

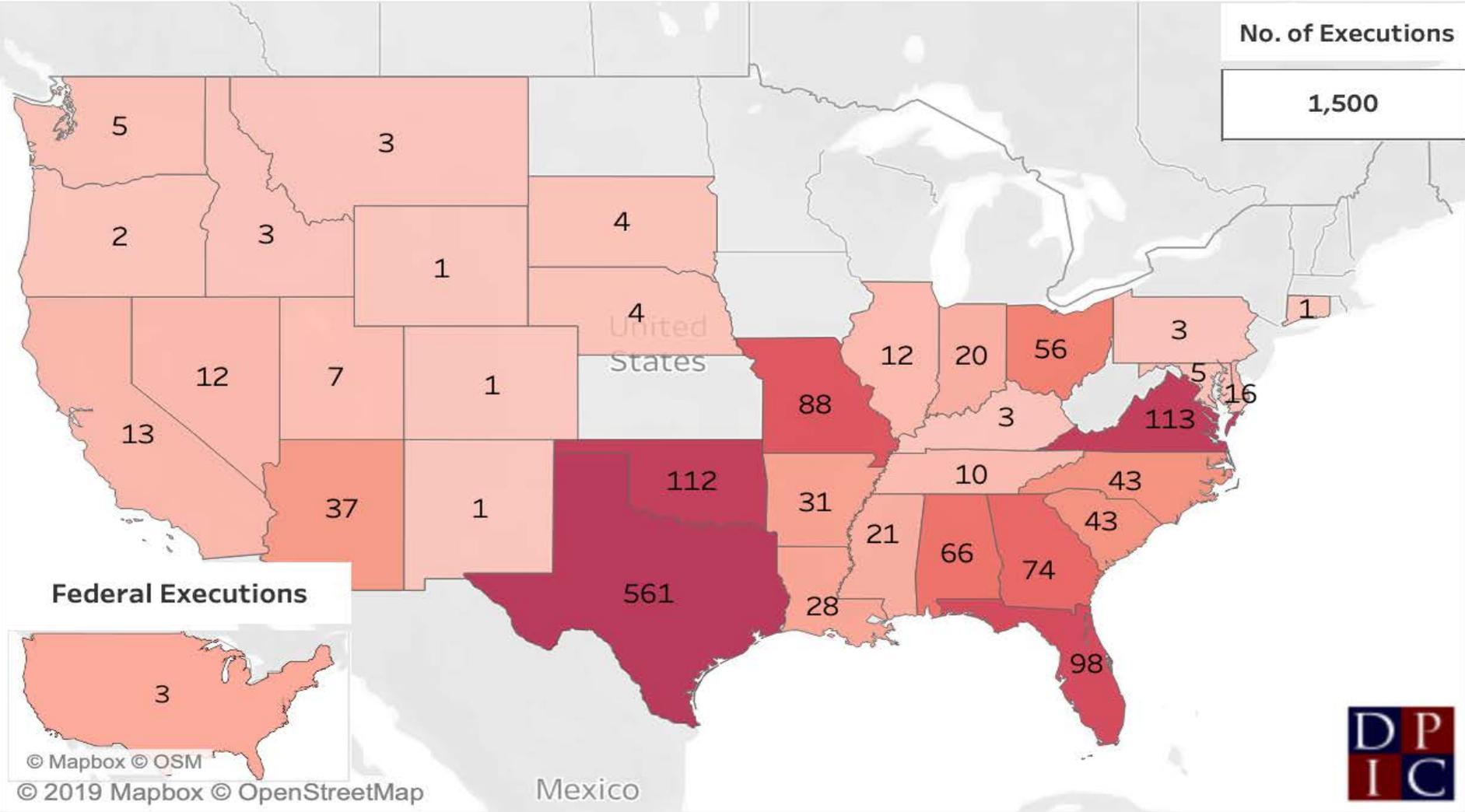
A Snapshot in Time:

# The State of the Death Penalty After 1,500 Executions in the U.S.

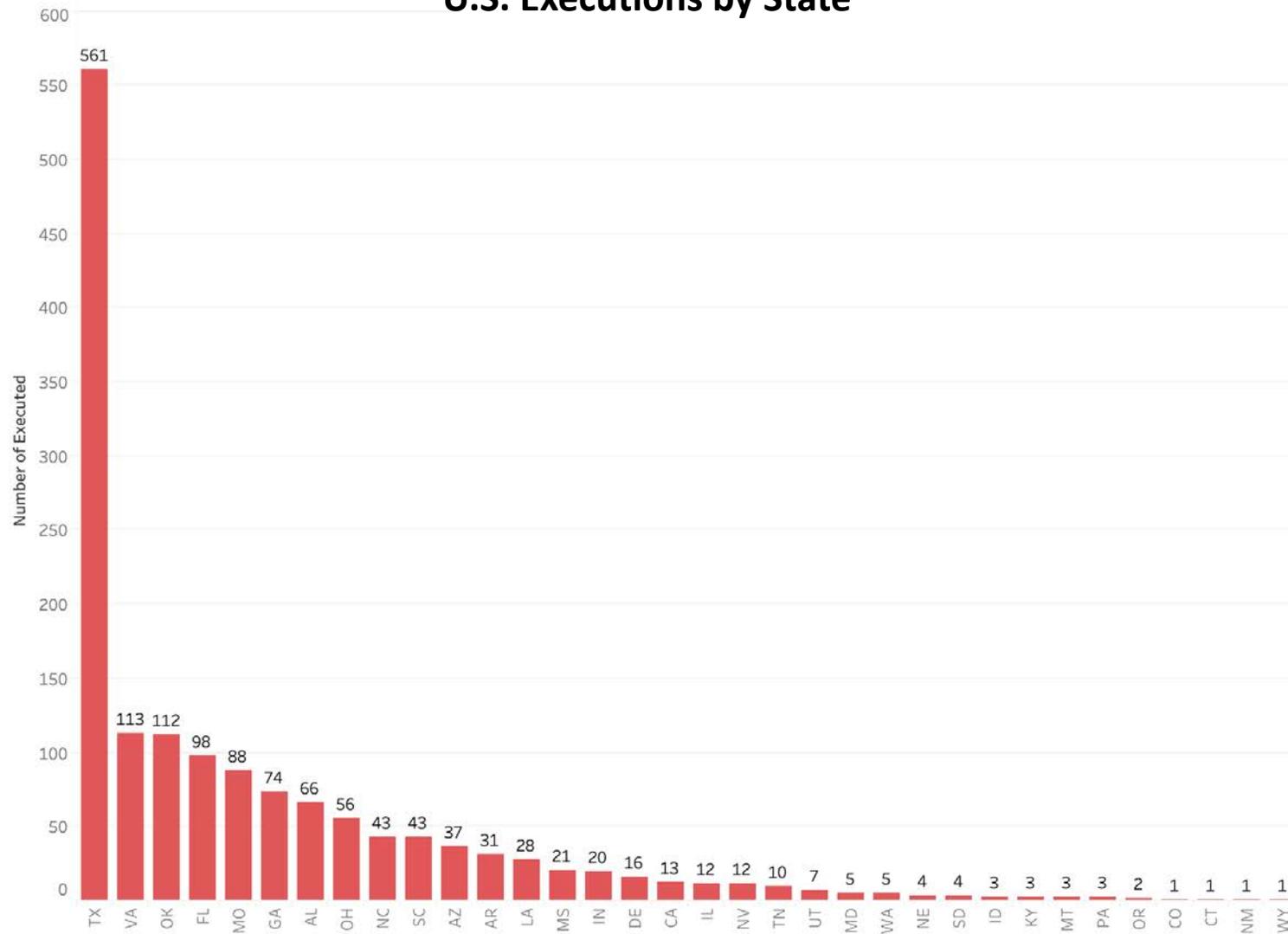
Robert Brett Dunham  
Executive Director, Death Penalty Information Center



