1.3.D.3 Execution of an Inmate

I Policy Index:

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II Policy:

The Department of Corrections (DOC) will carry out the execution of an inmate in accordance with SDCL Chapter § 23A-27A. The execution will be conducted in a professional, humane and dignified manner.

III Definitions:

Lethal Injection:
The intravenous injection (IV) of a substance or substances in a lethal quantity (See SDCL § 23A-27A-32).

Witnesses:
People authorized to attend an execution as referenced in SDCL §§ 23A-27A-34 and 23A-27A-34.2.

Staff Member:
For the purposes of this policy, a staff member is any person employed by the Department of Corrections (DOC), full or part time, including an individual under contract assigned to the DOC or an employee of another State agency assigned to the DOC.

IV Procedures:

1. General Provisions:

A. Inmate executions are carried out by means of lethal injection (See SDCL § 23A-27A-32).

1. At no time will any medical professional(s) employed at a South Dakota Department of Corrections facility participate in the execution process.

2. Lethal injection is not the practice of medicine in South Dakota (See SDCL § 23A-27A-32).

3. The inmate who is to be executed will be connected to two (2) IV lines, normally one (1) in each arm. One (1) IV line will be the primary line for the lethal injection and the other IV line is designated as a backup.

4. The lethal injection process involves the administration of drugs, each in a lethal quantity, pursuant to a 3-Drug, 2-Drug, or 1-Drug protocol, depending on the date of the inmate's conviction and the availability of the necessary drugs:

    a. 3-Drug Protocol

        1) The first drug, Sodium Pentothal (aka Sodium Thiopental) or Pentobarbital, is administered in a quantity sufficient to ensure the inmate is not subjected to the unnecessary and wanton infliction of pain.
        2) The second drug, Pancuronium Bromide, stops the inmate's breathing.
        3) The third drug, Potassium Chloride, stops the inmate's heart.

    b. 2- Drug Protocol
        1) The first drug, Sodium Pentothal, (aka Sodium Thiopental) or Pentobarbital, is administered in a quantity sufficient to ensure the inmate is not subjected to the unnecessary and wanton infliction of pain.
        2) The second drug, Pancuronium Bromide, stops the inmate's breathing.

    c. 1- Drug Protocol- Sodium Pentothal (aka Sodium Thiopental) or Pentobarbital is administered in a lethal quantity sufficient to ensure the inmate is executed without the unnecessary and wanton infliction of pain.

5. Any person convicted of a capital offense, or sentenced to death prior to July 1, 2007, may choose to be executed in the manner provided in this policy or in the manner provided by South Dakota law at the time of the person's conviction or sentence (SDCL § 23A-27A-32.1).

    a. The inmate will indicate his/her choice in writing to the Warden of either the South Dakota State Penitentiary (SDSP) or the South Dakota Women's Prison (SDWP) not less than seven (7) days prior to the scheduled week of execution.

    b. If the inmate fails or refuses to choose a manner of execution in the time provided, then the inmate will be executed as provided in SDCL § 23A-27A-32(See SDCL § 23A-27A-32.1).

B. Executions are conducted under the direction of the Warden of either the SDSP or the SDWP.

1. The Warden will select qualified staff to participate in the execution.

2. The Warden will identify one (1) or more individuals trained to administer intravenous injections to carry out the lethal injection.

    a. The Warden will present information regarding the individual's(s') qualifications to the Secretary of Corrections for final approval (See SDCL § 23A-27A-32).

    b. The individual's(s') qualifications must demonstrate adequate training to competently carry out each technical step of the lethal injection (*See Baze v. Rees*, 553 U.S. 35 (2008) and *Taylor v. Crawford*, 487 F. 3d 1072 (8th Cir. 2007).

    c. The name, address, qualifications and other identifying information relating to the identity of any person or entity supplying drugs for use in intravenous injections under SDCL § 23A-27A is confidential. Disclosure of such information is a Class 1 Misdemeanor under state law (See SDCL § 23A-27A-31.2).

    d. The name, address, qualifications and other identifying information relating to the identity of any person administering the intravenous injections under SDCL § 23A-27A is confidential and disclosure of such information may not be authorized or ordered.

Disclosure of such information is a Class 1 Misdemeanor under state law (See, SDCL § 23A-27A-31.2).

