

IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE
TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY

ASSOCIATED PRESS, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	No. 25-1513-III
v.	)	
	)	Chancellor Myles
KENNETH NELSEN, in his official	)	
capacity as Warden of Riverbend	)	
Maximum Security Institution, and	)	
	)	
FRANK STRADA, in his official capacity	)	
as Commissioner of the Tennessee	)	
Department of Correction,	)	
	)	
Defendants.	)	

DECLARATION OF KENNETH NELSEN

1. I, Kenneth Nelsen, declare as follows:
2. I am over the age of eighteen and have personal knowledge of the information contained in this Declaration.
3. I am currently employed with the Tennessee Department of Correction (TDOC) and serve as the Warden of the Riverbend Maximum Security Institution (RMSI).
4. As the RMSI Warden, I am familiar with TDOC's Capital Punishment Unit at RMSI and the Lethal Injection and Electrocution Execution Protocols (Protocols).
5. The Capital Punishment Unit includes several areas that are utilized before, during, and after an execution, including but not limited to: (1) the Official Witness Room; (2) the Victim's Witness Room; (3) the Execution Chamber; (4) the Lethal Injection Room; and (5) the Executioner's Room.
6. The layout of the Capital Punishment Unit and several provisions of the Protocols affect the extent to which Victim's Witnesses and Official Witnesses are able to observe the

execution process from the respective witness rooms, including events before and after a death sentence is carried out. For many of these provisions, I am the individual primarily, if not exclusively, responsible for ensuring their completion.

7. The Official Witness Room and the Victim's Witness Room contain one-way mirrors to allow witnesses to view the Execution Chamber while prohibiting the witnesses from being viewed from inside the Execution Chamber.

8. The one-way mirrors in the Official Witness Room and Victim's Witness Room are covered by blinds, which are located in and controlled from inside the Execution Chamber.

9. The Executioner's Room and the Lethal Injection Room also contain one-way mirrors to allow those inside the rooms to view the Execution Chamber while prohibiting anyone outside the rooms from seeing inside.

10. When the blinds to the Official Witness Room and Victim's Witness Room are open, witnesses can see into the Execution Chamber but cannot see into the Lethal Injection Room or the Executioner's Room.

11. The following audio and video functions are set up in the Capital Punishment Unit: (1) audio is transmitted from the Execution Chamber to the Official Witness Room and Victim's Witness Room; (2) video footage is transmitted from the Execution Chamber to my office and a control room; and (3) video footage from a camera above the gurney is transmitted to the Lethal Injection Room to monitor the IVs during a lethal injection execution.

12. The Capital Punishment Unit is not set up to transmit video footage to the Official Witness Room and Victim's Witness Room.

13. I am responsible for ensuring that the blinds to the Official Witness Room and the Victim's Witness Room are opened and closed according to the Protocols' directions.

14. During a lethal injection execution, the blinds to the Official Witness Room and Victim's Witness Room are open only after all execution team members have exited the Execution Chamber. The blinds are closed after expiration of a five-minute waiting period following the administration of the lethal injection chemicals (LIC) and prior to the Physician's entrance to examine the condemned and pronounce the time of death.

15. During an electrocution execution, the blinds to the Official Witness Room and Victim's Witness Room are open only after the Extraction Team has secured the condemned in the electric chair, secured the ankle sponges, and exited the Execution Chamber. The blinds are closed after expiration of a five-minute waiting period following administration of the electric current and prior to the Physician's entrance to examine the condemned and pronounce the time of death.

16. I am responsible for ensuring that audio transmission to the Official Witness Room and the Victim's Witness Room is activated and deactivated according to the Protocols' directions.

17. During a lethal injection execution, audio transmission to the Official Witness Room and Victim's Witness Room is activated only after all execution team members have exited the Execution Chamber. The audio continues to transmit to the Official Witness Room and Victim's Witness Room when the Physician enters to examine the condemned and pronounce the time of death.

18. During an electrocution execution, audio transmission to the Official Witness Room and Victim's Witness Room is activated only after the Extraction Team has secured the condemned in the electric chair, secured the ankle sponges, and exited the Execution Chamber. The audio continues to transmit to the Official Witness Room and Victim's Witness Room when the Physician enters to examine the condemned and pronounce the time of death.

