

## U.S. Is Seeking Death Penalty in Boston Case

By Matt Apuzzo

Jan. 30, 2014

WASHINGTON — The Justice Department said Thursday that it would seek the death penalty against Dzhokhar Tsarnaev, the man accused of killing and maiming people with homemade bombs at the Boston Marathon finish line last year.

The decision sets in motion the highest-profile federal death penalty case since Timothy J. McVeigh was prosecuted and executed for the 1995 bombing of the Alfred P. Murrah Federal Building in Oklahoma City.

“Dzhokhar Tsarnaev targeted the Boston Marathon, an iconic event that draws large crowds of men, women and children to its final stretch, making it especially susceptible to the act and effects of terrorism,” prosecutors wrote in an eight-page document filed in federal court in Boston.

They said Mr. Tsarnaev showed no remorse for the attack. They also cited the age of one of the victims, 8-year-old Martin Richard, in arguing that the death penalty was warranted.

Federal prosecutors are prohibited from using the death penalty as leverage to win a guilty plea, but gang members, spies and terrorists alike have opted to plead guilty rather than undergo a trial with a possible death sentence.

In nearly half of federal death penalty cases, prosecutors withdrew the threat of execution before trial, typically because of a plea deal.



Dzhokhar Tsarnaev  
Federal Bureau of Investigation

In Boston, Mayor Martin J. Walsh said in a brief news conference on Thursday that he had not spoken to the child's family since the government announced its decision.

“I can't imagine what they're going through today,” Mr. Walsh said. “I'm sure they relive Marathon Monday every single day of their life.”

Like many in Massachusetts, Mr. Walsh personally opposes the death penalty. But he said he supported the Justice Department's decision.

Attorney General Eric H. Holder Jr., who had the final say on whether to authorize prosecutors to seek the death penalty, has said he personally opposes capital punishment. But he has authorized its use many times.

“The nature of the conduct at issue and the resultant harm compel this decision,” Mr. Holder said in a statement released by the Justice Department.

Prosecutors say Mr. Tsarnaev and his older brother, Tamerlan, built bombs out of pressure cookers and detonated them 13 seconds apart among spectators at the finish line.

The explosions killed three people and wounded more than 260.

A police officer at M.I.T. was also killed in the subsequent hunt for the brothers.



Two bombs that exploded near the finish line of the Boston Marathon last April killed three people, including an 8-year-old boy. Stuart Cahill/The Boston Herald, via European Pressphoto Agency

Tamerlan Tsarnaev, who investigators say they believe conceived and led the attack, was killed in a shootout with the police. He was 26. Dzhokhar Tsarnaev, 19 at the time, was later caught hiding in a boat on a trailer in a Watertown, Mass., backyard.

No trial date has been set, and Mr. Tsarnaev has pleaded not guilty.

His defense team includes Judy Clarke, one of the nation's leading defense lawyers in death penalty cases. She has represented Theodore J. Kaczynski, the Unabomber, and Zacarias Moussaoui, a Sept. 11 conspirator.

Mr. Kaczynski's case is an example of one in which the attorney general approved the death penalty, and then withdrew it after reaching a plea deal.

Peter White, a defense lawyer in Washington who prosecuted a federal capital case in 1998, said of the death penalty: "I don't believe it's used in the federal system as plea fodder. But the reality is that it creates a great incentive for a defendant to plead to a life sentence."

Mr. Holder has said he opposes the death penalty because the legal system is imperfect and he worries that innocent people might be put to death.

In the Boston case, investigators believe they have overwhelming evidence against Mr. Tsarnaev, including surveillance camera images that the F.B.I. says show him slipping a backpack off his shoulder and placing it on the ground shortly before the explosion.

Law enforcement officials have also said that in interviews with the F.B.I., Mr. Tsarnaev admitted his involvement in the attack.



Dzhokhar Tsarnaev was arrested four days after the bombing, hiding in a boat in Watertown, Mass. He has pleaded not guilty.

Sean Murphy/Massachusetts State Police, via Associated Press

Mr. Tsarnaev, now 20, who is Muslim, is said to have told investigators that he and his brother had been motivated by their religious beliefs. Investigators have said they found no evidence that a foreign terrorist group hatched, directed or supported the attack.

The Tsarnaevs, of Chechen heritage, immigrated to the United States around a decade ago from Kyrgyzstan, after living briefly in the Dagestan region of Russia.

In their court filing, prosecutors said Mr. Tsarnaev “betrayed his allegiance to the United States” after receiving asylum and citizenship.

Massachusetts abolished the death penalty at the state level in 1984 and has not executed a prisoner since 1947.

Since the federal government reinstated its death penalty in 1988, it has executed three people, including Mr. McVeigh, the Oklahoma City bomber.

Death penalty trials proceed in two phases. The first is to consider guilt or innocence. If convicted, Mr. Tsarnaev would next face the sentencing phase, which operates as something of a trial itself. Jurors would need to be unanimous for a death sentence to be issued.

Polls show that most Massachusetts residents oppose capital punishment for Mr. Tsarnaev.

But public opinion might not be much of an issue at trial because federal rules require judges to seat only jurors who say they would be willing to consider the death penalty.

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