

# **SURVIVING EXECUTION**

### About the author

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# **SURVIVING EXECUTION**

**IAN WOODS**



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For my son, Oscar

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## WHO'S WHO

### **Oklahoma 2015–16**

Richard Glossip: death-row inmate

Justin Sneed: convicted killer

Kim Van Atta: friend of Glossip

Don Knight: Glossip's attorney

Sister Helen Prejean: anti-death-penalty campaigner

Anita Trammell: warden, Oklahoma State Penitentiary

Mary Fallin: Governor of Oklahoma

Alex Weintz: Governor's spokesman

Scott Pruitt: Oklahoma Attorney General

David Prater: District Attorney, Oklahoma County

Robert Patton: Director, Oklahoma Department of  
Corrections

Terri Watkins: Communications Director, Department of  
Corrections

Phil Cross: Fox 25 reporter

Ralph Shortey: Oklahoma state senator

Mark Henricksen: Glossip attorney

Kathleen Lord: Glossip attorney

Dale Baich: death-penalty attorney

Bud Welch: father of Oklahoma bombing victim

Randall Workman: former prison warden

Donna Van Treese: widow of murder victim

Billie Jo Boyiddle: Glossip's niece

Christina Glossip-Hodge: daughter

Ericka Glossip-Hodge: daughter

Crystal Martinez: friend of Glossip  
 Susan Sarandon: actress and campaigner  
 Kim Bellware: reporter, *Huffington Post*  
 Cary Aspinwall: reporter, *The Frontier*  
 Ziva Branstetter: reporter, *The Frontier*  
 Graham Lee Brewer: reporter, *The Oklahoman*  
 Marc Dreyer: Pardon and Parole Board chairman  
 Robert Dunham: Death Penalty Information Center

### **Oklahoma 1997–8**

Barry Van Treese: motel owner and murder victim  
 D-Anna Wood: Glossip's girlfriend  
 Cliff Everhart: part-time security man at motel  
 Billye Hooper: motel receptionist  
 Bob Bemo: detective, Oklahoma City Police  
 Bill Cook: detective, Oklahoma City Police  
 Tim Brown: patrol officer, Oklahoma City Police  
 Fern Smith: Assistant District Attorney  
 Wayne Fournierat: defence attorney  
 Richard Freeman: judge  
 David McKenzie: attorney

### **Oklahoma 2004**

Lynn Burch: Glossip's attorney  
 Connie Smothermon: Assistant District Attorney  
 Silas Lyman: Glossip's attorney  
 Wayne Woodyard: Glossip's attorney  
 Twyla Mason Gray: judge  
 Kenneth Van Treese: brother of murder victim



# Prologue

**30 September 2015**

The banging on doors began just before 3 p.m., the time the condemned man was due to die. More than forty inmates on death row joined the noisy protest as they imagined one of their own being strapped to the gurney, an intravenous tube ready to carry the deadly chemicals into his vein. The din echoed around Unit H of Oklahoma State Penitentiary and into Cell LL adjacent to the death chamber.

Richard Glossip was sitting on his solid concrete bunk, naked apart from his boxer shorts, with a thin blanket around his shoulders to keep him warm. He'd been like this for more than an hour, waiting to be taken on what should have been a short walk to his death.

He ought to have been dead by now. Or at least being prepped for death. His fellow inmates thought he was taking his final breaths, and believed they were giving him a fitting send-off. But the banging subsided and Richard Glossip was still alive.

He wanted to know what was happening, but he also longed to be taken outside. Glossip had spent fifty straight

days in the isolation cells close to the death chamber. All that time he had been deprived of privacy. The light was kept on twenty-four hours a day, so that a guard could watch his every move. It was deemed necessary in case the prisoner tried to harm himself, or, worse, take his own life before the state had the chance to kill him.

Even for a man who had spent the last eighteen years behind bars, the isolation cell was a particular form of torture. All luxuries had been taken away when he was moved here, depriving him of the music he loved to listen to on his MP3 player. He'd already been here longer than the prison authorities had intended.

Two weeks earlier, he had been woken before dawn and taken for a medical examination. He had bantered with the prison staff about the efforts they were making to ensure he was fit to be executed. But three hours before his appointed time, he was granted a reprieve: a fourteen-day stay of execution while an appeal court examined newly submitted evidence about his case.

