With death penalty, let punishment truly fit the crime
By Robert Blecker, Special to CNN

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(CNN) -- No matter how vicious the crime, no matter how vile the criminal, some death penalty opponents feel certain that nobody can ever deserve to die -- even if that person burned children alive, massacred a dozen strangers in a movie theater, or bombed the Boston Marathon. Other opponents admit the worst of the worst do deserve to die. They just distrust the government ever to get it right.

Now that pharmaceutical companies refuse to supply the lethal drugs that U.S. corrections departments have used for years to execute criminals -- whether from their own genuine moral objections or to escape a threatened economic boycott -- states have begun to experiment. Death penalty opponents, who call themselvesabolitionists, then protest the use of these untried drugs that just might cause a condemned killer to feel pain as he dies.

Let the punishment fit the crime. We've mouthed that credo for centuries, but do we really mean it? We retributivists who believe in justice would reward those who bring us pleasure, but punish severely those who sadistically or wantonly cause us pain. A basic retributive measure -- like for like or giving a person a taste of his own medicine -- satisfies our deepest instincts for justice.

When the condemned killer intentionally tortured helpless victims, how better to preserve some direct connection short of torture than by that murderer's quick but painful death? By ensuring death through anesthesia, however, we have nearly severed pain from punishment.

An unpleasant life in prison, a quick but painful death cannot erase the harm. But it can help restore a moral balance.

I, too, oppose lethal injection, but not because these untried new drugs might arbitrarily cause pain, but because they certainly cause confusion.

Lethal injection conflates punishment with medicine. The condemned dies in a gurney, wrapped in white sheets with an IV in his veins, surrounded by his closest kin, monitored by sophisticated medical devices. Haphazardly conceived and hastily designed, lethal injection appears, feels, and seems medical, although its sole purpose is to kill.

Witnessing an execution in Florida, I shuddered. It felt too much like a hospital or hospice. We almost never look to medicine to tell us whom to execute. Medicine should no more tell us how. How we kill those we rightly detest should in no way resemble how we end the suffering of those we love.
Publicly opposing this method of execution, I have found odd common ground with Deborah Denno, a leading abolitionist scholar who relentlessly attacks lethal injection protocols. Although Denno vigorously opposes all capital punishment, we both agree that the firing squad, among all traditional methods, probably serves us best. It does not sugarcoat, it does not pretend, it does not shamefully obscure what we do. We kill them, intentionally, because they deserve it.

Some people may support the firing squad because it allows us to put blanks in one of the guns: An individual sharpshooter will never know whether he actually killed the condemned. This strikes me as just another symptom of our avoidance of responsibility for punishment. The fact is, in this society, nobody takes responsibility for punishing criminals. Corrections officers point to judges, while judges point to legislators, and legislators to corrections. Anger and responsibility seem to lie everywhere elsewhere -- that is, nowhere. And where we cannot fully escape responsibility -- as with a firing squad -- we diffuse it.

My thousands of hours observing daily life inside maximum security prisons and on death rows in several states these past 25 years have shown me the perverse irony that flows from this: Inside prisons, often the worst criminals live the most comfortable lives with the best hustles, job opportunities and sources of contraband, while the relatively petty criminals live miserably, constantly preyed upon.

Refusing to even contemplate distinguishing those few most sadistic murderers who deserve to die painfully, states seem quite willing haphazardly and arbitrarily to expose prisoners in general, regardless of their crimes, to a more or less painful life, or even death at the hands of other criminals.

Ironically, even as we recoil from punishing those who most deserve it, we readily over-punish those who don't. A "war on drugs" swells our prisons. We punish addiction and call it crime; we indiscriminately and immorally subject a burglar or car thief to the same daily life in prison we also reserve for rapist murderers.

The time has come to make punishment more nearly fit the crime. To face what we do, and acknowledge, with regret but without shame, that the past counts.

So part of me hopes the abolitionists succeed with their latest campaign against death by lethal injection. We should banish this method. Let the abolitionists threaten to boycott gun manufacturers. See where that gets them. Meanwhile, the rest of us will strive to keep our covenants with victims, restore a moral balance, and shoot to kill those who deserve to die.

Rest assured, when we can only achieve justice by killing a vicious killer, We, the People will find a constitutional way to do it.