECTION ONLY

These statutes (for twenty-seven states) provide no alternative method of execution for prisoners sentenced or convicted after the date the statute was enacted or became effective.¹ There are three general types of lethal injection-only statutes:

(A) Type A statutes (for eleven states) refer to an injection of a "substance or substances in a quantity sufficient to cause death," or language close to that wording.²

(B) Type B statutes (for thirteen states) refer to a "lethal quantity of an ultrashort-acting barbiturate or other similar drug in combination with a chemical paralytic agent until death," or language close to that wording.³

(C) Type C statutes (for one state) refer simply to "lethal injection."⁴

¹ See *supra* app. 1, tbl.1, "Lethal Injection Only" states.

² The eleven states are Arizona, Connecticut, Delaware, Georgia, Indiana, Kansas, Kentucky, Louisiana, New York, Ohio, Texas. See ARIZ. CONST. art. XXII, § 22; ARIZ. REV. STAT. ANN. § 13-704(A) (West 2001); CONN. GEN. STAT. ANN. § 54-100 (West Supp. 2001); DEL. CODE ANN. tit. 11, § 4209(f) (1995); GA. CODE ANN. § 17-10-38(a) (Supp. 2001); IND. CODE ANN. § 35-38-6-1(a) (West 1998); KAN. STAT. ANN. § 22-4001(a) (1995) ("in a swift and humane manner"); KY. REV. STAT. ANN. § 431.220(a)-(b) (Michie 1999); LA. REV. STAT. ANN. § 15:569(B) (West 1992); N.Y. CORRECT LAW § 658 (McKinney Supp. 2001); H.B. 362, 124th Gen. Assem., Reg. Sess. (Ohio 2001); TEX. CRIM. PROC. CODE ANN. art. 43.14 (Vernon Supp. 2001).

³ There are variations in the wording of the following lethal injection statutes, depending on the state. The thirteen states are Arkansas, Illinois, Maryland, Mississippi, Montana, New Jersey, New Mexico, North Carolina, Oklahoma, Oregon, Pennsylvania, South Dakota, Wyoming. See ARK. CODE ANN. § 5-4-617(a) (Michie 1997); 725 ILL. COMP. STAT. ANN. 5/119-5(a)(1) (West 1992); MD. CODE ANN., CRIMES & PUNISHMENTS § 71(a) (1996) ("until death is pronounced by a licensed physician"); see also *id.* § 627; MISS. CODE ANN. § 99-19-51 (1999); MONT. CODE ANN. § 46-19-103(3) (2001); N.J. STAT. ANN. § 2C:49-2 (West 1995) ("[p]rior to the injection of the lethal substance, the person shall be sedated by a licensed physician, registered nurse, or other qualified personnel, by either an oral tablet or capsule or an intramuscular injection of a narcotic or barbiturate such as morphine, cocaine or demerol"); N.M. STAT. ANN. § 31-14-11 (Michie Supp. 2000); N.C. GEN. STAT. § 15-187 (1999); OKLA. STAT. ANN. tit. 22, § 1014(A) (West 1986); OR. REV. STAT. § 137.473(1) (Supp. 1988); 61 PA. CONS. STAT. ANN. § 3004(a) (West 1999); S.D. CODIFIED LAWS § 23A-27A-32 (Michie 1998); WYO. STAT. ANN. § 7-13-904(a) (Michie 2001).

⁴ The one state is Tennessee. See TENN. CODE ANN. § 40-23-114 (Supp. 2000).

Statutes for two states depart slightly from Type A and Type B.⁵

II. LETHAL INJECTION OR OTHER EXECUTION METHOD—PRISONER'S CHOICE

These statutes (for six states) allow prisoners to choose between lethal injection and another method of execution.⁶

III. LETHAL INJECTION OR OTHER EXECUTION METHOD—ANOTHER PERSON'S CHOICE

These statutes (for three states) allow someone other than the prisoner to choose the execution method, or the statute is unclear about who makes this choice.⁷

⁵The two states are Colorado and Nevada. See COLO. REV. STAT. § 16-11-401 (2000) (“sodium thiopental or other equally or more effective substance sufficient to cause death”); NEV. REV. STAT. ANN. § 176.355(1) (Michie 2001) (“a lethal drug”).

⁶The six states and the other methods they have selected are as follows: *Lethal Injection or Hanging*: Washington. See WASH. REV. CODE ANN. § 10.95.180(1) (West 1990) (“hanging by the neck” or Type A). *Lethal Injection or Firing Squad*: Utah. See UTAH CODE ANN. § 77-18-5.5 (1999) (“either a firing squad or a lethal intravenous injection”). *Lethal Injection or Electrocution*: Florida, South Carolina, Virginia. See FLA. STAT. ANN. § 922.105(1) (West 2001) (“lethal injection, unless the person sentenced to death affirmatively elects to be executed by electrocution”); S.C. CODE ANN. § 24-3-530(A) (Law Co-op. Supp. 2000) (“[The convicted] shall suffer the penalty by electrocution or, at the election of the person, lethal injection If the person waives the right of election, the penalty must be lethal injection.”); VA. CODE ANN. § 53.1-233 (Michie 1998) (“by electrocution or by” Type A); 1994 Va. Acts ch. 921 § 1 (“The method of execution shall be chosen by the prisoner.”). *Lethal Injection or Lethal Gas*: California. See CAL. PENAL CODE § 3604(a)-(b) (West 2000) (lethal gas or Type A).

⁷*Lethal Injection or Hanging*: New Hampshire. See N.H. REV. STAT. ANN. § 630:5(XIII)-(XV) (1986) (“XIII. [Type B]; XIV. The commissioner of corrections or his designee shall determine the substance or the substances to be used”; if it is “impractical,” death will be by “hanging.”). *Lethal Injection or Firing Squad*: Idaho. See IDAHO CODE § 19-2716 (Michie 1997) The Code states:

The director of the department of corrections shall determine the substance or substances to be used . . . provided, however, that, in any case where the director finds it to be impractical . . . for the reason that it is not reasonably possible to obtain expert technical assistance, should such be necessary to assure that infliction of death by [Type B] can be carried out in a manner which causes death without unnecessary suffering, the sentence of death may be carried out by firing squad.

Id. Lethal Injection or Lethal Gas: Missouri. See MO. ANN. STAT. § 546.720 (West Supp. 2001) (“The manner of inflicting death shall be by . . . lethal gas . . . or lethal injection.”); see also *infra* app. 2 (Missouri) (explaining that, in practice, the Director of the Missouri Department of Corrections decides which method to use for an execution; lethal injection is the Director’s method of choice now and for the foreseeable future).

IV. LETHAL INJECTION AND PRE-ENACTMENT PRISONER'S CHOICE

These statutes (for five states) apply to states that now have a lethal injection-only statute enacted, but provide pre-enactment prisoners a choice between lethal injection and the method that existed when the prisoner was convicted or sentenced to death.⁸

V. LETHAL INJECTION AND NO PRE-ENACTMENT CHOICE

This statute (for Louisiana only) mandates that a pre-enactment prisoner use the method of execution that existed when the prisoner was sentenced to death (electrocution), even though the state has now enacted a lethal-injection only statute.⁹ Notably, Louisiana executes all inmates with lethal injection even if they were sentenced before the legislative enactment because prison officials have

⁸ *Lethal Injection or Hanging*: Delaware. See DEL. CODE ANN. tit. 11, § 4209(f) (1995) (by Type A); 65 Del. Laws 281 § 3 (1986) (“[t]his Act shall become effective only for acts committed after its enactment [June 13, 1986] except that any person sentenced to death for acts committed prior to the enactment of this act shall be permitted to elect [Type A] . . . as the method [rather than “hanging by the neck”]); see also *infra* app. 2 (Delaware) (noting that only one inmate remains who can choose hanging). *Lethal Injection or Electrocution*: Arkansas, Kentucky, South Carolina. See ARK. CODE ANN. § 5-4-617 (a)(1), (b) (Michie 1997) (by Type B “until the defendant’s death is pronounced according to accepted standards of medical practice” According to 1983 Ark. Acts 774 § 2, lethal injection applied only to offenses committed after July 4, 1983. However, 1983 Ark. Acts 774 § 3 provided that any defendant sentenced to death by electrocution prior to July 4, 1983, could elect to be executed by lethal injection); see also *infra* app. 2 (Arkansas) (noting that two inmates remain who can choose electrocution); KY. REV. STAT. ANN. § 431.220 (a)–(b) (Michie 1999) (“Prisoners who receive a death sentence prior to March 31, 1998, shall choose [lethal injection] or the method of execution known as electrocution . . . If the prisoner refuses to make a choice . . . the method shall be by lethal injection.”); see also *infra* app. 2 (Kentucky) (noting that 30 inmates remain who can choose electrocution); S.C. CODE ANN. § 24-3-530(A)–(C) (Law Co-op. Supp. 2000) (“(B) A person convicted . . . prior to the effective date . . . must be administered . . . electrocution unless the person elects death by lethal injection.”); see also *infra* app. 2 (South Carolina) (noting that inmates remain who can choose electrocution). *Lethal Injection or Lethal Gas*: Arizona. ARIZ. CONST., art. XXII, § 22 (Type A “except that defendants sentenced to death for offenses committed prior to the effective date of the amendment to this section shall have the choice of either lethal injection or lethal gas”); ARIZ. REV. STAT. ANN. § 13-704(B) (West 2001) (“if the defendant fails to choose . . . [it will be] by lethal injection”); see also *infra* app. 2 (Arizona) (noting that fifty-eight inmates remain who can choose lethal gas). Although Maryland maintains a choice statute (lethal gas or lethal injection) for pre-enactment prisoners, no inmates remain who are eligible to make this choice. Therefore, Maryland’s choice provision no longer has practical significance. See *infra* app. 2 (Maryland).