Two weeks for his lawyers to fight for his life. Two more weeks for Richard Glossip to endure the permanent illumination of his concrete cell. Two more weeks to contemplate what it would be like when the curtains were drawn back and the witnesses to his execution stared at him from behind the glass windows.

I was due to be one of those witnesses, one of six people he had chosen to be with him at the end. On 30 September, we were waiting in another room in the prison, as we had been two weeks earlier. This time it seemed certain the execution

was going to proceed. Word had come from Washington DC that the US Supreme Court had refused to intervene. With all appeals exhausted, it could go ahead as planned.

I had accepted the invitation to be a witness months earlier, as a way of telling Richard Glossip's story – that of a man being put to death for a murder committed by someone else. My selection had led to arguments; another witness challenged my right to be there, and at one point I thought Glossip would withdraw the invitation. But he kept me on his list. Why did he want a British journalist to watch him die? I had asked him several times if he was sure; there were precious few choices he could make freely. Choosing who should be present at his death was one. I promised to be there, but only if he thought it would help, only if he wanted me there.

As I watched the clock tick ever closer to the time of his death, I was regretting my decision. But it was too late to walk away. This was a story unlike anything I had experienced in more than three decades as a reporter.

And it wasn't over yet.



## CHAPTER 1

# The Murder

### **January 1997**

The murder victim was found face down, wearing a T-shirt with the slogan *Jesus Carried the Cross For Us*. Barry Van Treese died in room 102 of the motel he owned, the Best Budget Inn, in Oklahoma City. He had been beaten to death. The murder weapon was never recovered, but his car was found abandoned a short distance away, with tens of thousands of dollars inside.

Television cameramen arrived in time to capture the flashbulbs going off inside the room as the police photographer took pictures of the crime scene. Detectives began to question motel staff and some of the guests. The body had been lying there for around eighteen hours, covered by bedlinen, and the evidence suggested the victim had put up a fight. There was blood all over the floor, walls and door handle, and a bloody handprint on the mattress. The window had been smashed, but there were clear signs of an effort to tidy up. The broken glass had been stacked neatly in a chair, and a shower curtain had been taped over the window so the body could not be seen from outside.

Barry Van Treese was fifty-four years old and owned two motels in Oklahoma City and Tulsa. He lived in Lawton, ninety miles south-west of the state capital, with his wife Donna and their five children aged between five and sixteen. He also had two grown-up children from an earlier marriage. His wife described him as a real-life Santa Claus, whose children loved his bushy white beard and were upset on the one occasion he had shaved it off. He could be gruff, and had a temper, but friends considered him generous.

Van Treese had been a banker for twenty years. He'd completed a master's degree in banking and finance at Southern Methodist University in Dallas, and his last job was as a vice president of Boulder Bank in Tulsa, where he had more than forty staff. In 1979 he decided to set up his own business, and began to purchase motels in the state. At one point he owned and ran nine of them.

He hired managers to look after the businesses, but would visit regularly to collect the money and receipts. If he decided to stay the night in Oklahoma City, he would usually choose room 102 because it was one of the best furnished in an otherwise run-down motel, where rooms cost a little over \$20 a night. Room 102 had a water bed. The motel, on the western outskirts of the city, attracted hookers and drug dealers, but it also had some long-term guests. It was busy, except in the winter months, and it made a decent profit. The manager usually picked up a monthly bonus of several hundred dollars on top of his salary.

Richard Glossip had been manager of the Best Budget Inn for almost two years. He was thirty-three years old and

lived in an apartment next to the motel reception with his girlfriend, D-Anna Wood, who was in her early twenties. Glossip had never been in trouble with the police. He had no previous convictions. But within a few days of the murder of his boss, he would be in jail accused of plotting to kill him, and the following year he would be found guilty and sentenced to death. He was convicted even though everyone involved in the case agreed he did not physically kill Barry Van Treese.

There are conflicting stories about much of what happened in the twenty-four-hour period around the murder on 7 January 1997. But one key detail is not in dispute. Barry Van Treese was murdered by a nineteen-year-old drifter called Justin Sneed, who lived for free at the motel in exchange for helping with maintenance work. Sneed had gone into room 102 in the middle of the night, and repeatedly bashed the owner on the head with a baseball bat.

