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Kent Bush: Capital punishment raises questions

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Asking the wrong questions always leads to the wrong answers.

When considering the death penalty, the question may not be whether it is right or wrong, but is it worth the cost.

Since the companies in the European Union that produce a key ingredient of the chemical cocktail used to carry out the death penalty began withholding them from the United States as a protest against their use in executions, the method used to exact the state's most severe punishment has come back under fire.

More than 35 years ago, the U.S. Supreme Court signed off on the chemicals used in lethal injections. With sodium thiopental — the first drug used in the process that renders inmates deeply unconscious — being withheld by European companies, states that still use the death penalty are forced to use different combinations of drugs.

Oklahoma and Ohio have both had difficult executions since the change in chemicals. Part of the problem appears to be the chemicals used and part in how they are administered.

Thursday night, Oklahoma ended a nine-month hiatus from capital punishment when Charles Warner was executed. Warner earned his trip to death row by raping and killing the 11-month old daughter of his roommate. Because that crime landed him on death row, he hasn't even been forced to stand trial for the abuse and rape of a 5-year-old girl.

It is going to be difficult to convince me that anything we do to bring his life to an end was overly cruel or unusual.

Warner did his best to convince courts and medical personnel that the process should be stopped.

“Before I give my final statement, I'll tell you they poked me five times. It hurt. It feels like acid,” he said as the execution process began. “I'm not a monster. I didn't do everything they said I did. My body is on fire.”

The only physical signs that Warner even felt the effects of the drugs was a slight twitching in his neck for a few minutes. That will make it hard to make a case that the punishment is cruel and or unusual. When compared to the crimes he was convicted of and accused of that he never faced trial for, I don't expect an outpouring of sympathy.

As a member of the media, I witnessed executions using the former combination of drugs. I never walked out of that chamber with any sympathy for the felon whose sentence was carried out. My focus has always been on those families whose last hope for closure came after the person who devastated their lives was finally out of the picture for good.

I don't think criminals have a constitutional right to know what chemicals will be used to fulfill their death sentence. The information should be a public record, but the fact that it isn't doesn't appear to violate Eighth Amendment protections.

However, we don't intentionally torture these convicts to death because we are not knit together with the same evil thread that became knotted in the consciousness of those facing the state's ultimate punishment.

I also wonder if death sentences accomplish any goal beyond vengeance. I understand the desire for vengeance, but is it worth the increased risk and costs involved?

There are three arguments I would consider for abolishing the death penalty in its entirety.

First, the death penalty is impossible to overturn if you find a mistake after the sentence is carried out. That's a valid argument. However, that can be resolved easily enough by raising the bar even higher when deciding which cases are eligible for the death penalty.

Second, the death penalty tends to be more attractive to juries considering the fate of minority defendants — especially minority defendant accused of crimes against white people.

The executions I witnessed were white males. But statistics show that poor minorities face a far greater likelihood of being executed. Being represented by court-appointed counsel with limited budgets compared to private practice defense attorneys obviously plays a role in this inequity. Once again, the argument is valid but could be easily — if not inexpensively — resolved.

The final argument that is exemplified in the recent Oklahoma actions will never be resolved. Thanks to the severity of the punishment, and the fact that no one wants to execute the wrong person, death row inmates have increased access to courts and that is very expensive. It can cost four times as much to try a suspect facing the death penalty. It usually costs far more to house them and hear their appeals and motions as well.

I have no problem with the death penalty, but I am willing to consider whether life in jail with no chance for parole wouldn't be a less risky and more efficient way to punish the worst among us.

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