the KILLING STATE

A special issue covering capital punishment in Missouri from A to Z
Special Issue

In the ongoing capital punishment debate, citizens and lawmakers grapple with the ethics, costs and logistics of the evolving practice. Twelve writers explore the issue in Missouri from A to Z. PAGE 4

A: ANESTHESIOLOGISTS
Healthcare providers vow to do no harm, however, doctors question the role of anesthesiologists in lethal injections. PAGE 6

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Columbia Daily Tribune reporter Alan Burdziak recounts his experience observing a Missouri execution as an official state witness. PAGE 20

COVER DESIGN: Madalyne Bird
COVER PHOTO: Pat Sullivan/The Associated Press
This photo depicts the execution room in Texas. Our staff was denied access to the one in Missouri (See I: Information) at Eastern Reception, Diagnostic and Correctional Center.

Correction: Vox incorrectly identified the Gulfstream III, an Air Force-operated jet, in the April 23 issue.

FROM THE EDITOR

I always avoid the death penalty argument. I’ve never liked polarity, and I’m not combative. So, when people ask me whether I support capital punishment, I refuse to answer. I don’t want to bicker when a complex topic has been whittled down to a one-word response. For or against? It’s not that simple.

You can imagine, then, how this week’s magazine challenged my tight-lipped stance. This issue is about capital punishment and only capital punishment. It comprises an entire alphabet’s worth of stories, starting with A: Anesthesiologists and ending at Z: Zip Codes, that detail the misinformation, and often missing information, about Missouri’s most controversial punishment. For someone who doesn’t want to talk about whether the death penalty is right or wrong, that’s 26-plus articles confronting a tense, and justifiably sensitive, topic.

Yet, despite my personal reservations, as editor-in-chief of Vox, I believe this kind of in-depth analysis deserves a place in our conversations, much for the same reasons uninformed life-or-death disputes do not. Our 12 writers spent three months looking into national headlines such as forensic oversight and botched executions; hounding the Missouri Department of Corrections for answers and data they were never given; tallying the racial disparity among capital punishment inmates; venturing into gas chambers; and retrieving eyewitness execution accounts. To say the death penalty is too complicated for a one-or-the-other answer is an understatement.

But as writer Shawn Shinneman notes in this issue’s introduction, the goal of this report, this encyclopedia, is to inform, and it does. Whether you take sides on this issue is up to you, but if you do, you should understand what you believe in.
Radar  Capital punishment headlines across the nation

"We are in favor of and would support the Department of Justice in taking the death penalty off the table in exchange for the defendant spending the rest of his life in prison.”

— Bill and Denise Richard

Dzhokhar Tsarnaev was convicted of 30 criminal counts in the Boston Marathon bombing. His trial has now entered the sentencing phase. The parents of Martin Richard, an 8-year-old boy killed in the bombing, wrote an open letter to the Department of Justice on April 17 calling for Tsarnaev’s life to be spared.

In a joint statement released by the FBI and Justice Department on April 20, FBI forensic examiners admitted they overstated the accuracy of hair DNA matches, which could have skewed results in favor of the prosecution for more than two decades. So far, 32 capital cases have been found to have flawed evidence; 14 of those inmates have either died in prison or been executed.

The number of death sentences handed down across the U.S. between 1973 and 2013.

After botched executions and the decreasing availability of lethal injection drugs, Utah reinstated the firing squad as an execution method in March. Here’s how that happened and what’s coming next:

- June 2010: Ronnie Lee Gardner is put to death by firing squad in Utah. He was sentenced before the state abandoned this method in 2004 and is the last inmate executed by firing squad before the March decision.
- January 2011: Hospira, a major producer of lethal injection drugs, halts production. States begin looking for other suppliers.
- April 2014: Using a new drug cocktail, Oklahoma mishandles the execution of Clayton Lockett, who regains consciousness during his lethal injection.
- March 2015: Utah reinstates death by firing squad.
- April 2015: South Carolina legislature introduces a bill approving death by firing squad.

Also known as nitrogen hypoxia, this method of execution starves the body of oxygen. A person loses consciousness within 10 seconds and death occurs within a few minutes.

On April 17, Oklahoma Gov. Mary Fallin signed a bill making nitrogen gas the state’s official execution back-up method to lethal injection drugs. When the bill’s poster boy, Michael Copeland, testified about the method’s effectiveness, he used YouTube videos of people passing out from breathing helium.

**Glossip v. Gross**

The case currently under review by the U.S. Supreme Court. Three Oklahoma capital punishment inmates argue the three-drug, lethal injection cocktail adopted by many states denies Eighth Amendment protection against cruel and unusual punishment. In recent news, failure of the first drug, a sedative, has led to painful executions.

**false follicles**

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**statistic of the Union**

8,466

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**Time Warp**

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**nitrogen asphyxiation**

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Written by: Miles Dobis, Nicole Eno, Alaina Lancaster, Cecilia Meis, Lauren Rutherford
the DEATH PENALTY IN MISSOURI from A to Z
Last year, 35 people were executed in the U.S. Missouri accounted for 10 of them, its highest number ever. As capital punishment has dwindled nationally, Missouri has jumped into the spotlight of an increasingly complex and controversial topic. Missouri is one of the death penalty states that has introduced new pharmaceuticals used in lethal injections and tinkered with the proportions of its drug cocktails — but it has done so with minimal testing and varying degrees of success and with protocols hidden, by law, from the public. Missouri continues its procedures despite a recent history of botched executions in other states; and despite the U.S. Supreme Court's intention to decide, for the first time since 2008, whether lethal injections violate Eighth Amendment protection against cruel and unusual punishment; and despite pharmacists’ and physicians' voiced condemnation of the process. In March, the American Pharmacists Association passed guidelines discouraging sales of drugs used for lethal injections, and the American Medical Association firmly states that physicians should not participate in executions.

The method of execution isn’t the only issue that has drawn criticism. Missouri recently executed a man who was missing a part of his brain. Since November 2013, the state has executed three men before their appeals had been exhausted. In 2013, Gov. Jay Nixon sent panic through the medical community when he originally refused to back down from the state's plan to use the anesthetic propofol, even after the European Union, alarmed by states' plans to use the drug in executions, threatened to slow exports. Propofol had reached the Missouri Department of Corrections by mistake and wasn’t returned for nearly a year.

In order to illuminate the varying angles of capital punishment in Missouri, a team of 12 reporters developed this topic into a comprehensive alphabetically ordered guide. Any encyclopedia aims to inform, and we realize the term conjures a boring image, but this is not that type of encyclopedia. We present you with facts (See C: Cost for capital punishment statistics you might not expect), but we also take you inside the old gas chamber at the Missouri State Penitentiary (See G: Gas). We take you back to the first lethal injection in U.S. history (See B: Brooks), and we introduce you to those directly impacted by capital punishment (See F: Family). We also talk to students at MU (See Y: Youth), to see how much they know about the death penalty in their own state.

What does it take to end a life? The people you’ll meet here have already faced that question: on death row, in their Jefferson City offices, in classrooms or courtrooms or wherever thoughts wander. The question isn’t going away, and Missouri stands to be a significant player in death penalty politics for years to come.

— SHAWN SHINNEMAN
In the death chamber, the inmate lies strapped to a gurney. The gurney must be positioned so the anesthesiologist, who’s present at every execution in Missouri, can observe the last moments of life. The anesthesiologist watches the prisoner’s face for signs of pain.

The anesthesiologist begins the execution by inserting a needle into the inmate’s arm, leg, hand, foot, neck, chest or groin. To test the line, he or she runs saline through the tube. Then comes the real thing: first, if approved, a barbiturate that puts the prisoner to sleep one last time. After three minutes and a confirmation of unconsciousness, pancuronium bromide snakes into the bloodstream, followed by more saline and potassium chloride (See P: Pharmaceuticals).

According to MU law professor Paul Litton, if the anesthetic has been incorrectly administered, the inmate feels the paralysis of muscles, including the diaphragm. The dying person has no way to communicate that he or she is suffocating. Then, the potassium chloride hits. Nicknamed “liquid fire,” this drug spreads an excruciating burning sensation throughout the body until it reaches the heart and stops it.

Those opposed to anesthesiologist involvement assert that lethal injections threaten the Eighth Amendment’s protection against cruel and unusual punishment and go against the anesthesiologists’ “do no harm” principle. An anesthesiologist’s presence reduces the risk of errors that could lead to a botched execution, but the American Medical Association, World Medical Association, General Assembly, American College of Physicians, American Public Health Association and American Society of Anesthesiologists all stigmatize medical doctor participation.

“The main feeling is that our role is as healers, and if you get involved in (lethal injections), you’re not playing that role,” says Dr. Alice Landrum, an anesthesiologist, MU associate professor and president-elect of the Missouri Society of Anesthesiologists. “Our medical careers are devoted to learning how to take care of patients and how to provide the best medical care and quality of life to patients. So our training is not geared toward this other activity.”