The police had Richard Glossip in their sights long before they extracted a confession from Sneed. His behaviour after Van Treese went missing had seemed suspicious. Officers were convinced he had played a part in the murder. At his trial, detectives and state attorneys would describe how and why they believed Richard Glossip had plotted to murder his boss.

The previous year had been a difficult one for the Van Treese family. Two bereavements within a short period of time had hit them hard, and for a while they didn't give the businesses their full attention. The motel managers in Tulsa and Oklahoma City were trusted to deal with any

problems. But later in the year, when Donna Van Treese was going through the books of the Best Budget Inn, she became concerned that around six thousand dollars seemed to be missing. The prosecution would allege that Barry Van Treese intended to raise the discrepancy with Richard Glossip, who was already anxious that his boss would discover that many of the motel rooms had fallen into a state of disrepair.

Van Treese had arrived at the Best Budget Inn at around 5.30 p.m. on 6 January. He'd been seen by and spoken to the desk clerk, Billye Hooper, who was waiting for his arrival so she could get paid. She would recall that Barry had an abrupt manner but was not necessarily rude; he just got on with what he needed to do. He picked up the motel receipts and said he was going to his other motel in Tulsa, which was around a two-hour drive away.

When he got there, Van Treese told the manager of the Tulsa motel that he was unhappy about the way Glossip had been running things, and said he planned to fire him. He then drove back to the Best Budget Inn, arriving at around 2 a.m., and went to sleep in room 102.

The state's evidence for what happened next comes from the killer. Justin Sneed was said to be totally reliant on Richard Glossip for providing him with a room to stay in and food to eat. According to Sneed, Glossip came to his room at 3 a.m. and said he was worried that they were both about to lose their jobs and be forced to leave the motel. He asked Sneed to murder Van Treese, and promised to pay him several thousand dollars.



Sneed picked up a baseball bat he kept in his room and went to room 102. He opened the door using a master key he'd been given by Glossip. Van Treese woke up, but Sneed hit him with the bat. Even so, the owner tried to fight back, and in the struggle, the bat smashed a window and Sneed received a black eye. But the teenager continued to hit Van Treese more than a dozen times until he stopped moving. He claimed that he then went to the motel office and told Glossip what he'd done. They both went to room 102 to check their boss was dead. Sneed said he was told to take car keys from Van Treese's pocket, to collect money that was in the vehicle and then drive the car away from the motel to a nearby parking lot.

Sneed said he found four thousand dollars in the car, and returned to Glossip, who divided the money between them. Sneed tidied up the broken glass and taped a shower curtain over the window. He claimed Glossip told him that if anyone asked, he should say that two drunks got into a fight and smashed the window. He was told that when it was daylight he should buy Plexiglas to repair the window, and a hacksaw and trash bags to dispose of the body.

When Billye Hooper arrived for work, she was surprised to see Glossip awake so early. She noticed that Van Treese's car wasn't there and she said Glossip told her that the owner had gone to get some supplies for redecorating the rooms. A few hours later, Glossip and his girlfriend, D-Anna, went shopping.

After lunch, Hooper took a phone call from a neighbouring business to say that Barry Van Treese's car had been abandoned

in their parking lot. The police were notified, as was Donna Van Treese, who was concerned that she hadn't heard from her husband. Hooper also called Cliff Everhart, an ex-cop who looked after security at the motel and who claimed to own a small stake in the business. When Glossip and his girlfriend returned from shopping, they drove around the neighbourhood with Everhart looking for any sign of Van Treese.

Justin Sneed had been seen around the motel for much of the day, and had been asked by Hooper and Everhart to search the motel rooms. By mid afternoon he had disappeared, and Sergeant Tim Brown, a local patrol officer who knew both Glossip and Everhart, was getting suspicious about what appeared to be conflicting details in Glossip's story.

Eventually, at around 10 p.m., Brown and Everhart decided to check room 102 themselves. They'd been told earlier that the window had been broken by drunks so hadn't connected it to Van Treese's disappearance. They forced open the door and found the body on the floor.

Glossip and D-Anna Wood were taken to the police station, but after being interrogated, they were allowed to leave. The following day, Glossip began selling some of his possessions and appeared to be getting ready to quit his job. After going to see a local lawyer, he was arrested, interrogated and then charged with being an accessory to murder.