C. Male inmates sentenced to death will be housed in the South Dakota State Penitentiary (SDSP) or Jameson Prison Annex. Female inmates sentenced to death will be housed at the South Dakota Women's Prison (See DOC policy 1.3.D.2 - *Capital Punishment Housing*).

1. Inmates sentenced to death are segregated from other inmates and single-celled (See SDCL § 23A-27A-31.1).

2. Physical access to an inmate sentenced to death is limited to staff members, the inmate's legal counsel, members of the clergy, if requested by the inmate and members of the inmate's family approved to access the facility. No other person may be allowed access to the inmate without an order of the trial court (See SDCL § 23A-27A-31.1).

3. If the inmate to be executed is female, the Warden of SDWP will notify the Warden of SDSP to arrange for the transfer of the female inmate when the execution date is set.

D. The Governor may investigate the circumstances of the case of the inmate sentenced to death in a manner he/she deems appropriate and may require the assistance of the Attorney General (See SDCL § 23A-27A-19). The Governor has the power to reprieve or suspend the execution for up to ninety (90) days to complete his/her investigation (See SDCL § 23A-27A-20).

E. If there is a question on an inmate's mental competence to proceed with the execution, the Warden of the state penitentiary will notify the Governor, Secretary of Corrections and the sentencing court. If the sentencing court determines there is a substantial threshold showing of incompetence to be executed, the sentencing court will conduct hearings and order mental examinations. (See SDCL § 23A-27A-22, through § 23A-27A-26). As long as the inmate is considered incompetent, the inmate may not be executed (See SDCL §§ 23A-27A-24 and 23A-27A-26).

F. The death penalty cannot be imposed on a inmate who was mentally retarded at the time of the commission of the offense and whose condition was manifested and documented before the age of eighteen (18) (See SDCL §§ 23A-27A-26.1 through 23A-27A-26.7).

G. A pregnant inmate may not be executed (See SDCL §§ 23A-27A-27 through 23A-27A-29).

H. The death penalty cannot be imposed on an inmate who committed an act punishable by death while under eighteen (18) years of age (See SDCL § 23A-27A-42).

I. Inmate appeals regarding the death penalty are outside the responsibility of the DOC. Inquiries on the status of any inmate appeal(s) should be directed to the Office of the Attorney General or the defense attorney(s).

2. Warrant of Execution:

A. The sentencing judge (or his/her successor in office) will have a signed and certified Warrant of Death Sentence and Execution provided to the Warden of the state penitentiary (See SDCL §§ 23A-27A-15 and 23A-27A-16).

B. The Warrant of Death Sentence and Execution will set the week within which the inmate is to be executed (See SDCL § 23A-27A-15).

C. The Warden of the state penitentiary may carry out the execution at any time within the week stated in the Warrant of Death Sentence and Execution. (See, SDCL §§ 23A-27A-15 and 23A-27A-16).

3. Time and Place of Execution:

A. All executions will take place at the SDSP (See SDCL § 23A-27A-32).

B. Advance notice of the day and hour set by the Warden of the state penitentiary for the execution will be kept secret and only divulged to those invited or requested to be present at the execution (See SDCL § 23A-27A-37).

C. No person may divulge the day and hour set for the execution prior to the Warden's public announcement (See SDCL § 23A-27A-37).

D. The Warden of the state penitentiary will publicly announce the day and hour of the execution not less than forty-eight (48) hours in advance (See SDCL § 23A-27A-17). The release of information to the media outlets shall be coordinated with the DOC Communications and Information manager. All other DOC staff is expressly prohibited from providing information about the execution not readily available in the public domain.

4. Selection of Witnesses:

A. No person under the age of eighteen (18) will be allowed to witness an execution (See SDCL § 23A-27A-36).

B. Only persons authorized by the Warden of the state penitentiary, and those authorized by SDCL §§ 23A-27A-32, 23A-27A-34, 23A-27A-34.1, 23A-27A-34.2 and 23A-27A-36 are allowed to attend the execution.