When medical students become physicians, they take the Hippocratic Oath, a pledge to do no harm. “If the practice were unjust or even, say, barbaric, then a doctor’s participation — the doctor being complicit — is an immoral practice,” Litton says. The physicians’ promise leaves holes in how to handle some controversies. Litton cites ethical gray areas that call on the public to alter its understanding of what doctors do. Why is it socially acceptable for researchers to harm some subjects? Why is it permissible for a military doctor to abandon one patient in favor of one who can quickly return to the battlefield? Why do physicians collaborate on military interrogation techniques? We consent to doctors doing some harm in favor of societal interests.

Dr. David Fleming, a professor of medicine and co-director of the MU Center for Health Ethics, argues that one of the major factors to consider in this debate is the physician’s intent. “That’s not a patient,” he says. “This is typically not someone who’s ill, not somebody where the drugs being administered are being administered for healing purposes.”

In states that don’t require a doctor’s presence, the job often goes to an EMT, who might lack the training to administer lethal drugs, Litton says. He cites examples of the chemical solution being improperly mixed or the catheter being incorrectly inserted.

Some organizations, such as the MSA, condemn the use of drugs that anesthesiologists need for everyday procedures; they argue that using propofol in lethal injections, for instance, could lead to shortages. The manufacturers of propofol, which is used in 95 percent of surgeries, threatened to withhold it from Missouri hospitals if the state started using it for lethal injections. Last year, Department of Corrections Director George Lombardi admitted in a hearing that the state obtained its execution drugs by paying an Oklahoma compounding facility called the Apotheceary Shoppe $11,000 in cash and then having a DOC employee drive the drugs, which should be kept frozen, back to Missouri at room temperature.

Missouri offers its participating anesthesiologists anonymity to protect them from backlash. The physicians go to work at the Department of Corrections, closing the eyes of people no one can really call “patients,” with little more philosophical support than the words of their creed: I tread with care in matters of life and death. If it is given me to save a life, all thanks. But it may also be within my power to take a life; this awesome responsibility must be faced with great humbleness and awareness of my own frailty.
PHOTOS COURTESY OF ASSOCIATED PRESS; MISSOURI DEPARTMENT OF CORRECTIONS

State Sen. Joseph Keaveny pushes for disclosure of the cost of capital punishment

Many states share data that shows the death penalty to be much more expensive than life without parole. But no numbers are currently available on the overall cost of the death penalty in Missouri, and lawmakers oppose Democratic Sen. Joseph Keaveny’s legislation that would call for a state audit of capital punishment. In Missouri, we don’t know the cost of the execution drugs, we don’t know the cost of hiring the execution team, we don’t know the added cost of a sentencing trial, we don’t know the cost of the prosecutors’ added preparation time, and we don’t know the cost of the many extra appeals required for capital punishment. This begs local politicians who campaign with tough-on-crime slogans to answer one question: What do we know about the cost of capital punishment?

— KENDYL KEARLY

BROOKS, CHARLES

He was the first to die by lethal injection

BY SHAWN SHINNEMAN

Before the arguments about three-drug cocktails and one-drug cocktails, before pentobarbital and midazolam; before diazepam and lidocaine; before propofol; before drugs started running out, and pharmacies started backing out, and undisclosed pharmacies appeared instead; before an Oklahoma man, Clayton Lockett, died 43 minutes after the first execution drug was administered; before the U.S. Supreme Court this year said it would take a look at lethal injection procedures because of the mounting troubles with botched executions (of Lockett, of an Ohio man who struggled for 20 minutes before dying, of an Arizona man who hung on for two hours); before Texas became the first to switch its method to lethal injection, a form that seemed cleaner and less dramatic than electrocution; before the injection of drugs would eventually become the accepted form, like the chair or chamber before it, and the rope before that: Charles Brooks Jr. lay fear-eyed on a gurney in Huntsville, Texas, head cocked to one side. Texas Monthly reported that he chanted some of his final words in Arabic, from the Quran, Verily unto Allah we do belong; verily unto Him do we return. And then, for the first time in the history of the United States, a government employee squeezed fatal drugs through a medical line for the purpose of ending an inmate’s life. The drugs took, and the man on the bed rasped and wheezed, and seven minutes after it had begun on Dec. 7, 1982, Brooks was declared dead.

DNA

Missouri is denying Marcellus Williams the advanced DNA testing that could prove him not guilty

Marcellus Williams was sentenced to death for the 1998 murder of Lisha Gayle, a former St. Louis Post-Dispatch reporter. DNA testing at the time of his trial did not point toward a killer, but today’s more advanced technology might. Missouri denied Williams’ request for a DNA retest, but stayed his execution in January without giving a reason. Williams and his lawyer, Kent Gipson, are hopeful the state is changing its decision. “When you’re about to execute somebody,” Gipson says, “why don’t you make sure it’s the right guy?” Go online to read more about Williams’ appeal.

— MEGAN LEWIS

DEATH ROW

Since 1976, Missouri has conducted the fifth most executions in the U.S.

Of the 32 capital punishment inmates, these four men are currently in the glacial process of attempting to reverse or reduce their sentence. Go online to see the full list of Missouri capital punishment inmates.

— CECILIA MEIS

*Technically, Missouri has no death row. Those sentenced to death are called capital punishment inmates and are integrated into the general prison population (See P. Potosi).
Executions typically draw protesters, so Eastern Reception, Diagnostic and Correctional Center in Bonne Terre has space roped off. Margaret Phillips, a death penalty opponent, stands outside the facility on the day of Joseph Paul Franklin’s Nov. 13, 2013, execution.
An oversized cross and a green metal sign mark the border to St. Francois County. Bonne Terre sits a few miles down the line. The name suggests it’s “good earth,” but that was back when mining was on the rise and long before the Eastern Reception, Diagnostic and Correctional Center was built in the field across from the Neubrand family farm.

The 19-building complex sprawls across 76 acres on the north side of Highway K, just an hour south of St. Louis. Four of the buildings are allotted for diagnostic and reception use, while another six house inmates at various levels of security. Some 2,900 prisoners live on the grounds. They have a chapel, gym, library, medical unit, electric fence with warnings in multiple languages and an expansive parking lot that features a driveway named No More Victims Lane. For the past decade, the Missouri Department of Corrections’ most serious offenders have been executed in the outskirts of Bonne Terre.

On a Saturday morning, the prison landscape also includes a handful of people waiting in uncomfortable plastic chairs inside one of the sand-colored buildings. A man and a woman in blue uniforms sit behind a long desk while more stare at computers in a control room behind tinted glass. Decoration is limited to word-processed notices and signs telling you what not to do.

Two visitors pass through the glass door and approach the desk. The newcomers announce that they’re here to visit their son. Without leaving her seat, the female guard studies the couple. “You can’t wear jeans with holes in them,” she says flatly. “You can go to the dollar store.” “We’re not from here,” the woman replies. “You can’t have anything that’s tight or with writing on the side,” the guard adds. “You don’t want them tight.” “Why?” “Because we have offenders here.” People in the waiting room pretend not to listen.

The couple storms out of the waiting room, through the front door and past the flower bed with a marker proclaiming 25 years of rebuilding lives. They drive down No More Victims Lane and turn right onto Highway K, past the Neubrand farmhouse, and head toward the dollar store.

Dollar General is the closest store to the ERDCC. When out-of-towners are searching for prison-approved clothes, they come here, where the shelves are half-stocked and clothes dangle off racks at odd angles.

Across the parking lot, the Super 8 sees every aspect of the ERDCC crowd. During executions, families and friends of inmates and victims fill the motel. When unpredictable weather hits, the prison’s doctors and nurses check in for the night. ERDCC’s executions don’t bother Lisa. They end fairly quickly, but Lisa says the noise from the traffic on Highway K is constant.

On the eastern edge of the Webb’s 40-acre property, Brian built a wooden chair on a bluff overlooking The Big River. When he showed it to his 5-year-old granddaughter, she said: “Grandpa, you can meditate down here.” Less than a half-mile from where they stood, the state has taken the lives of 22 men.

Dear, a commanding woman with blue-gray eyes, worked at the motel prior to serving a one-year sentence at the Women’s Eastern Reception, Diagnostic and Correctional Center in Vandalia, Missouri. While she was away, the police raided the Super 8 and found a meth lab in one of the rooms. Upon her return, she and the staff discovered a local man who had been released from the ERDCC. He had overdosed on heroin at the motel.

Past problems aside, the Super 8 is also the first stop for a number of non-capital offenders on their first night of freedom. With a blessing and a comped room from the church, the motel becomes a safe haven during their transition into society.

From the driveway leading up to their farm, Lisa and Brian Webb can see the ERDCC. The Webb Farm, as they call it, belonged to Brian’s grandparents before World War II.

In 2005, the Missouri Department of Corrections started executing prisoners across the street from their house. “Oh, did your lights dim last night?” Lisa’s coworkers would say after an execution.

“Until very recently, families of the executed have been so unrecognized that it would not even be accurate to say that their needs have been ignored. It is more appropriate to say that their needs have been unimagined.”