A week later, after Justin Sneed was arrested and questioned, both men were charged with murder in the first degree. It was a charge that carried the death penalty, but only one of them would face execution. Justin Sneed agreed to testify against

his co-accused and in return would be given a sentence of life in jail without the possibility of parole. Richard Glossip was offered a similar deal if he pleaded guilty to murder. He refused, even though he was putting his life in the hands of a jury. If convicted, he would join more than two thousand men and women whom American courts had decided were the worst of the worst and deserved to die.



## CHAPTER 2

# The Worst of the Worst

### **December 2014**

The execution business in America was facing a crisis. A decline in public support, a fall in the number of sentences being imposed and carried out, and a series of mishaps in death chambers had led to predictions that capital punishment was doomed. But killing convicts has always been controversial.

On 6 August 1890, a new invention made its debut in New York that was supposed to replace hanging and bring the execution business into the modern world. William Kemmler became the first person to die in the electric chair, but many of those who witnessed his death were horrified. The *New York Times* report, under the headline ‘FAR WORSE THAN HANGING’, described it as an ‘awful spectacle’ and a ‘disgrace to civilisation’.

Kemmler, who had killed his common-law wife with an axe, seemed amenable to taking his place in the history books. ‘Gentlemen, I wish you all good luck. I believe I am going to a good place, and I am ready to go.’ He sat down on the chair and allowed the electrodes to be attached to his body. ‘Now take your time and do it all right, warden.

There is no rush. I don't want to take any chances on this thing you know.'

But the first burst of electricity, which lasted seventeen seconds, did not kill Kemmler, and a second attempt was made. This time the current was left on for more than a minute. A reporter fainted and the District Attorney groaned and rushed out of the room. The *New York Times* reported that 'the stench was unbearable'. The reporter speculated that it was likely to be the first and last such execution.

However, the electric chair soon became established as America's primary method of capital punishment, and was used for more than a century. All executions in America were temporarily halted for a decade until the US Supreme Court upheld its use in 1976. A database maintained by the Washington-based Death Penalty Information Center records 158 executions by electrocution since then. The most recent was in Virginia in 2013. Convicted killer Robert Gleason had requested the electric chair. The *Herald Courier* reported how he died:

One man turned a key in a wall to activate the system and another man in an adjacent room started the electrocution. Gleason's body spasmed with each series of jolts, smoke rising from the mask. The jolts were administered at 9:03, and after five long minutes of silence a doctor in a white coat entered from a side room, put a stethoscope to his tattooed chest and then nodded that he was dead.

During the 1920s, many states adopted the use of cyanide gas. On the first occasion, prison officials tried and failed to kill inmate Gee John by pumping the gas into his cell while he slept. Only when it seeped out did they decide that a proper gas chamber was needed. And even when they succeeded at the second attempt, the area near the chamber was evacuated because there were concerns that gas was leaking.

Eleven men have been put to death using gas since 1976. The last time it was used was in Arizona in 1999. Walter LaGrand was given the option of death by gas or lethal injection. His half-brother Karl, who had also been convicted of the murder of a bank manager during a robbery, had chosen to die by injection a week earlier. The *Tuscon Citizen* reported that

Cyanide pellets were dropped into the acid below the chair. The witness room fell silent as a mist of gas rose, much like steam in a shower, and Walter LaGrand became enveloped in a cloud of cyanide vapor. He began coughing violently – three or four loud hacks – and then, in what appeared to be his last moments of consciousness, he made a gagging sound before falling forward at about 9:15 p.m. The method of death is comparable to having a heart attack, according to prison officials.

Death by hanging, the approved method of execution in Britain throughout the twentieth century until abolition

in the 1960s, was much less common in the United States. And since 1976, only three men have died on the gallows. The last was in Delaware in 1996, and was described by a reporter from the Associated Press.

Billy Bailey, the 49-year-old murderer of an elderly couple, climbed onto a wooden gallows and was hanged early Thursday, becoming only the third convict in the nation to be executed this way in 30 years.

Bailey closed his eyes, sniffled and said nothing before the black hood was placed over his head. His body twisted quickly in the wind once the trapdoor was sprung, then turned slowly beneath the 15-foot-high platform in the cold night air. He was pronounced dead 11 minutes later.