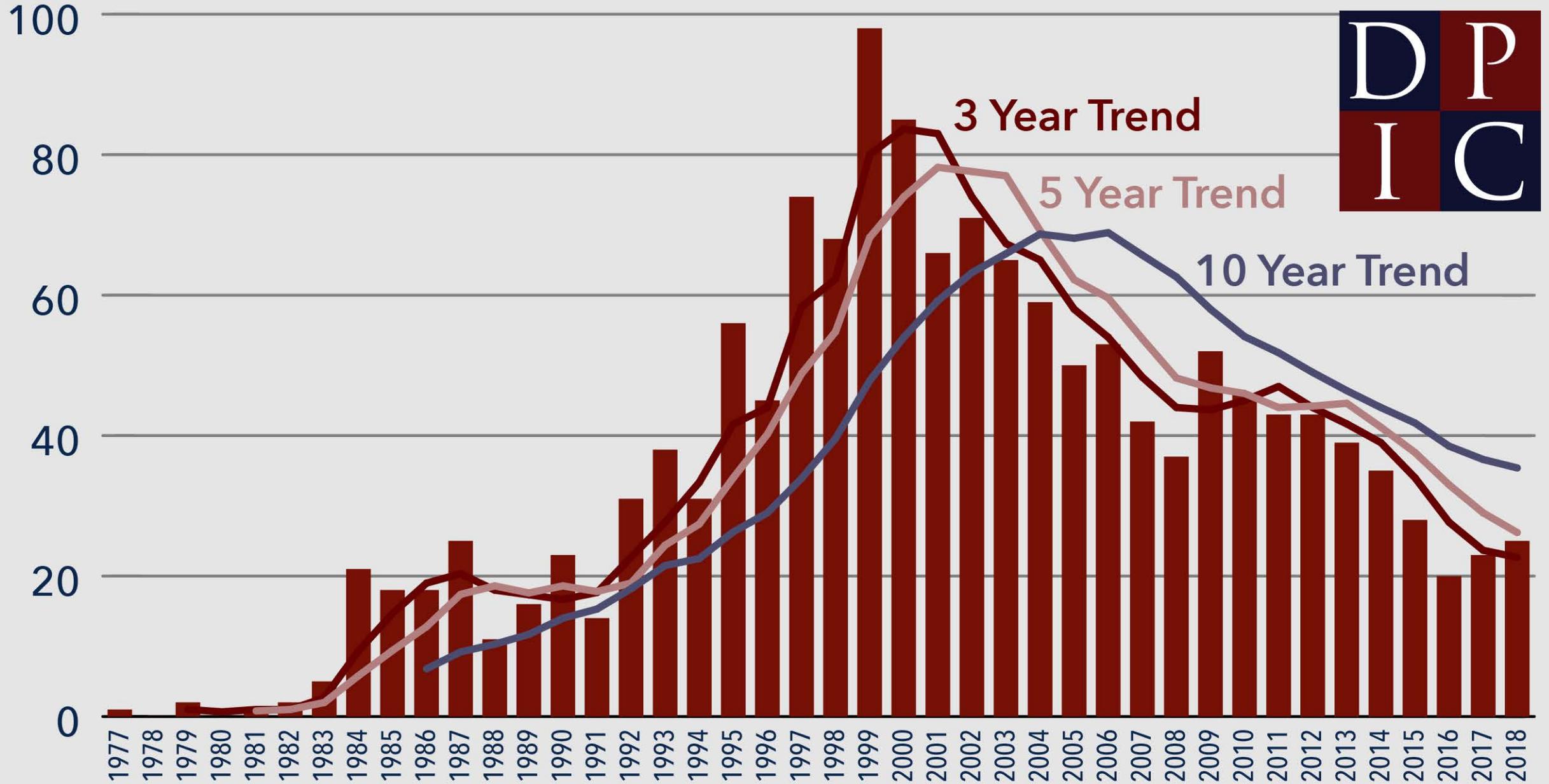
# Executions in the United States



## U.S. Executions by State

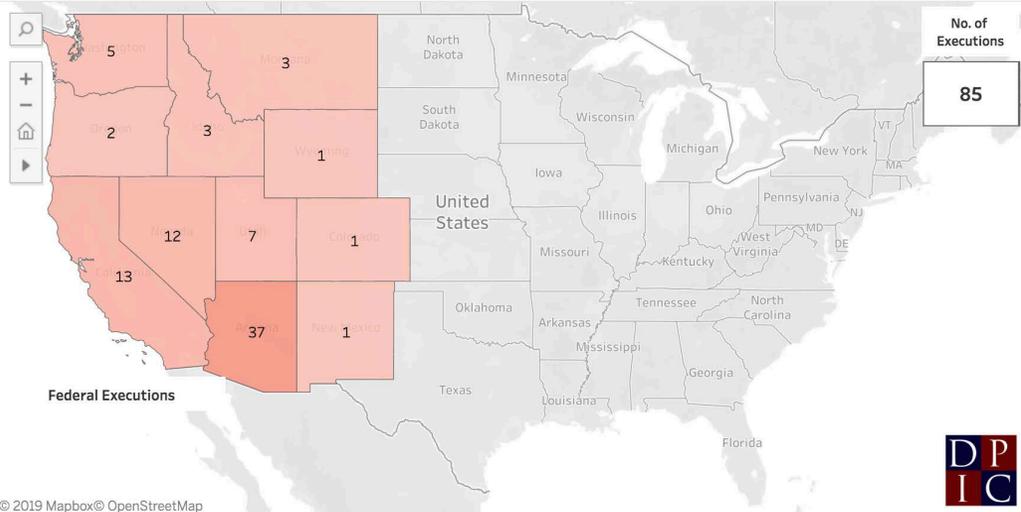


# Executions 1977 - 2018



# U.S. Executions by Region

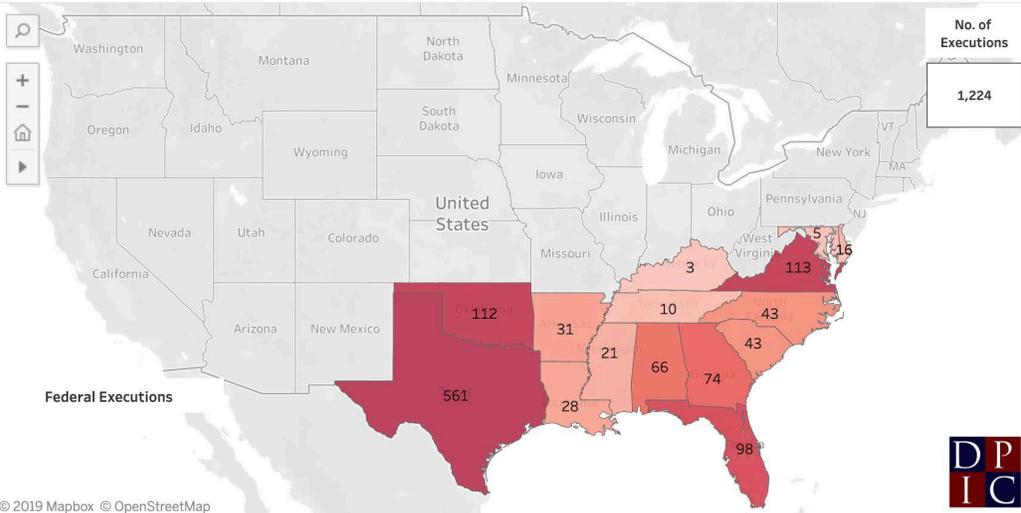
## The West



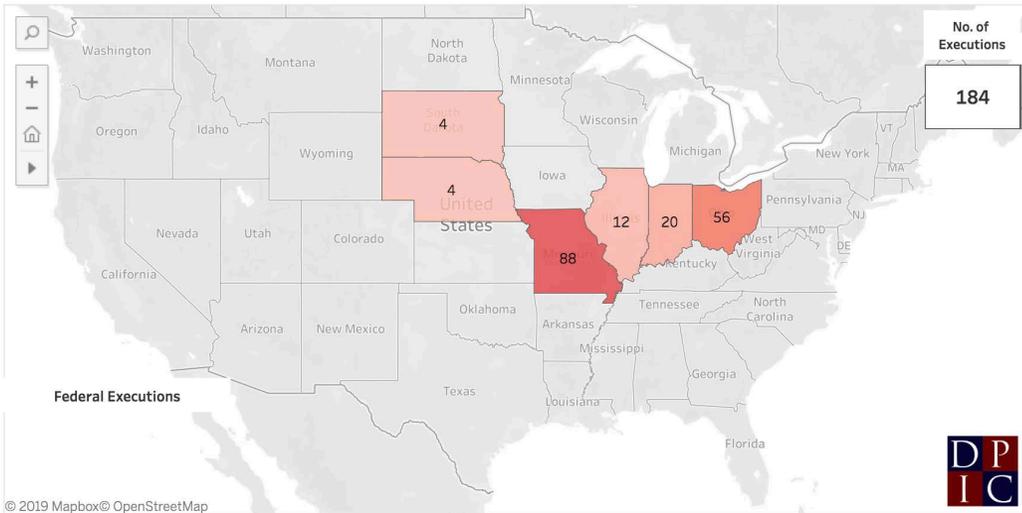
## The NE



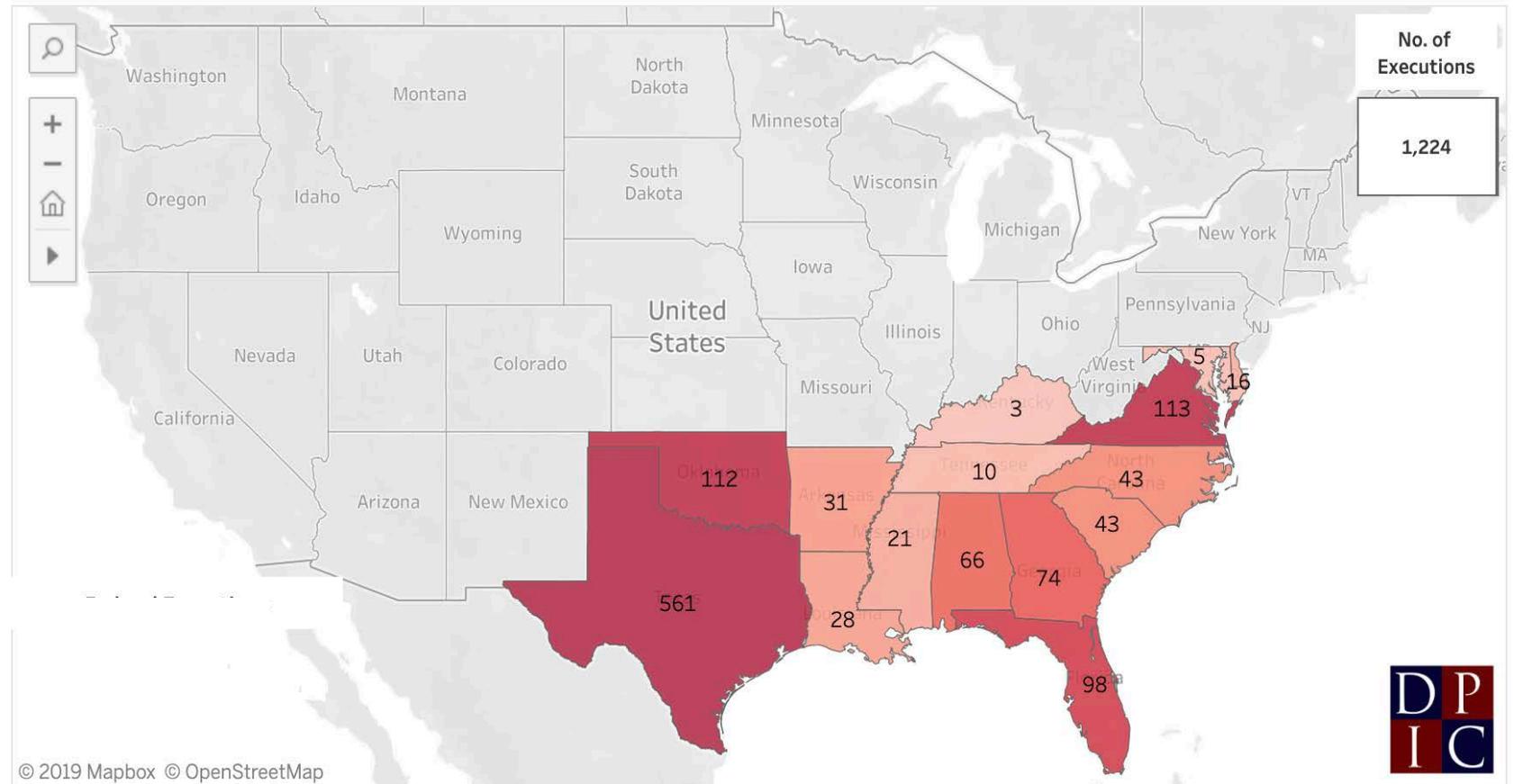
## The South



## The Mid-west

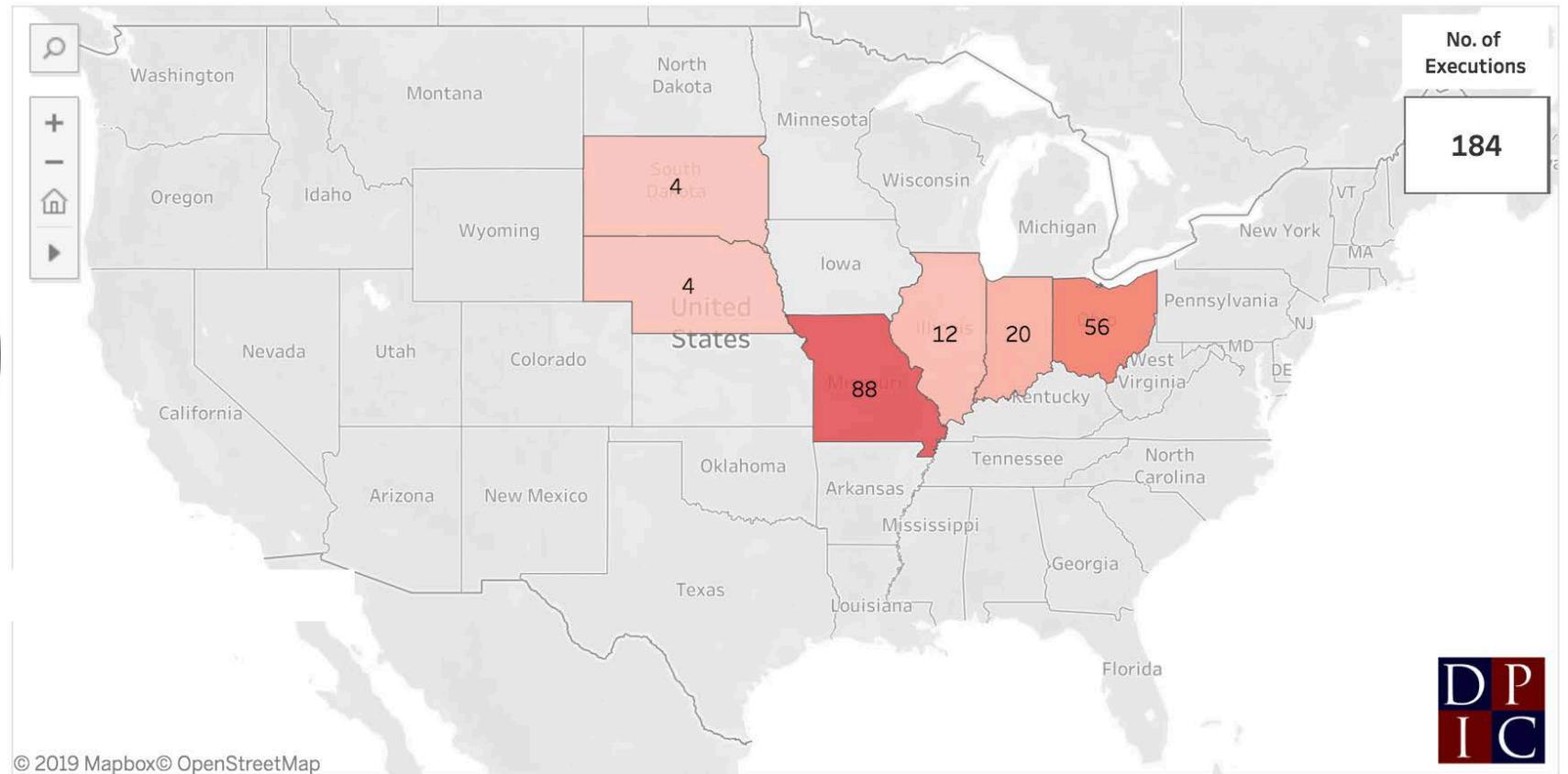


## Executions in the South



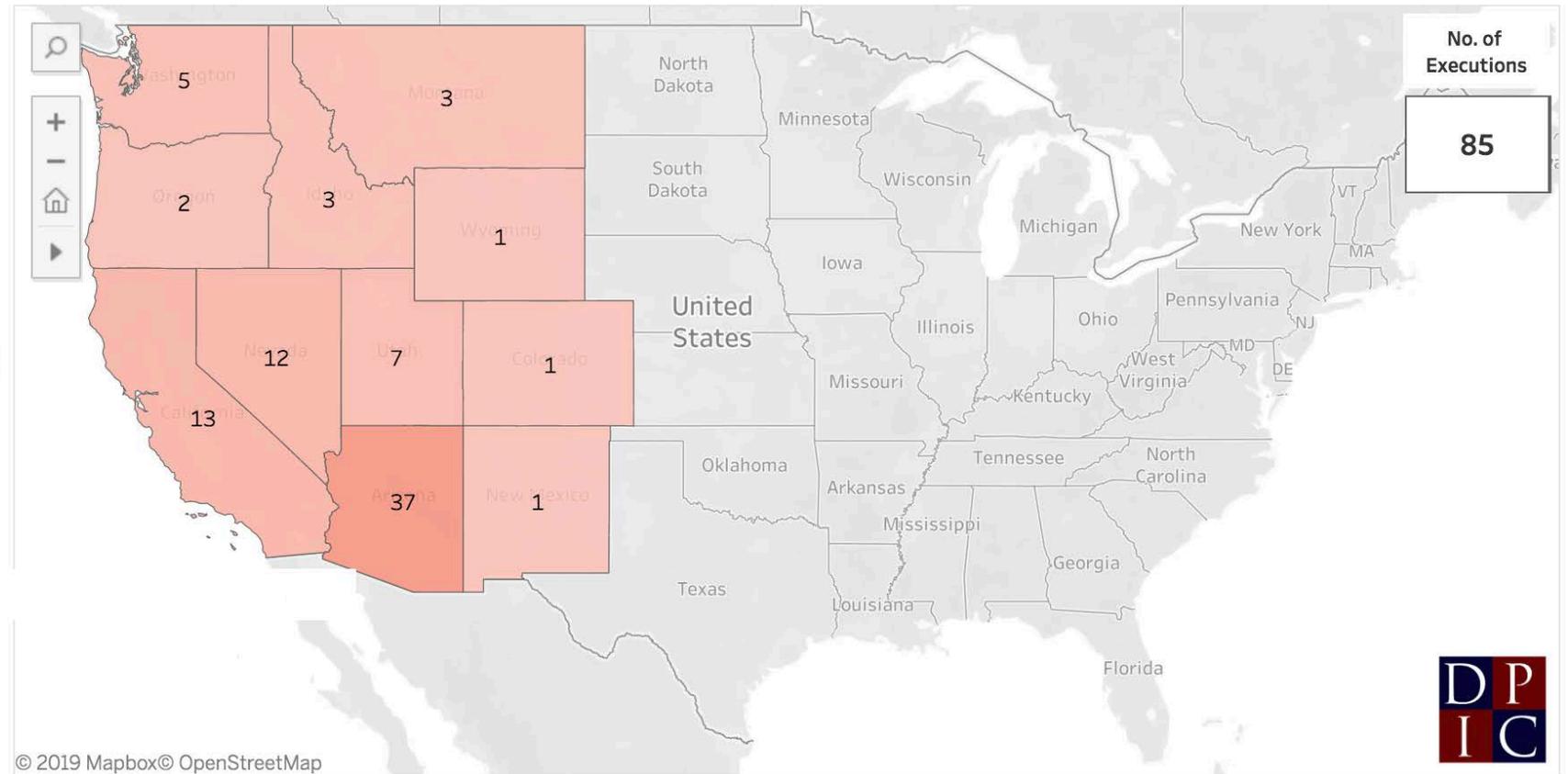
- The South is responsible for 81.6% of all executions in the United States since 1976, including 561 in Texas alone.

## Executions in the Midwest



- The Midwest accounts for 12.3% of U.S. executions. Most midwestern executions were carried out by Missouri or Ohio.

## Executions in the West



- The 11 states in the West account for 5.7% of all U.S. executions. No state west of Texas has carried out an execution since 2014.

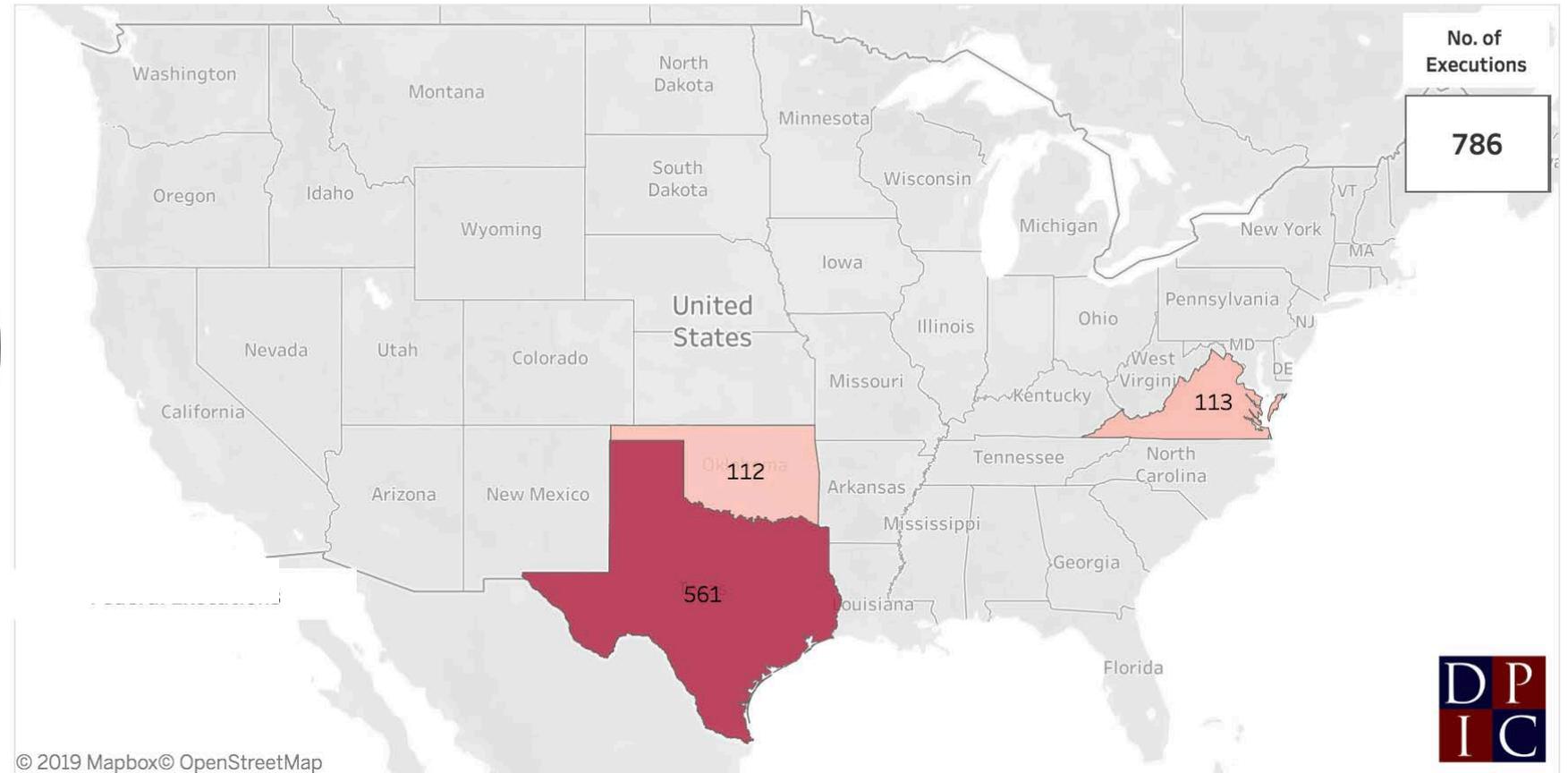
## Executions in the Northeast



- **The Northeast has conducted only four executions since the 1970s, all of mentally ill “volunteers” who were permitted to waive their appeals.**