GAS CHAMBER

One reporter visits the state penitentiary and reimagines the final walk of an inmate

BY HOLLY HUNT

Today is the day.

The warden pulls you from the prison cell that you’ve called your home for months, maybe years. You blink in the sudden sunlight. The warden and a dispatch of guards lead you to a truck. They drive you down to the lower yard, silently.

When the truck rumbles to a stop, they help you out. There’s a path awaiting you, the last you’ll ever walk. It’s inlaid with bricks and curves slightly, leading to a small square building of stone, looking like a missing piece to a long-forgotten castle. It stands in the corner of the lower yard, not far from a guard tower perched on the brick outer wall that encircles the Missouri State Penitentiary. A white ventilation pipe with a black release valve stands on top of the building, like a 45-foot-tall cigarette.

You keep your head down as you follow the brick path. There are two doors into the building. The one on the left leads to the viewing room, where your family and your victim’s family will be sitting on plain wooden benches, gazing through small windows to witness the intimate moment of your final breath.

The other door leads to the gas chamber. That is where you are going.

About a foot from the door, you nearly trip over a crude cross inlaid on the brick walkway. You enter. The warden and guard immediately put you into the cell closest to the door. There is another room where they prepare the concoction that will kill you. From the door of your cell, you see the gas chamber, which sits in the middle of the room.

It is white and curved, like a pod that might launch you into outer space. Inside, there are two chairs, stiff and erect, with curved leg restraints. The chairs look like rough wicker chairs, but harder, colder. You press your forehead against the unforgiving metal bars of the cell door and close your eyes. One of the guards is talking about removing the man in the guard tower in case the wind blows the cyanide gas his way. Someone leaves to inform him.

A guard returns to lead you into the gas chamber. The chair is as cold as you imagine when you sit down. There are two chairs, stiff and erect, with curved leg restraints. The chair look like rough wicker chairs, but harder, colder. You press your forehead against the unforgiving metal bars of the cell door and close your eyes. One of the guards is talking about removing the man in the guard tower in case the wind blows the cyanide gas his way. Someone leaves to inform him.

The chair peeks in just before they close the door. Remember to breathe in deeply, he says. It will be faster that way. You look at him, his words hardly audible over the beating of your heart. The doors shut, and you are left alone. Your eyes dart toward the windows to your right, where you know your family is watching, but you only see your own reflection, distorted and hardly recognizable. The warden pulls a lever and pellets ping into the jar underneath your seat. The chemical reaction begins. You instinctively hold your breath as the hydrogen cyanide gas floats up between your legs. You close your eyes.

When you open them, you’re standing in front of the collage of executed inmates on a tour of the state penitentiary (which hasn’t been a functioning prison since 2004 due to deteriorating conditions), with the tour guide describing the pain inmates experience during the execution. You cross your arms tightly around yourself. You can’t help but think of the quote you found on the death penalty information website about the gas chamber executions: “At first there is evidence of extreme horror, pain and strangling. The eyes pop. The skin turns purple, and the victim begins to drool.”

The gas chamber hasn’t been used since 1965 (See L: Lethal), when Lloyd Lee Anderson was executed for first-degree murder — he killed a 15-year-old delivery boy while robbing a pharmacy in St. Louis. In his mugshot on the wall, his face is unnaturally close to the camera and out of focus, his eyes large, his lips slightly parted. He was 22.

You tear your eyes away from the faces on the wall to look at the gas chamber. Ray Miller, the tour guide, is describing how it took about four minutes for inmates to die. Many of them held their breath and struggled, despite being told to breathe deeply. The doctor pronounced the inmate dead using the stethoscope, and an exhaust fan sucked the gas out of the room and through the pipe, releasing it into the air above. It took about a half hour for the gas to clear. The warden would enter, wearing a gas mask and rubber gloves, and hit the inmate in the chest as hard as he could to release any remaining gas from his lungs. The corpse is sprayed with ammonia to neutralize the cyanide, and his or her hair is ruffled to release trapped gas there. Only then is the body removed.

The chair is as cold as you imagine when you move into the gas chamber and sit on it. You are overwhelmed by the history of the place. The chamber was built in 1937. Thirty-nine people died in the same chair. There was a second chair added in 1933 so Bonnie B. Heady and Carl Austin Hall — who together kidnapped, brutally murdered and buried a 6-year-old boy before demanding a ransom from his wealthy family — could die together.

You can’t stop thinking about Anderson and his unfocused picture.

After a moment, you get up from the seat so the next person can sit in it and pose for a picture. Two children, possibly 12 and 15, rush inside as their parents ready the camera. You make your way outside and take a deep breath, relishing the way your lungs expand with clean air.

The Missouri State Penitentiary gas chamber was built by prison inmates in 1937 for a total cost of $3,570. Thirty-nine prisoners would later be killed in the same chamber using a mixture of cyanide pellets and sulfuric acid.
GUILT
Extra factors considered for death penalty
Choosing between life and death is complicated — as it should be. In Missouri, first-degree murder warrants consideration of the death penalty, but only if other variables occurred at the time of the murder. Go to VoxMagazine.com to read about factors that must accompany murder in order to warrant the death penalty.

— HOLLY HUNT

HASTE
Is Missouri executing too quickly?

BY SHAWN SHINNEMAN
In January, the state executed Herbert Smulls 13 minutes before the U.S. Supreme Court denied his final request for a stay; this was the third time since November 2013 that Missouri executed an inmate prior to the completion of the appeals process. This time, Missouri’s haste made headlines, and Assistant Attorney General David Hansen tried to quiet the voices with a twist of the truth. Hansen made two main claims. First, he said James Liebman, a Columbia Law School professor, had recently said Missouri’s actions weren’t unheard of. What Liebman had meant — as he clarified in a letter to Missouri lawmakers — was that the U.S. Supreme Court had occasionally reached a point in past cases where it decided to no longer entertain a given attorney’s motions, thus clearing the path for execution. Second, Hansen argued that 11th-hour appeals were nothing but attempts to clog the system and delay the inevitable. He said the attorneys of death row inmates have developed a “very deliberate strategy” making sure a motion for stay is always pending, “which is a de facto repeal of the death penalty.”

The latter claim drew ire from a lawyer who had helped on the Smulls case. When so many CP inmates don’t end up facing executions — more than twice as many death sentences are overturned on appeals than carried out, a recent study found it would be “irresponsible” not to pursue any chance at having the case reviewed, says Robert Dunham, executive director of the Death Penalty Information Center.

“To say that somebody should not pursue their appeals,” Dunham says, “is to suggest that the death penalty as administered produces pristiner outcomes.”

The DOC is well known for refusing to provide Missouri’s citizens is concerning on many levels, but the most alarming of these is the knowledge that, when it comes to the death penalty, someone’s life is on the line. “...We’re talking about life and death,” Cullier says. “We’re talking about a government that not only has the power to tax you, take away your property, put you in jail, but in this case, kill you.”

The Missouri Department of Corrections is a public agency, yet it repeatedly declined requests for information

BY KATE MASTERS & MEGAN LEWIS
Of the 12 reporters working on these stories, not one was granted an in-person interview with David Owen, the communications director for the state’s corrections system, or anyone else from the department. Simple questions, such as how the state handles last meal requests, were left unanswered; requests to tour DOC facilities or speak to staff were denied. Owen did not answer his office phone.

Our requests to tour the Potosi Correctional Center and to witness Cecil Clayton’s March 17 execution at Eastern Reception, Diagnostic and Correctional Center were denied with “the department respectfully declines your request.”

As a last resort, one reporter drove to the DOC headquarters in Jefferson City and tried to speak with Owen in person. She got as far as the lobby. When she explained the mission, a friendly attendant tried Owen’s office line, with no answer. Is there anyone else who handles communications?, she asked. There was, as it turned out, an employee who shared an office with Owen — and conveyed that Owen was at his desk that very moment. After hanging up the phone, the receptionist informed us that Owen was on his way. The meeting lasted about 60 seconds. A handsome man in his mid-30s, he froze as soon as introductions were made. “We’re going to respectfully decline,” he interrupted, midway through the request for a few minutes of his time. “I’m going to ask you to leave.”

“Is it general DOC policy to completely block access for reporters?” she asked.

There was an awkward pause of three to four seconds as he struggled with what to say. “We’re going to decline,” he repeated. “Have a nice day.”

The DOC is well known for refusing information to journalists. In May 2014, five media companies — The Guardian, The Associated Press, Springfield News-Leader, Kansas City Star and St. Louis Post-Dispatch — filed a lawsuit in an attempt to force the department to disclose the source of its execution drugs. In a joint petition filed in the Cole County Circuit Court, the plaintiffs claimed that “Historically, information about the drugs used by the DOC in lethal injection executions was routinely made available to the public. In October 2013, the DOC unilaterally changed course and began to deny all public access to this information.” Since changing the policy, the state has executed 15 offenders without disclosing the source or quality of the drugs used to carry out the punishment. The case is still open.