For a nation that loves guns, the United States has been surprisingly unenthusiastic about using them in executions. It remains an option in two states, but in modern times only three men have died by firing squad, all of them in Utah. Gary Gilmore, the first person to be executed after the reinstatement of the death penalty in 1976, chose this method, as did Ronnie Lee Gardner, the last prisoner to die in a hail of bullets, in 2010. According to the *Deseret News*:

A black hood was placed over Gardner's head, and less than a minute later, five guns made two



booming sounds in quick succession. Gardner was strapped to a chair at six different places on his body: forehead, shoulders, chest, waist, wrists and ankles. On each side of the chair were 13 sandbags, nine of them stacked on top of each other. Behind the chair was a wood panel painted black.

After the shots were fired, Gardner's left hand clinched into a fist. The fist eased a little and his thumb stroked his forefingers again. Gardner's arm and hand continued to move for about two minutes, leaving some media members to wonder for a brief moment if he would have to be shot again.

The death by firing squad of Gary Gilmore in 1977 prompted a debate about what was the most humane method of execution. In Oklahoma, the state's medical examiner was asked to devise an alternative, because there was a feeling that animals were being put to death more humanely than humans. Within a few days, Dr Jay Chapman came up with the idea of using three drugs, an anaesthetic, a paralytic and a drug to stop the heart. His suggestion was adopted, although he has never been keen on his title, 'the father of lethal injection'.

'Chapman's protocol' was later copied across the country, but it was Texas that first put it into practice. On 7 December 1982, Charles Brooks Jr was put to death in Huntsville. The *New York Times* reported that 'The witnesses, all of whom

appeared shaken by the experience, indicated that Mr Brooks's death did not appear to be painless.' Dick Reavis, a reporter for *Texas Monthly*, wrote:

He turned his head upward and yawned, then wheezed, and that was all, but another witness said Mr Brooks gasped and moved his stomach. The use of lethal injection has been widely urged as a 'humane' way of carrying out the death sentence. However, many physicians have protested that it is a violation of medical ethics to use drugs meant to save lives in order to end lives.

That issue has not gone away, but it didn't stop lethal injection becoming established as by far the most common method used to carry out the death sentence.

Brooks was the first prisoner executed in Texas since 1964, but the state quickly became the nation's leader in capital punishment. In the thirty years since Brooks died, more than five hundred inmates have been put to death, all by lethal injection. The national total is now more than fourteen hundred.

For a time, executions became almost routine. Every year between the mid 1990s and 2007 there were at least 42 deaths across the United States, and in one year there were as many as 98. But by 2015, the number of people put to death had fallen to 28. The biggest factor in that decline has been controversy surrounding the lethal injection process,

mostly because prisons have been finding it more and more difficult to obtain the required drugs.

Because death-penalty abolitionists had failed to get American courts to ban the practice, they began to look at an alternative line of attack, alerting international pharmaceutical companies that their drugs were being used in executions. Later they persuaded the European Union to impose strict export bans to stop drugs being sold to American prisons.

It's easy to understand why EU politicians would want nothing to do with the execution business; most democratic European nations abandoned the practice decades ago. The United Kingdom carried out its last hanging in 1964, and countries such as Italy, Belgium, the Netherlands and Norway stopped executions more than a decade earlier. East Germany, together with other Warsaw Pact nations, including Poland and Romania, were still putting people to death in the 1980s.

The last execution in western Europe was carried out in France as recently as 1977, and the method hadn't changed since the French Revolution. Hamida Djandoubi, a Tunisian immigrant, became the last victim of the guillotine, in a Marseilles prison. Many countries have not only abolished capital punishment, they have changed their constitutions so it cannot be easily restored.

The British-based human rights group Reprieve has led the way in lobbying pharmaceutical companies that either knowingly or unwittingly provide the drugs used in lethal injections. According to their director, Maya Foa, 'What we have seen is the debunking of the "humane" lethal injection.

Whilst these other methods look more barbaric, the lethal injection remains an incredibly cruel way to execute someone and it's really important that the American public and the public at large has been able to see that this was just a disguise. It was masking what was happening when you put someone to death.'

In 2011, the American firm Hospira took decisive action when it realised that one of its drugs, sodium thiopental, was being used as the first-stage anaesthetic. It simply stopped making it. Executives discussed other options, but decided that they couldn't guarantee that the drug, which was made at the company's plant in Italy, wouldn't find its way into prisons. They issued a statement withdrawing it from sale: 'We cannot take the risk that we will be held liable by the Italian authorities if the product is diverted for use in capital punishment. Exposing our employees or facilities to liability is not a risk we are prepared to take.'

