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DEATH PENALTY INFORMATION CENTER

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USE OF DEATH PENALTY SHRINKS AND BECOMES MORE MARGINALIZED IN 2008

95% of Executions in the South; Costs Become a Central Concern

Washington, D.C. – Only one state outside the south carried out an execution in 2008, and almost half of all executions were in a single state--Texas. Executions dropped to a 14-year low of 37 in 2008, a 12% drop from 2007 according to the Death Penalty Information Center's (DPIC) **2008 Year End Report**. DPIC estimates that the number of people sentenced to death in 2008 will be 111, the lowest number since the death penalty was reinstated in 1976. Death sentences have dropped by over 40% in all four geographical regions of the country since the 1990s.

The U.S. Supreme Court lifted a *de facto* moratorium on executions in April when it decided *Baze v. Rees*, upholding the lethal injection process in Kentucky. Although many execution dates were set in the wake of this decision, numerous stays were also granted as the chronic problems of the death penalty re-emerged. Over 25 executions were stayed in 2008; four inmates were exonerated; and four others received commutations of their death sentences.

"We were surprised that the surge in executions that we expected after *Baze* did not happen. Courts, legislatures and the public are increasingly skeptical about the death penalty, whether those concerns are based on innocence, inadequate legal representation, costs, or a general feeling that the system isn't fair or accurate," said Richard Dieter, Executive Director of DPIC.

As states and the federal government struggled in a recession economy, the death penalty was being examined more closely because of its high costs. A report from the California Commission on the Fair Administration of Justice found that the death penalty was costing the state \$138 million per year, and yet the report called the system "dysfunctional" and "close to collapse." A similar commission in Maryland recommended the abolition of the death penalty, in part because of the high costs of the punishment. There was testimony before the Maryland commission that each of the state's five executions had cost about \$37 million when all costs of the death penalty system were included.

In Utah and New Mexico, state supreme court rulings held that the death penalty cannot be pursued unless the legislature provides adequate funding for representation of indigent defendants. But states have little extra money to spend on a program that has such sparse and unpredictable results.

"Spending money on the death penalty is like building a bridge to nowhere. It takes millions of taxpayer dollars to arrive at a single execution fifteen years after the trial. A far more likely outcome is that the case will be reversed and the execution will never occur," said Dieter. "At a time when states are cutting back on teachers, police officers, health care, infrastructure, and other vital services, citizens are increasingly concerned that the death penalty is not the best use of their limited resources."

Many victims' family members and law enforcement officials are concurring that the death penalty has little to offer in the way of closure or justice. Some of them are encouraging states to follow the recent path of New Jersey and New York, both of which ended the death penalty last year.

Additional highlights from the report:

- The number of executions in 2008 was 37, a 62% decline from the high point of 98 executions in 1999.
- Ohio was the only state outside the south to carry out an execution this year.
- Every state that averaged one or more death sentences per year has seen a decline in the annual number of sentences between the 1990s and the 2000s, including the major death penalty states of Texas, Florida and California.
- The federal government is an exception to this trend, with death sentences increasing in that jurisdiction. The average annual number of federal death sentences *increased* 50% percent in a comparable period.
- Four individuals were exonerated from death row in 2008, bringing the total number of exonerations to 130 since 1973. All charges were dismissed against Kennedy Brewer in Mississippi and Michael Blair in Texas after the two men were cleared through DNA testing. All charges against Levon Jones and Glenn Chapman in North Carolina were dismissed on a variety of other grounds.

Perhaps the most pointed criticism of the death penalty came from Supreme Court Justices in capital cases. Justice Stevens called the death penalty "the pointless and needless extinction of life with only marginal contributions to any discernible social or public purposes." Justice Kennedy, writing for the majority in *Kennedy v. Louisiana*, warned: "When the law punishes by death, it risks its own sudden descent into brutality, transgressing the constitutional commitment to decency and restraint." The decision in that case overturned a Louisiana law that would have expanded the death penalty to non-homicide crimes against individuals.

DPIC's 2008 Year End Report is available at <http://www.deathpenaltyinfo.org/2008YearEnd.pdf>. For further information on the

report or to speak with the author, Richard Dieter, contact: Margot Friedman at 202-330-9295 or Corinne Farrell, 202-289-2275, cfarrell@deathpenaltyinfo.org.

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The Death Penalty Information Center is a non-profit organization serving the media and the public with analysis and information on issues concerning capital punishment. The Center was founded in 1990 and prepares in-depth reports, issues press releases, conducts briefings for journalists, and serves as a resource to those working on this issue. The Center is widely quoted and consulted by all those concerned with the death penalty.