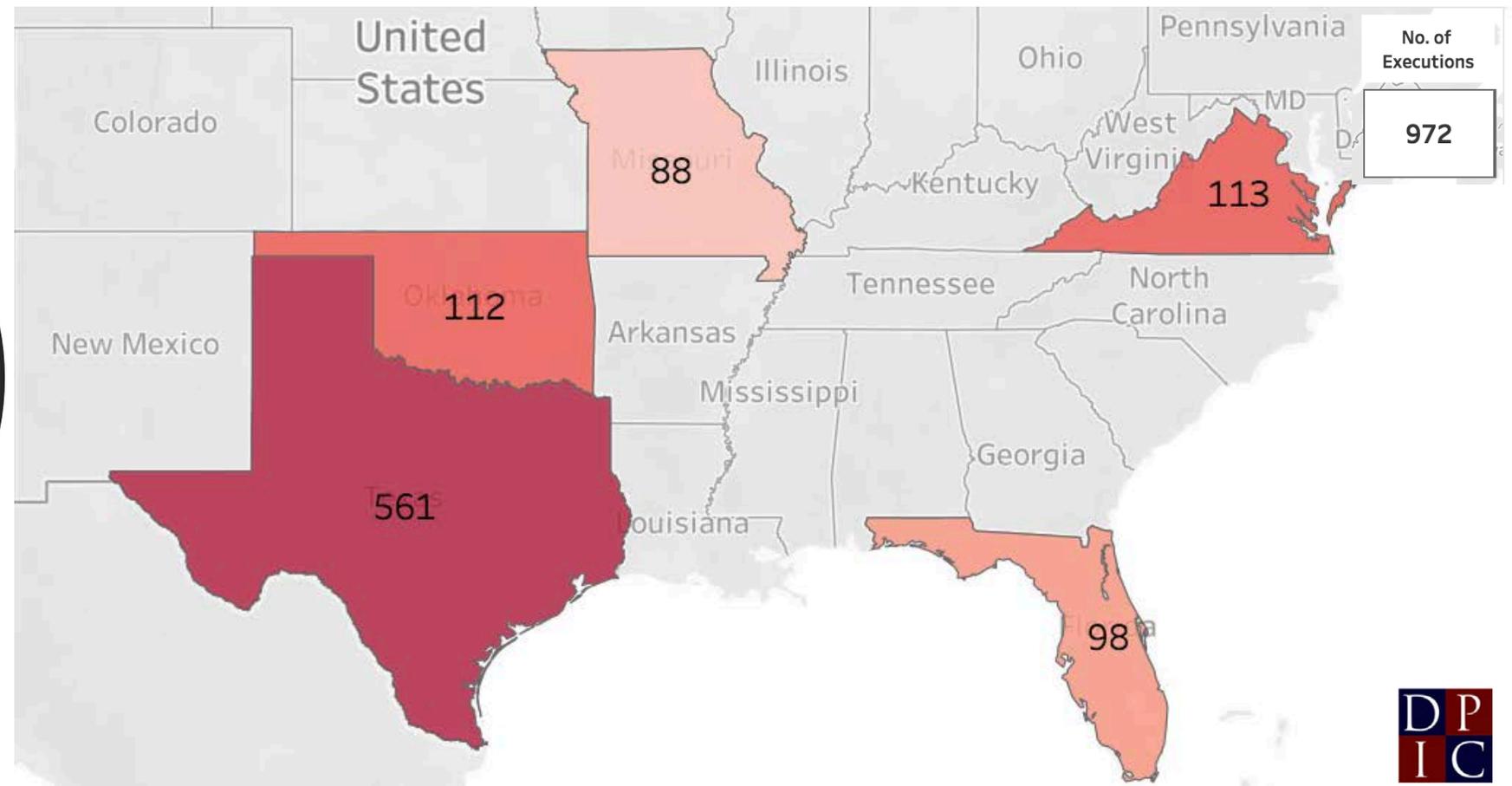
## The Deadliest Three States

### Executions in the United States



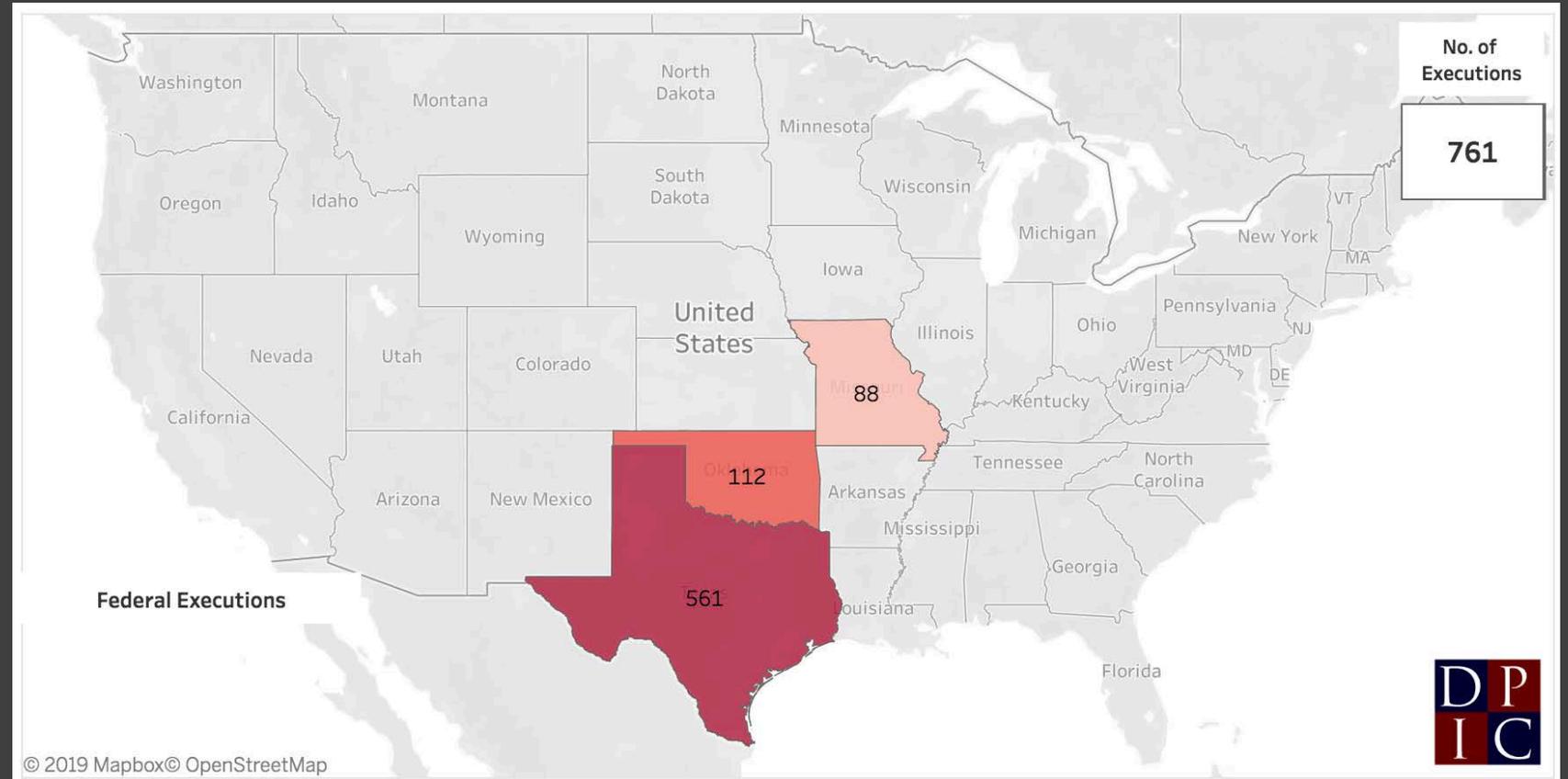
- More than half of all the executions in the United States since 1976 have been carried out in just three states—Texas, Virginia, and Oklahoma.

Five States  
Account for  
Almost 2/3  
of U.S.  
Executions



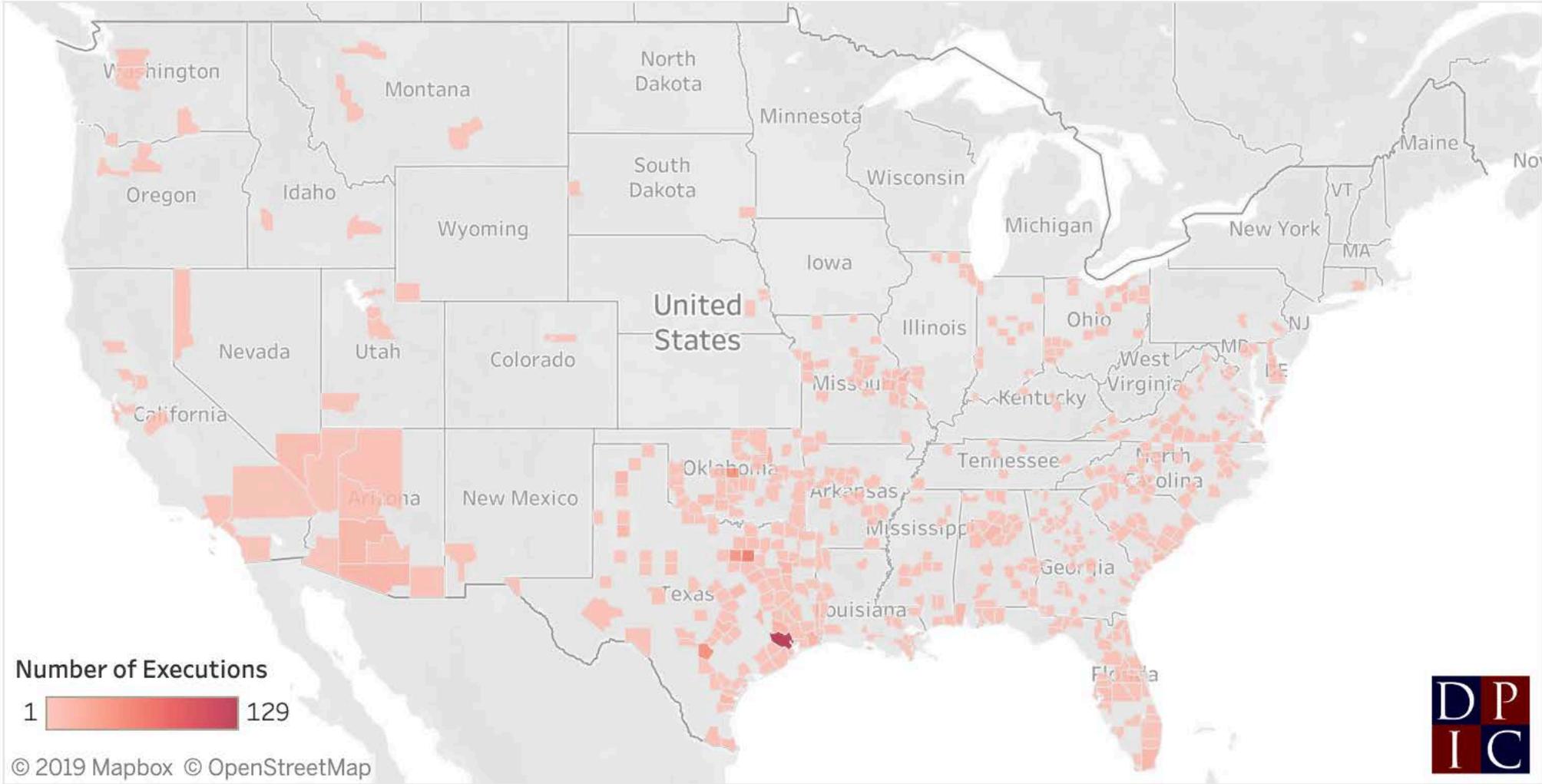
- Five states have carried out 64.8% of all the executions in the United States since 1976—Texas, Virginia, Oklahoma, Florida, and Missouri.

## A High-Execution Zone

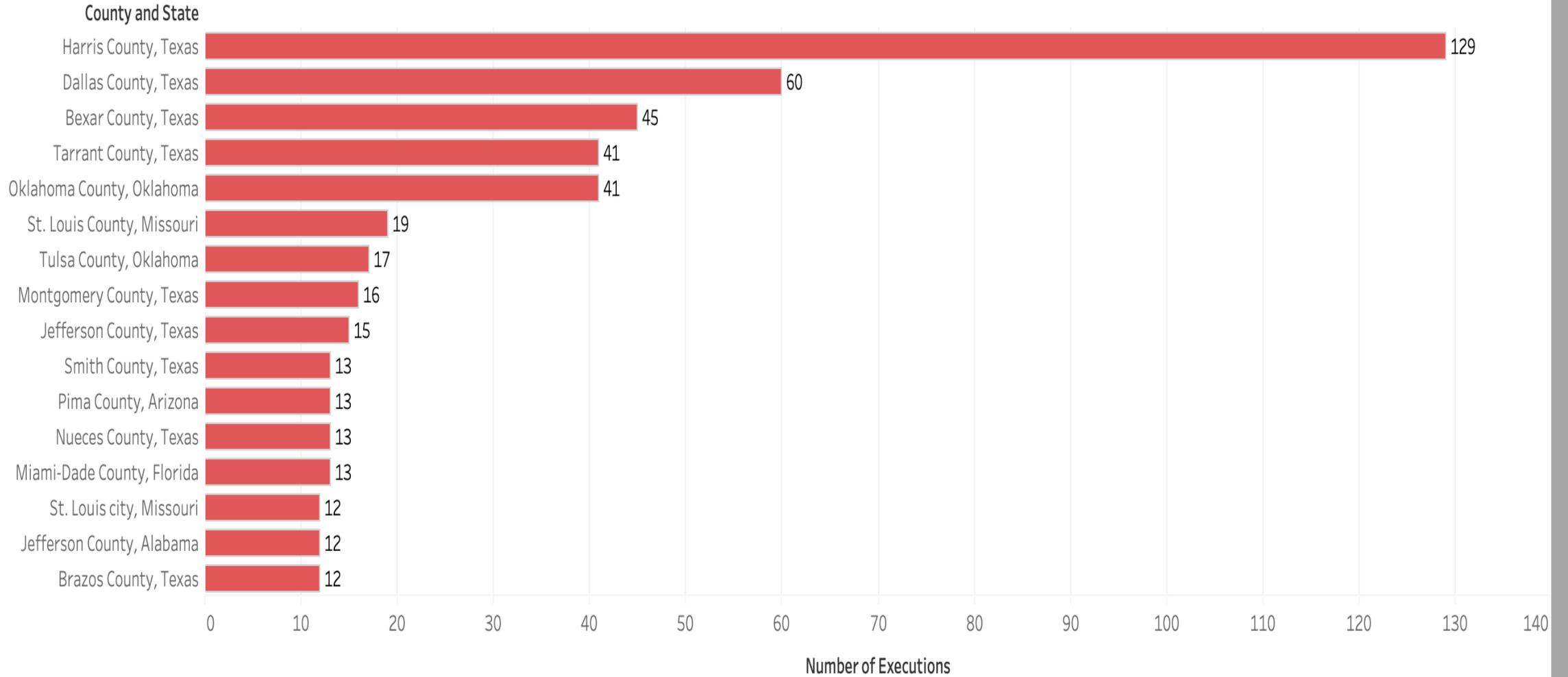


- More executions have been carried out in the contiguous states of Texas, Oklahoma, and Missouri than in the rest of the United States combined.

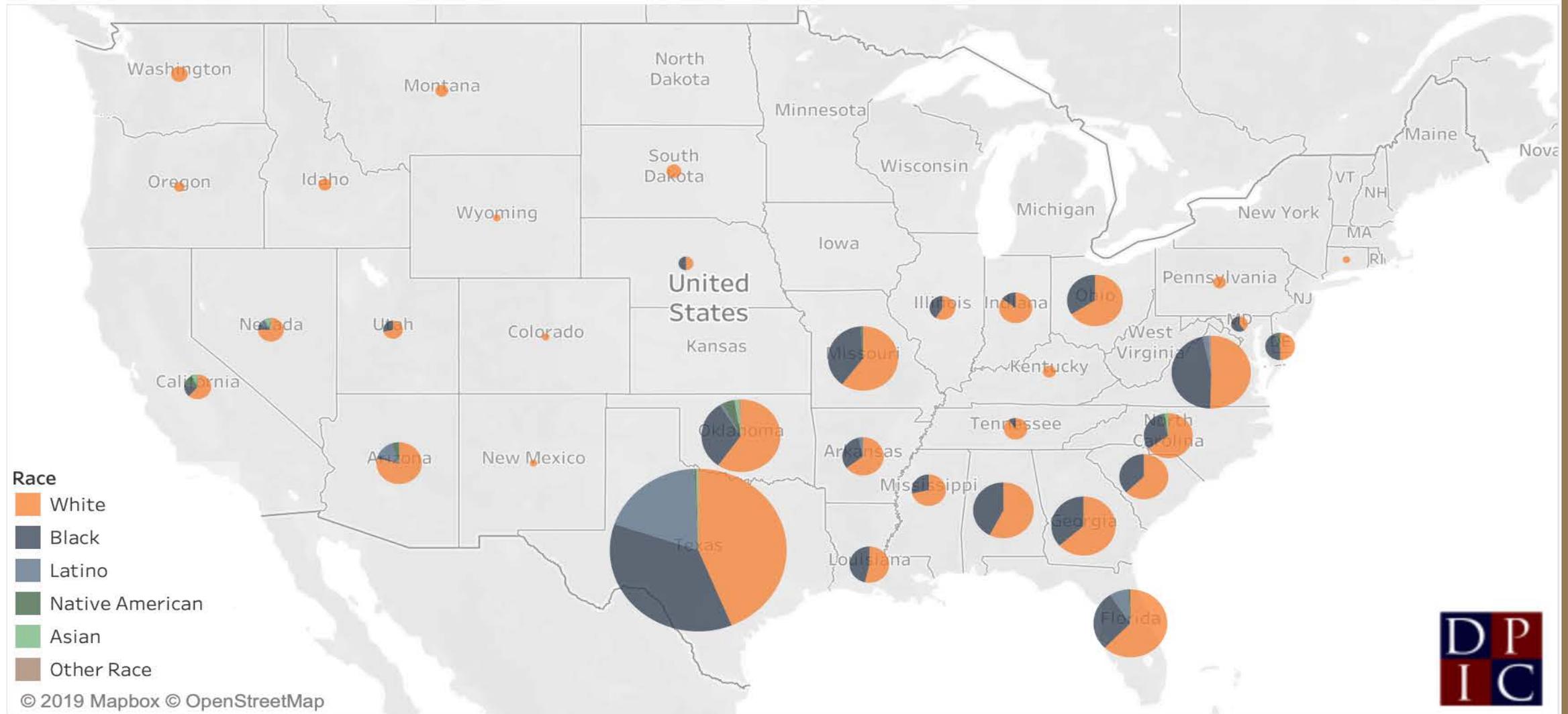
# Executions by County



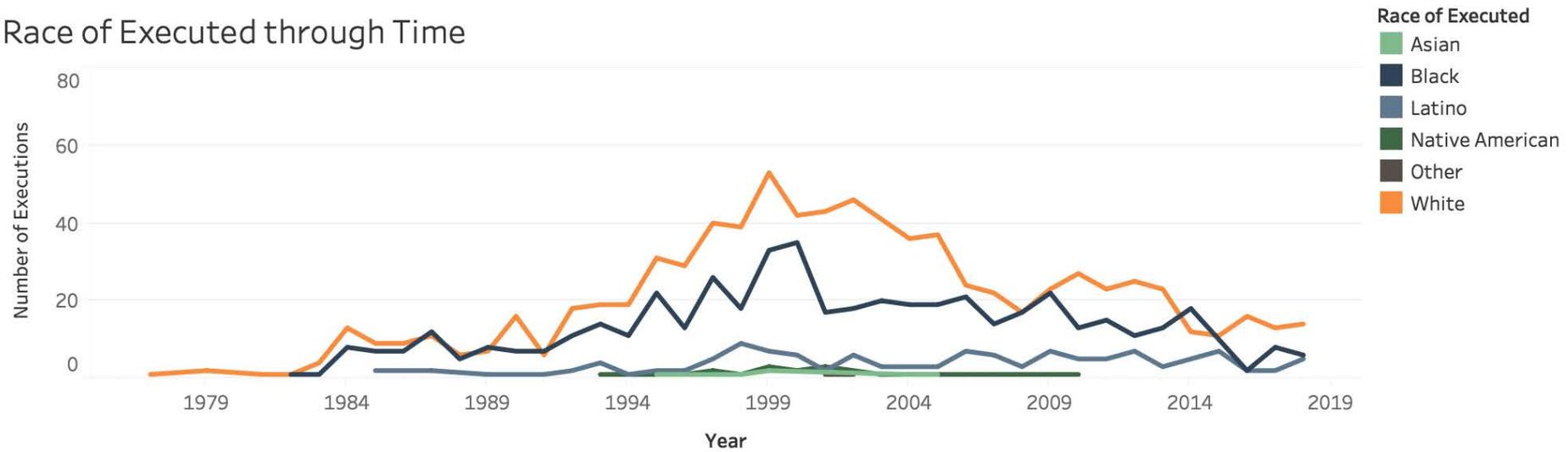
## Counties with More Than 12 Executions Since 1976