⁹ See LA. REV. STAT. ANN. § 15:569 (A)–(B) (West 1992) (providing for execution by electrocution for inmates sentenced to death prior to September 15, 1991, and execution by lethal injection for inmates sentenced to death after September 15, 1991).

dismantled the electric chair.¹⁰ Although other statutes technically fall into this category based on their wording,¹¹ they are essentially moot because there were no pre-enactment prisoners eligible to receive the earlier execution method.

VI. LETHAL INJECTION AND CONSTITUTIONAL SUBSTITUTES

These statutes (for ten states) provide a constitutional substitute in case lethal injection is held to be unconstitutional or invalid.¹²

¹⁰Telephone Interview with Cathy Fontenot, Director of Classification, Louisiana State Penitentiary (Aug. 22, 2001) (noting that after Louisiana's 1991 switch to lethal injection, all death warrants issued by judges have specified execution by lethal injection irrespective of the wording of the Louisiana state statute; on July 22, 1990, Andrew Jones was the last person executed by electrocution in Louisiana).

¹¹New Mexico falls into this category. 1979 N.M. Laws 150 § 8 (lethal injection); N.M. STAT. ANN. § 31-14-11 (Michie Supp. 2000) (lethal injection) ("All references in the laws of the state of New Mexico relating to execution by electrocution or by lethal gas shall, insofar as such provisions are applicable, apply to, and mean, execution by means of injection, except as to capital offenses already committed."); *see also infra* app. 2 (New Mexico).

¹²*Lethal Injection or Hanging*: Delaware, New Hampshire. *See* DEL. CODE ANN. tit. 11, § 4209(f) (1995) (if Type A is held unconstitutional, then by "hanging by the neck"); 1986 N.H. Laws § 82:3 (if Type B is held unconstitutional, then by hanging). *Lethal Injection or Electrocution*: Arkansas, Illinois, South Carolina. *See* ARK. CODE ANN. § 5-4-617(a)(1), (b) (Michie 1997) (if Type B is held unconstitutional, then by electrocution); 725 ILL. COMP. STAT. ANN. 5/119-5(a)(2) (West 1992) (if Type B is held unconstitutional, then by electrocution); S.C. CODE ANN. § 24-3-530(C) (Law Co-op. Supp. 2000) ("(C) If lethal injection . . . is held to be unconstitutional, . . . then [death] by electrocution."). *Lethal Injection or Electrocution or Firing Squad*: Oklahoma. *See* OKLA. STAT. ANN. tit. 22, § 1014(A)-(C) (West 1986) (If Type B is held unconstitutional, then by electrocution; if electrocution is held unconstitutional, then by firing squad). *Lethal Injection or Lethal Gas*: California, Wyoming. *See* CAL. PENAL CODE § 3604(d) (West 2000) ("if either manner of execution described in subdivision (a) [lethal gas or Type A] is held invalid, the punishment of death shall be imposed by the alternative means specified in subdivision (a) [lethal gas or Type A]"); WYO. STAT. ANN. § 7-13-904(b) (Michie 2001) (if Type B is held unconstitutional, then by lethal gas). *Any Constitutional Method of Execution*: Florida, Ohio. *See* FLA. STAT. ANN. § 922.105(3) (West 2001) ("If electrocution or lethal injection is held to be unconstitutional . . . all persons sentenced to death for a capital crime shall be executed by any constitutional method of execution."); H.B. 362, 124th Gen. Assem., Reg. Sess. (Ohio 2001) ("If a person is sentenced to death, and if the execution of a death sentence by lethal injection has been determined to be unconstitutional, the death sentence shall be executed by using any different manner of execution prescribed by law subsequent to the effective date of this amendment . . .").

TABLE 11*
 TYPES OF LETHAL INJECTION CHEMICAL COMBINATIONS,
 BY STATE FOR 36 STATES

Information Is Confidential (4 States)		
Nevada	Pennsylvania	
South Carolina	Virginia**	
Information Does Not Exist (3 States)		
Kansas	Kentucky	
New Hampshire		
Sodium Thiopental, Pancuronium Bromide, Potassium Chloride*** (27 States)		
Arizona	Arkansas**	California
Colorado**	Connecticut**	Delaware
Florida**	Georgia**	Idaho
Illinois	Indiana**	Louisiana
Maryland**	Mississippi**	Missouri
Montana**	New Mexico**	New York**
Ohio	Oklahoma**	Oregon
South Dakota**	Tennessee**	Texas**
Utah	Washington**	Wyoming
Sodium Thiopental, Pancuronium Bromide (1 State)		
North Carolina**		
(Two Trays) 1. Saline and Potassium Chloride, 2. Saline and Sodium Thiopental (1 State)		
New Jersey**		

* All lethal injection protocols and communications are on file with the author at Fordham University School of Law. The sources for the protocols and communications can be found in *infra* app. 1, tbl. 20, app. 3.

** The state's lethal injection protocol specifically mentions saline.

*** Sodium thiopental also is known as thiopental sodium or its brand name, sodium pentothol. Pancuronium bromide also is commonly referred to as its brand name, pavulon. States use all of these names in their statutes. This table lists only the generic names of these chemicals.

TABLE 12
THE PERCENTAGES OF STATES USING DIFFERENT LETHAL INJECTION CHEMICAL COMBINATIONS

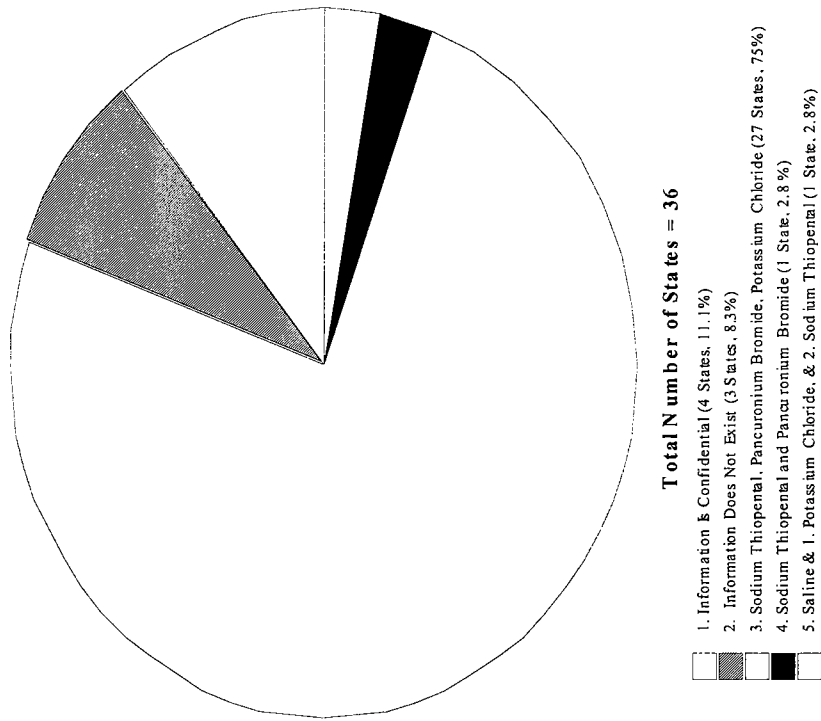


TABLE 13
 TYPES OF LETHAL INJECTION CHEMICAL SPECIFICATIONS FOR 36 STATES

States that Specify the Quantity of the Chemical Injection States that Specify Saline in the Injection Procedure

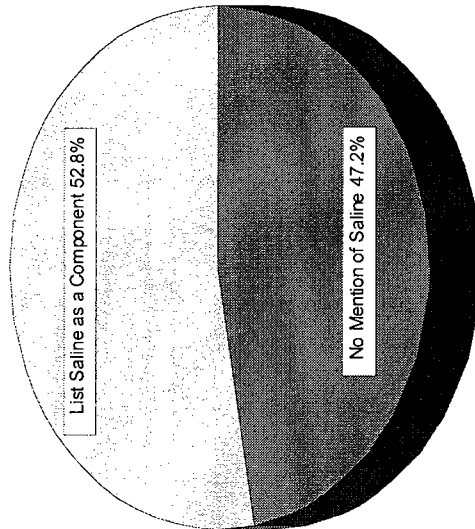
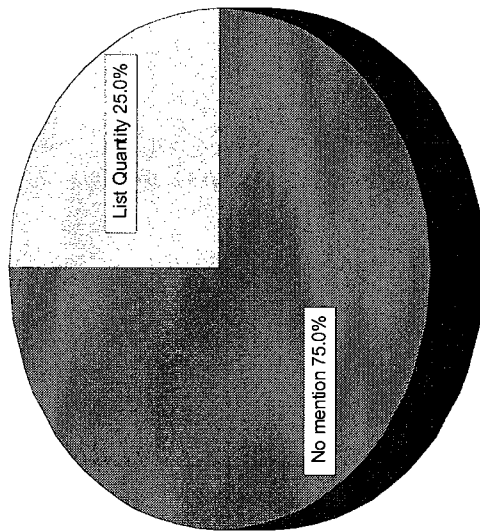


TABLE 14*
LETHAL INJECTION CHEMICAL SPECIFICATIONS, BY STATE
FOR 36 STATES

States that Specify Quantities of Lethal Injection Chemicals (9)		
California	Connecticut	Florida
Mississippi	Montana	New Mexico
North Carolina	Tennessee	Washington

States that do not Specify Quantities of Lethal Injection Chemicals (27)			
Arizona	Arkansas	Colorado	Delaware
Georgia	Idaho	Illinois	Indiana
Kansas**	Kentucky**	Louisiana	Maryland
Missouri	Nevada**	New Hampshire**	New Jersey
New York	Ohio	Oklahoma	Oregon
Pennsylvania	S. Carolina**	South Dakota	Texas
Utah	Virginia**	Wyoming	

States that Specify Saline in Their Lethal Injection Procedures (19)			
Arkansas	Colorado	Connecticut	Florida
Georgia	Indiana	Maryland	Mississippi
Montana	New Jersey	New Mexico	New York
N. Carolina	Oklahoma	South Dakota	Tennessee
Texas	Virginia	Washington	

States that do not Specify Saline in Their Lethal Injection Procedures (17)			
Arizona	California	Delaware	Idaho
Illinois	Kansas**	Kentucky**	Louisiana
Missouri	Nevada**	New Hampshire**	Ohio
Oregon	Pennsylvania	South Carolina**	Utah
Wyoming			

*All lethal injection protocols and communications are on file with the author at Fordham University School of Law. The sources for the protocols and communications can be found in *infra* app. 1, tbl. 20, app. 3.

