California's Lethal Injections: [Editorial]

Abstract (summary)
In 2006, a federal district court ordered California to stop executing people because the state's three-drug protocol for lethal injection lacked "reliability."

Full Text
In 2006, a federal district court ordered California to stop executing people because the state's three-drug protocol for lethal injection lacked "reliability." Six of the 11 men executed by lethal injection in the state since 1978 may have suffered cruel and unusual punishment in violation of the Constitution because the injection inflicted "excessive pain," Judge Jeremy Fogel found. He said the state could cure the constitutional problem by being transparent in devising a new protocol and using a one-drug, anesthetic-only method (as Ohio and Washington do).

Now, five years later, a state court has ruled that California's approach to revising the rules for lethal injection was invalid. Judge Faye D'Opal said the state flouted its own administrative law, which spells out the process that it had to follow. The process it used exemplifies California's capital-punishment system -- badly broken and in need of being permanently shut down.

Judge D'Opal criticized officials for improperly and hurriedly adopting a revision in 2007 and then failing to respond to public comments and failing to explain why it adopted basically the same flawed three-drug protocol in its final proposal in 2010. She also chastised the state for failing to consider the one-drug protocol recommended by its own expert and for not including "a fiscal impact assessment" of the state's proposal since there was "uncontradicted
evidence" that it would increase the cost of already costly executions.

An exhaustive study released last summer found that since 1978 capital punishment has cost California about $4 billion. The state could save billions without the death penalty, as many citizens grasp: They are well on the way toward gathering the half-million signatures required to put an initiative on the ballot in 2012 that would replace the punishment with life without parole.

California's system of government-hobbled-by-referendum means only the state's voters can abolish the death penalty. They should stop this madness of attempting to fix something that is immoral and simply cannot be fixed.

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