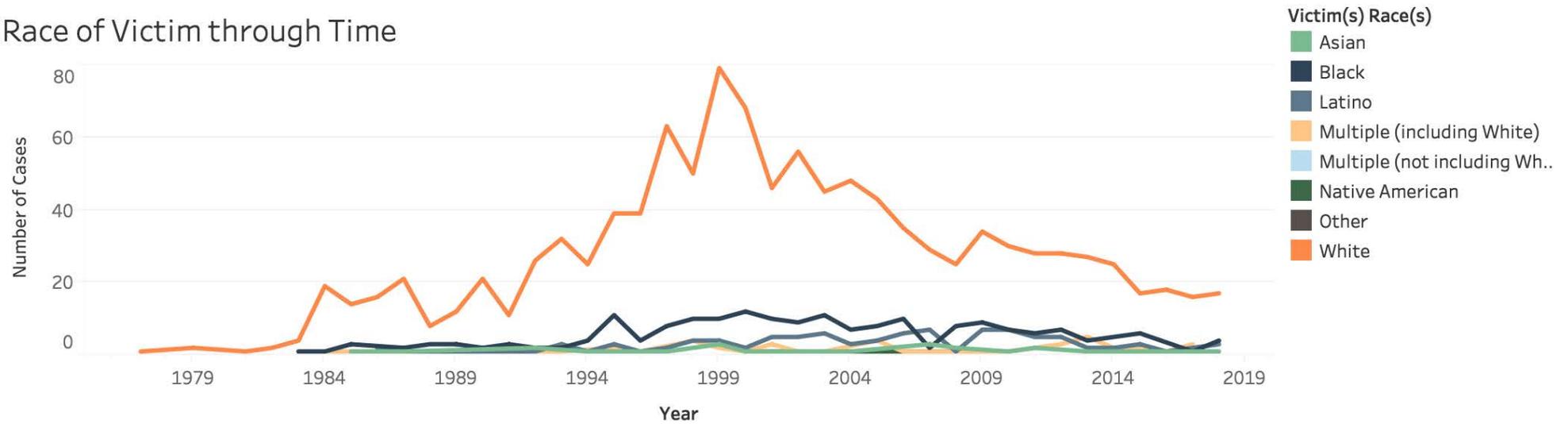
# Executions Since 1976 by Race of Defendant



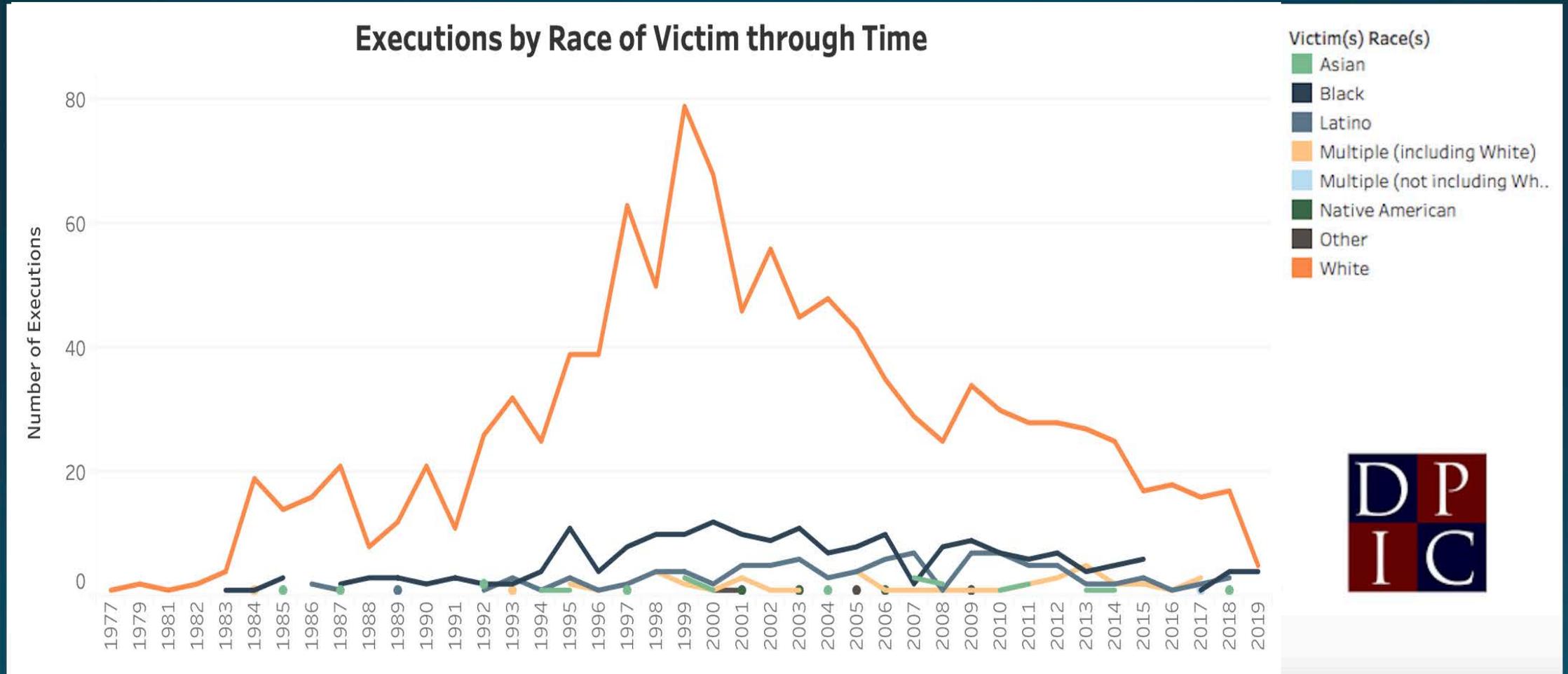
### Race of Executed through Time



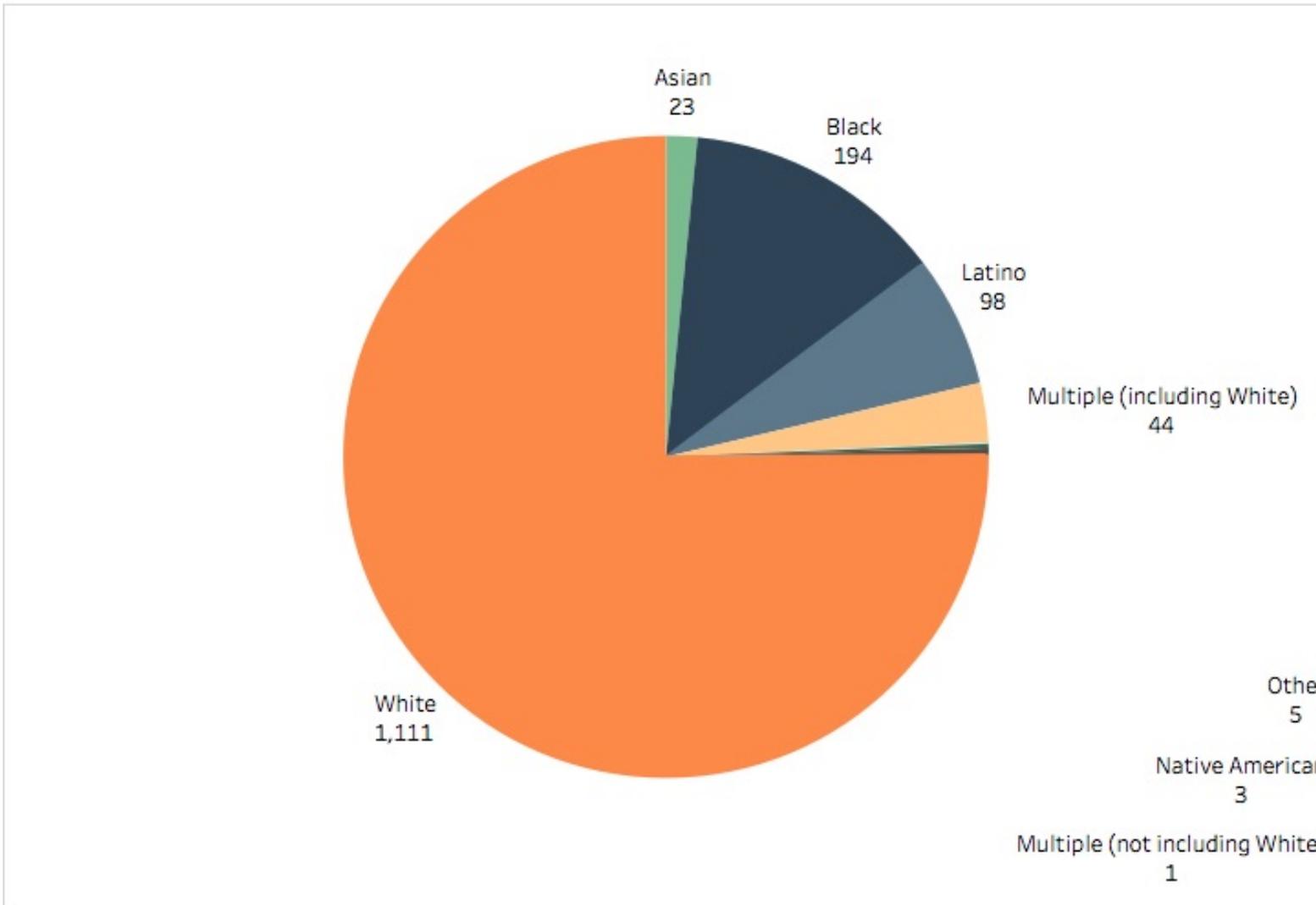
### Race of Victim through Time



# Executions disproportionately involve white victims, suggesting an inappropriate race-based conception of what constitutes the “worst of the worst” killings.



## Victim Race Distribution



### Victim(s) Race(s)

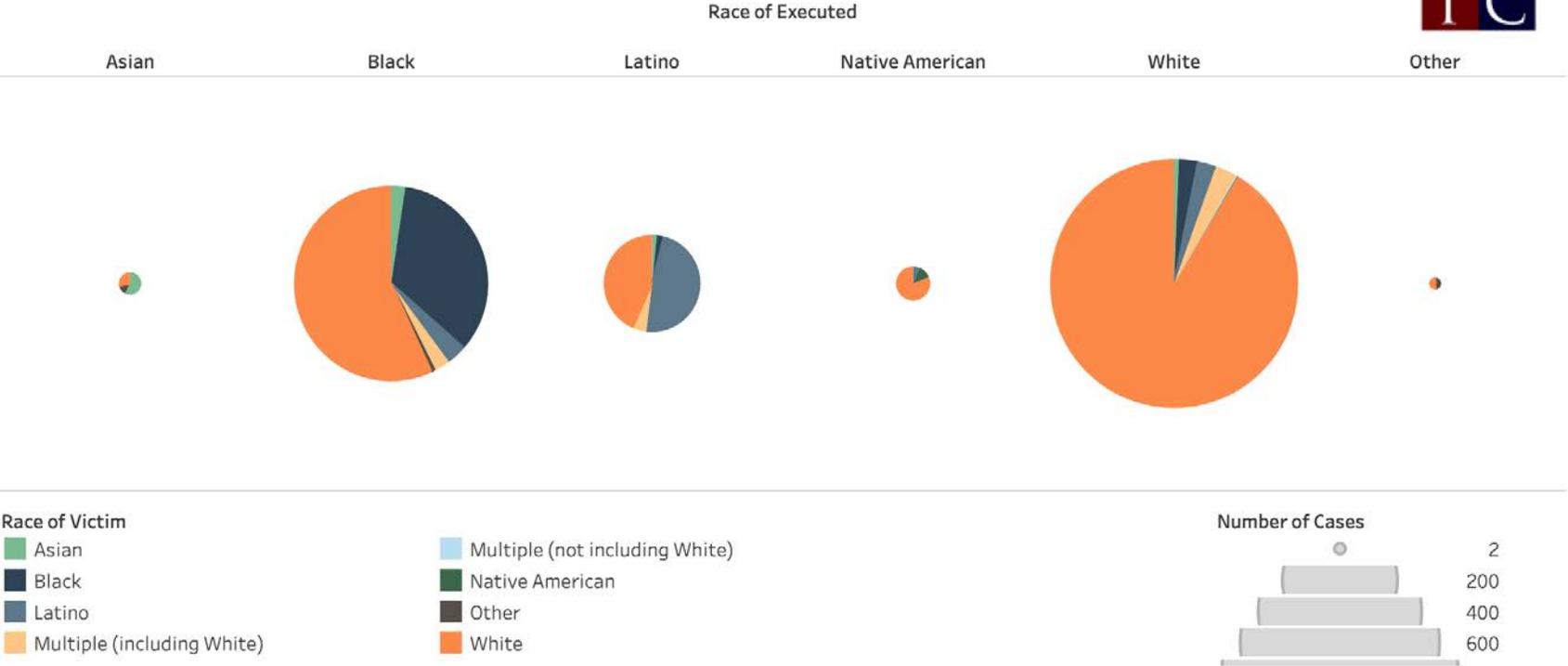
- Asian
- Black
- Latino
- Multiple (including White)
- Multiple (not including White)
- Native American
- Other
- White

**The U.S. primarily executes people for killing white victims.**



The U.S. Primarily Executes People for Killing White Victims

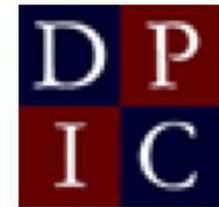
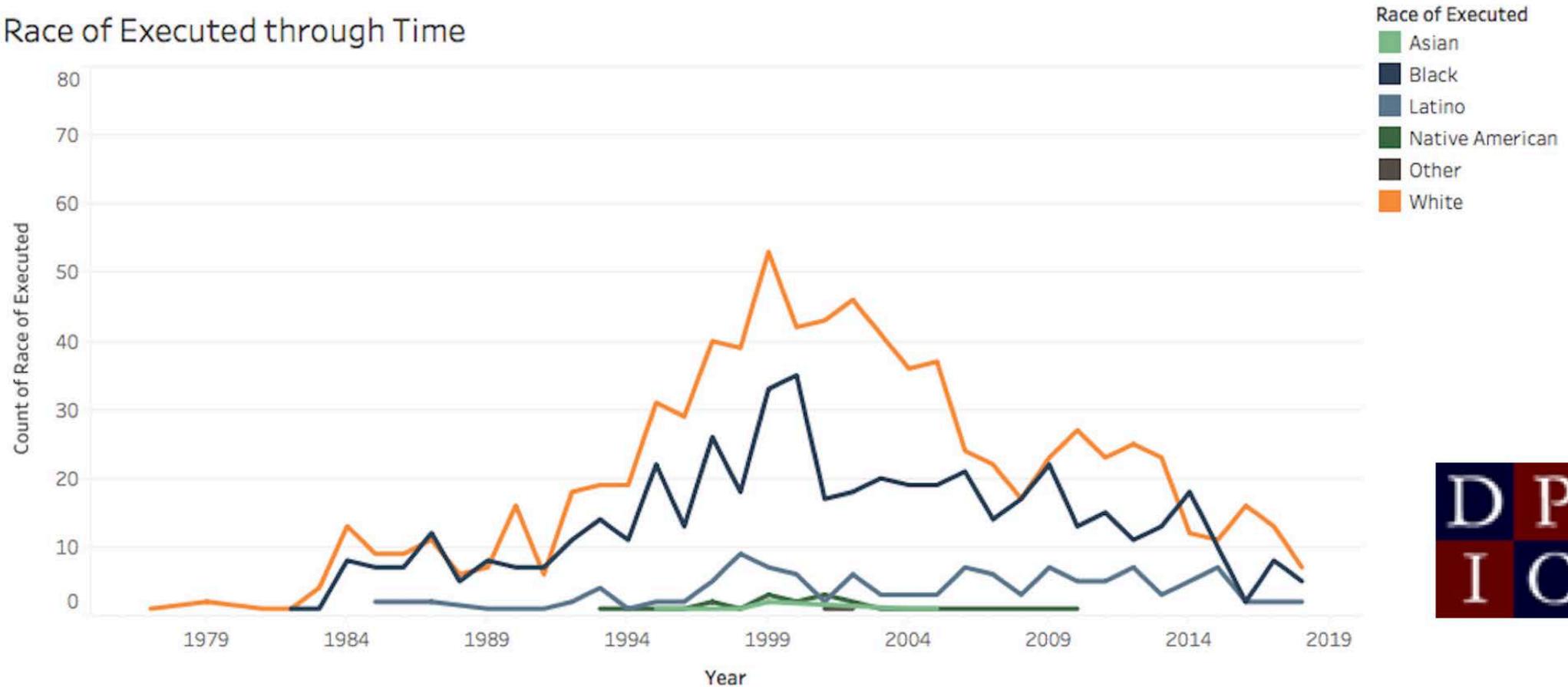
Executions since 1976: Race of Defendant v. Victim



Whatever the prisoner’s race—and disproportionately for defendants of color—a death penalty case is more likely to end in an execution when the victim is white.