David Cullier, the Freedom of Information chair for the Society of Professional Journalists, says that in many states, the DOC routinely stonewalls and hides information based on privacy or confidentiality. “Oh, we’re protecting the prisoner’s privacy by not letting anyone see how they’re being treated,” Cullier says, repeating the popular excuse for not releasing information.

“I’m not sure how that protects prisoners.”

The joint lawsuit also details the state’s excuse for refusing to reveal its drug source. Missouri is known for its “black hood law,” (see S: Secrecy) a statute that allows the state to shield the identities of its execution team. It initially protected only medical professionals who provided “direct support for the administration of lethal gas or chemicals,” but in 2013, the statute was extended to those who provide Missouri’s execution drugs (See A: Anesthesiologists).

The DOC’s refusal to provide information to Missouri’s citizens is concerning on many levels, but the most alarming of these is the knowledge that, when it comes to the death penalty, someone’s life is on the line. “...We’re talking about life and death,” Cullier says. “We’re talking about a government that not only has the power to tax you, take away your property, put you in jail, but in this case, kill you.”
JUSTICE, RESTORATIVE
For Jim Hall, seeing his daughter’s killer executed did not end his suffering

BY NASSIM BENCHAABANE
Jim Hall knew what Jeffrey Ferguson’s father, Reynold, was facing when he asked the jury not to take his son’s life. Ferguson had abducted, raped and killed Hall’s 17-year-old daughter, Kelli, in 1989.

As Ferguson, a former St. Louis Post-Dispatch photographer, pleaded for his son’s life, Hall felt an urge to reach out to the prosecutor and tell him to forget it. Jeffrey Ferguson didn’t need to die. But Hall was still angry, and he still wanted revenge.

Most Americans who support the death penalty, a slowly declining majority, think about the execution in the same way: revenge. An eye for an eye. Retributive justice is a concept as old as Hammurabi’s Code. Supporters of the death penalty also see it as the most effective way to prevent similar crimes.

For Hall, retributive justice seemed anti-climactic, and it was 25 years too late for prevention.

Hall tried to forget Ferguson while still grappling with questions, confusion, anger and vengefulness. He became a born-again Christian. He started teaching Sunday school. He waited until March 26, 2014, when they executed Ferguson, and Hall felt nothing change.

He still suffered with unanswered questions, sadness and anger. The only thing certain was that Ferguson had died. Whether his death brought justice remains uncertain.

On March 27, 2015, Hall’s son Stephen showed him Lisa Boyd’s death penalty documentary, Potosi: God on Death Row.

The movie showed a repentant Ferguson who had been working to help other inmates cope with their pasts. At one point, Ferguson says he would have liked to meet Hall and talk with him face to face.

“Dad,” Jim remembers his son, Kelli’s brother, saying that day. “I forgive him.”

Hall did too.

Most restorative justice advocates work within the realm of lesser crimes. Only a rare few, like Jeff Stack of the Mid-Missouri Fellowship for Reconciliation, take a similar approach to reconsidering capital punishment, giving victims a chance to have their questions answered and killers a chance at redemption.

Hall still believes some killers are inherently and unchangeably evil. He hasn’t necessarily decided against the death penalty, but he speaks publicly about the possibility of a better way, even if that just means changing how the sentence is delivered to the families.

Victims might not get the answers they’re looking for. Killers might not feel guilt or seek repentance. For Hall, the death penalty restores nothing. It only takes away. Through his restoration work, he has found healing.

KARMA

Different religions grapple with their stance on capital punishment; read more about their views on VoxMagazine.com

BY KATE MASTERS

“And therein we had ordained for them: ‘A life for a life, and an eye for an eye, and a nose for a nose, and an ear for an ear, and a tooth for a tooth, and for all wounds, like for like.’”

– Verse 45 of the Surah Al-Ma’idah, the fifth chapter of the Quran

“Whoever sheds the blood of man through man shall his blood be shed, for in the image of God, He made man.”

– Genesis 9:6, Old Testament or Torah

“Execution is not a religious doctrine, it is a societal doctrine.”

– G.V. Naidu, chairman of the board of the Hindu Temple of St. Louis

LETHAL INJECTION

The move toward this current primary method of execution began decades ago

BY CLAIRE COLE

Hanging. Firing squad. Gas chamber. Electric chair. Lethal injection. The changing definition of what is cruel and unusual is well documented. As Earl Warren, chief justice of the U.S. Supreme Court, wrote in 1957, “The Amendment must draw its meaning from the evolving standards of decency that mark the progress of a maturing society.”

Currently, all 32 states that allow capital punishment use lethal injection as their primary method. Some states use three drugs given in quick succession. Missouri is among those that opt for one lethal dose of pentobarbital, a central nervous system depressant that works as a strong muscle relaxer — so strong that the heart eventually stops. (See P. Pharmaceuticals). Read how the U.S. landed on lethal injection over the years:

1937-1989
Death row inmates are executed by lethal gas at the State Penitentiary in Jefferson City.

1977
Oklahoma is the first state to adopt lethal injection.

1982
Texas performs the first execution by lethal injection in the U.S.

1989
George Mercer is the first person in Missouri to be executed by lethal injection.

2013
November: Missouri switches to the one-drug protocol of lethal injection using pentobarbital.

2014
February & April: After botched executions in Oklahoma and Ohio, people begin questioning the use of the Midazolam drug in executions.

2014
September: St. Louis Public Radio reveals that Midazolam was used in executions in Missouri when officials previously said it wasn’t.
MEAL, LAST

The seemingly ironic ritual of last meals dates back to ancient times

BY JOEY FENING

The tradition of a last meal has been traced back to the Romans, Brits and Sumerians, and it continues now as a cultural staple of the American punitive system. Despite its lengthy history, the practice still carries a timeless paradox: The state has deemed the prisoners not worthy of life, yet it provides a rare indulgence during their final hours.

Perhaps the last meal is an effort to present capital punishment as more humane; for the prison staff, it offers a magnanimous step in the luckless task of killing someone. For the public, it’s a humanitarian, pat-on-the-back gesture as we wipe our hands of society’s most reviled criminals. For the media, it’s a source for light attention-grabbing headlines about an otherwise morbid topic; the last meal has become as much a spectacle as a charity.

The meals live on as sideshow headlines long after their diners have died: witticisms about women making the healthy choice of salads, a fabricated story of a cannibal requesting a human child, a converted Catholic asking for the Eucharist Sacrament. The prisoner’s crimes might warrant but a passing mention in the first paragraph of such stories.

Texas doesn’t offer last meals anymore. Florida limits the bill to $40. Many states require the meal to be made in the prison kitchen. It’s unclear how Missouri handles last-meal requests because the state Department of Corrections declined to provide that information (See I: Information). What is known is anecdotal.

Cecil Clayton was executed on March 17 for the 1996 killing of a Barry County police officer. In 1972, Clayton had suffered a sawmill accident that required the removal of over 7 percent of his brain; his murder case renewed debate over the execution of inmates with mental disabilities (See Q: Quotient). Clayton’s last meal was fried chicken, mashed potatoes, corn, green beans and a cola, an echo of his childhood in a poor, rural household in Purdy, Missouri.

Walter T. Storey was executed in February for the 1990 murder of a special education teacher in St. Charles, Missouri. In an unsuccessful appeal to the U.S. Supreme Court, his defense argued that the secrecy surrounding the drugs Missouri uses in lethal injections could result in a painful death, qualifying his execution as cruel and unusual punishment. Storey chose to eat a cheeseburger and fries.

NIXON, GOVERNOR JAY

A chance for clemency rests in the hands of the state’s highest elected official

The life of every inmate sentenced to death in Missouri passes through Gov. Jay Nixon’s hands before the state ends it. Nixon has the power to step in and spare the inmate’s life. Usually, he doesn’t. Eighteen inmates have asked the governor for clemency; 17 times, Nixon has said no.

— NASSIM BENCHAABANE
By Kate Masters

When death is on the line, it’s comforting to imagine that some foolproof system has been worked out for determining guilt or innocence, that one quick glance under a microscope can reliably inform a decision to condemn or acquit. Few people feel they can argue with science, and most Americans expect forensics to play a part in the courtroom. But when three criminology professors from Eastern Michigan University surveyed 1,000 jurors in 2006, they found that 46 percent of them expected to see some kind of scientific evidence in every criminal case. This is often called the “CSI effect,” based on the theory that wildly popular television crime procedurals have sold the American public on the indisputable power of DNA testing (See D: DNA).

Forensic DNA analysis might be popular on crime procedurals, but in reality, it’s used in less than 1 percent of criminal cases, according to the Genetic Science Learning Center at the University of Utah. Barry Langford, a professor of criminal justice administration at Columbia College, calls DNA profiling the “gold standard” of forensic testing, but says there are situations where DNA can’t be used. “I think the only reason that you would not use DNA would be either that you didn’t have it — you know, there was not enough of a sample left — or that there was some evidence that the sample was contaminated,” he says. In a law enforcement training manual developed by the National Center for Women and Policing, the organization lists several infringements to the use of DNA technology, including the failure of law enforcement to identify and collect DNA evidence, and a backlog of unanalyzed samples in crime laboratories.

