

Other remedies exist to move death penalty cases along

By DAVID L. RAYBIN

Attorney General Alberto Gonzales announced this week that the Justice Department will “help” the various states speed up their execution process. I suggest that there are better ways to achieve some finality in murder cases.

In the abstract, most folks would agree that the pace of death-penalty cases is intolerably slow. “Endless” appeals take decades to resolve. Far more death-row prisoners in Tennessee pass away from natural causes than the judicially decreed, unnatural exit from this world. It is the same in California, where suicides exceed executions.

Once we make the political decision to have the death penalty, we should not permit unreasonable delay to impede the judgment of the court. If the death penalty is designed to promote law and order, decades of appeals do nothing but foster public discontent with the entire judicial system.

The question of delay is different, however, than whether we should permit Tennessee to execute the worst of the worst. So my position is clear: I believe the Constitution does not prohibit the death penalty. Each state is free to choose whether to impose capital punishment. Having said that, I also believe each state should have the freedom to administer the death penalty without federal meddling.

The new proposal mandates a strict timetable of federal appeals that are available to state death-row prisoners after they exhaust their state judicial remedies. The “catch” is that the states must implement certain protocols involving the way death-penalty cases are handled at the local level.

I see no benefit in the Justice Department “streamlining” our capital punishment process if we do this or that. What works in one jurisdiction does not necessarily work in another.

Better use of resources

Having been involved in these cases on both sides, I believe that if we need “help,” the federal government can fund more prosecutors and public defenders. Giving the major metropolitan areas their own crime labs could shave a significant amount of time in all homicide cases. More hands on the case will move things along far faster than some rigid timetable dictated in Washington.

We now learn that Attorney General Gonzales' capital-punishment proposal stems from an obscure provision of the Patriot Act. I thought that law was designed to deter terrorists, who will invariably be prosecuted by the federal government as a matter of first priority. You will never see a foreign hijacker tried in the Ducktown Law and Equity Court. This federal provision, designed to impact state cases, has no business being part of the Patriot Act.

Thirty years ago, I wrote Tennessee's death-penalty statute that is on the books today. Since that time, our state has executed three men. Whether that is three too many or too few is for our legislators to determine. If it took decades to execute the three criminals, it is for our local courts to fashion a remedy. This new federal proposal will not do anything but promote more litigation and more delay. It is a bad idea.