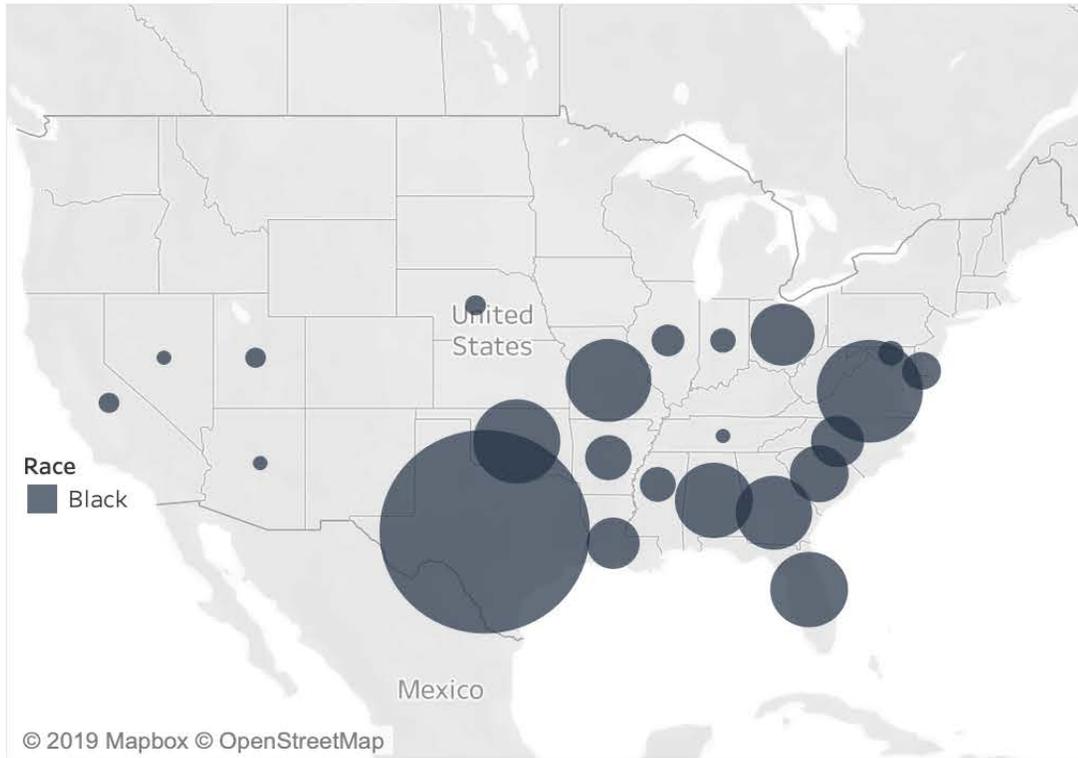
# Executions have fallen significantly for blacks and whites, but more for whites than any other group.

Race of Executed through Time

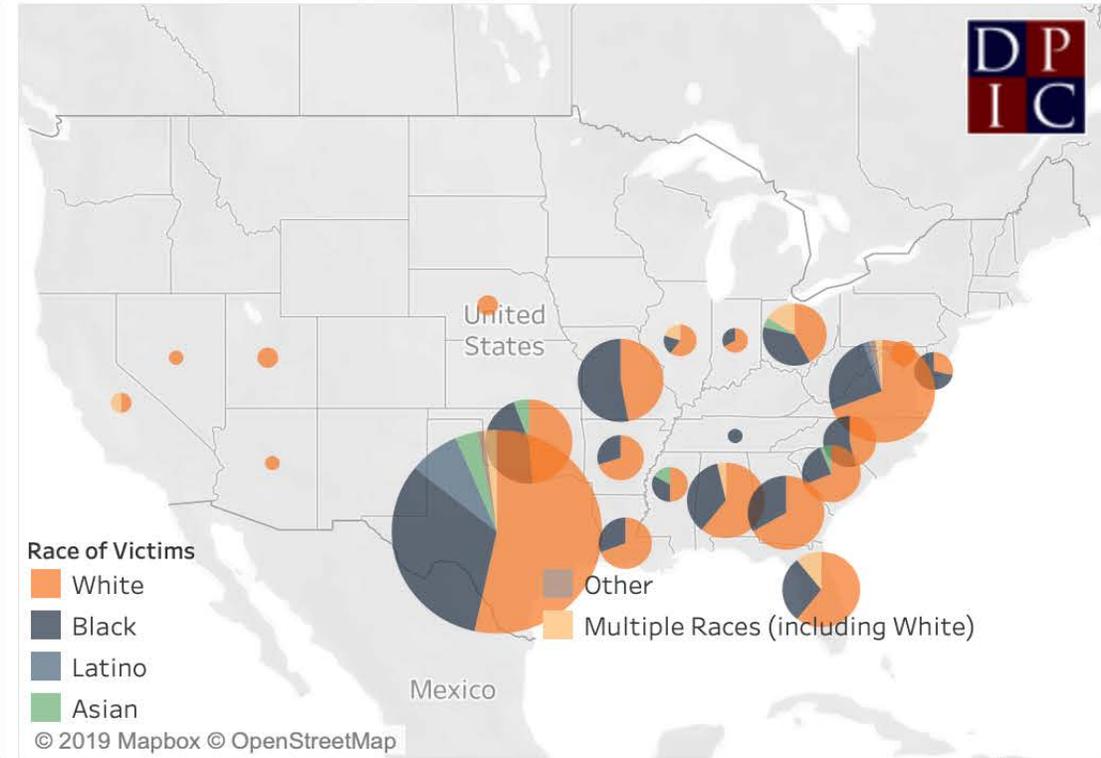


# All Across the U.S., Black Prisoners are Disproportionately Executed for the Murders of White Victims

## U.S. Executions by Race of Defendant



## U.S. Executions by Race of Victim



Date Range

Year  
All

State  
All

Region  
All

Sex  
All

Race  
Black

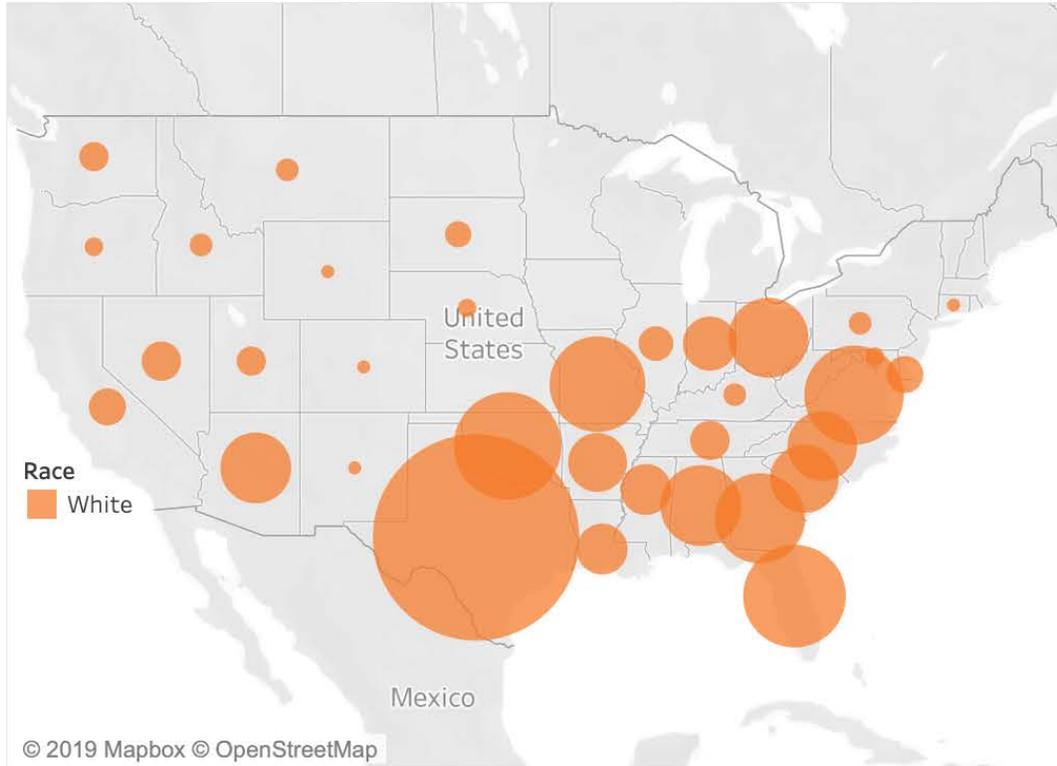
Race of Victims  
All

Execution Volunteer  
All

Foreign National  
All

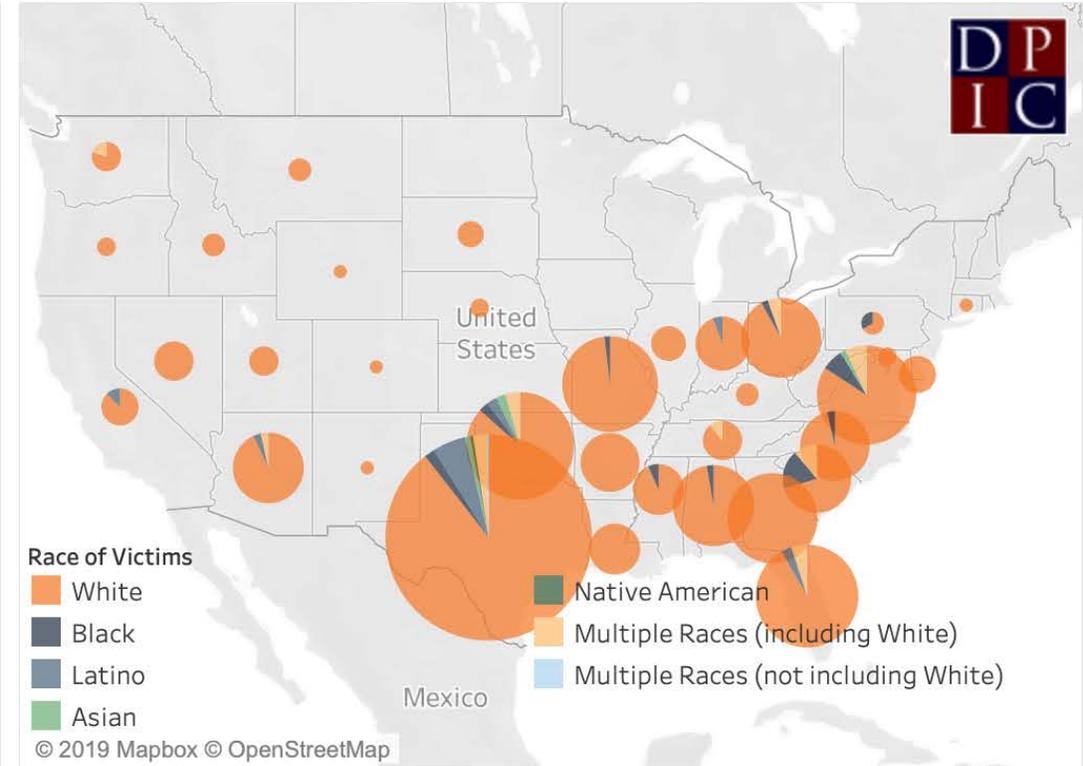
# And When Whites are Executed, It is Almost Always for Killing Other Whites

## U.S. Executions by Race of Defendant



Date Range: All  
Year: All  
State: All  
Region: All  
Sex: All

## U.S. Executions by Race of Victim



Race: White  
Race of Victims: All  
Execution Volunteer: All  
Foreign National: All



# Innocence and the Death Penalty

**THE MORNING CALL**  
THURSDAY, OCTOBER 28, 2006 50c

Partly cloudy  
69° | 55°  
Forecast: B2

**BRIEFING**

**AT LEAST 8 U.S. TROOPS** were killed in Iraq the last two days, bringing October's toll to 70. Hundreds of Iraqis have been killed in the past week. **A1**

**DENNIS COUNTERMAN**, who spent more than 18 years in prison after being charged with an arson that killed his three children, was released Wednesday under a plea agreement. **A1**

**SOCIAL SECURITY PAYMENTS** to retirees are going up by 3.3 percent next year, less than last year's rate of inflation in the Lehigh Valley. **A1**

**REPUBLICAN LYNN SWANN** on Wednesday brought his gubernatorial campaign to the Lehigh Valley again. He stopped in Allentown, Trearton and Easton. **A1**

**SEVEN FUNERAL HOME DIRECTORS** joined in a scheme to sell body parts from patients for transplants pleaded guilty and have agreed to cooperate with investigators, prosecutors said Wednesday. **A1**

**SEVEN NFL FOOTBALL STADIUMS** will be hit with radical drug bombs this weekend, according to postings on a Web site, but the government expressed doubts about the threat. **A1**

**"I'm more frustrated than angry. I spent all this time for something I didn't even do."**  
Dennis Counterman

## Death row to freedom

Dennis Counterman released after plea agreement in children's deaths.

By Debbie Gerold  
OF THE MORNING CALL

Dennis Counterman, who spent more than 18 years in prison — some on death row — after being charged with setting a fire that killed his three children, was released Wednesday as a result of a plea agreement.

"Today, Mr. Counterman, you are a free man," Lehigh County Judge Lawrence J. Renner said after a 45-minute hearing in the case, which stemmed from a July 21, 1988, fire that erupted through the Counterman family home at 456 S. Chestnut St., Allentown. Still dressed in dark blue prison-issue slacks and shoes, Counterman walked to the courtroom's gallery and embraced two wives, who wept on his shoulders. For the first time since he was charged in August 1988, he left the courtroom without handcuffs and they walked to be with family," he said. "It's been a long time."

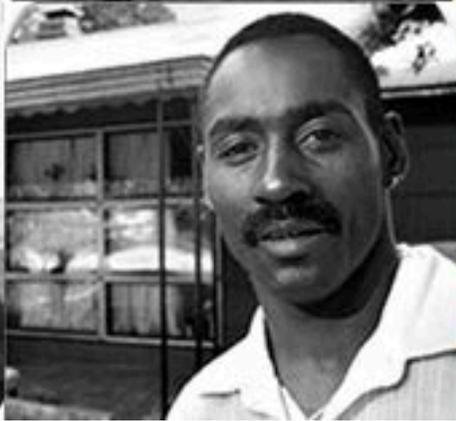
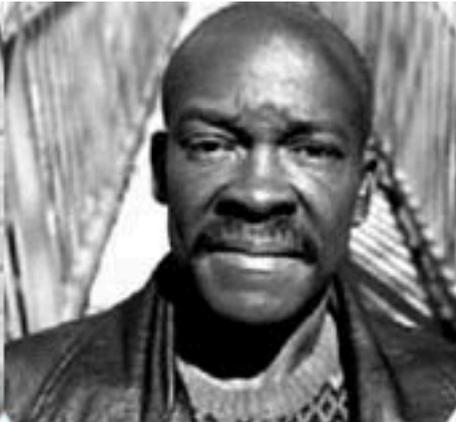
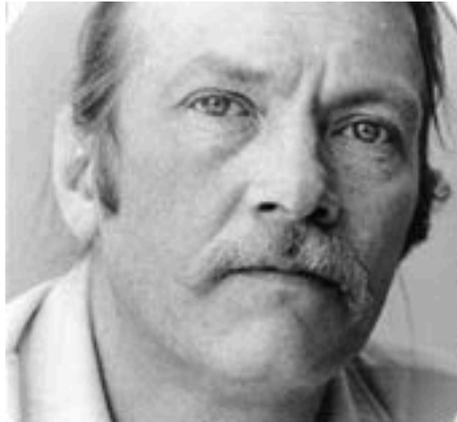
Outside the courtroom, he hugged one of his brothers, Russell Dayton, who came from Chester, Pa., for the case. Counterman, 41, for the



See how the Morning Call case turned around when it was learned he didn't even feel a history of setting fires.