1. The following witnesses are required to be invited to witness the execution by state law (See SDCL § 23A-27A-34):

   a. The Attorney General of South Dakota.

   b. The trial judge before whom the conviction was had or his /her successor in office.

   c. The State's Attorney of the county where the crime was committed.

   d. The Sheriff of the county where the crime was committed.

   e. Representatives of the victim.
      1) There are no specific statutory requirements for how the Warden selects which representatives of the victim(s) may witness the execution.
      2) The victim's(s') family(ies) may suggest the names of individuals who they would like to attend.
      3) In the event the victim's(s') family(ies) cannot or will not prioritize their list of individuals, the Warden will make the choice in the following manner:

         i. Close relatives of the victim(s) will be given preference to witness the execution. The order of preference is: spouse, parents/stepparents, adult children/stepchildren, siblings, and other family members (grandparents, aunts, uncles, nieces, nephews, cousins, etc.)

         ii. Friends of the victim(s)

   f. At least one member of the news media.
      1) The Warden will select two (2) members of the media. (See section on Media Relations).

g. A number of reputable citizens to be determined by the warden.

C. Space and seating for witnesses is limited by the size of the rooms, the viewing windows, and concerns for the safety and security of the witnesses.

D. Preference will be given to accommodating as many representatives of the victim as possible, given the space constraints and the requirements in state law that other persons also serve as witnesses.

E. The Warden of the state penitentiary has final approval of all witnesses not specifically required by law to be invited.

F. All witnesses other than the Attorney General, trial judge, States Attorney and Sheriff are subject to the same background check as a regular visitor to the facility, unless exempted by the Warden of the state penitentiary.

G. The inmate is allowed to request the attendance of up to five (5) persons to serve as witnesses. These persons may include but are not limited to legal counsel, members of the clergy, relatives or friends (See SDCL § 23A-27A-34.2). All the requested witnesses shall be on the inmate's visit list and at least eighteen (18) years of age (See DOC policy 1.5.D.1 *Inmate Visiting)*.

5. Witness Behavior:

A. Because the execution will take place inside a facility where many other inmates and staff will be present or in close proximity, all witnesses are expected to follow the rules and procedures of the SDSP and the orders of escorting staff for the safety and security of all involved.

1. Failure by a witness to comply with the rules and procedures of SDSP or the orders of escorting staff may result in denial of entry or removal of the witness from the facility.

2. Witnesses shall follow the approved dress code for visitation. The witnesses will be provided this specific dress code information in advance of the execution (See DOC policy 1.5.D.1 *Inmate Visiting)*.

3. Witnesses are subject to search by a stationary metal detector and/or a hand-held metal detector and pat searches by DOC staff (See DOC policy 1.3.A.5 *Searches - Adult Institutions*).

a. Witnesses may be searched more than one (1) time prior to the execution.

b. To the extent possible, pat searches will be conducted by a DOC staff member of the same sex as the witness.

4. Most personal property items are not allowed inside the SDSP.

a. For example, purses, cameras, pictures, pocketknives, pagers, watches, cell phones, signs, recording devices, other electronic equipment, etc. are not permitted. These items should be left in the vehicle or lockers that are available for storage of personal property in the SDSP lobby.

b. No drugs, alcohol, tobacco products or firearms are allowed inside SDSP. Anyone suspected of being under the influence of drugs or alcohol will be denied entry or removed from the facility.

B. All witnesses are cautioned to refrain from verbal outbursts or inappropriate action while inside the SDSP.

C. No cameras or recording devices of any type are allowed inside the SDSP, the witness area or the area surrounding the execution chamber (See DOC policy 1.1.A.4 *Relationship with News Media, Public and Other Agencies*).

6. Media Relations:

A. Requests for execution information (other than appeal issues) or interviews from media representatives are to be made to the DOC Communications and Information Manager or respective Warden (See DOC policy 1.1.A.4 *Relationship with News Media, Public and Other Agencies*). Reasonable efforts will be made to accommodate representatives of the news media before, during and after a scheduled execution; however, the DOC reserves the right to regulate media access to ensure the orderly and safe operations of the facility.

1. The Warden of the state penitentiary (or his/her designee) can discuss procedures under the control of SDSP that affect an execution. Examples of procedures which may be discussed:

   a. The timelines of the execution, from issuance of the warrant of execution to the certificate of execution, return of the deceased inmate's body and the burial.

   b. The various steps that go along with the execution; i.e. sequence of events, last meal, last words, etc.

   c. Witness information (See sections on Selection of Witnesses and Witness Behavior).

   d. A description of the regular visit procedures inside the security perimeter.