**These states did not provide any information whatsoever.

TABLE 15*
THE QUANTITIES OF LETHAL INJECTION CHEMICALS FOR THE NINE STATES
THAT SPECIFY THEM

State	Chemicals Specified in State Protocols
California	5.0 g of sodium pentothal in 20-25 cc of diluent. 50 cc of pancuronium bromide. 50 cc of potassium chloride.
Connecticut	2,500 mg thiopental sodium in 50 ml of clear sodium chloride 0.9% solution of an approximate concentration of mg/ml or 5%. 100 mg of pancuronium bromide (contents of ten 5 ml vials of 2 mg/ml concentration) in 50 ml. 120 mEq of potassium chloride (contents of two 30 ml vials of 2 mEq/ml concentration) in 60 ml.
Florida	"No less than" 2 g of sodium pentothal. Next, a saline solution to act as a flushing agent. Next, no less than 50 mg of pancuronium bromide. Then saline, again as a flushing agent. Finally, no less than 150 mEq of potassium chloride.
Mississippi	Sodium pentothal, 2.0 g, 1 syringe. Normal saline, 10-15cc., 2 syringes. Pavulon, 50 mg per 50 cc., 3 syringes. Potassium chloride, 50 mEq per 50 cc., 3 syringes.
Montana	Sodium pentothal, 500 mg w/ diluent. Pavulon, 10 mg ampules. Potassium chloride, 10 mEq ampules. Saline, 1000 C. lidocaine HCL, 2% w/ epinephrine.
New Mexico	Two 50-cc syringes each containing 10-50cc of sterile normal saline. Three 50-cc syringes each containing 50 mEq of potassium chloride in 50-cc. Three 50-cc syringes each containing 50 mg of pavulon in 50-cc. One 50-cc syringe containing 210[sic]g** of sodium pentothal (contents of four 500 mg vials dissolved in the least amount of diluent possible to attain complete, clear suspension). Order of chemicals to be sodium pentothal first, pavulon second, and potassium chloride last.
North Carolina	Three each 1000 ml saline. Four vials of thiopental sodium 5 g, 100 ml each. Twelve vials pavulon 5 ml each.
Tennessee	Sodium pentothal (50 cc). Saline (50 cc). Pancuronium (2) (50 cc). Saline (50 cc). Potassium chloride (2) (50 cc).
Washington	2g/50cc thiopental sodium. 15 cc normal saline. 50 mg/50 cc pancuronium bromide. 15 cc normal saline. 1.50-2.70 mEq/kg potassium chloride (Kcl).

*All lethal injection protocols and communications are on file with the author at Fordham University School of Law. The sources for the protocols and communications can be found in *infra* app. 1, tbl. 20, app. 3. Much of the wording in this table is taken verbatim from the protocols.

**A typo. The amount should be 2.0 g of sodium pentothal. This corrected amount of sodium pentothal is specified in another section of New Mexico's protocol. See *infra* app. 3 (New Mexico).

TABLE 16*
 LAST MEAL AND EXECUTION TIME SPECIFIED IN THE LETHAL INJECTION
 PROTOCOLS OR COMMUNICATIONS OF 36 STATES

State	Time of the Last Meal	Time of the Execution
AZ	Does provide information about what condemned inmates have requested but doesn't specify the guidelines for the last meal or what the inmates can request.	In documentation provided by the State, there is reference to one execution that begins at 12:05 or later and the senior warden is the one to signal for the execution to begin.
AR	Will be handled by the warden at the unit. Items within reason will be provided.	No information is provided in the protocol.
CA	About 6:00 p.m., the day before the execution, the inmate will be moved to the death watch cell which is adjacent to the execution chamber. Soon after he/she is rehoused, the inmate will be served his/her last dinner meal. The prison makes every effort to provide the meal requested by the inmate. Between 7 and 10 p.m. he/she can request special food items and coffee or soft drinks.	Does not specify the time.
CO	Will be served at normal meal time. The meal will consist of anything within reason that is stocked by the Food Service Department.	No information is provided in the protocol.
CT	The inmate shall be served the same food as other inmates at the normal meal time. At the discretion of the warden, reasonable efforts may be made to provide a last meal of the inmate's choosing.	At 2:01 a.m., or as soon thereafter as possible, the warden shall direct the executioner(s) to begin injection of the lethal substance.
DE	No information provided in the protocol.	No information is provided in the protocol.

* All lethal injection protocols and communications are on file with the author at Fordham University School of Law. The sources for the protocols and communications can be found in *infra* app. 1, tbl. 20, app. 3. Much of the wording in this table is taken verbatim from the protocols.

TABLE 16, CONT.

State	Time of the Last Meal	Time of the Execution
FL	Prior to the execution, an inmate may request a last meal. To avoid extravagance, the food to prepare the last meal must cost no more than \$20 and must be purchased locally.	Noted in the beginning of the protocol is the following: "The times established in these procedures are guidelines and may be altered to the extent necessary to assure that an execution is carried out properly and effectively. For executions scheduled for 7:01 a.m., the following time frames generally apply. If an execution is scheduled for any other time of the day, comparable time differences shall be implemented."
GA	Discusses meals but not a last meal.	No information is provided in the protocol.
ID	No information is provided in the protocol.	No information is provided in the protocol.
IL	No information is provided in the protocol.	The execution shall occur on the date set for execution by the court at a time determined by the Department of Corrections.
IN	The inmate is escorted to the holding cell at approximately 6:00 p.m. The final meal, if he/she wishes to have one, is served after he is placed in the holding cell.	Shortly after midnight, the inmate is escorted from the holding cell, and placed on the gurney, secured to the gurney, and moved to the execution room. The inmate is usually pronounced dead between twenty and forty-five minutes after being placed on the gurney.
KS	No information because a protocol does not exist.	No information because a protocol does not exist.
KY	No information because a protocol does not exist.	No information because a protocol does not exist.
LA	No information is provided in the protocol.	The execution shall take place at the Louisiana State Penitentiary between the hours of 6:00 p.m. and 11:59 p.m.
MD	No information is provided in the protocol.	No information is provided in the protocol.
MS	Mentions that the condemned offender is given his meal but is not specific about the time period.	The new law states by 6:00 p.m.

TABLE 16, CONT.

State	Time of the Last Meal	Time of the Execution
MO	No information is provided in the protocol.	No information is provided in the protocol.
MT	No information is provided in the protocol.	The execution shall be performed anytime after midnight on the day set by the court.
NV	The information is confidential.	The information is confidential.
NH	No information because a protocol does not exist.	No information because a protocol does not exist.
NJ	At least twenty-four hours in advance of the scheduled execution, the condemned may request the food of his or her choice to be served at the last regularly scheduled dinner, not less than eight hours prior to the execution. Such a request shall be granted subject to reasonable availability and cost of the food desired.	Upon receipt of the warrant appointing an execution date, the Commissioner shall schedule the time for implementation of the warrant and begin final arrangements.
NM	No information is provided in the protocol.	Given that the witnesses are filed into the North Facility Front Entrance Lobby at 11:45 p.m., one could deduce that the execution takes place at 12:00 a.m.
NY	Upon delivery of the breakfast meal, the inmate may express his/her preference for his/her last meal within reasonable limits as to the kind or type of food.	No information is provided in the protocol.
NC	No information is provided in the protocol.	No information is provided in the protocol.
OH	Approximately six hours prior to the execution, the inmate is given his/her special meal.	All court-ordered executions shall be carried out at 9:00 p.m., on the scheduled execution date.
OK	No information is provided in the protocol.	No information is provided in the protocol.
OR	The inmate's last meal is personally prepared and served about 6:00 p.m., by a staff member assigned by the food services manager.	As soon after midnight as possible, the superintendent signals the executioner to begin injection of lethal solutions into the injection port of the intravenous catheters.

TABLE 16, CONT.

State	Time of the Last Meal	Time of the Execution
PA	The meals the condemned inmate will eat while at SCI Rockview will be the same as those eaten by the rest of the inmate population, except that the individual will be permitted to request one special meal from a menu of available items.	The scheduled time for all executions is 7:00 p.m. on the day designated by the governor's warrant.
SC	No information is provided in the protocol.	No information is provided in the protocol.
SD	The inmate's last meal prior to the execution should be close to the regular feeding time of the general population of inmates. The inmate may request a special diet for his/her last meal but he/she will only be provided with food items that are normally available in the kitchen.	The time of execution shall be left to the discretion of the warden to whom the warrant is directed, who shall cause the execution to be performed between the hours of 12:01 a.m. and 6:00 a.m.
TN	No information is provided in the protocol.	At 1:00 a.m., the warden shall contact the Commissioner to insure that no last minute stay or respite has been granted. The warden then permits the inmate to make a last statement. Next, the warden gives the signal to proceed with the injection.
TX	The last meal will be served at approximately 3:30-4:00 p.m.	Mentions instructions to remove the inmate from the holding cell shortly after 6:00 p.m. but no further information is provided as to the exact time the flow of lethal chemicals begins.
UT	No information is provided in the protocol.	No information is provided in the protocol.
VA	For the last meal the inmate may select any meal, or combination of items, from the institution's twenty-eight day cycle menu. The meal must be completed no later than four hours prior to the execution.	Executions take place at 9:00 p.m., on the date determined by the courts.

TABLE 16, CONT.