The first Missouri crime investigation to use DNA evidence took place in Columbia, when blood spatters collected from a 1984 Ford Escort were used to convict Ralph Davis of the murder of his wife, Susan. That was in 1988. In 2014, only 11.3 percent of cases submitted to the Missouri State Highway Patrol crime lab included DNA evidence. Instead, forensic scientists continue to rely on other evidence found at the crime scene: fingerprints, hairs, shoe prints and other traces of residue that can provide rescuers with clues but very rarely a definitive identification. Both juries and prosecutors rely heavily on trace evidence to secure convictions.

Unfortunately, this faith in forensics comes at a serious cost to the justice system. DNA analysis has been used since the late 1980s to convict criminals, but many of the most popular and commonly portrayed methods have never faced stringent scientific evaluation. Hair microscopy is particularly problematic. Of the 28 examiners with the FBI Laboratory’s microscopic hair comparison unit, 26 of them were found to have overstated matches. Spanning more than three decades, 95 percent of the 268 trials reviewed were found to favor prosecutors, according to the National Association of Criminal Defense Lawyers and the Innocence Project. Both associations are assisting the government with the largest post-conviction review of questioned forensic evidence, according to The Washington Post.

Forensic labs and experts can also be guilty of bias or error. In the summer of 2012, the U.S. Department of Justice and FBI reviewed more than 81,700 FBI laboratory files after The Washington Post reported that government officials had failed to re-investigate them despite knowledge that forensic work might have led to the conviction of innocent defendants. In 32 capital convictions, the review revealed that FBI forensic experts might have wrongly linked suspects to crimes with exaggerated scientific testimony. In 2005, Missouri prosecutors were forced to dismiss hundreds of cases after a crime lab technician with the State Highway Patrol was convicted of stealing the same drugs he was supposed to be testing.

In Missouri, there is some oversight of crime laboratories. In 2014, a new statute established a “Crime Laboratory Review Commission” to review any lab that receives state funding. But Missouri also compensates labs that contribute to convictions — and only convictions.

The system is further burdened by other faulty evidence methods, which can play an equally large role in wrongful convictions. Eyewitness misidentifications are overwhelmingly responsible for flawed verdicts, and sentenced criminals are then saddled with the burden of overturning their own false convictions, increasingly with the use of DNA evidence. These exonerations are hard to come by. Only seven convictions in Missouri have ever been proven innocent through DNA testing, generally because they’re forced to battle law enforcement for the right to obtain and retest DNA evidence.

Paul Litton, an MU law professor, especially emphasizes the fallibility of eyewitness accounts during police lineups. “When witnesses view live lineups, and also photo lineups, they just make more mistakes than we thought,” Litton says. “Part of the reason is when an eyewitness goes and views a lineup, the eyewitness often chooses the person who looks most like their memory, relative to the other people there. But what happens sometimes is that the perpetrator’s not in the lineup, and the police generally don’t tell the witness that, ‘Hey, by the way, we might not even have the real perpetrator.’”

Eyewitness misidentification is the single greatest cause of wrongful convictions, nationally and statewide, according to a state Sen. Joseph Keaveny press release. In Missouri, it has contributed to 88 percent of wrongful convictions that were later exonerated with DNA evidence, according to his research (See C: Cost). Keaveny, a Democrat from St. Louis, sponsored two bills this year involving eyewitness errors and police interrogations. Senate Bill 303 would require investigators to inform eyewitnesses that the suspect might not be in a police lineup and mandate that all lineup members match the suspect description given by the victim or witness. Senate Bill 304 deals with police interrogations: Although most states require interrogations to be recorded, Missouri only requires investigations to be recorded “when feasible.”

The proposed law still allows for exceptions, including instances of damaged equipment. Police also aren’t technically required to record interrogations when “the suspect makes spontaneous statements,” “public safety circumstances prevent recording,” or “recording equipment is not available at the location where the interrogation takes place.”

Keaveny has unsuccessfully authored similar legislation in years past. Litton says, “They’ve actually said while they’re very worried about wrongful convictions, they don’t think it’s a problem.”

Missouri administers a single, lethal dose of pentobarbital. Classified as a barbiturate, this drug is a sedative hypnotic that accomplishes the objectives of an anesthetizing process. In states that use a protocol of three drugs administered successively, pentobarbital is the first one injected.

— Claire Cole
POTOSI CORRECTIONAL CENTER
Missouri, unlike other death penalty states, houses its capital punishment inmates with the general prison population

BY KATE MASTERS

Missouri has one of the highest execution rates in the country, but it also eclipses other states in the treatment of capital offenders. At Potosi Correctional Center, where Missouri incarcerates its highest security prisoners, death-sentenced inmates are integrated with the rest of the prison's population, a groundbreaking method that allows capital offenders to reclaim some human dignity before being sent to the death chamber at the Eastern Reception, Diagnostic and Correctional Center in Bonne Terre (See E: Eastern).

Twenty-six years ago, when Potosi first opened, the facility kept death row inmates separate. All 70 of Missouri's death-sentenced inmates were transferred there in April 1989, moving from Jefferson City to Mineral Point, a town of about 350 people four miles east of Potosi, the facility's namesake. Within a few months, difficulties arose with the segregated system — death row inmates couldn't receive the same access to prison services as the general population, and staff members noted the irony of separating prisoners whose offenses were all essentially the same, merely with different sentences. Gradually, administrators began to integrate death row inmates with the general population. Low-risk death row inmates could eat their meals in the PCC dining room; soon after, capital offenders gained access to the law library and were assigned work at the prison laundry. The lexicon of "death row" and instead adopted "CP," for "capital punishment," for those inmates sentenced to death.

In an independent study of inmate violence, Mark Cunningham reported that capital offenders were humanized by "meaningful activities and self respect."

QUOTIENT, INTELLIGENCE
Executing inmates with impaired mental ability raises debate

BY JOEY FENING

In 1996, a 48-year-old man named Paul Goodwin was evicted from his boardinghouse in St. Louis County. He blamed his eviction on his neighbor, Joan Crotts, a 65-year-old widow who lived alone. Two years later, Goodwin snuck into her house, sexually assaulted her and pushed her down her basement stairs before hitting her in the back of the head and her daughter and a police officer what had happened before dying in surgery. A police officer in 1996. At Potosi, the facility's namesake, Goodwin was convicted of first-degree murder and sentenced him to death.

Goodwin had an IQ of 73, just above the legal threshold of mental disability. Beginning in kindergarten, he was placed in a special school district and failed several grades. In 2002, four years after Crotts' murder, the U.S. Supreme Court ruled in Atkins v. Virginia that executing "mentally retarded" individuals violated the Eighth Amendment's ban on cruel and unusual punishment.

The requirements to prove mental retardation were borrowed heavily from the Diagnostic and Statistical Manual IV of the American Psychiatric Association. A general IQ cutoff determining mental retardation was set at 70, but weighing a defendant's intelligence was ultimately up to the states' discretion. Dr. Denis W. Keyes served as the psychologist of record for Goodwin's second trial. Keyes is now a member of the American Association on Intellectual and Developmental Disabilities and has provided expert testimony in about 150 cases; the Supreme Court cited his research in Atkins v. Virginia.

Recalling the Goodwin case is still difficult for Keyes. "It was a hellish experience," he says. "I supplied testimony transcript, I supplied exhibits, I did everything I could do, and (the defense) was still badly presented."

The court said it did not find Keyes' testimony convincing: Goodwin's mental retardation needed to be "manifested and documented before 18 years of age," something Keyes' testimony could not prove. Keyes also based his analysis on interviews with Goodwin and Goodwin's friends and family, all of who had reason to skew their responses. Further, the court questioned whether Keyes' expertise as an educational psychologist qualified him as an expert.

Five or six of Keyes' defendants over the years have been subject to capital punishment. That number will rise; other former litigants are on death row. But for Keyes and other proponents of providing greater legal protections for intellectually disabled defendants, there are signs of progress. Last year, in Hall v. Florida, the U.S. Supreme Court eliminated "mentally retarded" as an official legal term and ruled that relying solely on an IQ test to determine someone's intellectual disability is unconstitutional.

Increasingly, courts are looking at brain anatomy and its connections to some violent behavior. "The more we understand about neuroscience we see that even subtle abnormalities can affect human behavior," Duke University law professor Nita Farahany recently told the Washington Post.

The Missouri case of Cecil Clayton has been central to arguments for introducing brain testing into criminal cases. In the 1970s, Clayton had 7 percent of his brain removed after a sawmill accident. After the surgery, Clayton became prone to violent outbursts; he was so concerned about the change he checked himself into a mental hospital. In 1996, Clayton shot and killed a sheriff's deputy who was responding to a report about a fight between Clayton and his girlfriend. For nearly two decades, his defense team argued that Clayton wasn't in control of his actions because he was missing part of his brain.

