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ABA: Stop the executions

By Phillip Rawls
The Associated Press

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The voices calling for a moratorium on executions in Alabama now include most members of a death penalty assessment team formed by the American Bar Association.

The assessment team, headed by University of Alabama law professor Daniel Filler, found several problems with the way Alabama handles capital murder cases, including inadequate legal representation and a lack of access to DNA testing.

Alabama's top prosecutor, Republican Attorney General Troy King, said the ABA is biased against the death penalty, and it put together an assessment team that reflects that bias.

"The ABA is a liberal, activist organization with an agenda they constantly push. That's why I'm not a member of the ABA," King said Friday.

King's Democratic opponent in the November election, Mobile County District Attorney John Tyson Jr., said he hopes the assessment team's report fosters public discussion.

"I believe the communication of information about the death penalty process and public debate of components of this process is the only way to assure that the death penalty is fair, accurate and timely and therefore an effective deterrent to heinous acts," Tyson said in a statement.

Filler said the assessment team spent about 20 months studying the death penalty in Alabama, and the team hopes its report will generate discussion in this year's elections and in the Legislature when it meets next year.

But he conceded that getting the Legislature to address basic issues, like implementing the U.S. Supreme Court's decision against executing the mentally retarded, has proven difficult.

"The answer plainly is legislators find the political costs of action too high," he said.

In Alabama, at least 37 local governments, largely in rural areas with mostly black and poor residents, have called for a moratorium. They have been joined by some religious organizations and newspaper editorial pages, but the Legislature has declined for several years to address a moratorium bill introduced by state Sen. Hank Sanders, D-Selma, who served on the assessment team.

Filler said all eight members of the death penalty assessment team are Alabama attorneys, and they include representatives of the prosecution and defense. King said there was only one prosecutor and no representative of crime victims.

Some of the problems cited by the assessment team:

- Inadequate and inconsistent legal representation at trial and appeal for poor defendants who have court-appointed attorneys.
- Lack of defense attorneys for appeals in state courts.
- No state law to implement the U.S. Supreme Court ruling against executing the mentally retarded.
- No state law specifically providing for DNA testing after a conviction.
- Inadequate review of whether individual death sentences are proportionate to other sentences for like crimes.

All members of the assessment team, except Arthur Green Jr., district attorney for the Bessemer division of Jefferson County, recommended that executions be put on hold until Alabama can assure the capital punishment system is fair and accurate and that Alabama end the power of a judge to sentence a defendant to death after a jury has recommended a sentence of life in prison without parole.

All of the assessment team suggested that juries' recommendations for death sentences should be unanimous, rather than requiring 10 out of 12.

King said the 10-vote requirement is high enough, and judges should have the authority to override a jury's recommendation because judges have training in the law.

"Nobody can point to an innocent person in Alabama who has been executed," King said.

Alabama is the second state where the ABA's Death Penalty Moratorium Implementation Project has had a team of lawyers review capital punishment procedures. The ABA does not support or oppose the death penalty, but it does support a moratorium on executions in each state until fairness and due process are assured, the organization said in a statement.