19. During a lethal injection execution, the syringes containing saline and the LIC are prepared in and administered from the privacy of the Lethal Injection Room.

20. During an electrocution execution, the electrical current to the electric chair is activated from the privacy of the Executioner's Room.

21. The Protocols' procedures and the layout of the Capital Punishment Unit ensure that the identities of all persons and entities participating in the execution process remain confidential, in compliance with the Tennessee Public Records Act, Tenn. Code Ann. § 10-7-504(h)(1), and the public policy of the State of Tennessee, as articulated by the Tennessee Supreme Court in *West v. Schofield*, 460 S.W.3d 113, 125 (Tenn. 2015).

22. Confidentiality of execution participants is necessary to ensure the security of the institution and the safety of the execution participants and their families, who may be subject to retaliation or harassment if their identities were revealed.

23. Members of the execution team and the source(s) of the LIC used in executions are assured that their identities will remain confidential. Without such assurances, execution team members and the source(s) of the LIC used in executions would likely be unwilling to participate.

24. Maintaining confidentiality of execution participants ensures that TDOC is able to recruit and retain employees who are able to carry out death sentences safely, humanely, and in accordance with the law.

25. Maintaining confidentiality of the LIC source(s) ensures that TDOC is able to procure LIC in order to carry out death sentences in accordance with the orders of the Tennessee Supreme Court.

26. The Protocols' procedures and the layout of the Capital Punishment Unit allow Official Witnesses and Victim's Witnesses to see the death sentence carried out, while protecting

the identities of execution team members during all pre-execution preparations, including restraint of inmates prior to entry into the execution chamber; preparation of the syringes for use in lethal injection executions; preparation of sponges and electrical equipment for use in electrocution executions; entry of the condemned into the execution chamber in both lethal injection and electrocution executions; preparation of the condemned in the execution chamber in both lethal injection and electrocution executions; insertion of IV lines into the condemned and application of electrocardiogram (ECG) leads in lethal injection executions; and any post-execution procedures including the Physician's examination of the condemned and pronouncement of death in both lethal injection and electrocution executions.

27. Keeping the blinds closed and audio off during a lethal injection execution while the inmate is removed from the holding cell, secured to a gurney, and brought into the Execution Chamber protects the identities of the Restraint Team, whose job is to safely transport the inmate into the Execution Chamber and secure him or her to a gurney in accordance with the Protocol.

28. Keeping the blinds closed and audio off during an electrocution execution while the inmate is removed from the holding cell and brought into the Execution Chamber protects the identities of the Extraction Team and Escort Officers, whose job is to safely transport the inmate into the Execution Chamber and secure him or her to the electric chair in accordance with the Protocol.

29. Keeping the blinds closed and the audio off during a lethal injection execution when IV lines are placed in the inmate's arms and ECG leads are placed on the inmate's chest protects the identities of the IV Team members, whose job is to place the IV lines and ECG leads in accordance with the Protocol.

30. Keeping the blinds closed and the audio off during an electrocution execution when the inmate is secured to the electric chair and sponges are placed on the inmate's ankles, as well as when execution team members are preparing the electric chair, protects the identities of the Restraint Team and other members of the execution team, including the Facility Maintenance Supervisor and the Assistant to the Facility Maintenance Supervisor.

31. Shielding the Lethal Injection Room, where the syringes are prepared and administered, from view protects the identities of the Special Operations Team Leader and other members of the execution team, as well as the source(s) of the LIC used in executions in Tennessee.

32. Shielding the Executioner's Room, where the electrical current is administered, from view protects the identities of the Facility Maintenance Supervisor and other execution team members.

33. Due to the distance between the Lethal Injection Room and the Official Witness Room, which are separated by the Execution Chamber, there is no current way for TDOC to allow anyone in the Official Witness Room, including media witnesses, to physically view or access the Lethal Injection Room during an execution.

34. Due to the location of the Executioner's Room in relation to the Official Witness Room, there is no current way for TDOC to allow anyone in the Official Witness Room, including media witnesses, to physically view inside or access the Executioner's Room during an execution.

35. To enable witnesses to view inside the Lethal Injection Room or Executioner's Room from the Official Witness Room, the Capital Punishment Unit would have to be redesigned, and substantial reconstruction done.

36. TDOC cannot safely allow witnesses to physically access the Lethal Injection Room or Executioner's Room during an execution.