State	Time of the Last Meal	Time of the Execution
WA	At the meal period just prior to the time of the execution, the inmate will be allowed to provide his/her meal selection from a menu prepared and provided by the Food Service Manager.	The court specifies in the warrant that the superintendent is responsible for carrying out the execution and notifying the injection team when to begin.
WY	No information is provided in the protocol.	No information is provided in the protocol.

TABLE 17*
 INFORMATION ON EXECUTIONERS AND EXECUTION PROCEDURES SPECIFIED IN THE LETHAL INJECTION
 PROTOCOLS OR COMMUNICATIONS OF 36 STATES: 2001

State	Number and Qualifications of Executioners	Problem Prevention or Procedure	Location of the Execution	Involvement of Medical Personnel
AZ	Thirty-two to thirty-three staff members are required to carry out the execution and provide logistical support. Training, meetings, and pre-execution hearings are part of the process.	There is a line for the governor to call to stop the execution.	AZ State Prison Complex at Florence. Witness room, holding cell, operations room, lethal injection room.	No information is provided in the protocol.
AR	Unpaid volunteers, selected by director of DOC, identity confidential.	There is a line for the governor to call to stop the execution.	Cummins Unit, near Grady.	No information is provided in the protocol.
CA	Three-member staff unit will provide constant death watch.	Mentions a line for the governor to call does not specify that the line is to stop the execution, but that seems implied.	A self-contained unit at San Quentin State Prison that includes: a witness area, execution chamber, anteroom with 3 phones (the injection is administered from here), chemical room, 2 holding cells, kitchen/officer's area.	A physician is present to declare when death occurs. 2 physicians also are listed under "witnesses."

CO	A strap-down team straps the inmate to the execution bed. The injection team is comprised of two anonymous DOC staff.	The warden verifies with the governor that it is ok to proceed with the execution. There is no information available if problems arise.	No information is provided in the protocol.	A coroner pronounces death. <i>There shall also be present a physician.***</i>
CT	A group of correctional staff: six primary, six alternates. A warden designates executioner(s) with an order to initiate the flow of lethal chemicals. The identity of the executioners is confidential. The warden is responsible for screening, selecting and training the execution staff. The warden will conduct drills with the execution team.	Emergency phone lines are checked and the warden establishes radio contact with a supervisor-in-charge of the execution area to ensure communication is still open even if lines become inoperable. The warden makes a last minute check for any stays.	Osborn Correctional Institution or any other approved DOC facility. The area will consist of: a death cell, execution ante room, execution enclosure, and witness observatory.	The Deputy Commissioner of Programs or his/her designee shall ensure to the satisfaction of a licensed CT physician that executioners are properly trained, including having the ability to properly insert IV. The Dep. Com. also must ensure that a qualified physician is present to certify death.
DE	Staff executioner, voluntary position. The person's identity is confidential.	No information is provided in the protocol.	The Delaware Correctional Center in Smyrna contains a permanent execution chamber.	No information is provided in the protocol.

State	Number and Qualifications of Executioners	Problem Prevention or Procedure	Location of the Execution	Involvement of Medical Personnel
FL	<p>The execution team completes primary and alternate IV and heart monitor setups and will begin the flow of lethal chemicals. The escort team applies restraints, escorts the inmate to the prep room, places the inmate on the execution gurney, and secures restraining straps.</p>	<p>There is an open line to the governor's office. If death doesn't occur after the first administering of lethal chemicals, try a second time and continue until a flat line is indicated on the heart monitor.</p>	<p>Mentions an execution chamber but does not provide a description.</p>	<p>A pharmacist will prepare the lethal injection. A physician will visit the condemned to explain the lethal injection procedure, and will stand behind the executioner while the injection is being administered, as well as certify death. A physician assistant also will certify death. A nurse or medical technician is authorized to attend.</p>
GA	<p>An escort team consists of six correctional officers who assist with attaching restraints to the arms, legs, and body of the condemned. Two members of the IV team will be Emergency Medical Technicians. Three volunteers (staff members) will insert solutions into IV ports during the execution process. Security will attend as needed. A designated staff member will prepare the lethal injection and deliver it to the execution chamber.</p>	<p>The protocol describes what to do if a suitable vein cannot be found. If the condemned shows residual life signs after the staff members have carried out the execution procedure, they are to repeat the procedure. It also mentions open communication to the Central Office Command Post but doesn't mention the governor's office for possible stay.</p>	<p>The Commissioner of GA DOC determines the prison that will be designated as the execution site. Mentions both an execution chamber and an execution witness room but does not describe them.</p>	<p>Two staff physicians to determine if death has occurred. One contract physician. A physician's assistant will administer treatment to witnesses and staff if the need arises. "If the veins are such that an IV cannot be started, a contract physician will perform the cut down procedure to establish an intravenous port" (per protocol 16.3.11).</p>

ID	The Idaho Maximum Security Institution personnel will carry out the execution warrant. The warden is the official executioner by statute.	There is an open line of communication for a possible stay.	Execution trailer located at Idaho Maximum Security Institution.	The coroner will pronounce death.
IL	A trained person will insert the catheter. That person's identity is confidential.	A dedicated line shall be established in case a stay is granted.	The inmate shall be transferred to the correctional center, at which point the execution will take place in the execution chamber as determined by the Director of DOC.	No information is provided in the protocol.
IN	Mentions an execution team and IV team.	Mentions a specific execution where procedures were modified ahead of time because the inmate had "extremely small veins." The team inserted an angiocath. There was a check for stays before continuing with the execution.	Execution room, holding cell.	A physician is to insert the angiocath. <i>A physician is to pronounce death. ***</i>
KS	No information because a protocol does not exist.	No information because a protocol does not exist.	No information because a protocol does not exist.	No information because the protocol does not exist.

State	Number and Qualifications of Executioners	Problem Prevention or Procedure	Location of the Execution	Involvement of Medical Personnel
KY	No information because a protocol does not exist.	No information because a protocol does not exist.	Within the confines of the state penal institution designated by the DOC with an enclosure that will exclude public view.	No information because a protocol does not exist. <i>No physician shall be involved in the conduct of an execution except to certify cause of death provided that the condemned is declared dead by another person.***</i>
LA	There are escorting officers who will assist the inmate onto the table and secure him/her. An IV technician prepares the inmate for execution. The warden designates a competent person to administer the injection.	No mention of a procedure for a possible call to stay of execution.	LA State Penitentiary, in the execution room.	The coroner shall pronounce the inmate dead. A physician will be present.
MD	The Commissioner of Correction designates an execution commander who supervises the process. A technician inserts a needle into a vein on the inmate's arm to begin a flow of saline. At a hidden signal from the warden, a lethal combination of drugs is injected into the IV line.	Discusses stays but doesn't specify if they are prepared to stop the execution at the time it is to take place.	Not clear if at a specific penitentiary or any penitentiary.	No information is provided in the protocol.

MS	A lethal injection team inventories all equipment. The executioner shall advise the superintendent when the system is ready to use.	The superintendent verifies no stays before proceeding with the execution.	Execution room, observation room.	The superintendent requests a physician or coroner to pronounce the inmates' death. Two physicians are listed under the witness list.
MO	No information is provided in the protocol.	No information is provided in the protocol.	No information is provided in the protocol.	No information is provided in the protocol.
MT	The executioner must be selected by the warden and be trained. The executioner need not be a physician, registered nurse, or licensed practical nurse. The warden may also select alternate executioners. The executioners' identity shall remain confidential. Warden or designee shall supervise the execution.	A dedicated line shall be established to the governor's office.	The warden of MT State Prison provides the place where the execution will be carried out. It will be enclosed from public view, be within the walls of the state prison, and shall provide all implements necessary for the execution.	The coroner pronounces death.
NV	There is no information because the protocol is confidential.	There is no information because the protocol is confidential.	The prison is the designated site of executions.	There is no information because the protocol is confidential. <i>The director of the department shall invite a competent physician, the county coroner, and a psychiatrist to be present at the execution. ***</i>

State	Number and Qualifications of Executioners	Problem Prevention or Procedure	Location of the Execution	Involvement of Medical Personnel
NH	No information because a protocol does not exist.	No information because a protocol does not exist.	No information because a protocol does not exist.	No information because a protocol does not exist. <i>A licensed physician pronounces death. ***</i>
NJ	The commissioner designates all execution personnel. The medical prep team consists of two physicians, one registered nurse, one certified IV therapist, and two execution technicians.	Provides instructions on what to do if a vein is not found and warns, "The medication must not be rapidly nor sporadically injected." If a stay is called, executioners are to stop the execution and life saving are techniques to be applied if necessary.	The commissioner shall provide and maintain a suitable and efficient unit enclosed from public view within NJ State Prison. An execution suite and executioner's room are mentioned, but not described.	A physician is to revive an inmate or pronounce him/her dead. <i>Prior to the injection of the lethal substance, the person shall be sedated by a licensed physician, registered nurse, or other qualified personnel, by either an oral tablet or capsule or an intramuscular injection of a narcotic or barbiturate such as morphine, cocaine or demerol.***</i>

<p>NM</p>	<p>The execution team consists of two persons selected and contracted by the warden. A tie-down team consists of five persons selected and directed by the warden to strap the inmate to the table. The team must go through practice procedures. There are numerous personnel for security purposes.</p>	<p>Warns that if sodium thiopental is not flushed from the line, flocculation can occur. It recommends using the other injection tube that has already been prepared in the other arm.</p>	<p>The penitentiary of the NM Death House. It is provided with all necessary appliances to carry out executions.</p>	<p>The physician shall pronounce the inmate's death. The medical examiner then takes jurisdiction of the body.</p>
<p>NY</p>	<p>There are eight security staff. The department shall identify two legally qualified individuals proficient in starting and administering the IV. Their identity is confidential. Personnel will set up two angiocaths; they will start and regulate the flow of both IV saline solutions, and connect the cardiac monitor that leads to the condemned. Mock drills are conducted twenty-four to forty-eight hours prior to the arrival of the condemned.</p>	<p>Warns "if sodium pentothal has not been flushed from the line, mixture with the pavulon may create flocculation." The commissioner checks for a stay before the execution is carried out.</p>	<p>The Green Haven Correctional Facility has an injection team room, and execution chamber.</p>	<p>A physician is to revive the inmate or pronounce him/her dead.</p>
<p>NC</p>	<p>Correctional officers.</p>	<p>No mention of the procedure for a possible call for a stay of execution.</p>	<p>Central Prison, Raleigh, in the chamber.</p>	<p>The warden pronounces the inmate dead and a physician certifies that death has occurred.</p>