The state denied Clayton's request, and he was executed in March. Afterward, one of his lawyers, Elizabeth Unger Carlyle, said, "The world will not be a safer place because Mr. Clayton has been executed." Executing Clayton without a hearing on his mental competency violated the U.S. Constitution, she added, along with "basic human dignity."
**RACE A to Z**

Historically, a disproportionate number of black inmates are sentenced to death.

**BY ALEKSANDR GORBACHEV**

Systemic racial injustices were one of the main reasons for the seminal U.S. Supreme Court decision in Furman v. Georgia in 1972. The court ruled that the states make their laws more consistent in order to avoid arbitrary and biased application of the death penalty. Forty years later, however, the racial problem persists — at least the numbers say so. Out of 32 inmates on death row in Missouri right now, 37.5 percent are black, whereas only 11.7 percent of the state population is black.

"I don't want to generalize, but we can simply state that African-Americans are being disproportionately put on death row," says Rev. Elston McCowan, the criminal justice and prison committee chair for the Missouri branch of NAACP. "And when you see things like that, you can't help asking: Is this socially inherent, or do you just have mean-spirited politicians who try to promote their careers by demonstrating that they have been blood-thirsty and killing people of another culture?"

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**ROPER V. SIMMONS**

The landmark case barred juvenile execution in America

**BY ALEKSANDR GORBACHEV**

Until 2005, if you were a 17-year-old resident in Missouri, you couldn't write a legally valid will or even get a tattoo without your parents' consent, but you could be sentenced to death. The Roper v. Simmons case changed this, in Missouri and nationwide, when the U.S. Supreme Court ruled it unconstitutional to execute a person younger than 18.

Around 2 a.m. on Sept. 9, 1993, Christopher Simmons and his friend broke into the house of Shirley Crook, a 46-year-old truck driver living in St. Louis County. Simmons had planned to commit a burglary and a murder for some time. He had bragged to his friends that he could get away with it because he was still a juvenile: a 17-year-old high school junior.

Simmons and his accomplice bound her hands behind her back, put her in the back of her van and drove to a bridge in Castlewood State Park. There, they bound her feet and legs with electrical cable and pushed her into the river.

Two fishermen found her body that afternoon, and police apprehended Simmons the next day. To make his case, the prosecutor kept bringing up the age of the murderer. "Seventeen years old," he said. "Isn't that scary?"

Simmons was convicted and sentenced to death. Ten years later, he asked the Missouri Supreme Court to spare him from execution because he was underage at the time of the crime. Patrick J. Berrigan, one of Simmons' lawyers, says they were running out of options and appeals. "There's an aspect of desperation involved," Berrigan says.

He argued that the state should stop executing juveniles altogether, which wasn't an idea shared by the American judicial system at the time. In 1989, in Stanford v. Kentucky, the U.S. Supreme Court decided that executing offenders between 15 and 18 at the time of the crime wasn't unconstitutional. Simmons' legal team had to persuade the Missouri Supreme Court to override the higher court's opinion.

The timing was perfect. The U.S. Supreme Court recently ruled that it was unconstitutional to execute the "mentally retarded" (See Q: Quotient). The court's opinion asserted a reduced moral culpability because of deficient brain development. That language seemed to apply equally to juvenile offenders, Berrigan says. Simmons' team used the argument and won: In 2003, the Missouri Supreme Court resentenced Simmons to life without parole.

"It happens very rarely that a state supreme court says: We think that if the U.S. Supreme Court looks at the issue again, it will come to a different conclusion because the facts have substantially changed," says Paul Litton, an MU law professor who co-chaired the Missouri Death Penalty Assessment Team from 2010 to 2012.

The U.S. Supreme Court ultimately agreed with the Missouri Supreme Court. On March 1, 2005, the Court declared the execution of a juvenile unconstitutional in the United States.
On May 21, 1937, ticket-holding citizens of Galena, Missouri, gathered for what would become the nation’s last public hanging. Three years earlier, Roscoe “Red” Jackson had been sentenced to death for murdering a traveling salesman. On his execution day, Jackson’s neck was snapped at 6:04 a.m. He was hanged in the gallows as hundreds of eyes looked on.

Today, we view Jackson’s public execution as barbaric and inhumane. Watching someone die for entertainment? Archaic, repulsive.

But what we tend to forget about public executions is just how public they once were. Hundreds, sometimes thousands, of witnesses could observe the process. Although public oversight of executions hasn’t been lost, Missouri law requires at least eight “reputable citizens” to witness every execution, the level of transparency is low.

Missouri’s “black hood law” protects the identity of execution team members to spare them harm or ridicule. While the statute once applied only to death chamber anesthesiologists (See A: Anesthesiologists) and nurses, in October 2013 the state extended it to the pharmacies that produce the drugs used in lethal injections.

The move met strong opposition and begged a question: If Missouri keeps the source and supply of execution drugs a secret, can the process be properly scrutinized?

Cheryl Pilate, a Missouri defense lawyer who represents capital punishment inmates, argues that keeping vital elements of the execution process secret thwarts her ability to defend clients such as Herbert Smulls. In his case, she sought a stay on the execution, arguing that without information about the drugs used to kill him, his death could be cruel and unusual. Smulls was executed in January 2014.

“We know almost nothing about how the state of Missouri is carrying out the most serious and grave act any government can carry out, which is extinguishing the life of one of its citizens,” Pilate says.

The push toward secrecy stems from states’ attempts to access a dwindling drug supply. In 2011, major lethal-injection drug manufacturers in the European Union boycotted their products’ use in U.S. executions. To deal with the shortage of lethal injection drugs, states have turned to compounding pharmacies, which are not regulated by the FDA.

Two media coalitions are challenging the state’s black hood extension in court, calling it a violation of Missouri’s Sunshine Law, which requires certain government proceedings to be open to the public, and the right of access granted by the Freedom of Information Act. The first lawsuit was filed by The Guardian, Associated Press, and Missouri’s three highest circulation newspapers: St. Louis Post-Dispatch, Kansas City Star and the Springfield News-Leader. Reporter Chris McDaniel of St. Louis Public Radio, along with the Reporters Committee for Freedom of the Press and Missouri’s ACLU chapter, filed the second suit. The suits are still pending. “Any time records are closed, we’re going to push back because we’re advocates for open records and open government,” says Jeremy Kohler, a Post-Dispatch investigative reporter who’s written extensively about the death penalty (See I: Information).

In 2006, Kohler skirted the state’s original black hood law by publishing the identity of Missouri’s lead executioner at the time, Dr. Alan Doerhoff. Kohler revealed Doerhoff’s initially anonymous testimony in which he admitted he was dyslexic and often confused the names and doses of lethal drugs. Doerhoff also never used an official execution protocol and had been sued for malpractice more than 20 times. Missouri’s response to this revelation was strengthening the black hood statute, granting execution team members the ability to seek civil damages if their names are revealed. Although Kohler revealed a nurse on the team who was a convicted stalker, the Post-Dispatch was never sued.

Ben Graham of Yale Law School’s Media Freedom and Information Access Clinic, who’s leading the AP/The Guardian suit, doesn’t buy the state’s argument that added secrecy will ensure members of the execution team necessary protection. He also considers public access to information through adequate reporting “a very powerful oversight function,” making the execution process more transparent.

Deborah Denno, an expert in execution methods at Fordham University in New York, calls the state’s black hood extension to pharmacies “an incomprehensible stretch,” saying, “Clearly it’s an effort to ensure that companies will continue to provide and sell their drugs to the Department of Corrections.”

And in an effort to circumvent the gruesome effects of death, the move to lethal injection has made it more difficult for states to carry out the mandate. Dennno claims death by firing squad, which Utah reinstated as a method of execution last month, is more humane than lethal injection.

Since 1937, when people vied for the opportunity to witness a hanging, has capital punishment become more humane? If execution methods continue to creep under a black hood, it doesn’t look that way.

TEXAS

Last year, Missouri tied the most prolific executioner in the nation

BY WADE LIVINGSTON

In 2014, Missouri, a state that had roughly 6 million people and 48 persons condemned to die, executed 10 people, matching Texas, which had four times the population and almost six times as many death row inmates.

“Our state has, understandably so, been considered a pariah when it comes to the death penalty,” says Kristin Houlé, executive director of the Texas Coalition to Abolish the Death Penalty. “So I think for any state, it doesn’t bode well … to be lumped in with Texas.”

The Lone Star State holds an infamous place in the constellation of states with capital punishment. Since 1976, Texas has accounted for 524 of the 1,407 people executed in the United States; that’s 37.2 percent. Missouri has executed 83 people. Yet Texas has seen a “slow decline” of executions and “an even more precipitous decline” of death sentences, Houlé says, noting that change in Texas can produce national ripples.

So far this year, Texas has executed six people, and five more are scheduled to die. Missouri has executed Walter Storey, Cecil Clayton and Andrea Cole; Kimber Edwards’ and Marcellus Williams’ executions have been stayed. Missouri isn’t likely to tie Texas this year, for whatever that’s worth.

