

States shift away from holding midnight executions

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NASHVILLE, Tenn. — Sleepy judges answering last-minute appeals by phone. Bleary-eyed family members shuffling into witness rooms. Protesters' faces illuminated by candles outside prison fences.

These images of midnight executions, ingrained though they are by Hollywood and TV crime shows, have become outdated.

Many states have adjusted their schedules in recent years, and the vast majority of U.S. executions now occur during daylight or early evening hours when courts are more accessible, according to an Associated Press review.

Of the 34 states where the death penalty has been carried out since 1976, 15 states still execute inmates in the middle of the night.

One of them is Tennessee, where double-murderer Steve Henley is to die by injection at 1 a.m. CST Wednesday at Riverbend prison in Nashville. The late hour has some victims' advocates in the state upset.

"It's a very long, stressful day. It just puts you completely off any routine. It's exhausting and really not necessary," said Verna Wyatt, executive director of You Have the Power, a Nashville-based crime victim advocacy group that has asked Tennessee corrections officials to give up midnight executions.

Corrections officials in states that still schedule executions between midnight and 3 a.m. argue that inmates are less likely to protest or become violent. The state also has more time to fight late challenges.

"We would argue things have worked as intended ... in terms of the handling of the various groups, in terms of accommodating the various witnesses and in terms of insuring security," said Tennessee Correction Commissioner George Little.

Those issues haven't greatly complicated daytime or evening executions, according to victims' advocates and states that prefer those times.

"We know other states are not facing extreme difficulties doing it (earlier)," Wyatt said. "So why not make it easier for everyone?"

Four of the five states that have carried out the most executions — Texas, Virginia, Florida and Oklahoma — set afternoon or evening times, while Missouri is the only state to still schedule executions at midnight, the AP found.

Texas changed its execution time in 1995, moving it from midnight to 6 p.m. or later to ease the pressure on lawyers filing late appeals and the judges who must rule on them, said Michelle Lyons, a spokeswoman for the Texas Department of Criminal Justice.

"Access to the courts is not easy for them to have at midnight or 2 a.m.," Lyons said.

The evening executions help Texas prison staff, too.

"Having it where it can begin anytime after midnight, it can be rough on people," Lyons said.

Federal judges have complained about pre-dawn executions for years.

"I think dispensing justice at that hour of the morning is difficult, to say the least, and we have an obligation ... to give our best efforts in every one of these instances," then-U.S. Supreme Court Justice Sandra Day O'Connor said in 1997.

Ohio quit midnight executions in 2001 partly to save thousands of dollars in overtime to prison workers.

Daytime executions were the norm in earlier eras. That changed by the 1930s when the U.S. saw its last public hanging. Executions then moved indoors and electric chairs came into widespread use.

"There was a belief by officials and leaders these (public) executions were brutalizing society," said John Bessler, a visiting associate professor at George Washington University Law School and author of "Death in the Dark: Midnight Executions in America."

"There was pickpocketing at these public executions, thefts and sometimes violence. They were trying to get rid of the mob atmosphere that attended these public executions."

Little said Tennessee's first modern execution in 2000 was scheduled at 1 a.m. partly because prison officials weren't sure how the inmate population would react. He noted the early hour also allows the state to hold multiple executions on the same day if necessary.

The state planned back-to-back executions of convicted killers Paul Dennis Reid and Sedley Alley in 2006. Alley became only the second person executed in Tennessee in 45 years, but Reid got a last-minute stay and remains on death row.

Tennessee plans three more executions this year besides Henley's this year, all set for an hour after midnight.