State	Number and Qualifications of Executioners	Problem Prevention or Procedure	Location of the Execution	Involvement of Medical Personnel
OH	<p>A team consisting of no less than twelve members, designated by the warden of the Southern Ohio Correctional Facility (SOCF). Their duties include preparation and testing of equipment and carrying out pre- and post-execution activities. The execution team will drill and rehearse. A technician, who is a DRC employee, will place the IV into the heparin lock, which is similar to a shunt, one on each side.</p>	<p>Fifteen minutes before the execution, phone communication will be established with the governor's office. If there has been no stay, the contact will be maintained until the execution has been carried out.</p>	<p>Southern Ohio Correctional Facility (SOCF).</p>	<p>Such number of physicians of the institution and medical personnel as the warden or acting warden thinks necessary. Designated personnel will examine the body and pronounce the prisoner dead.</p>
OK	<p>Three executioners each administer a different drug.</p>	<p>No mention of a procedure for a possible call for a stay of execution.</p>	<p>OK State Penitentiary.</p>	<p>No information is provided in the protocol. <i>The warden must invite the presence of a physician.***</i></p>

OR	An assistant superintendent, superintendent, security, special security team leader. Medically-trained individuals are responsible for the insertion of catheters, they connect a heart monitor to the inmate to determine when death has occurred. An assistant superintendent will choose (two) six-person security teams, primary and back-up, and conduct drills with them.	Emergency telephone lines are set-up for any last minute stays.	OR State Penitentiary, Salem, in the 73.5 sq. ft. execution room.	The superintendent summons a medical professional to certify death.
PA	Individuals technically competent by virtue of training or experience carry out the lethal injection procedure.	Emergency telephone lines are set-up for any last minute stays.	Located on the grounds of SCI Rockview, in a former field hospital.	No information is provided in the protocol. <i>Death is pronounced by a coroner. The coroner shall issue the death certificate.***</i>
SC	No information is provided in the protocol.	No information is provided in the protocol.	Capital Punishment Facility (CPF) located in the Broad River Correctional Institution (BRCI).	No information is provided in the protocol. <i>The executioner and the attending physician shall certify the fact of such execution to the clerk of the court of general sessions in which such sentence was pronounced.***</i>

State	Number and Qualifications of Executioners	Problem Prevention or Procedure	Location of the Execution	Involvement of Medical Personnel
SD	No information is provided in the protocol.	No information is provided in the protocol.	State Penitentiary, Sioux Falls.	The warden shall arrange for the attendance of the prison physician and two other licensed physicians. The physicians are required to conduct a post-mortem exam and report.
TN	Those mentioned are the executioner, the IV team and the extraction team.	One hour before the execution, the administrative assistant will check the phones in the execution chamber presumably to insure that if there is a last minute stay that the call can come through. The protocol also specifies that if death does not occur after the first administration of the drugs that a second administration should be given.	The execution chamber is located in Building 8. The protocol information does not specify the complex where Building 8 is located.	Medical doctor and associate are mentioned early on in the protocol. A physician is mentioned later in the protocol as the one who confirms death, but the duties of the doctor and associate are not discussed.

TX	A medically-trained individual, whose identity is kept confidential, shall insert an intravenous catheter and cause the saline to flow. The designee of director shall induce a syringe with substance necessary to cause death.	No mention of the procedure for a possible call for a stay of execution.	Huntsville, in an execution chamber.	A medically-trained individual, whose identity is kept confidential, shall insert an intravenous catheter and cause the saline to flow.
UT	The person(s) administering the injection must be able to give an IV.	An independent reviewer said that UT gives more chemicals than necessary. The director of PR, although not sure, believes they use double what is used in other states.	No information was provided in the communication.	No information was provided in the communication.
VA	The director gives the order to carry out the sentence of the court.	No information is provided in the protocol.	Greenville Correctional Center in Jarratt, contains a witness room and execution chamber.	No information was provided in the protocol. <i>A physician employed by the department or his assistant shall be present. ***</i>

State	Number and Qualifications of Executioners	Problem Prevention or Procedure	Location of the Execution	Involvement of Medical Personnel
WA	The superintendent conducts briefings and rehearsals to adequately prepare for the execution. No individual will be required to take part in an execution. The Escort Team places the inmate on a table and secures the inmate to the table. An injection team inspects the area, assembles necessary materials, starts the normal flow of saline, and, following word from superintendent, introduces lethal solutions. The injection team leader alerts the superintendent when all solutions have been administered.	The condemned's file is examined to see if any special instructions may be required. There is no mention of a procedure for a possible call for a stay of execution.	Washington State Penitentiary.	A physician pronounces death.
WY	No information was provided in the communication.	No information was provided in the communication.	They don't have a room. They don't have many executions. However, executions can be performed in any WY prison.	Two Physicians are present. One is the prison physician.

* All lethal injection protocols and communications are on file with the author at Fordham University School of Law. The sources for the protocols and communications can be found in *infra* app. 1, tbl. 20, app. 3. Much of the wording in this table is taken verbatim from the protocols.

**This table relies on two sources: (1) all lethal injection protocols and (2) all state statutes specifying the involvement of medical personnel in executions. For twenty-seven states, lethal injection protocols overlapped substantively with the statute. See ARIZ. REV. STAT. ANN. § 13-705 (West 2000), ARK. CODE ANN. § 16-90-502 (Michie 1999), 2001 Cal. Legis. Serv. 129 (West), CONN. GEN. STAT. ANN. § 54-100 (West Supp. 2001), DEL. CODE ANN. tit. 11, § 4209 (2000), FLA. STAT. ANN. § 922.11 (West 2000), GA. CODE ANN. § 17-10-41 (2000), IDAHO

CODE § 19-2716 (Michie 2000), 725 ILL. COMP. STAT. ANN. 5/119-5 (West 2001), IND. CODE ANN. § 35-38-6-1 (West 2001), KAN. STAT. ANN. § 22-4001 (2000), LA. REV. STAT. ANN. § 569 (West 2001), MD. CODE ANN., WITNESSES § 3-907 (2000), MISS. CODE ANN. § 99-19-53 (2000), MO. ANN. STAT. § 546.740 (West Supp. 2001), MONT. CODE ANN. § 46-19-103 (2000), N.M. STAT. ANN. § 31-14-15 (Michie Supp. 2000), N.Y. [persons authorized to be present at execution] § 660 (2001), N.C. GEN. STAT. § 15-190 (2000), OHIO REV. CODE ANN. § 2949.25 (West 2001), Or. Laws. (Or. REV. STAT. § 137.463), S.D. CODIFIED LAWS § 34-25-18 (Michie 2001), TENN. CODE ANN. § 40-23-116 (Supp. 2000), TEX. CRIM. PROC. CODE ANN. § 43.14 (Vernon 1999), UTAH CODE ANN. § 77-19-11 (2001), WASH. REV. CODE ANN. § 10.95.185 (West 2001), WYO. STAT. ANN. § 7-13-908 (Michie 2001). For nine states, the statutes provided some additional information. See COLO. REV. STAT. § 16-11-404 (2000), KY. REV. STAT. ANN. § 431.220 (Michie 2000), 2001 Nev. Stat. 176.355, N.H. REV. STAT. ANN. § 630:5 (2000), N.J. STAT. ANN. § 2C:49-2 (West 2001), OKLA. STAT. ANN. tit. 22, § 1015 (West 2001), 61 PA. CONS. STAT. ANN. § 3004 (West 2000), 24 S.C. CODE ANN. REGS. 24-3-560 (2000), VA. CODE ANN. § 53.1-234 (Michie 2000).

*** Italics refer to information that was taken from state statutes rather than directly from the state protocols.

TABLE 18*
NUMBERS AND TYPES OF WITNESSES SPECIFIED IN THE LETHAL INJECTION PROTOCOLS OR COMMUNICATIONS OF
36 STATES

State	General Witnesses	Media Witnesses	Specification of What and When Media Can View
AZ	No information was provided in the protocol.	No information was provided in the protocol.	No information was provided in the protocol.
AR	Six to twelve people chosen by Director of the DOC. Requirements: twenty-one years of age, no ex-felons, mature and responsible state citizens.	No information was provided in the protocol.	No information was provided in the protocol.
CA	Up to fifty people may witness. Specified: warden, attorney general, twelve reputable citizens, two physicians, and, if requested, up to five of the inmate's family or friends, and two spiritual advisors.	Seventeen news media representatives, nine state selected witnesses, four staff escorts.	No information was provided in the protocol.

CO	A select group usually includes the victim's family, the prosecuting and defense attorneys, an official from the investigating law enforcement agency, and approved media representatives.	Approved media representatives.	Twenty minutes prior to the scheduled execution time or when instructed by the Warden, the IV team will insert two intravenous catheters into appropriate veins in the inmate's arms, one to deliver the lethal agents and the other to serve as a back-up in the event of injection failure into the primary catheter. Approximately eight minutes before the execution, the witnesses are escorted into the witness room. Immediately after the execution and pronouncement of death, the witness room curtain will be closed and the witnesses escorted from the viewing area to the lobby where they will sign the Record of Execution Book.
CT	The warden, a number of execution personnel deemed by the warden as necessary, and the following people may be present: the commissioner, a physician, a clergyman at the request of inmate, no more than three adults designated by the inmate, and other persons deemed appropriate by the commissioner.	Nine news media. The commissioner may decrease or increase for specified reasons of space and security. There shall be a committee on news media access to executions composed of news media representatives appointed by the Associated Press Managing Editors Association of Connecticut and the Connecticut Associated Press Broadcasters Association. The committee shall decide which representatives to send. (See protocol for extensive details.)	The heart monitor will be connected to the inmate. A primary intravenous infusion line shall be inserted in the left arm with a line inserted in the right arm as an alternative. A staff member shall make a final inspection of the intravenous infusion system to determine all is in order. After that, the witness room window coverings will be opened to allow viewing of the inmate. Once the executioner's inform the warden when the infusion of the lethal substance has been completed, the warden directs a staff member to close the window and summon a physician to pronounce death.