**COUNTERMAN RELEASED** **A1**





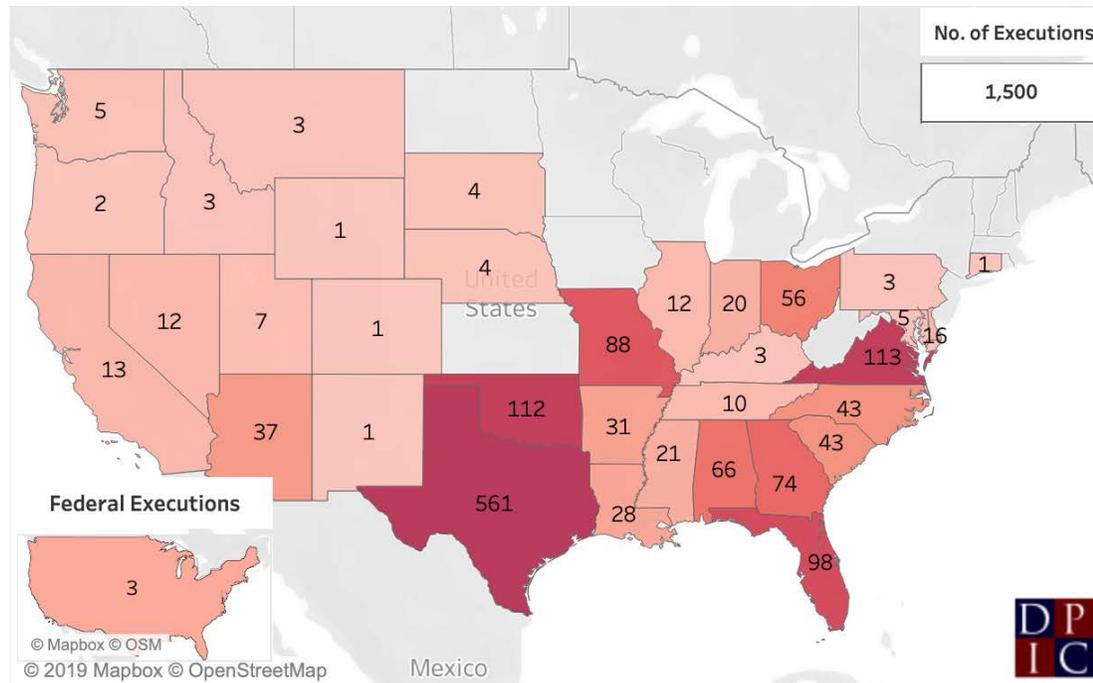
**Since 1973,  
165 people  
have been  
exonerated  
and freed from  
death row.**

Photos by Loren Santow

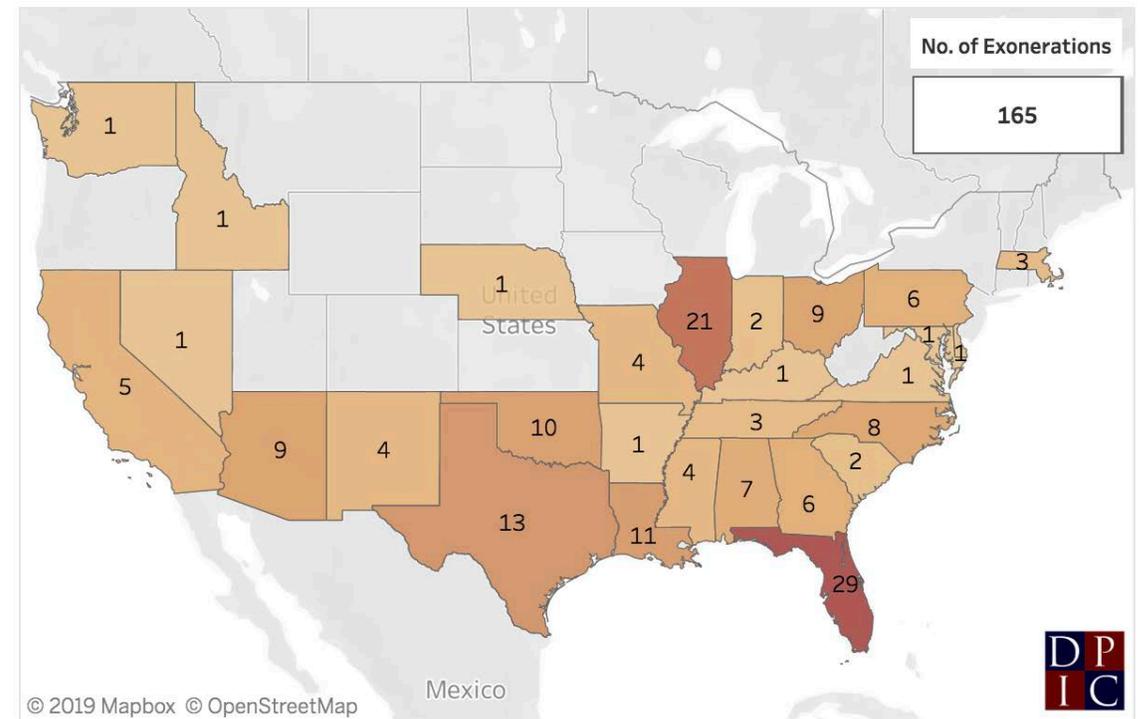


For every 9.1 executions in the United States, one wrongly convicted death-row prisoner has been exonerated.