With sodium thiopental no longer available, the prison authorities turned to pentobarbital, a drug used to treat epilepsy, made by the Danish company Lundbeck. When Lundbeck found out how the drug was being used, it imposed restrictions on its distribution.

The company's spokesman, Anders Scholl, explained to me how it had become embroiled in the death penalty debate. A Danish journalist had read a story in the *New York Times* that said Lundbeck's drug was now being used in executions. 'We had never provided pentobarbital on purpose for prisons so of course it was quite a shock. We are a company conducting research to save people's lives

with severe brain diseases, so this was, from our view, the complete opposite.’

They responded initially by writing letters to the prisons asking them to stop misusing their product. When the letters went unanswered, they discussed withdrawing the drug from the market, just as Hospira had done with sodium thiopental. But that would have had an impact on patients who needed the drug. As Scholl said, ‘Pentobarbital is used for people with severe epilepsy. It’s a kind of sedative compound. You even have children suffering from severe epilepsy and they could potentially die if they couldn’t get hold of the medication.’

So five months after they were first told of the misuse, Lundbeck executives restricted distribution. Purchasers had to sign written guarantees that they would not redistribute the drug. But the company found it deeply frustrating that prisons had simply ignored their requests. ‘You have other situations where you have misuse of medication, when people use it for doping, and if that’s the case you can work with authorities to try to stop it. But in this case it was actually the authorities who were doing the misuse. Other companies have contacted us because they have ended up in the same situation and we could tell them our story. And I know those companies have implemented the same system as us.’

Faced with another supply network being closed off, several states turned to compounding pharmacies to try to replicate the restricted drugs. Others looked for an alternative anaesthetic, and chose midazolam. But critics say it isn’t

strong enough to prevent prisoners feeling pain when the next two drugs are administered.

Robert Dunham, the executive director of the Death Penalty Information Center, says that even in executions that have apparently passed off without incident, it doesn't mean that inmates weren't feeling pain, because the paralytic drug prevents signs of pain being seen. But in some cases, the problems have been obvious.

'You've got inmates who are conscious, you've got inmates who are gasping. One description is that an inmate was flopping around like a fish against the restraints. That's someone who is clearly experiencing high levels of pain, and we know that the lethal drug is akin to being burned from the inside out. So that's someone who is experiencing a torturous and painful death. That's clearly improper. That's something all people of good faith and good conscience want to stop, and midazolam runs the risk that that's going to happen.'

The most infamous example of an execution involving midazolam was that of Clayton Lockett, in Oklahoma in April 2014. It marked a watershed moment in the history of Oklahoma executions. It wasn't just the length of time he took to die – forty minutes from the first injection to being declared dead – but the manner of his death was anything but humane and dignified. It led to international headlines and prompted President Obama to express concern, despite his qualified support for the death penalty.

Clayton Lockett was not a man who should have expected public sympathy. He had shot, but not killed, a nineteen-year-

old woman who had witnessed her friends being attacked and raped. When his shotgun jammed, he and an accomplice buried her alive in a shallow grave.

There had been legal wrangling and several delays before his execution date. One of the reasons for it being postponed was that the Department of Corrections had been having great difficulty in procuring drugs. With its supply of sodium thiopental having been cut off, it followed Florida in deciding to use midazolam, which was readily available. A legal challenge delayed the execution by another week, so Oklahoma decided to schedule two executions on the same night, 29 April 2014.

Lockett was not willing to cooperate in his own death, and had resisted prison guards throughout his last day. Early in the morning he had refused to leave his cell for a mandatory medical examination prior to his execution. Staff tasered him when he resisted. A razor blade was found in his cell, and he had self-inflicted cuts to his arms.

Just under twelve hours later, he was strapped to the gurney in the death chamber, forty minutes before his scheduled execution at 6 p.m. A paramedic and a doctor were there to oversee it. The paramedic was having problems finding a suitable vein in Lockett's arms or legs to insert a needle. She tried and failed several times, and had to ask the doctor for help. After considering the jugular, they finally opted for the femoral vein in his groin. The needle they used was too short, but they didn't have a longer one so made do. A sheet was draped over Lockett, hiding where the intravenous drip had been inserted.

