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Alexandra L. Klein

St. Mary's University School of Law, aklein1@stmarytx.edu

Brandon Hasbrouck

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A Few Words for the Firing Squad

A new South Carolina law forces people on death row to choose between firing squad and electric chair if lethal injection drugs aren't available.

By Alexandra Klein and Brandon Hasbrouck

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Firing squad execute a prisoner, circa 1890. (*Vintage Images / Getty Images*)

South Carolina's governor has signed into law a bill adding the firing squad as one of the methods of execution that a person sentenced to death must choose between if lethal injection drugs are unavailable.

Research suggests that the firing squad produces a quicker and less painful death than lethal injection, which Justice Sonia Sotomayor described as "the chemical equivalent of burning alive." But capital punishment is about more than just pain; who carries out the execution, who it is imposed on, and why it's carried out matter just as much. In *Furman v. Georgia* and *Gregg v. Georgia*, Supreme Court Justice Thurgood Marshall insisted that if the American people truly understood the arbitrary, discriminatory, and vengeful nature of the death penalty, they would never impose it.

We feel it is necessary to make clear just what South Carolina has authorized by signing this bill. Utah has been the only state to use a firing squad to execute prisoners since 1976, although Oklahoma and Mississippi have authorized it. In a hearing this March, South Carolina legislators indicated that Utah's protocols might serve as a model for South Carolina, explaining that "trained marksmen" would carry out executions.

Utah's firing squad executioners are police officers from the jurisdiction where the crime took place. This is a consistent practice in Utah's history and one that has passed virtually unremarked. When Utah reauthorized the firing squad in 2015 as a backup execution method, legislators didn't even discuss the consequences of using police officers as executioners. South Carolina legislators insisted on deferring the question of who will carry out the sentence to the Department of Corrections. They will have to confront that issue eventually.

Using police officers as executioners further blurs the line between some police killings and executions and is certain to increase distrust and negative perceptions of policing. Asking police to kill people on death row on behalf of the state will exacerbate policing's existing cultural problems by putting officers in a situation that encourages them to commit further violence—with official sanction for that violence. The knowledge that officers have volunteered to execute members of the communities they serve will undermine officers' ability to work in those communities and build relationships of trust and accountability. Following the murder of George Floyd by on-duty Minneapolis police officer Derek Chauvin, distrust in law enforcement reached historic levels among white Americans and demands for reform grew louder than ever before. Black Americans' trust in the police dropped even lower than it already was, which put a fine point on the critical need to reimagine public safety.

Increased video footage and media coverage have helped fuel and maintain the ensuing outcry against police killings of unarmed Black people. In 2015, Michael Slager, a South Carolina police officer, shot an unarmed Black man, Walter Scott, in the back while Scott was running away. In 2019, South Carolina police officers killed 18 people. Killings like these have led to the perception of police as de facto executioners, often for no greater crime than merely living while Black. Representative Christopher Hart emphasized these points during legislative hearings on the bill, arguing that although South Carolina had not

officially executed anyone since 2011, Black residents of South Carolina like Scott had in fact been executed by the government. Representative Hart argued that ordinary Black residents of South Carolina also deserve a choice—the choice not to be executed by the police for minor infractions.

The well-known and exhaustively documented racial bias in administering capital punishment makes the assignment of police to such duties especially provocative. South Carolina currently has 39 men on death row; 21 of them are Black. Since 1912, South Carolina has executed 284 people; 75 were white and 209 were Black. One of them has since had his conviction vacated. In 2014, a judge ruled that George Stinney, a 14-year-old Black child executed in the electric chair in 1944, was denied due process. Simply put, both the past and present of the death penalty is rife with racial injustice.

The next step is for South Carolina's Department of Corrections to develop procedures for firing squad executions. It is possible that the Department of Corrections will rely on Utah's procedures—many jurisdictions copy one another's protocols—and ask South Carolina police officers to volunteer to be executioners. This presents the obvious problem that, setting aside the enormity of asking police to deliberately kill, police officers are simply not meant to be agents of punishment. Acting as executioners would erode police officers' legitimacy even if neither policing nor capital punishment were inundated with racism.

Relying on random citizen volunteers would be an equally troubling choice, calling to mind the atrocity of lynching, during which members of communities, including law enforcement officers, tortured and murdered Black people for perceived slights against social norms—or for no reason at all. Ultimately, the problems of finding a sound means of executing convicts by firing squad echo the problems inherent in capital punishment. Even if states insist on retaining state authority to execute human beings, adding the firing squad to their methods of execution, without considered deliberation on the way in which it will be carried out, risks undermining the legitimacy of both policing and punishment.

ALEXANDRA KLEIN is an assistant professor of Law at St. Mary's University School of Law, where she teaches criminal procedure and criminal law. The opinions in her pieces are her own and not the views of St. Mary's University.

BRANDON HASBROUCK is an assistant professor at Washington and Lee University School of Law.

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