TIME

Tracking the death penalty through minutes, hours and years

BY GRET WEWBER

10 minutes

Approximate number of minutes from when the lethal injection chemical enters the condemned inmate’s arm to the time of death.

The contested hours between 11 p.m. and 7:30 a.m. when 82 percent of prisoners were killed between 1977 and 1995. According to former U.S. Supreme Court Justice Sandra Day O’Connor, the late-night slot leaves room for error in the execution process.

8.5 hours

At the appointed moment of execution, the Missouri Department of Corrections has one day to carry out a death sentence before the order expires. This final day is often fraught with eleventh-hour appeals that may be reinstated and lifted several times before courts reach a final decision.

1 day

The average number of years it takes for an execution to be carried out.

11 years
One night in September 1996, John Winfield, a 28-year-old man from St. Louis County, was trying to reach Carmelita Donald, his ex-girlfriend and the mother of his two children. He suspected she was on a date. She indeed was, but Donald's friends, who shared an apartment with her, didn't want to tell Winfield that when he called.

Winfield drove his white Cadillac to Donald's house and waited there until she returned home. He confronted her, and in the ensuing fight, he pulled out a gun, killing both of her roommates and permanently blinding Donald. He was arrested the next day and charged with murder.

Two years later, he was convicted. The jury had no doubt of Winfield's guilt, but at least one of the jurors, Kimberly Turner, a single mother who was 30 at the time of the trial, didn't think he deserved to die. "I knew he was someone's son, and I did not want him to be killed," she wrote in a statement to the court in May 2014. But it was Friday, and her daughter was home alone, and the other jurors were tired and disgruntled and just wanted to be done with the case. So Turner, who had been holding out for life in prison without parole, voted for execution.

In Missouri, a jury's vote for death must be unanimous, otherwise a defendant must be sentenced to life without parole. During Winfield's appeals, Turner provided a letter to the court, arguing for life over death and the deliberation process:

"The penalty phase of Mr. Winfield's trial was short. Only a few people testified, but most of the witnesses did not seem to know Mr. Winfield well. I paid close attention to the testimony … because I took my job as a juror very seriously, but Mr. Winfield's defense attorneys provided me with no information about who Mr. Winfield was as a person … I knew nothing about Mr. Winfield's life, history, family, employment, or character …"

"The jury was predominantly white, including me, and Mr. Winfield is black … Ultimately, we deadlocked in deliberations. Another juror and I had voted for life without the possibility of parole. That was my vote. In my heart, that has always been my vote. Despite the fact that Mr. Winfield's defense had not given me a picture of who he was as a person I still had compassion for the man in front of me at the trial."

"Jurors informed the court they were deadlocked, and they were told to keep deliberating."

Turner wrote: "It was Friday afternoon and the other jurors were tired of being sequestered and wanted to go home. They were pressuring me and the other life vote to change our votes to death. One juror even exclaimed that we should fry him and go home … I saw that juror years later, and I would not even speak to him because I was still so upset over his comment."

"As the afternoon went on, the other jurors wore me down … I was worried about my daughter and did not know when I would be able to get home to her. So I changed my vote to death. It is a decision that has haunted me."

Turner's remorse had no effect. On June 18, 2014, Winfield was executed.

Now, I feel that this is my fault. I feel responsible for Mr. Winfield's fate. I struggle with that. If Mr. Winfield is executed, I will have to deal with that forever. I ask that Mr. Winfield's sentence be commuted to life without the possibility of parole.

Kimberly Turner

VICTIMS

These are some of the people whose murders resulted in death penalty sentences

Bobby Greenlease
Killed: Feb. 2, 1990
Convicted: Walter T. Storey

David Gregory
Killed: Dec. 14, 1976
Convicted: Charles Brooks

Jill Frey
Killed: Feb. 2, 1990
Convicted: Walter T. Storey

Kelli Hall
Killed: Feb. 10, 1993
Convicted: Jeffery Ferguson

Shirley Crook
Killed: Sept. 9, 1993
Convicted: Christopher Simmons

Shawnee Murphy
Killed: Sept. 9, 1996
Convicted: Timothy Storey

Christopher Castetter
Killed: Nov. 27, 1996
Convicted: Cecil Clayton

Joan Crotts
Killed: March 1, 1998
Convicted: Paul T. Goodwin

Dennis Poyser
Killed: July 4, 1998
Convicted: Earl Ringo Jr.

Joanna Baysinger
Killed: July 4, 1998
Convicted: Earl Ringo Jr.

Karen Keeton
Killed: Aug. 11, 1998
Convicted: Marcellus Williams

Lisha Gayle
Killed: Aug. 11, 1998
Convicted: Marcellus Williams
WITNESS

A reporter recounts his experience watching an execution
AS TOLD TO ALEKSENDOR GORBACHEV

At every execution, Missouri law requires the presence of at least eight “reputable citizens” selected by the Department of Corrections, not counting witnesses representing the victim and the offender. Often, those witnesses are news reporters. For some of them, covering an execution is a regular part of the job; for others, it’s an unusual experience. On Sept. 10, 2014, Alan Burdziak, a Columbia Daily Tribune crime reporter, went to Bonne Terre (See E: Eastern) to witness the execution of Earl Ringo Jr., who killed two people in 1998 while trying to rob a restaurant in Columbia (See R: Race online).

Here’s what Burdziak told Vox:

“I was covering the case, and it made sense to go there. I applied to become a state witness, they granted me the permission, and on the day of the execution, I drove to Bonne Terre. I had to be there no later than 10:30 p.m., one and a half hours before the scheduled time of execution, which was supposed to happen at 12:01 a.m.

“When I got there, I had to go through two checkpoints, leave all the electronic stuff in my car and put my keys and my Chapstick in the locker. The only things I was allowed to bring in were my driver’s license, a notebook and a pen. They put us in a waiting room: a table, a couch, some chairs, cookies, snacks, water. There were several other reporters there, a couple of higher-up DOC officials and two retired Columbia police detectives — I think they were the ones who investigated the case. We just hung out there and bullshit. Talked about history and other executions that other reporters covered. And then it was time for the execution to start.

“We went into the small room — 20 feet long, 15 feet wide, two or three rows of chairs. They turned off the lights and said: ‘OK, the execution is going to start in a few minutes.’ And then we pretty much sat in silence for almost half an hour. It turned out that the defense submitted a last-minute stay request to the Missouri Supreme Court at 11:30 p.m., and it didn’t get denied until 12:20 a.m. So we just waited. Nobody talked. It was awkward.

“Finally, they opened the curtain. Ringo was right in the middle of the room, alone. He was strapped to a gurney, all covered — all you could see was his head and an IV tube coming under the sheet and going through the wall into the room where the execution team was. Ringo looked around, saw his witnesses across the room from us, smiled and waved at them — you could see his hand moving under the sheet. He seemed very calm, like he accepted what was going to happen. Then Dave Dormire, one of the DOC officials, announced: ‘They’re administering the drug now.’ We couldn’t see it, obviously, but we knew that it took about five minutes for the full dose (See P: Pharmaceuticals and L: Lethal).

“Then they closed the curtain. Somebody from the execution team came out to the room to check his vital signs, and then they pulled the curtain back, and he was deceased. It all took about nine minutes.

“The whole thing was very clinical, procedural and dry. I felt a little nervous, but I wasn’t sick to my stomach or anything like that. It was the first time in my life I watched someone die — most people never do, probably — but it didn’t have as big effect on me as I thought it would. I thought I was going to be a little depressed for a couple of days or something like that, but it didn’t move me at all that much. And that was kind of weird.”

XENOPHON

The ancient Greek wrote about a quick death, something denied to Emmitt Foster in 1995

BY WADE LIVINGSTON

In Book II of Anabasis, Xenophon wrote about the deaths of several Greek generals who, in 401 B.C., tried to wrest control of Babylon from King Artaxerxes II. Carleton Brownson’s translation of Anabasis tells of Menon, a general who “was tortured alive for a year,” unworthy of beheading, “a manner of death which is counted speediest.”

It took Emmitt Foster — who was convicted of the 1983 murder of Travis Walker in St. Louis County — roughly 30 minutes to die on May 3, 1995, when Missouri botched his lethal injection (See T: Time). St. Louis Post-Dispatch reporter Tim O’Neil wrote that “an overly tight leather strap” on Foster’s arm had restricted the flow of chemicals to Foster’s body and prolonged his death. He reported that another journalist saw Foster “gasping and convulsing,” and that the curtains were drawn in the execution chamber when things went awry. And, O’Neil wrote, at least one person refused to sign a statement saying Foster’s execution had been witnessed.

Austin Sarat, author of Gruesome Spectacles: Botched Executions and America’s Death Penalty, says the “legitimacy” of capital punishment rests upon the ability to punish humanely, use reliable technology, and ensure that executions be witnessed. When an execution is botched, Sarat says, it undermines capital punishment because we as a society didn’t punish how we said we would.