They were now running twenty minutes late, but the blinds in the viewing room were finally opened so that official witnesses and reporters could see the execution. Lockett had no final words, so Warden Anita Trammell simply announced, 'Let the execution begin.' In a neighbouring room, the plunger was pushed on the syringe of midazolam, and the drug began to flow through a tube into Lockett's body.

One of those watching was Katie Fretland, an American reporter who was writing for the British newspaper the *Guardian*.

The restrained prisoner blinked and pursed his lips. At first he looked straight ahead, but after four minutes, he turned towards the witness area. By 6.30 p.m., his eyes were closed and his mouth slightly open, but when an official stood over him to check, it was clear something was wrong. 'Mr Lockett is not unconscious,' Trammell said.

At 6.33 p.m., Lockett was checked again and declared to be sedated. But then, during the following minutes, Lockett lurched forward against his restraints, writhing and attempting to speak. He strained and struggled violently, his body twisting, and his head reaching up from the gurney. Sixteen minutes after the execution began, Lockett said, 'Man.'



Something was terribly wrong. The blinds were closed, preventing the reporters and witnesses seeing what happened next. But the full details were later revealed in the official report into the botched execution. Even though the two remaining drugs had been administered, Lockett's heart was still beating. When the warden pulled back the sheet, there was blood visible around Lockett's groin, and the area where the IV had been inserted was swollen. As the doctor tried to push the needle in further, blood squirted over him.

There was a brief discussion about whether to try to resuscitate the prisoner. Officials tried to ascertain whether he had been given enough of the lethal drug to kill him. Finally a decision was made to halt the execution. But ten minutes later he died anyway. At first it was thought, and reported, that he had died of a heart attack, but an autopsy revealed that enough of the lethal injection had finally made its way into his system and killed him.

The second execution that was due to be held that evening was postponed while officials tried to work out what had gone wrong.

The official report blamed the problems with inserting the IV line rather than the use of midazolam, which allowed the Oklahoma authorities to insist that it was a suitable anaesthetic. But there had been other adverse incidents when the drug was used, leading to criticism that it was ineffective at putting prisoners into a deep coma-like sleep.

Three months before the Lockett fiasco, Ohio took twenty-six minutes to execute Dennis McGuire using midazolam and

hydromorphone, a combination that had never been used before. McGuire's spiritual adviser, Fr Lawrence Hummer, wrote an account of what he witnessed for the *Guardian*:

At 10.30 a.m., three minutes into the execution, he lifted his head off the gurney, and said to the family who he could see through the window: 'I love you, I love you.' Then he lay back down. At about 10.31 a.m., his stomach swelled up in an unusual way, as though he had a hernia or something like that. Between 10.33 a.m. and 10.44 a.m. – I could see a clock on the wall of the death house – he struggled and gasped audibly for air.

I was aghast. Over those 11 minutes or more he was fighting for breath, and I could see both of his fists were clenched the entire time. His gasps could be heard through the glass wall that separated us. Towards the end, the gasping faded into small puffs of his mouth. It was much like a fish lying along the shore puffing for that one gasp of air that would allow it to breathe. Time dragged on and I was helpless to do anything, sitting helplessly by as he struggled for breath. I desperately wanted out of that room.

McGuire, who had raped and killed his former girlfriend and her unborn child, was pronounced dead at 10.53. Another inmate who would attract little sympathy from the

public because of the nature of his crimes was now being characterised as the victim of a cruel death because of the manner in which he was executed.

In July of 2014, there was an even more prolonged execution involving midazolam and hydromorphone. Joseph Wood took two hours to die, in what was described as the longest execution in American history. He was injected fifteen times. His attorney Dale Baich told me that Wood had read newspaper reports of what had happened in previous executions involving midazolam, and was worried. 'About three minutes after the process started, the physician/executioner came into the room and performed a consciousness check, and an announcement was made that the inmate was sedated. After that I noticed colour leaving Joe's face, turning to ash and then white.'

Thirteen minutes after the execution began, Baich says that Wood took a very deep breath and yawned. 'He was gasping and moving up against the straps that were restraining him. Two minutes later he did the same thing. That continued for the next hour and forty minutes. Usually the prisoner dies within ten to twenty minutes, and to see a person gasping and gulping for an hour and forty minutes was very disturbing.'