2. Questions regarding the process for the Governor to investigate the circumstances of the case will be directed to the Governor's Office or Attorney General's Office.

B. The decision to grant tours of the execution chamber is at the discretion of the Warden of the state penitentiary.

C. The decision to grant photo/video of the execution chamber is subject to the approval of the Secretary of DOC.

D. Two (2) media witnesses will be selected to attend the execution.

1. The first media representative will be selected from the Associated Press.

2. The second media representative will be selected from a media outlet located in the proximity of where the crime took place.

E. Media witnesses shall not possess cameras or recording devices of any type while in the witness area or surrounding area of the execution chamber.

1. Each media witness attending the execution may have writing material in the waiting area but must leave those materials behind when moved to the witness area.

2. Each media witness attending the execution will be given paper and a pencil by a DOC official when he/she arrives in the witness area.

7. Final Visit Arrangements:

A. Reasonable accommodations for visits by immediate family will be made after the inmate has been moved to a holding cell near the execution chamber.

1. Visits are allowed between 8:00 AM and 8:00 PM, except for the day of the execution (See item **"**E**"** in this section).

2. All personal visits will be Class II (non-contact) (See DOC policy 1.5.D.1 *Inmate Visiting)*.

3. Telephone calls may be substituted for personal visits.

B. Visits will be supervised by DOC staff and must be arranged in advance through the Warden of the state penitentiary or Deputy Warden of the state penitentiary.

1. Visitors are subject to search by both a stationary and hand-held metal detector, and pat searches at any time (See DOC policy 1.3.A.5 *Searches - Adult Institutions*).

2. Visitors must abide by the rules and regulations of the SDSP and the DOC.

3. Failure to abide by the rules and regulations of the SDSP and the DOC may result in termination of a current visit and denial of future visits.

C. Visitors will be escorted and supervised at all times.

D. The following members of the inmate's immediate family are allowed Class II visits with the inmate: father, mother, stepfather, stepmother, brother(s), sister(s), stepbrother(s), stepsister(s), biological/legally adopted children and spouse.

E. Visits with immediate family will cease at least six (6) hours prior to the scheduled time of execution.

F. Attorney access will be accommodated as much as possible.

1. Attorneys are subject to all the visit arrangements/restrictions listed in this section.

2. Any documents to be shared with the inmate will be passed to SDSP staff and inspected for contraband. Approved documents will be given to the inmate.

3. Attorney(s) must leave the holding cell area at least one (1) hour before the scheduled execution time.

G. Clergy will be allowed additional visits with the inmate until one (1) hour before the scheduled execution time.

8. The Execution:

A. An execution involves strict security procedures that are intended to protect the witnesses, staff, other inmates and the public at large. These security procedures are confidential and will not be discussed.

B. The Governor, Attorney General and Chief Justice of the State Supreme Court or designee will be provided with the telephone numbers of the Warden's Office, the chemical room and multiple backup telephone numbers, including personal cell phone numbers of the Warden of the state penitentiary and Deputy Warden of the state penitentiary for the purpose of emergency or last minute notification. The Warden of the state penitentiary and Deputy Warden of the state penitentiary will also be equipped with SDSP-issued radios.

C. After confirming with the Governor's Office, the Attorney General and the Chief Justice of the State Supreme Court that no last minute appeals have been initiated and no stays have been ordered, the inmate will be moved to the execution chamber and secured to the table.

D. Two (2) intravenous injection (IV) sites will be prepared and inserted, normally one (1) in each of the inmate's arms.

E. A bag of sterile saline solution will be connected to each IV site. Each IV will be checked and verified as running properly before witnesses are escorted into the viewing rooms.

F. The witnesses will be brought into the respective witness rooms one (1) group at a time.

G. The curtains outside the witness rooms will remain closed until the Warden of the state penitentiary is satisfied everything is ready and orders them opened.

H. The Warden of the state penitentiary will give the inmate an opportunity to make a final statement. A transcript will be made of the inmate's statement and the transcript will be made public.

I. For 3-Drug or 2-Drug protocol executions, the Sodium Pentothal or Pentobarbital will be administered and allowed to take effect prior to administering the subsequent drugs.