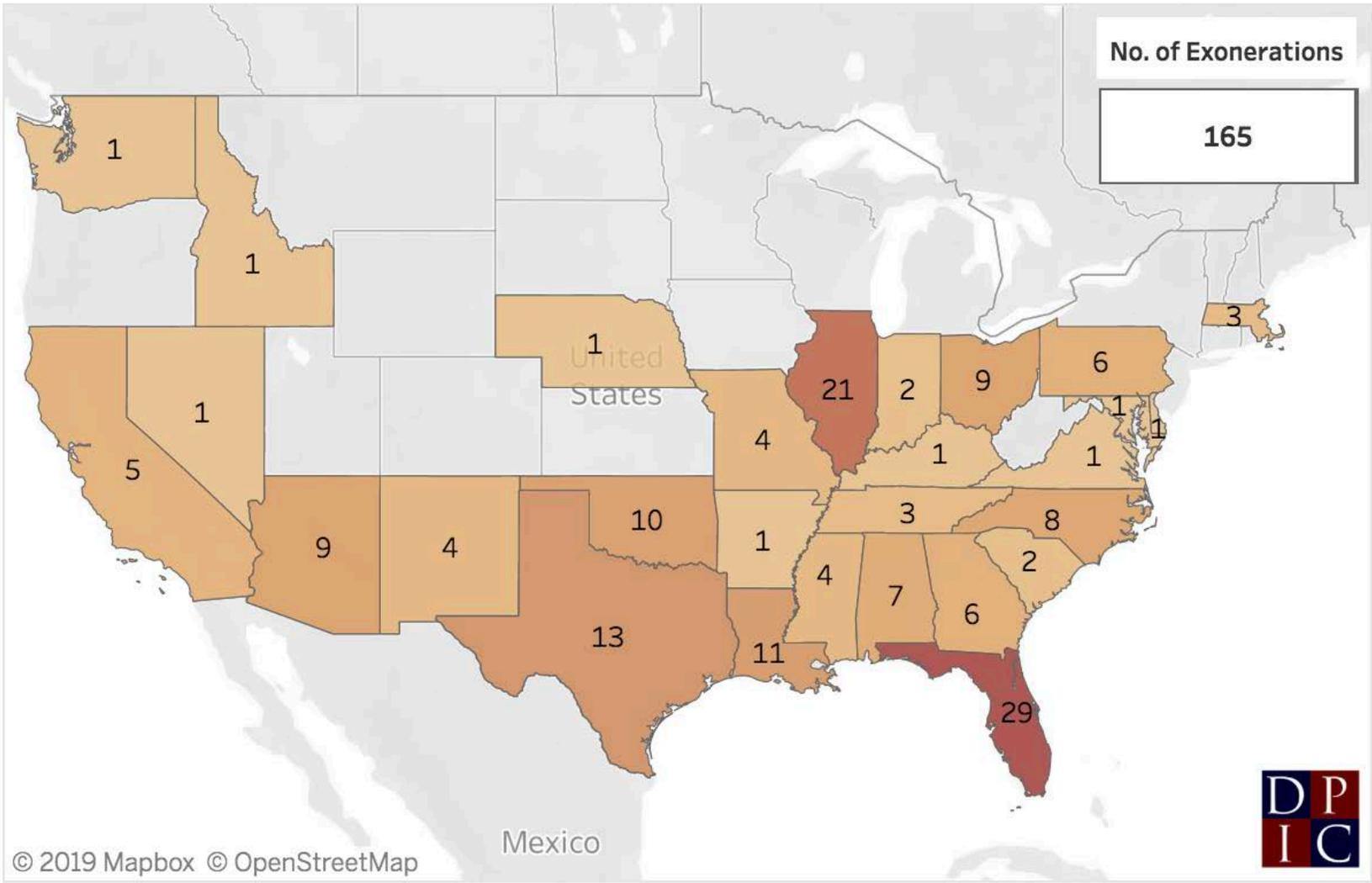
Executions in the United States



Death-Row Exonerations

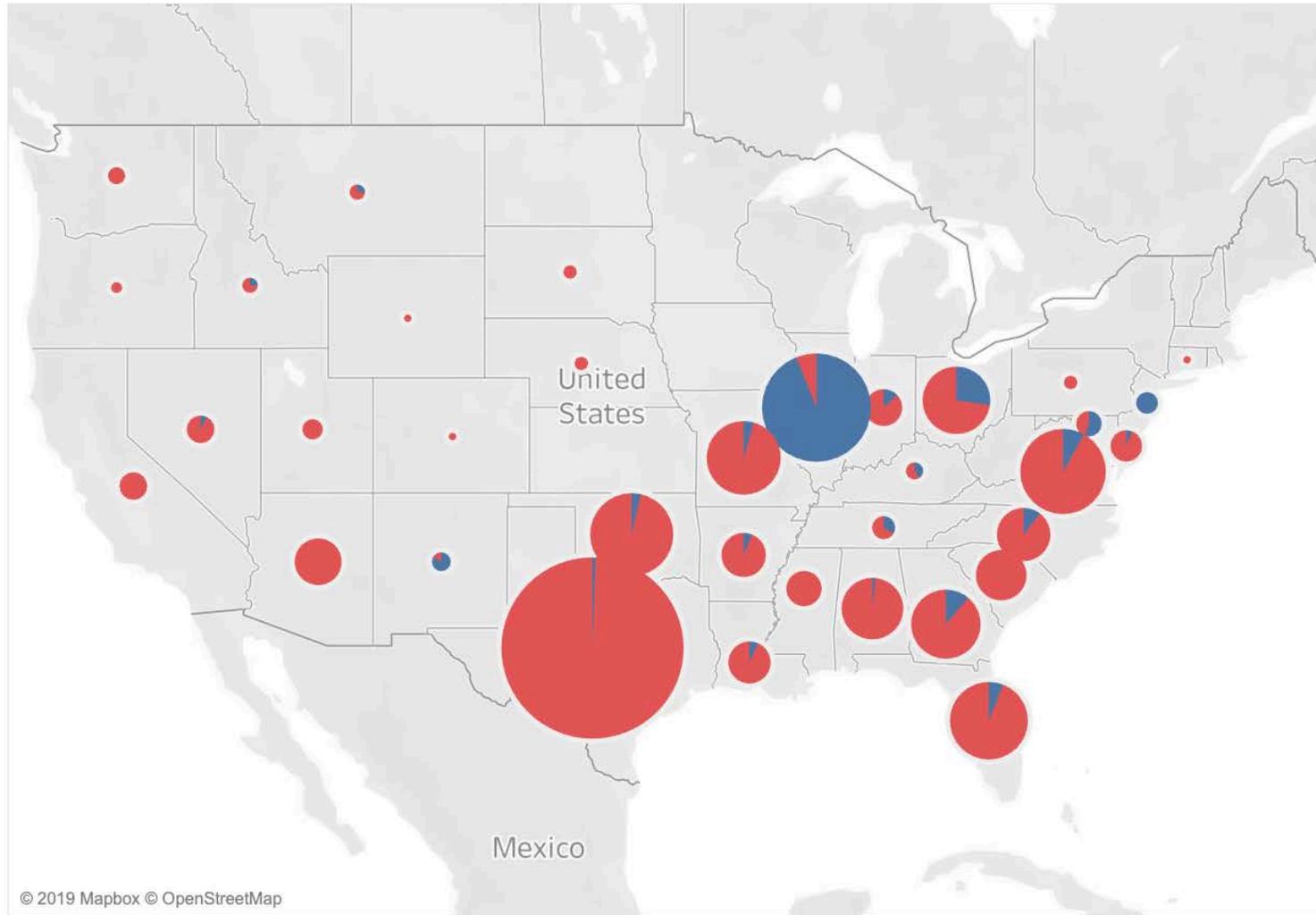


# Death-Row Exonerations



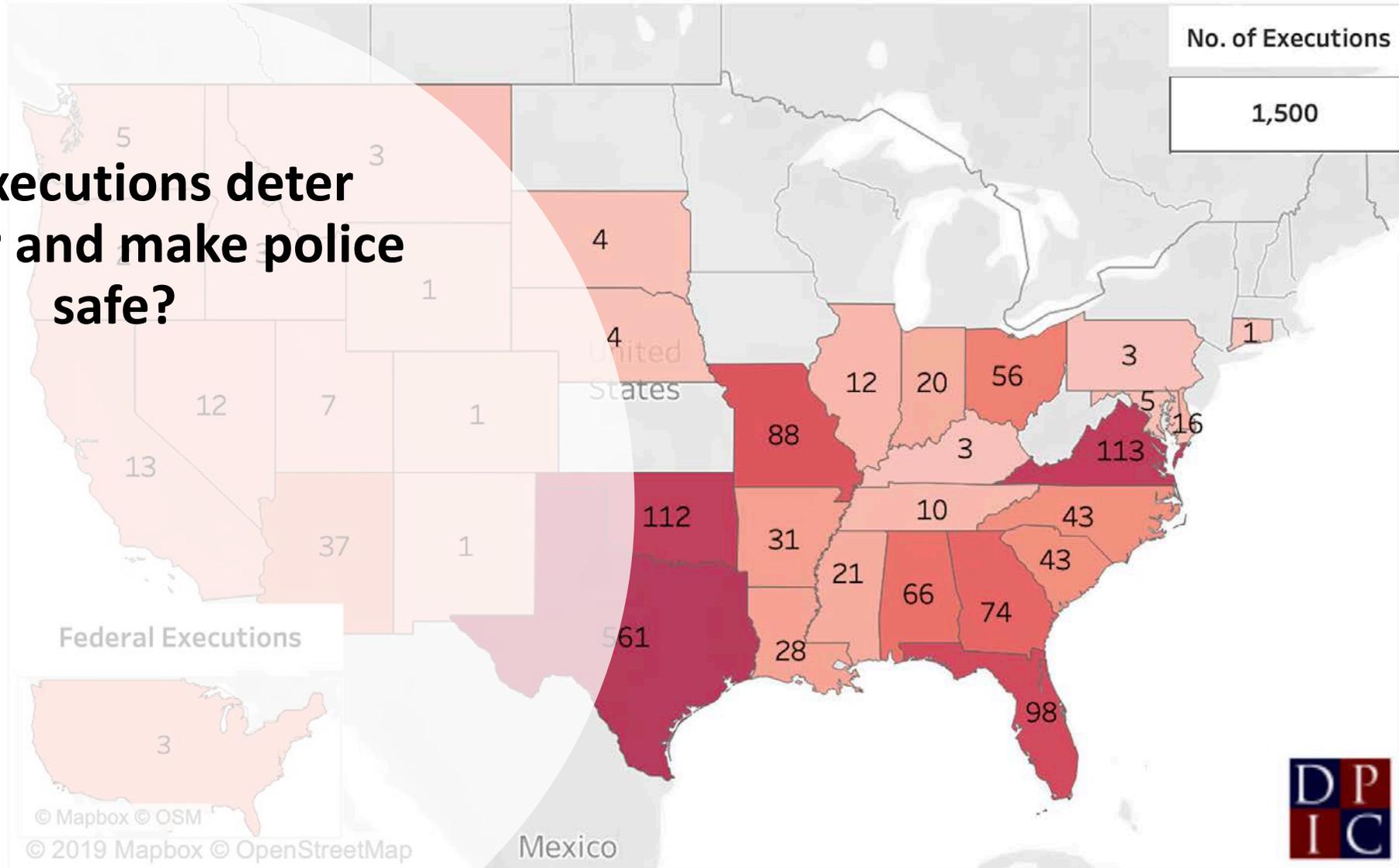
# Clemency v. Executions

Outcome  
■ Clemency ..  
■ Executed

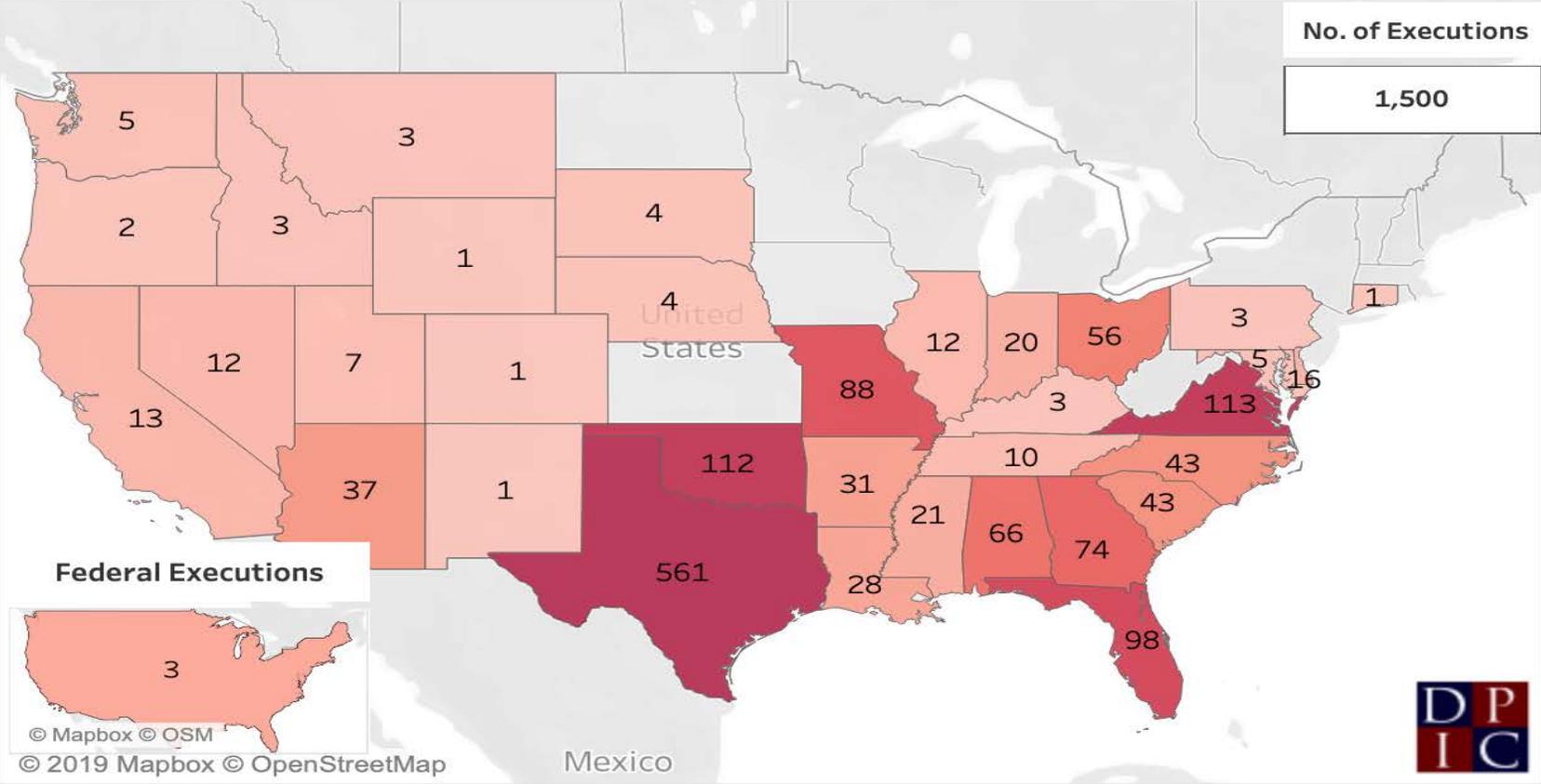


# Executions in the United States

**Do executions deter murder and make police safe?**



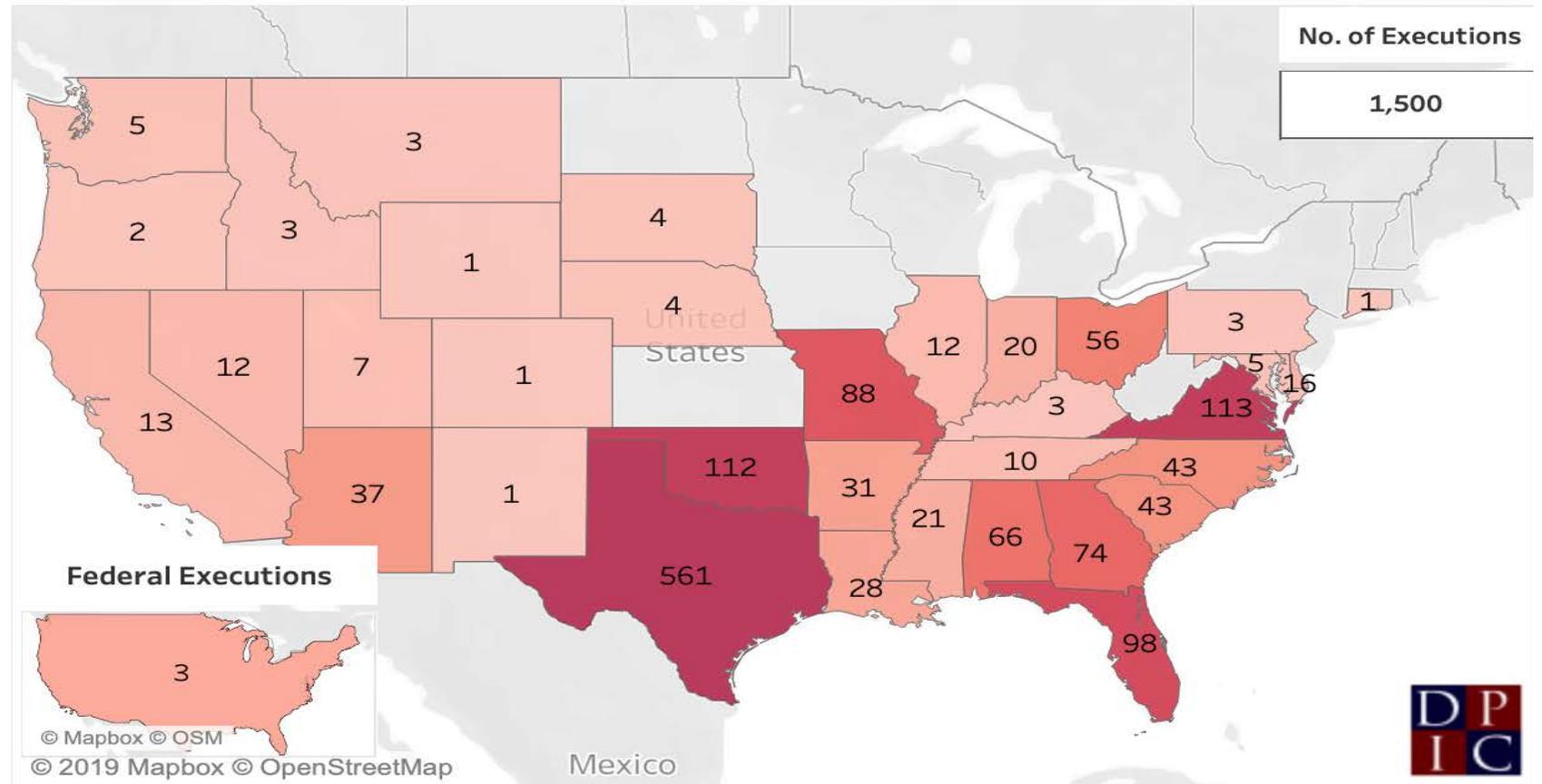
# Executions in the United States



Do executions deter murder?

- None of the 22 states with the lowest murder rates have carried out even ten executions since 1976.

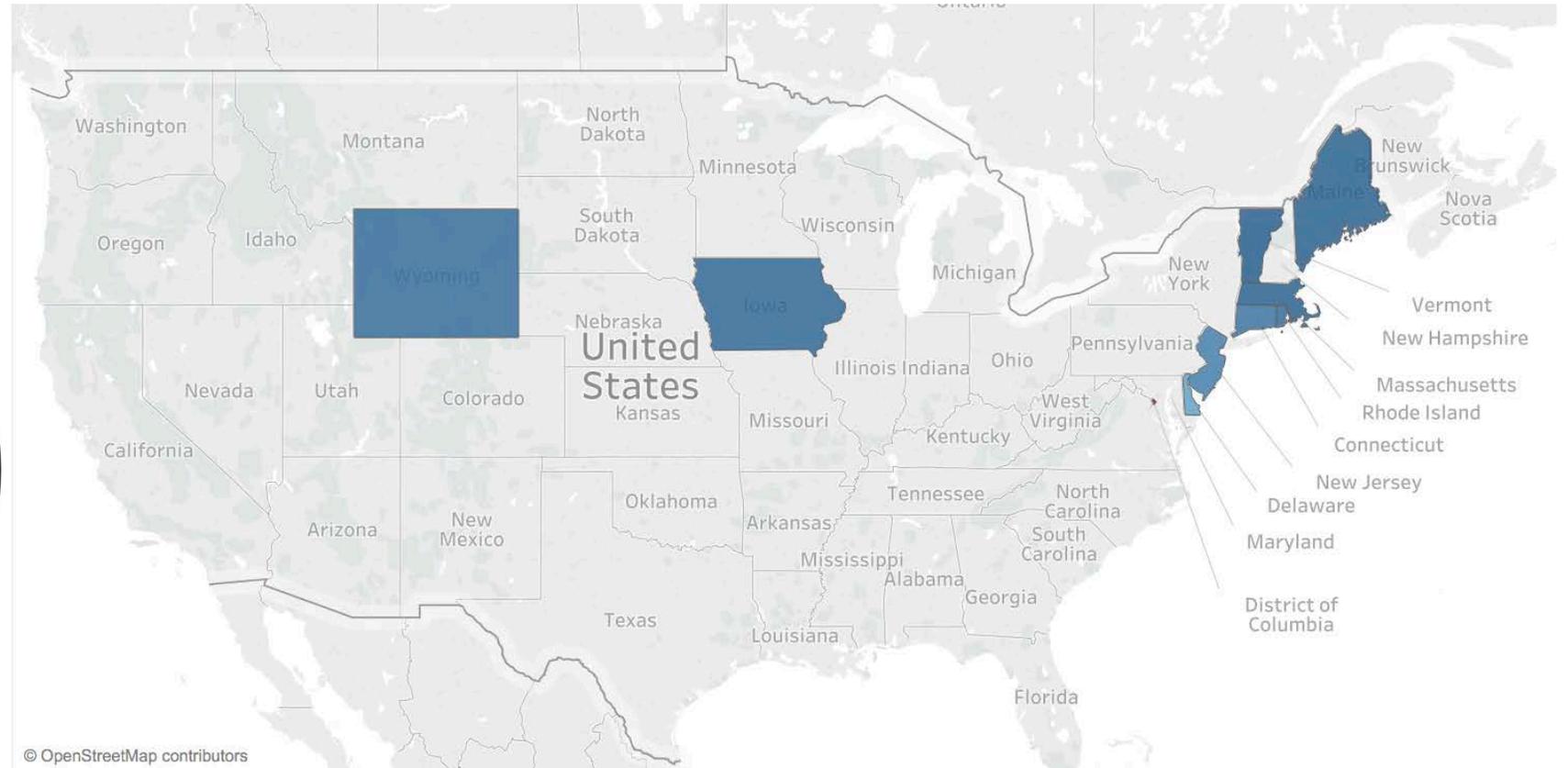
## Executions in the United States



Do  
executions  
make police  
safer?

- Eight of the 9 safest states for law enforcement don't have the death penalty. The four death-penalty states with the lowest law enforcement victimization rate each have executed fewer than one prisoner per decade since 1976.

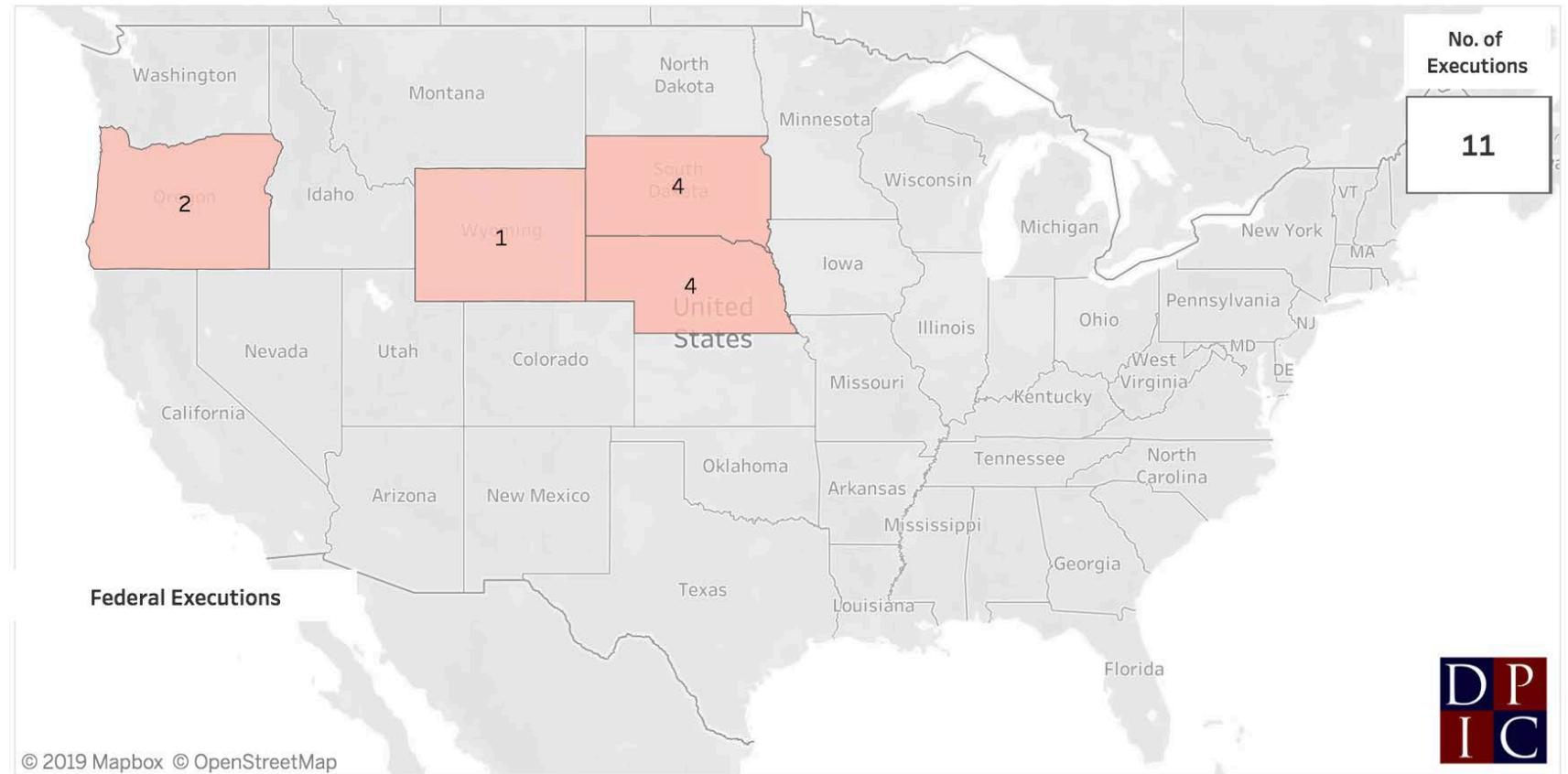
Do  
executions  
make police  
safer?



- **Eight of the 9 safest states for law enforcement don't have the death penalty: Vermont, Iowa, Connecticut, Maine, Rhode Island, New Jersey, Delaware, and Massachusetts. Wyoming has the death penalty, but has no one on death row.**

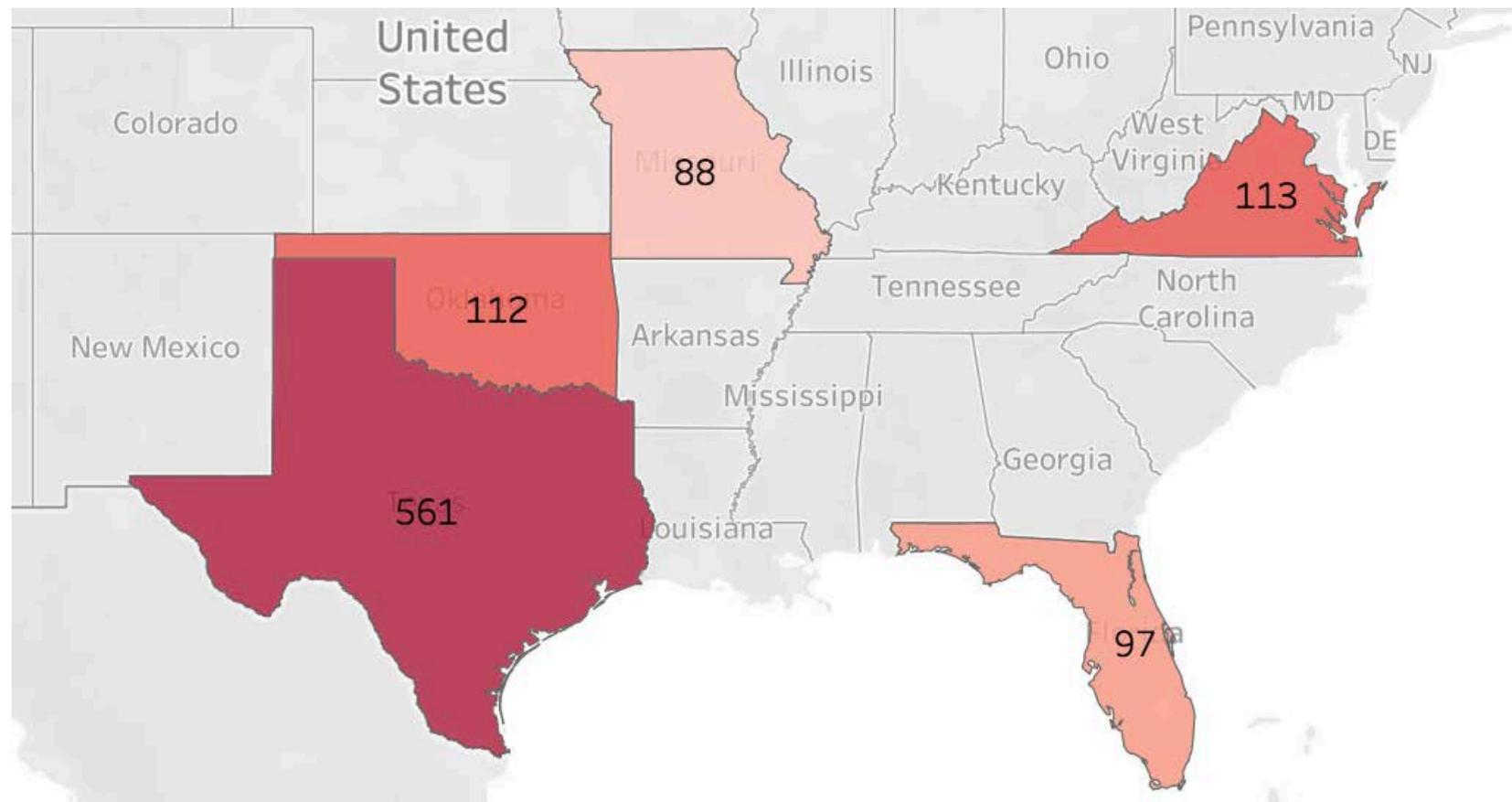
Do executions make police safer?

## Executions in the United States



- The four death-penalty states with the lowest law enforcement victimization rate — **Wyoming, Oregon, Nebraska, and South Dakota** — each have executed fewer than one prisoner per decade since 1976.