Another of Wood's attorneys, Robin Konrad, became so concerned that she phoned a federal judge asking him to intervene, but he feared that could do more harm than waiting for Wood to die. The execution became so notorious that CBS's *60 Minutes* broadcast a lengthy investigation, in which Arizona's Attorney General, Mark Brnovich, defended

the length of time taken: 'I think two hours, three hours, four hours, when someone's on the death gurney and they're unconscious, I don't think they're worried about the time. In this instance it happened to take longer but that does not mean that it was botched.'

Dale Baich says he doesn't know whether Wood was experiencing pain or suffering, but he believes midazolam does not render a person unconscious.

Four years before turning to midazolam, Arizona had tried to purchase sodium thiopental from an unusual source. When the pressure group Reprieve found the name and address of the supplier in state documents, they investigated. The company, Dream Pharma, turned out to be operating out of an office within a driving school in west London. The drugs it supplied were used in two Arizona executions despite being illegally imported.

Bob Dunham from the Death Penalty Information Center told me, 'The market has opted out of the death penalty. It is now something that businesses do not want to be associated with for a variety of reasons. American pharmaceutical companies want to be servants of medicine, and that means keeping people alive. So they've either taken the drugs off the market in some instances, or they have issued edicts saying that they will not sell these supplies to prisons without assurances that they won't be used for executions. That meant that the main suppliers for the States were unavailable, so they looked abroad. But there's a problem there too, because if there's one thing that's clear in Europe, it's that the death penalty is a violation of human rights.'

With lethal injection proving to be so troublesome, some states have looked at returning to the firing squad, or in the case of Oklahoma, a new method. In 2015, the state voted in favour of using nitrogen gas, though legislators didn't specify whether it would be administered via a mask over the face or pumped into a sealed chamber. Having never been used in the United States, it would undoubtedly face lengthy legal challenges, but Oklahoma lawmakers wanted it to be available if lethal injection became impossible.

Bob Dunham says it is a flawed argument. 'I believe that the Oklahoma legislators think nitrogen gas will be swift and relatively painless. I do not think they were intending to create an alternative method of execution that was torturous. The problem is, they are engaging in human experimentation. The American Veterinary Medical Association says that nitrogen gas is not suitable for euthanising large mammals, which is what human beings are. It's not suitable for dogs and cats, who become aware that they are being asphyxiated before they lose consciousness. The association says you're going to need an extended administration of nitrogen gas to kill those animals because of panic and adverse reaction and they recommend it can be used only if the animal is sedated first. And that brings you back to the supply issue for the lethal injection process.'

So what is the alternative? When *60 Minutes* investigated the Joe Wood execution, they interviewed an Arizona appeal court judge who was opposed to lethal injection, but for very different reasons to the abolitionists. Alex Kozinski told the programme, 'Make it look like an execution.'

Mutilate the body. And this would express the sense of that's what you're doing, that we're actually committing violence on another human being.'

He wanted a return to the firing squad. Or importing the guillotine, because, he said, that never fails. Wasn't that a barbaric idea?

'The death penalty is barbaric. And I think we as a society need to come face to face with that. If we're not willing to face up to the cruelty, we ought not to be doing it.'

Many campaigners argue that if executions were televised, a majority of the public would be so revolted that the practice would be banned. Bob Dunham believes attitudes are already changing.

'The folks in the United States who are most opposed are the youngest, people who are under thirty years of age. Support for the death penalty is also the lowest among African Americans and Latinos. As the United States continues to mature as a society, it's becoming more and more racially integrated, more culturally integrated, and those are the type of people who are opposed to the death penalty. Support is from a smaller and smaller set of groups who are getting older and older. It's looking as though the death penalty is your grandfather's punishment, not the punishment that the country is looking forward to in the future.'

But for the present, capital punishment remains legal in thirty-one out of the fifty American states, although only eight of those have carried out executions in the past three years. Until 2014, Oklahoma had been second only to Texas in the number of prisoners executed.

Abolitionists felt they were making progress in their campaign. What they needed was a case that would attract public sympathy, where the inmate's guilt was still in dispute and the death sentence seemed excessive. Eighteen years after he was accused of murder, Richard Glossip was about to become famous.