J. After the lethal injections have been administered, the Warden of the state penitentiary will wait a brief period before summoning a person capable of examining the inmate for the presence of respirations and heartbeat and, if appropriate, to pronounce death, including the time of death.

1. If the county coroner is on the premises, the Warden of the state penitentiary will ask the county coroner to certify death, including the time of death and then take charge of the body.

2. If the county coroner is not on the premises, the Warden will direct the inmate's body to be taken to a nearby morgue, where the county coroner will be summoned to examine it and certify death.

K. After death has been pronounced, the curtains of the witness rooms will be closed and the witness groups will be escorted away from the area separately.

9. Post-Execution Procedures:

A. The certificate of execution will be prepared and signed by the Warden. The certificate of execution document shall also be signed by each of the witnesses of the execution attending as allowed in § 23A-27A-34 and § 23A-27A-34.2. (See SDCL §§ 23A-27A-34, 23A-27A-34.2 and 23A-27A-40.1).

B. The Warden will ensure the county coroner is permitted to investigate the death pursuant to SDCL §§ 23-14-18(3) and 24-1-27

1. If the county coroner is on the premises, the body of the executed inmate will not be removed from the execution chamber until after the county coroner has certified the death of the inmate.

C. After the county coroner has completed the investigation, the body of the executed inmate (unless claimed by a relative or personal representative), will be interred in a cemetery within Minnehaha County (Also see SDCL § 23A-27A-39 and DOC policy 1.4.E.6 *Death of an Offender or Unresponsive Offender*).

D. After the execution has been completed, the DOC Communication and Information Manager will announce the fact in a press briefing that will be conducted on the SDSP grounds.

E. Media representatives present at the execution are required to attend the post-execution press conference to share information about the execution with other media.

F. Within ten (10) days following the execution, the certificate of execution and return will be filed with the Clerk of Courts of the county where the offense occurred. (See SDCL § 23A-27A-40.1)

V Related Directives:

SDCL chapter 23-14, chapter 23A-27A and 24-1-27
Baze v. Rees, 217 S. W. 3d 207, (May 7, 2008)
Taylor v. Crawford, 487 F. 3d 1072 (8th Cir. 2007)
DOC policy 1.1.A.4 *Relationship with News Media, Public and Other Agencies*
DOC policy 1.3.A.5 -- *Searches - Adult Institutions*
DOC policy 1.3.D.2 – *Capital Punishment Housing*
DOC policy 1.5.D.1 -- *Inmate Visiting*
DOC policy 1.4.E.6 – *Death of an Offender or Unresponsive Offender*

VI Revision Log:

