ECONOMICS of EXECUTIONS

Cost considerations are prompting some states to reconsider the death penalty, but officials here don’t expect Louisiana to follow suit.

BY MICHELLE MILLHOLLON
Capitol news bureau

The national economic crisis is forcing some states to consider abolishing the death penalty. Louisiana is unlikely to formally put an end to capital punishment, state officials say. But some prosecutors around the state are limiting the number of executions they pursue because of the price tag and the length of appeals.

“They’re cutting way back,” said state Attorney General Buddy Caldwell, a former district attorney. “They’re taking only the most heinous.”

A capital punishment case can cost millions of dollars between indictment and execution — an expense that lawmakers in Colorado, Kansas, Montana, New Hampshire and New Mexico are contemplating whether they can afford.

In Maryland, where $500 million in mid-year budget cuts have been made, the governor has pushed to abolish the death penalty, arguing the financial cost is too great.

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In 2007, New Jersey abolished the death penalty, partly because of cost concerns. A state commission concluded it cost an additional $12,481 a year to house an inmate on Death Row rather than in the general prison population. Capital punishment cases can stretch out for years, ringing up a hefty tab for legal expenses that usually is borne by taxpayers because few of the defendants can pay their own bills.

State officials in Louisiana — which has the highest incarceration rate among states — seem to be more willing to consider the cost factor when weighing death penalty cases. Gov. Bobby Jindal said he opposes abolishing the death penalty, but added that the cost of housing inmates on Death Row cannot be placed on justice. Executions, he said, create safer communities by acting as a deterrent to crime.

Legislative leaders say the state is unlikely to end executions. "I think in many instances we are trying to spend a little bit of time during a slumping tax collections and oil prices. But I think the decision would not be based on economic considerations, given what I feel is the sentiment of the Legislature. It would be a pro- or anti-death penalty vote," he said.

"It would much rather send a violent criminal to life in prison without parole at Angola working hard labor on the farm, thus generating revenue for the state, than I would execute them, sometimes decades later," he said.

But the bill stalled in committee. The joke, Hines said, was that it has been the issue to decide during the last seven years.

Last execution seven years ago

Louisiana's last execution was in May 2002, when Leslie Dale Martin died by lethal injection for raping and killing a 19-year-old college student. A few of the state's Death Row inmates seem destined to die of natural causes, rather than from a chemical cocktail.

Courts have held that the state cannot force mentally ill inmates such as Michael Owen Perry to take the psychiatric drugs needed to make them lucid enough to be executed. Perry, who is schizophrenic, killed five members of his family, including a toddler nephew. Other inmates will wait years for their turn to the death house.

Fifteen-year-old New Orleans police officer Antoinette Frank was supposed to die in December for killing her police partner and two restaurant workers in 1990. The death warrant was withdrawn after her attorney argued Frank has exhibited no remorse.

Loyola University law professor Dane Cusinola said the pace of executions has slowed across the nation in the past decade.

The process stalled in 2007 as the U.S. Supreme Court considered the constitutionality of death by lethal injection. However, experts note that the execution did not go into overdrive after the injections were ruled legal.

Cusinola thinks judges are more likely to grant stays of execution because of high-profile executions, many of which have followed DNA tests that show the person convicted of the crime did not do it.

The Death Penalty Information Center — a nonprofit group with more than 100 board members who are defense attorneys — notes that only nine states held executions last year even though nearly 60 had inmates on Death Row.

At the Louisiana State Penitentiary at Angola, 769 offenders are serving life sentences for first-degree murder. Eighty-one men and two women are on Death Row. The women are held in St. Gabriel. The state built a new Death Row at Angola at a cost of $10 million, mostly using federal dollars.

Eighty-one men reside on Death Row at the Louisiana State Penitentiary at Angola. Two women under death sentences are imprisoned at the Louisiana Correctional Institute for Women in St. Gabriel. The state built a new Death Row at Angola at a cost of $10 million, mostly using federal dollars.

State Public Defender Board in Louisiana, she is responsible for overseeing a per-case cost for death-penalty defense.

"We are very determined to get to that number," she said.

About $9 million of Parish's $28 million budget is spent on capital punishment cases. Her office handles appeals and also steps in when a parish public defender is unable to represent someone.

Federal and local officials also hear cost calls, she said.

Linda Watson, assistant district attorney for the parishes of Tenness, Madison and East Carrol, said the cost of prosecuting a capital punishment case is staggering, especially for an impoverished region.

Parishes often have to pay for legal defense costs and for housing jurors during trials.

She said her office usually pursues the lesser punishment of life in prison.

"It would break our Police Jury," Watson said.

"The cost of a death penalty case is unbelievable," Scott Perrilloux, district attorney for Livingston, St. Helena and Tangipahoa parishes, said it is frustrating to pursue death penalty cases when few people get executed.

Perrilloux said his greatest concern is not the cost but the struggle to get to the finish line and someone put to death. A death penalty case file, he said, never seems to close.

Fewer capital cases

The pace of death penalty cases in Louisiana is slowing. Fewer people have been sentenced to this decade than in the 1990s — a trend that tracks the national numbers.

Caldwell said district attorneys are trying to cut costs by limiting the number of death penalty cases they try.

A capital case, he said, amounts to "playing on a $1,000-a-table instead of a nickel or dime table."

Before becoming attorney general last year, Caldwell was district attorney for Tenness, Madison and East Carroll parishes — one of the poorest areas in the state.

He said he used the death penalty as a bargaining tool to convince accused murderers to plead guilty.

Caldwell said he could try a second-degree murder case for $15,000 to $20,000, compared to at least $250,000 to put a death penalty defendant on trial. The difference includes having to pay for expert witnesses and investigators, he said.

"It just wasn't because of the cost, but the cost is huge, and we really couldn't afford one," Caldwell said.

"My guess is that decision would not be based on economic considerations, given what I feel is the sentiment of the Legislature. It would be a pro- or anti-death penalty vote."

SENATE PRESIDENT JOEL CHAISON, D-Destrehan

Advocate staff photo by MARK SALTZ