

Arbitrariness and the Death Penalty

More than 30 years ago, the U.S. Supreme Court held in a landmark death penalty case that states must carefully administer the death penalty to make sure it is reserved for the “worst of the worst.” It is completely intolerable, the Court said, for the death penalty to be imposed in a manner that is as random or arbitrary as being struck by lightning. Thus, when North Carolina enacted its present death penalty law, one of the principle goals was to ensure the fair and consistent application of the death penalty so that similar murders are comparably punished and more blameworthy perpetrators receive harsher punishment than less culpable accomplices.

A very small percentage of murderers are actually sentenced to death each year in North Carolina. From 1998 through 2002 (the last year for which homicide rates are currently available), the state averaged 555 homicides and 17 persons sentenced to death per year. Thus, only three percent of homicides result in sentences of death.

The distribution of death sentences provides another illustration of unevenness in sentencing practices across North Carolina. Forty-one of North Carolina’s 100 counties have no inmates on death row. Of the 59 counties that have imposed death sentences, the numbers vary from county to county. For example, Mecklenburg County, one of the state’s most populated areas with a population of nearly 700,000 in 2000, has the same number of people on death row — seven — as Johnston County, a much smaller county with a population of 121,965 in 2000.

Many factors influence whether the death penalty will be pursued and imposed, including the prosecutor’s enthusiasm for the death penalty, the skill and experience of the defense lawyer, and the race and status of the homicide victim. The resulting inconsistency in application of the death penalty led former North Carolina Supreme Court Chief Justice and death penalty supporter Burley B. Mitchell, Jr., to remark a few years ago, “It’s like being picked in a lottery... It’s totally arbitrary.”

A temporary suspension of executions in North Carolina will permit the legislature to study and implement ways to ensure that death sentences are imposed in a fair and non-arbitrary way — so that receiving the death penalty in North Carolina is not like being struck by lightning.