August 2006: New policy.
June 2007: **Revised** the policy statement. **Revised** the definition of lethal injection. **Removed** medical doctors as witnesses required to be invited to the execution. **Deleted** references and procedures related to SDCL § 23A-27A-38. **Revised** the post-execution procedures. **Moved** some information from the section on Media Relations and placed it in a new section titled The Execution. **Added** a reference to DOC policy 1.3.A.10. **Added** language about death penalty appeals. **Added** a statement regarding security measures. **Added** the circumstances in which an inmate may choose the current lethal injection procedures or revert back to existing law at the time of conviction or sentence. **Clarified** which individuals the victim's family may request as witnesses. **Added** a statement on the trained individuals' experience and qualifications. **Added** more specific procedures on administering the lethal dosages. **Added** a reference to *Taylor v. Crawford*.
August 2007: **Changed** "medical procedure" to "technical procedure" to avoid any possibility of confusion regarding an execution being considered the practice of medicine. **Updated** the procedures involving the county coroner in the section on The Execution.
June 2008: **Revised** formatting of policy in accordance with 1.1.A.2. **Changed** policy because of recent law changes to the capital punishment chapter, SDCL 23A-27A by the SD Legislature, 2008, SB 53 and the United States Supreme Court in **Baze v. Rees**, ___ US _____, (2008). **Revised** definition of Lethal Injection. **Changed** "through" to "and" and "36" to "34-2" in definition of Witnesses. **Deleted** reference to DOH policy in subsection (ss) (A1), **revised** wording in ss (A2), **added** "each in a lethal quantity" in ss (A4), **deleted** comment about remaining unconscious in ss (A4a), **replaced** "person" with "inmate" in ss (5A and B), **added** comment about state statue and statute 32-1 in ss (5B), **replaced** "at least two (2)" to "one (1) or more" in ss (B2), **revised** section reading properly trained to read adequately trained and referenced court cases in ss (B2b), **clarified** on the information that is to remain confidential for those assisting with administering the intravenous injection in ss (b2c), **revised** wording of how inmates are housed and **replaced** statute 16 with 31.1 in ss (C1), **replaced** statute 16 with 31.1 in ss (C2), **added** that the Secretary of DOC and sentencing court will be notified regarding any question regarding an inmate's mental competence and **replaced** statement regarding a commission may be appointed with language from statute 22 through 26, and **replaced** statutes in ss (E) and **deleted** "/exaction" and "and/" in ss (I), of General Provisions section. **Revised** statement regarding sentencing judge in ss (A), **replaced** "delivered" with "provided in ss (A), **added** "Death Sentence and" to "Execution" regarding the certified Warrant in ss (A, B and C) and **added** statute 16 in ss (A and C) of Warrant of Execution section. **Replaced** "the witnesses" with "those" in ss (B), **revised** ss (C) to state no person will divulge within Time and Place of Execution section. **Added** statute 36 in ss (A), **replaced** "DOC staff, law enforcement officers" with "persons", **added** statute 32, 24-2, 36 and **replaced** 35 with 34.1 in ss (B), **deleted** former ss (B2), **replaced** "no more than ten (10)" with "a number of" in ss (C), **deleted** ss (C1), **moved** ss (C2) to above ss (C), **added** new ss (C1 and C2)**, revised** wording regarding selection of witnesses in ss (D, D1, D2 and D2a), **deleted** former ss (D2c) regarding multiple victims, **deleted** "(Attorney General, trial judge, states attorney and sheriff)" in ss (E) and **added** ss (G) in Selection of Witnesses section **Clarified** that no cameras or recording devices are allowed inside SDSP or area surrounding the execution chamber in ss (C) of Witness Behavior section. **Revised** wording in ss (A), **deleted** statement regarding photo requests of the execution chamber in ss (B) and **added** a new ss (C) regarding requests to take photos of the

execution chamber, of the Media Relations section **Deleted** statement regarding pursuant to SDCL 23A-27A-35 in ss (G) of Final Visit Arrangements section. **Revised** ss (D) to include two intravenous injection (IV) sites will be prepared and inserted, **added** "site" when referencing IV in ss (E), **added** "the transcript" in ss (H), **deleted** "to render the inmate unconscious" in ss (I), **replaced** "EMT" with "a person capable of examining" and **added** "for the presence of respirations and heartbeat and if appropriate" to ss (J), **deleted** statement about county coroner examining the inmate and **added** statement about taking charge of the body in ss (J2) and **deleted** statement regarding EMT and county coroner and **added** statement about death being pronounced ss (K) of The Execution section. **Replaced** "persons" with "witnesses", **deleted** statute 40, **added** statutes 34, 34.2, 40.1 in ss (A), **added** statute 24-1-27 in ss (B), **replaced** "declared" with "certified" in ss (B1) **added** statute 40.1 in ss (F) and **revised** bullets to read accordingly within the Post-Execution Procedures section. **Added** Baze v. Rees, _____ US _____, (May 7, 2008), Taylor v. Crawford, 487 F. 3d 1072 (8th Cir., 2007) and DOC policy when referencing policies throughout policy **Revised** other grammatical, spacing and sentence structure throughout policy.

July 2009: **Added** site code to Baze v Rees throughout policy **Added** hyperlinks throughout policy. **Deleted** SDCL 23A-27A-30 in ss (G of General Provisions).

July 2010: **Revised** formatting of Section 1 **Replaced** SDSP with SD DOC in ss (A1 of General Provisions.