37. The Lethal Injection Room is very small and can only accommodate up to four people at one time. The LIC containers, whose labels contain information identifying the LIC source(s), are also in plain view from any vantage point in the Lethal Injection Room immediately before, during, and after an execution. To ensure that the LIC is prepared and administered in accordance with the Protocol, and that other execution procedures are recorded in accordance with the Protocol, the LIC labels must not be obscured or altered in any way before, during, or after an execution.

38. The Executioner's Room contains high-voltage electrical equipment, which is highly dangerous. For safety purposes, TDOC limits the number of people in this room during an electrocution execution.

39. There is no camera in the Lethal Injection Room or the Executioner's Room.

40. If TDOC were to install a camera in either room, it would need to procure a camera; have it installed, tested, and integrated; incorporate a procedure to operate the camera during executions into a revised Protocol; and revise the Protocol to protect the identities of execution team members and information that identifies the LIC source(s).

41. This could not be completed prior to the next scheduled execution on December 11, 2025.

42. Over the years, TDOC has spent considerable sums of money to maintain, operate, and upgrade the facilities in the Capital Punishment Unit.

43. For example, TDOC has repeatedly upgraded video cameras, monitors, audio equipment, software, and various security features in the Capital Punishment Unit since 2000.

44. TDOC has maintained and upgraded the Capital Punishment Unit since that time without reason to believe that anyone would file suit asserting a right to view events pertaining to executions that have never been viewable under past TDOC execution Protocols.

45. The present lawsuit is the first time I am aware of that anyone has asserted a legal right to view such events that are not viewable under a TDOC execution Protocol.

46. By order of the Tennessee Supreme Court, TDOC is responsible for carrying out a sentence of death upon Harold Wayne Nichols on December 11, 2025, at RMSI's Capital Punishment Unit.

47. Under the Protocols, TDOC conducts regular monthly practice sessions of the lethal injection and electrocution procedures.

48. Under the Protocols, TDOC conducts extra practice sessions in the two weeks leading up to a scheduled execution.

49. Under the Protocols, TDOC will begin these extra practice sessions for the Nichols execution on Nov. 27, 2025, and will continue practice sessions twice weekly up to the date of the execution on December 11, 2025.

50. Both the regular monthly practice sessions and the extra practice sessions include the aspects of the Protocols challenged in this lawsuit, namely the opening and lowering of blinds to the Official Witness Room, as well as the activation and deactivation of audio feeds to the Official Witness Room.

51. If those aspects of the Protocols were changed, TDOC would require a significant amount of time to retrain staff to carry out the revised Protocols safely, humanely, and in accordance with the law.

52. Under Tenn. Code Ann. § 40-23-114(b), Nichols has the option to choose whether

his death sentence will be carried out by electrocution or lethal injection.

53. Nichols was presented with this option on November 10, 2025, and refused to make an election.

54. Nichols' method of execution will default to lethal injection if he has not made an election by 14 days before his scheduled execution date on December 11, 2025.

55. Until that time, TDOC is conducting practices of both the Electrocution and Lethal Injection Protocols at RMSI.

56. Any alteration to either Protocol at this time would substantially interfere with TDOC's ability to carry out its duties under the Tennessee Supreme Court's execution order.

57. I was present during the execution of Byron Black on August 5, 2025.

58. I am the individual responsible for giving the signal to begin the administration of LIC used in lethal injection executions.

59. I observed the IV Team members place IV lines into Black's arms.

60. The IV Team placed an IV in Black's left arm after two attempts, and an IV in his right arm on the first attempt.

61. The IV Team's placement of IV lines was in accordance with the Protocol.

62. After the flow of saline was started to keep the IV lines open, but before I gave the signal for LIC to be administered, Black stated that he was in pain.

63. Soon thereafter, I gave the signal to administer the LIC. Once the administration of the LIC commenced, I did not hear Black say anything after that point.

64. I did not see or hear anything during Black's execution that indicated a deficiency with the Lethal Injection Protocol or a problem with the execution procedure.

I declare pursuant to Tennessee Rule of Civil Procedure 72, under penalty of perjury, that the foregoing is true and correct.

Dated this 24th Day of November 2025



Kenneth Nelsen
Warden
Riverbend Maximum Security Institution