TABLE 18, CONT.

State	General Witnesses	Media Witnesses	Specification of What and When Media Can View
DE	Ten official witnesses who may include: arresting officers, federal officers, police chiefs or a designee, a representative from the Victims Rights Bureau, and criminal justice professionals.	May be invited depending on security issues and space constraints.	No information was provided in the protocol.
FL	The warden, the physician's assistant with the DOC, Secretary of the DOC.	No information was provided in the protocol.	No information was provided in the protocol.
GA	The warden, [two assistants or more as directed by the warden, two staff physicians,]; one contract physician as designated by Health Services; an IV Team with two Emergency Medical Team (EMT) members; six correctional officers to serve as a special escort team; three volunteers (staff members); one Chaplain; Security personnel as appropriate. Individuals who MAY BE PRESENT: five witnesses chosen by the condemned; the Commissioner may approve five witnesses and include officials with the Executive, Judicial or Legislative Branch of Government or private Citizens. One witness may be present representing the victim.	Six chosen from among GA Bureau Chief of the United Press International Wire Service; GA Bureau Chief of the Associated Press Wire Services; GA Press Association; GA Association of Broadcasters.	The IV team will place intravenous ports into the veins of both arms of the condemned. The heart monitor leads will be applied to the condemned. If the veins are such that an IV cannot be started, a contract physician will perform the cut down procedure to establish an intravenous port. Witness room curtains will be opened. The execution is carried out. The witnesses are not escorted out nor are the window curtains closed until death has been announced.

ID	Does mention witnesses in the protocol but does not define who they are and how many are authorized.	No information was provided in the protocol.	No information was provided in the protocol.
IL	Does mention witnesses in the protocol but does not define who they are and how many are authorized.	No information was provided in the protocol.	No information was provided in the protocol.
IN	Mentions witnesses but only specifies two staff members in the room during the process; the offender is allowed up to ten individuals.	No information was provided in the protocol.	No information was provided in the protocol.
KS	No information because a protocol does not exist.	No information because a protocol does not exist.	No information was provided in the protocol.
KY	No information because a protocol does not exist.	No information because a protocol does not exist.	No information was provided in the protocol.
LA	Warden, coroner of West Feliciana Parish or deputy. The warden chooses a physician and a competent person to administer the lethal injection. A Priest, minister or religious advisor if requested by the inmate. Not less than five, or more than seven, other witnesses are required by law to be present. Victim relationship witnesses are authorized to attend the execution; such witnesses may be limited to two.	Of the number of reporters, between five and seven, three will be news media who agree to act as pool reporters.**	The witnesses are brought into the witness room. The inmate is brought into the execution room. Once properly secured to the table, the curtain to the witness room is closed. The IV is put in. The curtain is re-opened and the execution continues.

TABLE 18, CONT.

State	General Witnesses	Media Witnesses	Specification of What and When Media Can View
MD	Must be a citizen of Maryland and at least eighteen years of age; they must also send a letter specifying why they want to witness.	No information was provided in the protocol.	No information was provided in the protocol.
MS	Sheriff or deputy of the county of the inmate's conviction; two physicians; up to two members of the clergy as requested by the offender; two members of the offender's family. Anticipate adding two members of victim's family.	Up to eight credentialed members of the media. Anticipate limiting to the number four.	The condemned offender is escorted from the holding cell and strapped to the gurney. Catheters are placed in each arm and a saline solution is started. Witnesses are then escorted into the observation rooms. After death is confirmed the witnesses are escorted out of the room.
MO	Mentions witnesses but specifies only that the chaplain and psychologist shall be available to counsel witnesses as necessary following the execution.	No information was provided in the protocol.	No information was provided in the protocol.
MT	No more than twelve. The condemned may choose three; the family of the victim may choose three; state witnesses shall be selected by the Department Director to be part of the twelve.	News media allowed to choose three.	No information was provided in the protocol.
NV	Information is confidential.	Information is confidential.	Information is confidential.
NH	No information because a protocol does not exist.	No information because a protocol does not exist.	No information because a protocol does not exist.

NJ	<p>The Commissioner shall select six adult citizens and two alternates who have volunteered to witness the execution. Two clergy, at the request of the condemned, who are not related to the condemned, are permitted to attend. Anyone who is related by blood or marriage to the sentenced person or to the victim is not authorized to be present at the execution.</p>	<p>Eight media from four categories.</p>	<p>No information was provided in the protocol.</p>
NM	<p>The warden, physician, attorney general of state; at least twelve reputable citizens; two ministers of the gospel named by the condemned; a maximum of five inmate relatives or friends; peace officers chosen by the Warden. Any person currently under supervision of any corrections or judicial system, or any person under eighteen, is denied to witness an execution.</p>	<p>Those media requested by the Warden.</p>	<p>Catheters are placed in each arm before the witnesses are summoned to the death chamber viewing room. They are escorted out after a physician has pronounced death.</p>
NY	<p>Up to fourteen Supreme Court Justice; inmate's attorney; D.A. & Sheriff of the county of conviction; two adult citizens; four friends or relatives chosen by the inmate.</p>	<p>Up to four.</p>	<p>Two angiocaths are setup one in each forearm or other useable vein before the witnesses can view the execution. Once the chemicals have been injected the curtain is enclosed. A physician is called to pronounce death. If death is not pronounced, an announcement is made to the witnesses. The physician exits, the curtain is raised and the procedure is repeated. Once the physician pronounces death the curtain is raised and the death is officially pronounced to the witnesses.</p>

TABLE 18, CONT.

State	General Witnesses	Media Witnesses	Specification of What and When Media Can View
NC	Sixteen maximum. This includes prison staff that could mean the warden, or designee. A surgeon or physician, four respectable citizens, two members of the crime victim's family, the district attorney and sheriff of the county of conviction and their choice two witnesses each. The convicted the felon can have counsel and any representatives of the felon, a minister or ministers. If the two witnesses per crime victim's family decline, then the district attorney may fill their seats as the district attorney chooses.	Five who will act as pool reporters to brief other reporters. **	The inmate is secured with lined ankle and wrist restraints to a gurney in the preparation room outside the chamber. Cardiac monitor leads and a stethoscope are attached. Two saline intravenous lines are started, one in each arm, and the inmate is covered with a sheet. The inmate is then wheeled into the execution chamber and the curtain is raised.
OH	Three witnesses for the inmate; three witnesses representing the victim; one clergy or spiritual advisor.	Five, three of which are pool reporters.**	The condemned prisoner will be placed on the bed and strapped down. Intravenous injection tubes will then be inserted. Witnesses are then escorted into the death house. Once the execution cycle is completed, the curtains are drawn and the designated personnel will examine the body and pronounce the prisoner dead.

OK	The warden, a doctor, DA, trial judge, police chief, sheriff, two clergy; five inmate family members; victim family members who request to attend but the number allowed is up to the warden's discretion.	Twelve media representatives.	No information because a protocol was not provided.
OR	One or more physicians; the attorney general; county sheriff and district attorney; one or more of the victim's relatives; no more than five inmate friends or relatives; no more than two religious representatives. Other people, including peace officers, may be invited at the discretion of the superintendent. Witnesses must be at least age eighteen, pass a security check, and be properly attired.	Five Oregon media representatives chosen from among the Association of Broadcasters, Oregon Newspaper Publishers' Association, and Associated Press to act as pool for other media.**	Following insertion of the intravenous catheters the witnesses are escorted to the witness area.
PA	No information because the protocol was not provided.	No information because a protocol was not provided.	No information because a protocol was not provided.
SC	Three members of the victim's family unless there is more than one victim, then the Corrections' director can limit to one per family; a minister of the gospel; inmate's counsel; chief law enforcement officer or designee; solicitor or assistant solicitor in the county where the offense occurred.	Three representatives: one print, one broadcast, and one from the dominant wire service.	No information because a protocol was not provided.

TABLE 18, CONT.

State	General Witnesses	Media Witnesses	Specification of What and When Media Can View
SD	<p>The warden, attorney general, trial judge, state's attorney, sheriff, and up to ten additional citizens including one media representative. The warden shall arrange for the attendance of the prison physician and two other licensed physicians of the state. At the request of the defendant, the warden must also permit ministers of the gospel, priests or clergymen of denomination chosen by defendant not exceeding two, and any relatives or friends requested by the defendant not exceeding five.</p>	<p>At least one media representative from the ten additional citizens.</p>	<p>The protocol describes the placement of the IV into both arms of the inmate under the Preparation Section. It is assumed the witnesses do not witness this portion of the execution.</p>
TN	<p>Staff authorized in the capital punishment complex are: commissioner or designee, warden, deputy warden, administrative assistant, death watch supervisor and assigned officers, chaplain, medical doctor and associate, executioner, IV team, extraction team. The warden or commissioner must approve any exceptions to the above. Immediate family members of the victim are mentioned but the number is not specified.</p>	<p>Once the sentence has been carried out, the media will be so notified by the designated information officer.</p>	<p>The IV Technicians will insert a catheter into each arm, attach the tubing, and start an IV consisting of saline solution. The IV team will then leave the chamber. Official witnesses will then be secured in the official witness room. Following the completion of the injection process, and a five-minute waiting period, the blinds to the official witness room are closed. While the physician examines the body the curtain remains closed. Whether the inmate is declared to be still alive or dead, the warden will have the curtains raised so that the witnesses can view what will follow.</p>

TX	Up to five requested by the inmate and five for victim family members.	Five media representatives who must agree to act as pool reporters. **	An intravenous catheter shall be inserted into the condemned person's arm and cause a saline solution to flow. The witnesses shall then be escorted into the execution chamber.
UT	Five witnesses of the condemned's choosing; government witnesses will be identified; two officers visiting from another state reviewing the execution procedure may be present; two members of Attorney General's office; up to two prosecuting attorneys; two members of the investigative law enforcement agency; two individual with an expertise of the history of execution policy; up to four members of the victim's family; department employees such as the warden may participate as well.	Was nine but now up to the Executive Director to decide the number.	No information because a protocol was not provided.
VA	Those individuals allowed to participate: a member of the clergy; the victim's family, who view from a separate room adjacent to the death chamber; media witnesses; and citizen witnesses.	Are allowed to participate, but the number is not specified.	The inmate is escorted into the chamber just prior to the appointed hour. The curtains separating the witness room and the execution chamber remain open until the inmate is restrained to the table. Once the inmate is restrained, the curtains are closed and remain closed until the IV lines have been established, normally, one in each arm. When the Director is informed that death has occurred, the curtains are closed and the witnesses are escorted from the Death Chamber.

