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Article published Feb 12, 2014

Peninsula prosecutors question death penalty decision; defense attorney says governor's action 'prudent'

By Paul Gottlieb

Peninsula Daily News

North Olympic Peninsula prosecuting attorneys questioned Gov. Jay Inslee's decision to suspend the death penalty.

A defense attorney praised it.

"I think it's a prudent action by the governor [and] that until and unless we perfect resurrection to correct any errors, capital punishment is extremely problematic," said Harry Gasnick, managing director for the nonprofit Clallam Public Defender.

"There's just too many cases that have resulted in convictions that have then been overturned, not because of supposed loopholes — not that there's anything wrong with that — but by virtue of affirmative evidence showing innocence."

Gasnick pointed to the success of the Innocence Project, a national litigation organization dedicated to exonerating, through DNA testing, those who are wrongfully convicted.

There have been 312 post-conviction DNA exonerations in the U.S., 18 of which set free people who served time on death row and 16 of which set free people who were charged with capital crimes and not sentenced to death, according to the group's website, www.innocenceproject.org.

"There aren't a whole lot of ways to erase the mistake," Gasnick added.

Clallam County Prosecuting Attorney Will Payne said Tuesday afternoon that he had not closely examined Inslee's statement.

But he said he views the reprieve that Inslee will now issue on death penalty warrants as an act of clemency, or moderating the harshness of the sentence.

Jefferson County Prosecuting Attorney Scott Rosekrans said Inslee was too broad in his reasoning and too short on specifics.

Rosekrans said safeguards are in place to ensure the state's prosecuting attorneys exercise due caution before seeking the death penalty.

Those include a 30-day waiting period between charging a person with aggravated murder and seeking the death penalty.

"When I did look at it, I was quite impressed with the hoops and hurdles you have to

overcome,” Rosekrans said of the death-penalty-seeking process.

He touched on Inslee’s assertion that equal justice under the law is the state’s primary responsibility.

“I don’t have any personal knowledge that the state has abrogated that responsibility,” Rosekrans said.

“I’m not sure where he came up with that, but I’m in a small corner of the state.”

As to Inslee’s comment that there are “too many flaws in this system today,” Rosekrans said, “he did not point to any specifics.”

Inslee also said the death penalty was unequally applied.

“I don’t see anything in the press release that says, ‘oh, golly, I see where this is coming from.’ He makes this blanket assertion that it’s disproportionately applied,” Rosekrans said.

“Give us some specifics.”

Clallam County Prosecuting Attorney Will Payne said Tuesday afternoon that he had not closely examined Inslee’s statement.

After a person is convicted of a death-penalty offense, the governor must sign the death warrant.

Inslee said he will issue a reprieve if an execution warrant reaches his desk.

A reprieve is “the withdrawing of a sentence of death for an interval of time, whereby the execution is suspended,” according to Black’s Law Dictionary.

“I would view that as an exercise of clemency, if you will,” Payne said.

“He has the discretion under the constitution to do that,” he added.

“I don’t know if it was a political decision or a moral decision or whatever type of decision he made,” Payne said.

“He did not ask me for my input.”

Richard Davies, the director of the nonprofit Jefferson Associated Counsel, which contracts for public defender services with Jefferson County, did not return calls Tuesday for comment on Inslee’s announcement.

The last person who received the death penalty in Clallam County was former Sequim-area resident Darold R. Stenson, in 1994, after he was convicted of two counts of aggravated murder in the deaths of his wife and business partner.

The conviction was overturned by the state Supreme Court in May 2012.

Stenson was retried for aggravated murder and found guilty in November. Then-Prosecuting Attorney Deborah Kelly did not seek the death penalty.

Stenson, now 61, is serving a life sentence without parole at Washington State Penitentiary at Walla Walla.

In 2008, Stenson was eight days away from execution by lethal injection on Walla Walla's death row when a judge issued a stay of execution.

Rosekrans was unaware of anyone who has received the death penalty in Jefferson County.

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