

Despite Sept. 11, Death Penalty Use Is Dropping

by Marianna Wertz

According to a new report by the Washington, D.C.-based Death Penalty Information Center (DPIC), history was made on the capital-punishment front in 2001, when the number of executions in the United States declined for the second straight year, dropping from 98 to 85 in 2000, and then to 66 in 2001. This is the first time such a decline has occurred since capital punishment was reinstated in 1976. In another first since 1976, the number of people on Death Row also declined, from 3,726 at the start of 2001, to 3,709 as of Oct. 1.

The DPIC's Dec. 13 "2001 Year End Report" found that the 22% decline in executions from 2000 was largely the result of a sharp drop in the largest death-penalty states, Texas and Virginia (see **Figure**). The report also notes that nationwide support for the death penalty fell to 65% in 2001, a 15-point decline from 1994, according to a May 2001 Gallup Poll, and the lowest level of support in 23 years. The same study found that 72% of Americans now favor a moratorium on executions, until questions about their fairness can be studied; this is up from 64% in August 2000.

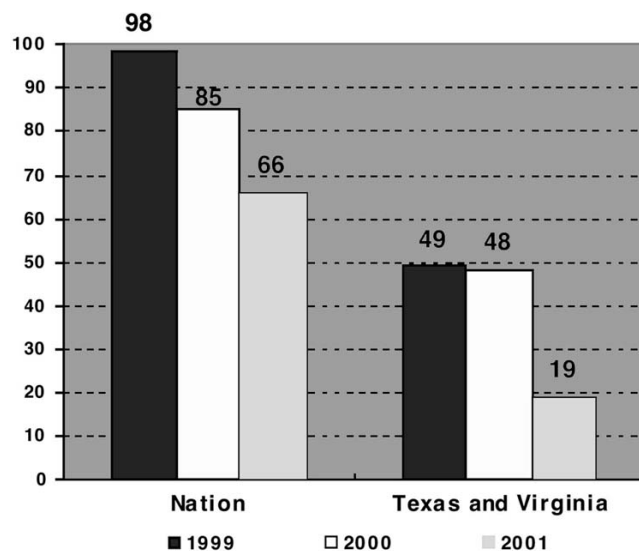
Bearing out this trend, a Dec. 11 report by the Federal Bureau of Justice Statistics, on death-penalty developments in 2000, found that the number of people sentenced to death in 2000 (214) dropped 24% from 1999, to the lowest number of death sentences in 20 years.

The leading reason for all these developments is the skyrocketing number of exonerations of Death Row inmates since 1973—now at 98, including five in 2001. Concern that innocent people have been or could be executed is leading to widespread reform of the judicial system, and is making juries and judges more reticent to give the death penalty when an innocent life might be involved.

The changes that are rocking much of the nation had a particularly strong effect on Texas, which since 1976 has the most executions (255), and Virginia, second highest with 83. Texas began to change immediately upon the departure for Washington of Gov. George W. Bush, who held an all-time record (151 men and women) for the number of executions authorized by any American governor. In 2001, Texas dropped to second in the number of executions with 17, behind Oklahoma's 18.

The case of Virginia is also important, because it has nearly double the execution rate—the percentage of death sentences carried out—of the next nearest state, and nearly five times the national average. Virginia appellate courts have the lowest reversal rate of any state.

Number of Executions Dropping, Even in States With Highest Execution Rates



Source: Death Penalty Information Center/Year End Report.

A study released on Dec. 10 by the Virginia General Assembly's watchdog agency, the Joint Legislative Audit and Review Commission, found "significant inconsistencies" in the state's use of the death penalty. The study was authorized in November 2000, just weeks after new DNA testing cleared former Death Row inmate Earl Washington, Jr. of a 1982 rape and murder, for which he came within days of being executed. A focus of the study, the first of its kind in Virginia, was the use of prosecutorial discretion in choosing whether to seek the death penalty. The study found that the death penalty is sought 45% of the time in suburban jurisdictions, 34% of the time in rural ones, and only 16% of the time in urban areas, in some cases for like crimes.

Virginia was also recently shaken by the exoneration of two inmates, Marvin Lamont Anderson and Jeffrey David Cox, who were wrongly imprisoned for 15 and 10 years, respectively. Both were condemned by erroneous eyewitness testimony. Anderson, who was freed in December, was the first Virginian to be cleared under a DNA testing law approved by the General Assembly earlier this year.

Perhaps the most telling sign of changing times in Virginia, was the Dec. 13 report that state officials had arrested four guards at the Wallens Ridge supermax prison, on felony charges of attacking an inmate and attempting a cover-up. Such prosecutions are rare in supermax prisons, where guards are nearly all white and inmates nearly all minorities.

While these developments are an indication that justice is improving, we have a long way to go. The United States should join its European, Russian, and other allies now, in abolishing capital punishment and putting "correction," in place of vengeance, back in its "corrections system."