TABLE 18, CONT.

State	General Witnesses	Media Witnesses	Specification of What and When Media Can View
WA	One representative from the victim's family; one representative from the inmate's family; the superior court judge who signed the death warrant; the inmate's attorney; a county prosecuting attorney.	A maximum of twelve.	No information was provided in the protocol.
WY	The Director of the DOC and anyone deemed necessary to assist him or her; two physicians, which include the prison physician; the inmate's spiritual advisor; the penitentiary chaplain if not the same as one chosen by the inmate; the sheriff of the county where the inmate was convicted; no more than ten relatives or friends requested by the prisoner.	No information was provided in the protocol.	No information was provided in the protocol.

* All lethal injection protocols and communications are on file with the author at Fordham University School of Law. The sources for the protocols and communications can be found in *infra* app. 1, tbl. 20, app. 3. Much of the wording in this table is taken verbatim from the protocols.

** Five states mention a limited number of media witnesses who must agree to act as pool reporters who will report to other media following the witnessing of the execution: Louisiana, North Carolina, Ohio, Oregon, and Texas.

TABLE 19*
A BREAKDOWN OF STATES WITH PUBLIC OR PRIVATE LETHAL
INJECTION PROTOCOLS

I. STATES WITH COMPLETE PUBLIC PROTOCOLS (19 STATES)

Arizona	Arkansas	California	Colorado
Connecticut	Florida	Georgia	Idaho
Illinois	Montana	New Jersey	New Mexico
New York	North Carolina	Oklahoma	Oregon
South Dakota	Texas	Washington	

II. STATES WITH A PARTIALLY PRIVATE PROTOCOL (12 STATES)

These states were contacted by phone or email for at least some necessary information because that information was not available in the state's protocol.

Delaware	Indiana	Kansas
Louisiana	Maryland	Mississippi
Missouri	New Hampshire	Ohio
Tennessee	Utah	Wyoming

III. STATES WITH A PRIVATE PROTOCOL (5 STATES)

These states did not provide any of the requested information or they provided only a portion of the requested information.

Kentucky	Nevada
Pennsylvania	South Carolina
Virginia	

* All lethal injection protocols and communications are on file with the author at Fordham University School of Law. The sources for the protocols and communications can be found in *infra* app. 1, tbl. 20, app. 3.

TABLE 20
ALL SOURCES FOR THE LETHAL INJECTION PROTOCOLS IN 36 STATES

Arizona	ARIZ. DEP'T OF CORR. WEBSITE, ARIZONA STATE PRISON COMPLEX - FLORENCE, <i>Execution Information</i> , at http://www.adc.state.az.us/florenceHist.htm (last visited June 13, 2001) (containing information regarding lethal injection including the chemicals) (on file with Fordham Law School); see also Susan Leonard, <i>Death's Price: Three Killers Cost \$155,000 to Execute</i> , ARIZ. REPUBLIC, Apr. 18, 1993, at B1.
Arkansas	Telephone Interview with Marcia White, Public Information, Arkansas Department of Correction (June 11, 2001) (confirming no updates to the procedure since publication of the ARK. DEP'T OF CORR. PROC. FOR EXECUTION).
California	CAL. DEP'T OF CORR. WEBSITE, CALIFORNIA EXECUTION PROCEDURES: LETHAL INJECTION at http://www.cdc.state.ca.us/issues/capital/capital4.htm (last visited June 13, 2001) (mentioning the chemicals in the injection and saline and noting some procedural changes) (on file with Fordham Law School).
Colorado	COLO. DEP'T OF CORRECTIONS WEBSITE, CAPITAL PUNISHMENT IN COLORADO at http://www.doc.state.co.us/DeathRow/DeathRow.htm (last visited July 31, 2001) (describing the procedure that occurs on execution day and providing a breakdown of execution methods) (on file with Fordham Law School).
Connecticut	STATE OF CONN. DEP'T OF CORR., PUB. DEFENDERS OFF., ADMINISTRATIVE DIRECTIVE 6.15 at 7-8 (July 23, 1997) (accuracy verified Apr. 15, 2001) (mentioning the chemicals and their quantity). Telephone Interview with Heather Zimba, Public Information Officer, Conn. Dep't of Corr. (Mar. 24, 2001) (stating that as of Apr. 25, 2001, all the chemicals are the same).
Delaware	Telephone Interview with Gail Stallings Minor, Community Relations, Delaware Department of Corrections (Apr. 25, 2001) (providing chemicals only) at http://www.state.de.us/data/deathp_history.html (providing protocol).
Florida	<i>Sims v. State</i> , 754 So.2d 657, 666 n.17 (2000) (describing general execution protocol in the context of one specific execution). FLA. DEP'T OF CORRECTIONS WEBSITE, EXECUTION DAY PROCEDURES at http://www.fcc.state.fl.us/fcc/reports/methods/emcont.html (applying to executions after Jan. 28, 2001).

TABLE 20, CONT.

Georgia	GA. DEP'T OF CORR., LEGAL OFF., ADMINISTRATIVE AND EXECUTION PROCEDURES: DEATH SENTENCE: LETHAL INJECTION at 25-26 (May 1, 2000) <i>available at</i> http://www.dcor.state.ga.us/research_reports/html/deathPenalty.html (providing description of chemicals and procedure in which they are administered).
Idaho	IDAHO DEP'T OF CORR., POLICY AND PROCEDURE MANUAL: EXECUTION PROCEDURES § 135 at 4 (Jan. 1994) (listing the chemicals in the injection and mandating that injection shall be through intravenous catheter).
Illinois	Telephone Interview with Nick Howell, Public Information Officer, Illinois Department of Corrections (Apr. 9, 2001) (listing the execution drugs). Facsimile from Nick Howell, Public Information Officer, Illinois Department of Corrections to Daniel Auld, Research Assistant, Fordham Law School (containing the drugs in the lethal injection and listing the execution procedure).
Indiana	Telephone Interview with Pam Pattison, Public Information Officer, Indiana Department of Corrections (March 26, 2001) (providing information including lists of the chemicals and saline). Facsimile from Pam Pattison, Public Information Officer, Indiana Department of Corrections to Daniel Auld, Research Assistant, Fordham Law School (Aug. 7, 1997) (providing Criminal Law and Procedure Code 35-38-6-4, Indiana Criminal and Vehicle Handbook 35-38-6-5, Department of Correction Information Statement referring to the execution of Tommie Smith (July 18, 1996) and letter listing chemicals used and procedure steps). Letter from Barry Nothstine, Public Information Officer, Indiana State Prison to Daniel Auld, Research Assistant, Fordham Law School (July 18, 1996) (containing written chronology of the events of the execution of Tommie Smith).
Kansas	Telephone Interview with Bill Miskell, Public Information Officer, Kansas Department of Corrections (June 19, 2001) (explaining that specific protocols are not yet in policy because no inmates are nearing execution).
Kentucky	KRS CH. 431.220 (1998), Ky. Revised Statutes, <i>available at</i> http://162.114.4.13/KRS/431-00/CHAPTER.HTM (last visited June 13, 2001) (on file with Fordham Law School) (providing information on execution of the death penalty). Telephone Interview with Brenda Priestly, General Counsel's Office (Mar. 14, 2001) (stating that they don't have a policy).

TABLE 20, CONT.

Louisiana	Telephone Interview with Cathy Fontenot, Director of Classification, Warden's Office, Louisiana Department of Public Safety and Corrections (Apr. 24, 2001) (providing chemicals only). Facsimile from Melissa Cook, Information Services Attorney, Louisiana Department of Public Safety and Corrections to Daniel Auld, Research Assistant, Fordham Law School (providing execution protocol) (Apr. 4, 2001). Telephone Interview with Stephanie Lamartiniere, Warden's Executive Services Assistant (August 22, 2001) (stating that there are 16 inmates on death row who were put there before the statute change of September 1991, which specifies that these people would be executed by electrocution, and confirming that they will all be executed by lethal injection because Louisiana no longer executes by electrocution). Telephone Interview with Cathy Fontenot, Director of Classification, Louisiana State Penitentiary (Aug. 22, 2001) (noting that after Louisiana's 1991 switch to lethal injection, all death warrants issued by judges have specified execution by lethal injection irrespective of the wording of the Louisiana state statute).
Maryland	MD. DEP'T OF PUB. SAFETY & CORRECTIONAL SERVICES WEBSITE, DIVISION OF CORRECTION <i>at</i> http://www.dpscs.state.md.us/doc/witnesses.htm (last visited July 31, 2001) (on file with Fordham Law School) (providing information regarding execution witnesses, policy, and procedure); electronic mail from Priscilla Doggett, Public Information Officer, Maryland Department of Corrections, to Daniel Auld, Research Assistant, Fordham Law School (July 20, 2001) (confirming chemicals used in lethal injection).
Mississippi	Electronic mail from Jennifer Griffin, Communications Director, Mississippi Department of Corrections, to Daniel Auld, Research Assistant, Fordham Law School (July 5, 2001) (providing chemicals used, witnesses allowed, and description of the execution process).
Missouri	Telephone Interview with John Fougere, Public Information Officer, Missouri Department of Correction (May 14, 2001) (providing chemicals only). Letter from Tim Kniest, Public Information Officer, Missouri Department of Corrections to Daniel Auld, Research Assistant, Fordham Law School (Sept. 9, 1997) (providing Missouri Department of Corrections Capital Punishment Procedures, seventeenth revision from July 19, 1995).
Montana	Letter from Mike Cronin, Public and Victim Information Specialist, Montana Department of Corrections, to Robert Cowie, Research Assistant, Fordham Law School (Jan. 5, 2000) (on file with Fordham Law School) (mentioning the chemicals' names and quantities and use of saline). Electronic mail from Ellen Bush, Public Information Office, Montana Department of Corrections, to Daniel Auld, Research Assistant, Fordham Law School (providing changes to the policy including mention of the lethal injection); <i>see also</i> Dep't of Corr. Policies and Procedures § 3.6.1 (Jan. 1, 1998) (revised June 15, 2000).