September 2011: **Reviewed with no changes.**

October 2011: **Deleted** "a" in IV.1.A. **Added** 3-Drug, 2-Drug, and 1-Drug protocol descriptions in Part IV.1.A.4.**Added** IV.1.B.1.c. moved former IV.1.B.2.c. to IV.1.B.2.d. **Updated** Baze cites to published U.S. citation throughout. **Deleted** "Pancuronium Bromide" and "Potassium Chloride" from IV.8.1 and **added** "For 3-Drug or 2-Drug protocol executions" and "subsequent drugs." **Deleted** "dosages of Sodium Pentothal, Pancuronium Bromide and Potassium Chloride" from IV.8.J and **added** "injections".

February 2013: **Added** "the Warden, subject to the approval of the Secretary of Corrections, shall determine the substances and the quantity of substances to be used for the execution" in Section 1 A. 5. b. **Deleted** "warden" and **Replaced** with "Warden of the state penitentiary" within the policy. **Deleted** "may not be authorized except pursuant to the terms of a court order" and **Replaced** with "is a class 1 misdemeanor under state law" in Section 1 B. 2. c. **Deleted** "Class 2" and **Replaced** with "Class 1" in Section 1 B. 2. d. **Deleted** "attorney's, clergy, DOC staff, other state or contractual staff stationed at the respective prison, people authorized by the respective Warden or any other person authorized to access the inmate through a court order" and **Replaced** with "penitentiary staff, Department of Corrections staff, inmate's counsel, member of the clergy if requested by the inmate, and members of the inmate's family. No other person may be allowed access to the inmate without an order of the trial court." in Section 1 C. 2. **Added** 3. to Section 1 C. **Added** "The release of information to the media outlets shall be coordinated with the DOC Communications and Information manager. All other DOC staff are expressly prohibited from providing information about the execution not readily available in the public domain" in Section 3 D. **Added** "Reasonable efforts will be made to accommodate representatives of the news media before, during and after a scheduled execution however; the DOC reserves the right to regulate media access to ensure the orderly and safe operations of its facilities." to Section 6 A.

July 2013: **Deleted** "the state penitentiary" and **Replaced** with "either the South Dakota State Penitentiary or the South Dakota Women's Prison" in Section 1 A. 5. a. **Deleted** "by state law at the time of the execution, the Warden, subject to the approval of the Secretary of Corrections, shall determine the substances and the quality of substances to be used for the execution" and **Replaced** with "in SDCL 23A027A-32) in Section 1 A.5 b. **Deleted** "the state penitentiary" and **Replaced** with either the SDSP or SDWP" in Section 1 B. **Added** e. "Representatives of the victim" to Section 4. Added 1)-3) and 3) a. to Section 4 B. 1.**Added** F. "At least one member of the news media" to Section 4 B. 1. **Added** G. "A number of reputable citizens to be determined by the Warden" to Section 4 B. 1. **Deleted** The Warden of the state penitentiary will select a number of reputable adult citizens to witness the execution and two (2) members of the media (See section on Media Relations)." in Section 1 C. **Deleted** " 1. Space and seating for witnesses is limited by the size of the rooms, the viewing windows and concerns for the safety and security of the witnesses" in Section 4 C. **Deleted** 2.

"Preference will be given to accommodating as many representatives of the victim as possible give the space constraints and the requirements in state law that other persons also serves as witnesses" in Section 4. **Deleted** "There are no specific statutory requirements for how the Warden of the state penitentiary selects which representatives of the victim(s) may witness the execution" in Section 4. **Deleted** 1. "The victims family or families may suggest the names of the individuals who should attend" in Section 4 D. **Deleted** 2. "In the event the victim's family or families cannot or will not prioritize their list of individuals, the Warden of the state penitentiary will make the choice in the following manner:" and **Deleted** 1 (1-6) referencing the list of family in Section 4 D. **Renumbered** items that followed **Added** new C. "Spaced and seating for witnesses is limited by the size of the rooms, the viewing windows and concerns for the safety and security of the witnesses" in Section 4 **Added** new D. "Preference will be given to accommodating as many representatives of the victim as possible given the space constraints and the requirements in state law that other persons also service as witnesses" in Section 4.

July 2014: **Reviewed** with no changes.

July 2015: **Added** definition of "Staff Members". **Added** "approved to access the facility" in Section 1 C. 1. **Deleted** "Department of Corrections staff" and **Replaced** with "staff members" in Section 1 C. 2.

Denny Kaemingk (original signature on file)	*10/08/2015*
Denny Kaemingk, Secretary of Corrections	Date