Under the U.S. Constitution and state law, we know what Foster was promised. Missouri didn’t deliver.
Capital punishment is supposed to be fairly and consistently administered. But when you look at the death penalty through a geographic lens, consistency doesn’t exist. In Missouri, St. Louis ZIP codes beginning with 631 are disproportionately represented in statewide executions. Of Missouri’s 114 counties, only 26 of them have executed someone since 1976. Topping the list with 17 executions is St. Louis County, followed by the city of St. Louis (13) and Jackson County/Kansas City (8). Combined, these three counties account for 45 percent of executions statewide. Sure, these counties are densely populated, but there’s more to the clustered concentration.

According to David Sloss, a law professor at Santa Clara University, it’s up to individual prosecutors to pursue capital trials, Sloss believes their biases can have a troubling affect on who lives and who dies. In a 2008 editorial for the St. Louis Beacon, Sloss points out that in St. Louis County, prosecutors pursued death sentences in more than 7 percent of intentional homicide cases, while the state average is between 2 and 3 percent. Left in the hands of county prosecutor discretion, capital punishment is not equally applied. Fair and consistent? Not here.

According to a recent survey from Pew Research Center, 51 percent of 18- to 29-year-old Americans support the death penalty. However, that doesn’t necessarily mean that young people understand how capital punishment works. To learn what MU students know, or don’t know, about the death penalty in their collegiate state, Vox asked 92 randomly chosen respondents across campus several questions. We discovered:

- **6%** knew (or guessed) that Missouri ranks in the top five states that execute the most defendants.

- **30%** thought Missouri ranked 20th or lower in the number of executions compared to other states.

- **15%** think Gov. Jay Nixon has granted clemency to 10 or more capital punishment inmates. Nixon has granted clemency once (See N: Nixon).

The number of people currently awaiting execution in Missouri? One animal science major from Kansas City answered **700**.

A biology major from Denver thought **1,000**.

The correct answer: **32**.

**YOUTH**

What MU students know (and don’t know) about the death penalty in Missouri

**BY ALEKSAND GORBACHEV**

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- The average time an inmate spends on death row in Missouri? Answers ranged from 2 days to 50 years.

  - The correct answer: 11 years and 11 months

- The number of people currently awaiting execution in Missouri? Answers ranged from 0 to 700.

  - The correct answer: 32

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- The number of people currently awaiting execution in Missouri? One animal science major from Kansas City answered **700**.

- A biology major from Denver thought **1,000**.

- The correct answer: **32**.

**ZIP CODES**

Executions are disproportionately concentrated

**BY GRETA WEBER**

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**ARTS & CULTURE**

**Mr. Robot Screening**
See USA Network’s newest series premiere on the big projector screen. *Mr. Robot* follows a computer programmer-by-day and a hacker-by-night as he connects with others the only way he knows how — by hacking them. Thursday, 7:30–8:30 p.m., MU Campus, Allen Auditorium, Free, 882-3621

**Central Methodist University Band Spring Concert**
Four directors, Skip Vandelicht, Larry Bennett, Steve Litwiller and Dr. Dori Waggoner, take turns leading the group. Performances include Albred Reed’s “Rushmore,” Fred Jewell’s “They’re Off!” and Tschesnokoff’s “Salvation is Created.” Thursday, 7:30–9:30 p.m., Linn Memorial United Methodist Church, Free, 248-6391

**Where the Wildflowers Grow**
Park naturalist Roxie Campbell leads a two-mile wildflower walk to Shooting Star Bluff and Gans Creek on Saturday. The tour caps off at 30 participants, so reservations are required to attend. Saturday, 9–11:30 a.m., Rock Bridge Memorial State Park, Free, 449-7402

**CIVIC**

**Shelter Insurance 50th Anniversary Fountain Celebration**
After 50 years, the fountain outside Shelter Insurance has received an upgrade. Attend the unveiling of the new fountain as it turns on for the first time. Enjoy live music from Banana Oil Pan as well as activities and games for all ages, including a kiddie train and a photo booth. Thursday, 5:30–7:30 p.m., Shelter Insurance Home Office, Free, 214-4393

**UNITE All Campus Worship Night**
Multiple campus ministries come together for a night of outdoor worship filled with contemporary, hymnal and gospel music. Friday, 8–10 p.m., MU Traditions Plaza, Free, 292-5725

**Mid-Mo Health Expo**
Take advantage of this opportunity to check your health with the help of Mid-Mo Health Expo. Last year, there were more than 65 vendor booths that featured free screenings, ranging from basic hearing tests to Hepatitis C and cholesterol tests. Saturday, 9 a.m. to 2 p.m., Broadway Christian Church, Free, 442-6599

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**The to-do list**

**THIS WEEK IN COLUMBIA**
FOOD & DRINK

#pieandbooze
Learn to make a Southern pecan pie with the Peggy Jean’s Pies crew. While your pie bakes, Dogmaster Distillery teaches you to make a Mint Julep. Sign up soon because this event always sells out. Thursday, 7–9 p.m., Peggy Jean’s Pies, $40, 447-3437

Southern Tier Tasting
Southern Tier Brewing Company will be handing out beer samples and swag. Based out of Lakewood, New York, Southern Tier has more than 30 different brews and specializes in ales and lagers. Friday, 6–9 p.m., Craft Beer Cellar, Free, 234-4870

Tiger Farm-to-Table Dinner
Partake in a four-course meal made from local food in MU’s blooming butterfly garden. Pork, tempeh, bread, cheese and more come from local farms. Because this event is “BYOP,” don’t forget a plate. Saturday, 4–7 p.m., Butterfly Garden, $30; $10 for students; $15 wine tasting, 882-8207

MUSIC

Brandy Clark
Country singer Brandy Clark’s debut album, 12 Stories, contains a collection of songs featuring diverse characters. Prior to its release, Clark wrote for country artists, including Miranda Lambert and Reba McEntire. Thursday, 8–11 p.m., The Blue Note, $20, 874-1944

Matthew Curry
With accolades ranging from the International Blues Competition and the prestigious Brotherhood of the Guitar, Curry isn’t some new kid on the block. Expect mature vocals, a wide musical range and solid arrangements. Thursday, 9 p.m., Rose Music Hall, $10, 874-1944

The Abusers, Abominable Showmen and Brutally Frank
Inspired by the Sex Pistols, punk-rock group The Abusers began in Sedalia. Brutally Frank, a high-energy rock ‘n’ roll group, and the explosive Abominable Showmen also perform. Saturday, 8–11 p.m., The Bridge, $8; $3 minor surcharge, 442-9645

77 Jefferson and Zack Mufasa
Since forming in 2006, Kansas City-based reggae band 77 Jefferson has released seven albums. Two debuted in the top 10 of iTunes’ Reggae chart. Zack Mufasa, also from Kansas City, performs in support of his new release. Saturday, 9:30 p.m., Rose Music Hall, $6, 874-1944

SPORTS

Run for the Rose: Kentucky Derby Extravaganza
Watch the 141st Run for the Roses at Forrest Rose Park on the big screen, and celebrate the best two minutes in sports with music from The Boone Howlers and Mercer & Johnson. And, of course, Derby Day wouldn’t be complete without a Mint Julep or two. Saturday, 3 p.m., Rose Music Hall, Free, 874-1944

SCREEN

The Avengers: Age of Ultron (PG-13)
Originally created by Tony Stark as Iron Man’s alter ego, Ultron was designed to help make the world a better place. But when he turns into the ultimate villain, The Avengers must reassemble to keep Ultron from destroying the world. In this sequel, two new faces join the Avengers clan: Quicksilver (Aaron Taylor-Johnson) and Scarlet Witch (Elizabeth Olsen). F, R RUNTIME = 2:22

Clouds of Sils Maria (R)
In this gripping film, famous actress Maria Enders (Juliette Binoche) goes back to her roots to star in a revival of the play that launched her career. This time, however, she plays a different role. Forced to confront her fears and regrets, Maria prepares for the role in a cabin in the Alps with help from her personal assistant (Kristen Stewart). RT RUNTIME = 1:24

Song of the Sea (PG)
This Oscar-nominated animated film is based on the Irish legend of Selkie, a mythological creature that is human on land but transforms into a seal in the ocean. The story follows Saoirse, who is one of the last to have the powers of a Selkie. After Saoirse and her older brother, Ben, find an item that belonged to their deceased mother, the siblings embark on an adventure out to sea, where they must then find their way home. RT RUNTIME = 1:55

Still playing
The Age of Adaline (PG-13) F, R
Child 44 (R) R
The Divergent Series: Insurgent (PG-13) R
Ex Machina (R) R
Furious 7 (PG-13) F, R
Get Hard (R) R
Home (PG) F, R
The Longest Ride (PG-13) F, R
Monkey Kingdom (G) F
Paul Blart: Mall Cop 2 (PG) F
True Story (R) F
Unfriended (R) R
What We Do in the Shadows (NR) RT
While We’re Young (R) RT
Woman in Gold (PG-13) R

Theaters
F = Forum RT = Ragtag R = Regal

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