TABLE 20, CONT.

Nevada	NEV. DEP'T OF CORR. WEBSITE, NEVADA DEPARTMENT OF PRISONS: ORGANIZATION: DEATH PENALTY at http://prisons.state.nv.us/prison%20organization.htm (last visited June 13, 2001) (on file with Fordham Law School) (stating that the lawful method of execution is by means of lethal injection). Letter from Glen Whorton, Chief of Classification and Planning, Nevada Department of Prisons, to Daniel Auld, Research Assistant, Fordham Law School (Aug. 29, 1997) (stating that they cannot disclose any information concerning their protocol for lethal injection).
New Hampshire	Telephone Interview with Jeff Lyons, Public Information Officer, New Hampshire Department of Corrections) (June 20, 2001) (stating that there is no procedure due to lack of necessity, but mentioning that there is policy in drafting stages that will probably resemble that of other states).
New Jersey	Death by Lethal Injection at 10, New Jersey Office of Health Services, Supp. 1118-96 (n.d.) (citing the passage of Legislative Bill No. 1851 as providing the legal basis to establish execution by lethal injection). Chapter 23, Lethal Injection, 10A: 23-1.1 to 2.21. The document entitled Death By Lethal Injection was provided by the Office of the Health Services and The State Prison, Trenton. Timothy Ireland, <i>Death Machine Target of Criticism</i> , THE COURIER-POST, Oct. 21, 1990, at 1A. Michael de Courcy Hinds, <i>Making Execution Humane (or Can It Be)</i> , N.Y. TIMES, Oct. 13, 1990, at 1. Telephone Interview with Kim [reluctant to reveal last name], Public Information Office, New Jersey Office of Health Services (Aug. 15, 2001) (confirming that the syringes used in the injection are 800 cc, not 80, but the policy is being updated so some information will change).
New Mexico	Facsimile communication from Gerges Scott, Public Information Officer, New Mexico Department of Corrections, to Daniel Auld, Research Assistant, Fordham Law School (May 30, 2001) (on file with Fordham Law School) (providing execution policy from Penitentiary of New Mexico); <i>see also</i> Telephone Interview with John Shanks, Deputy Secretary for Operations with the New Mexico Department of Corrections (Aug. 3, 2001) (explaining that there are no inmates on New Mexico's death row who were there before 1979, when the lethal injection statute was enacted).
New York	N.Y. STATE DEP'T OF CORR., PROCEDURES FOR THE OPERATION OF THE CAPITAL PUNISHMENT UNIT GREEN HAVEN CORRECTION FACILITY § V pts. A-C at 7 (describing the procedure for the lethal injection and mentioning the chemicals and the use of saline). Letter from Linda Rocclia, Public Information Office, New York State Department of Corrections, to Daniel Auld, Research Assistant, Fordham Law School (Apr. 18, 2001) (including detailed information about the lethal injection).

TABLE 20, CONT.

North Carolina	N.C. DEP'T OF CORR. WEBSITE, EXECUTION METHODS, LETHAL INJECTION at http://www.doc.state.nc.us/dop/deathpenalty/executio.htm (last visited June 13, 2001) (on file with Fordham Law School) (mentioning the name and quantity of each chemical and noting saline). Telephone Interview with Pam Walker, Public Information Office, North Carolina Department of Corrections (Aug. 15, 2001) (confirming that term "each" listed with each chemical in injection posted on internet refers to vials and that quantity of pavulon is 12 vials of 5 ml).
Ohio	Telephone Interview with Joe Andrews, Communications Chief, Ohio Department of Rehabilitation and Correction (June 20, 2001) (providing information regarding chemicals and witnesses). Telephone Interview with JoEllen Culp, Public Affairs Liaison, Ohio Department of Rehabilitation and Correction (providing information concerning policy issued in compliance with OHIO REVISED CODE §§ 5120.01-.09 (effective Apr. 12, 2001).
Oklahoma	OKLA. DEP'T OF CORR. WEBSITE, CAPITAL PUNISHMENT: EXECUTION PROCESS at http://204.62.19.52/DOCS/CapitalP.htm (last visited June 13, 2001) (on file with Fordham Law School) (listing the chemicals in the injection and mentioning saline). Telephone Interview with Lee Mann, Assistant to the Warden, Public Information Office, Oklahoma Department of Corrections (providing information concerning witnesses).
Oregon	OR. DEP'T OF CORR. WEBSITE, INTERESTING INFO: MISCELLANEOUS CAPITAL PUNISHMENT FACTS at http://www.doc.state.or.us/publicaffairs/cap_punishment/deathrst.shtml (last visited June 13, 2001) (on file with Fordham Law School) (mentioning the chemicals used in the injection).
Pennsylvania	Penal & Correctional Institution of the Commonwealth of Pennsylvania, Method of Execution, PA. § 2121.1 (n.d.) (mentioning the use of lethal injection without specifying the chemicals to be used) available at http://www.dpscs.state.md.us/doc/witnesses.htm . Telephone Interview with Susan McNaughton, Press Office, Penal & Correctional Institution of the Commonwealth of Pennsylvania (Aug. 20, 2001) (stating that aside from what is on the internet, the protocol policy is confidential).
South Carolina	S.C. DEP'T OF CORR. WEBSITE, CAPITAL PUNISHMENT at http://www.state.sc.us/scdc/capitalpunishment/capitalpunishment.htm (last visited July 31, 2001) (providing information regarding facility, witnesses, and procedure).

TABLE 20, CONT.

South Dakota	Place and Manner of Execution – Qualifications to Perform – Exemptions, S.D. § 23A-27A-32 (August 23, 2000) <i>available at</i> http://legis.state.sd.us/statutes/index...statute&txtstatute=22-16&findtype=statute (mentioning the use of lethal injection without specifying the chemicals to be used). Telephone Interview with Michael Winder, Policy and Information Specialist, South Dakota Department of Corrections (Aug. 20, 2001) (stating that there have been statute changes, but no updates regarding the lethal injection components, providing execution guidelines containing information on last meal, chemicals in injection and other execution information, and stating that they do not have a formal policy right now, they may edit guidelines at any time, and they have not executed anyone in 50 years and have never used lethal injection).
Tennessee	Telephone Interview with Steve Hayes, Public Information Officer, Tennessee Department of Correction (May 14, 2001) (providing information about the chemicals in the lethal injection). Facsimile sent to Daniel Auld, Research Assistant, Fordham Law School (Aug. 22, 2001) (describing day of execution and listing quantities of chemicals in lethal injection).
Texas	TEX. DEP'T OF CRIM. JUST. INSTITUTIONAL DIVISION, PUB. INFO. OFF., EXECUTION PROCEDURES OF INMATES SENTENCED TO DEATH at 2 (Aug. 19, 1997) (verified Apr. 23, 2001) (listing the chemicals used in the injection). Facsimile sent from Texas Department of Criminal Justice to Daniel Auld, Research Assistant, Fordham Law School (Aug. 19, 1997) (including Code of Criminal Procedure Art. 43.14-125); <i>see also</i> http://www.tdcj.state.tx.us/statistics/stats-home.htm .
Utah	UTAH DEP'T OF CORR. WEBSITE, FREQUENTLY ASKED QUESTIONS <i>at</i> http://www.udc.state.ut.us/community/faq/index.html (last visited July 31, 2001) (providing methods of execution).
Virginia	Letter from Larry Traylor, Director of Communications, Virginia Department of Corrections, to Daniel Auld, Research Assistant, Fordham Law School (June 20, 2001) (on file with Fordham Law School) (describing protocol for electrocution and lethal injection).
Washington	Telephone Interview with Laurie Scammerhorn, Division of Prisons Field Instruction, Washington Department of Corrections (Apr. 25, 2001) (confirming mention of chemicals and their quantity in the DEP'T OF CORR. DIV. OF PRISONS FIELD INSTRUCTION No. WSP410.500). Capital Punishment Case Status Report from the Capital Litigation Team and Christine O. Gregiore, Attorney General of the State of Washington (Apr. 15, 1997). Capital Punishment/ISDP Inmates Field Instruction, No. WSP410.500 from Division of Prisons (issued Dec. 8, 1993) (effective Jan. 8, 1994). WASH. DEP'T OF CORR. WEBSITE, DEP'T. OF CORR. POLICY, Capital Punishment, No. 490.200 (effective Sept. 3, 1993) & 760.001 <i>at</i> http://www.wa.gov/doc/Content/faq/cp_policy.htm .
Wyoming	Telephone Interview with Melinda Brazzale, Wyoming Department of Corrections (June 20, 2001) (providing chemicals and information regarding witnesses and execution rooms).