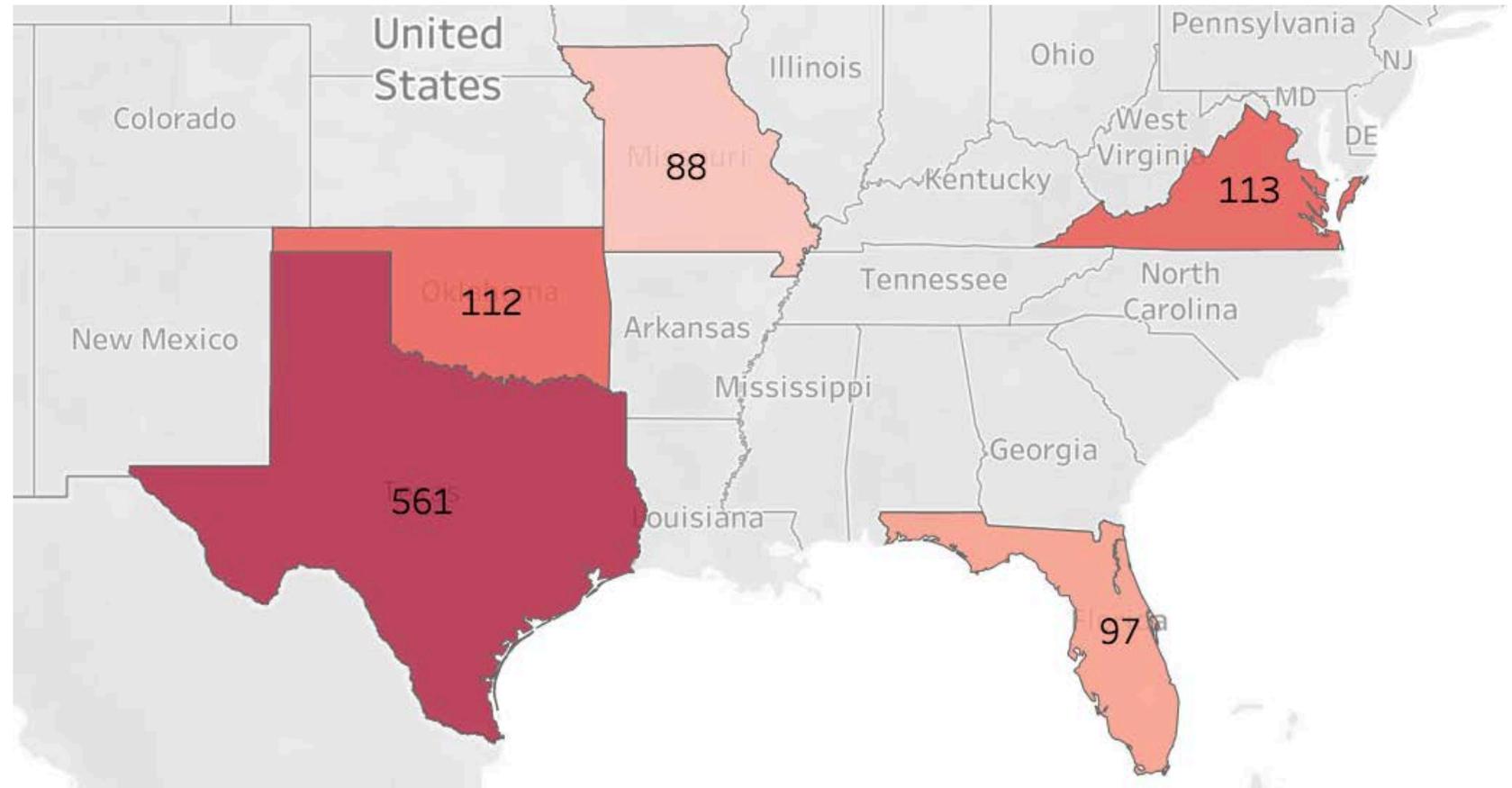
Do  
executions  
deter  
murder?



With 1 being the state with the lowest murder rate and 50 being the highest, here is where the five states with the most executions since 1976 rank:

1. Texas ranks 35.
2. Virginia ranks 28.
3. Oklahoma ranks 31.
4. Florida ranks 32.
5. Missouri ranks 37.

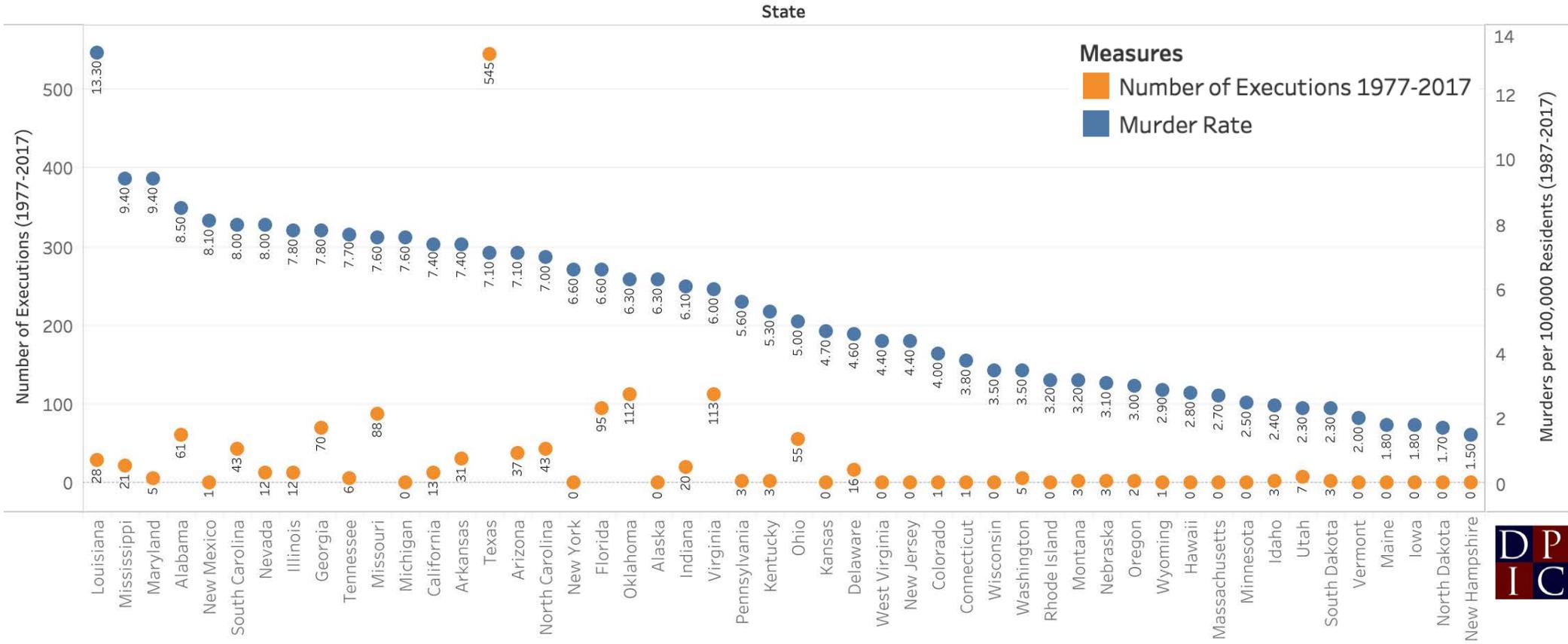
Do  
executions  
make police  
safer?



With 1 being the state with the lowest police-victim murder rate and 50 being the highest, here is where the five states with the most executions since 1976 rank:

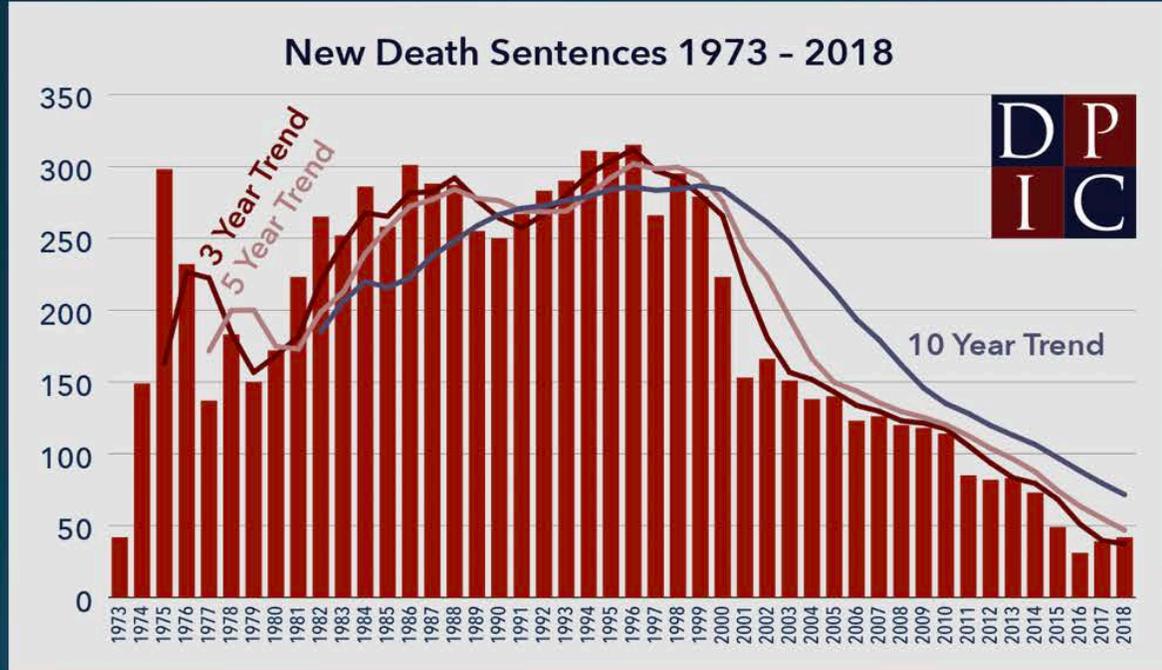
1. Texas ranks 40.
2. Virginia ranks 27.
3. Oklahoma ranks 28.
4. Florida ranks 26.
5. Missouri ranks 33.

# Murder Rate and Executions



# Executions are a Lagging Indicator

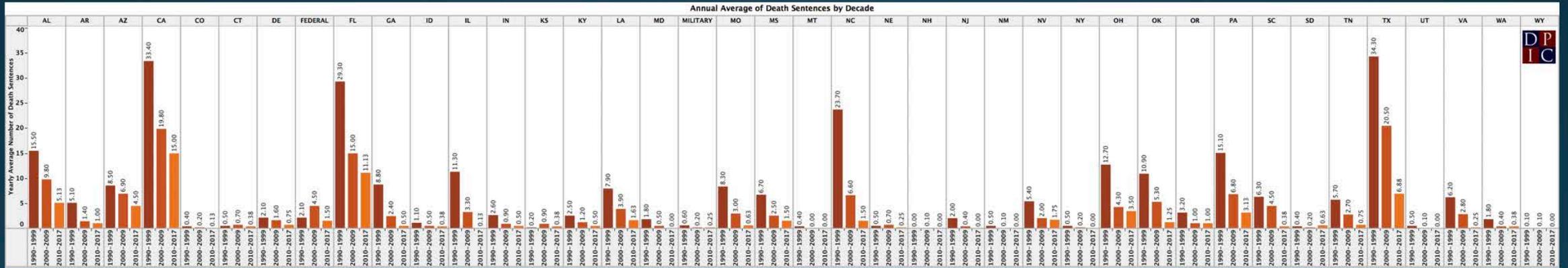
## New Death Sentences



## Executions



# Death sentences are declining, not just nationally, but also *nationwide*.

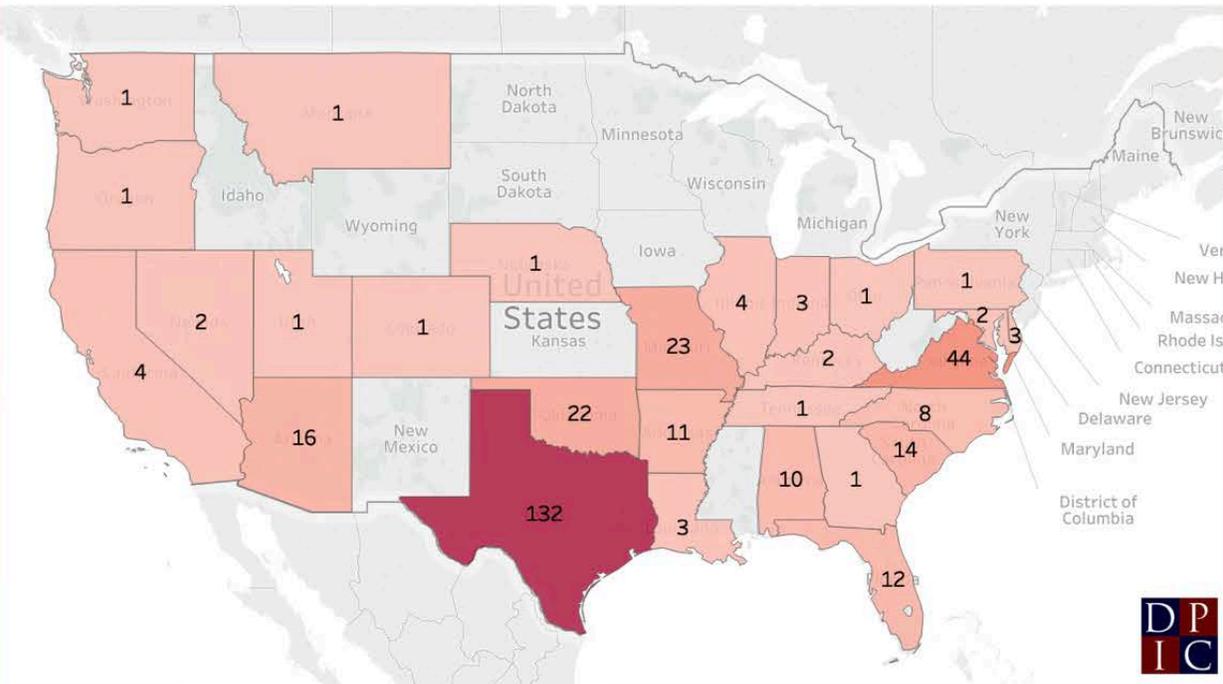


That means executions should be expected to decline — all other things being equal ....

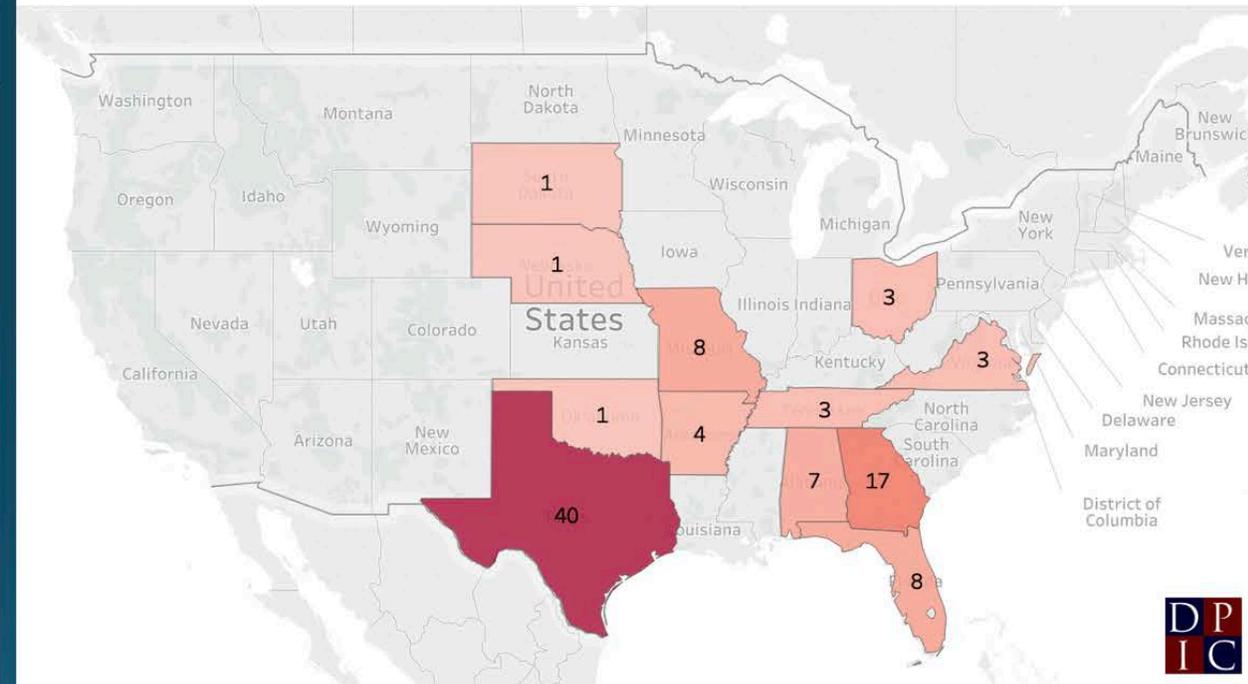


# While executions have been declining,

U.S. Executions 1997-2000

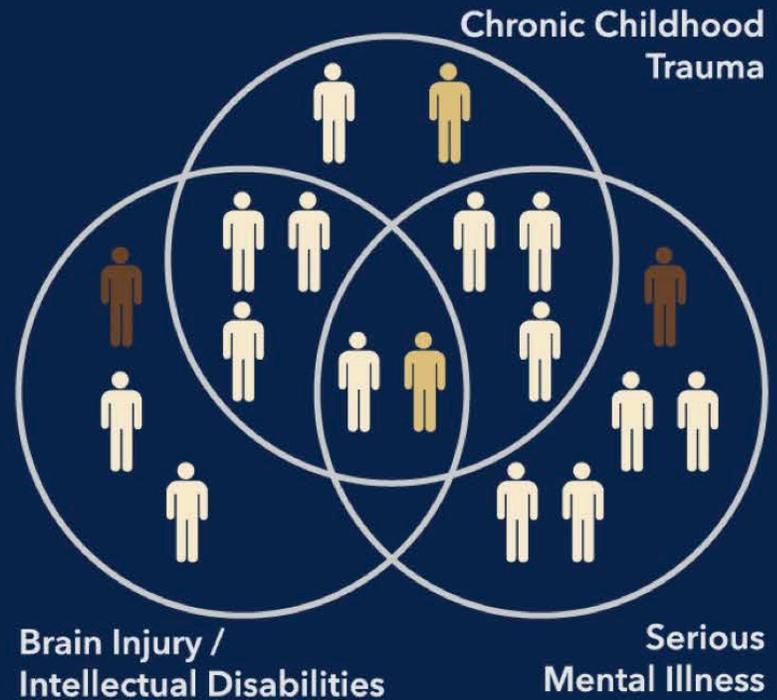


U.S. Executions 2015-2018



that also doesn't mean future executions are going to be any less problematic.

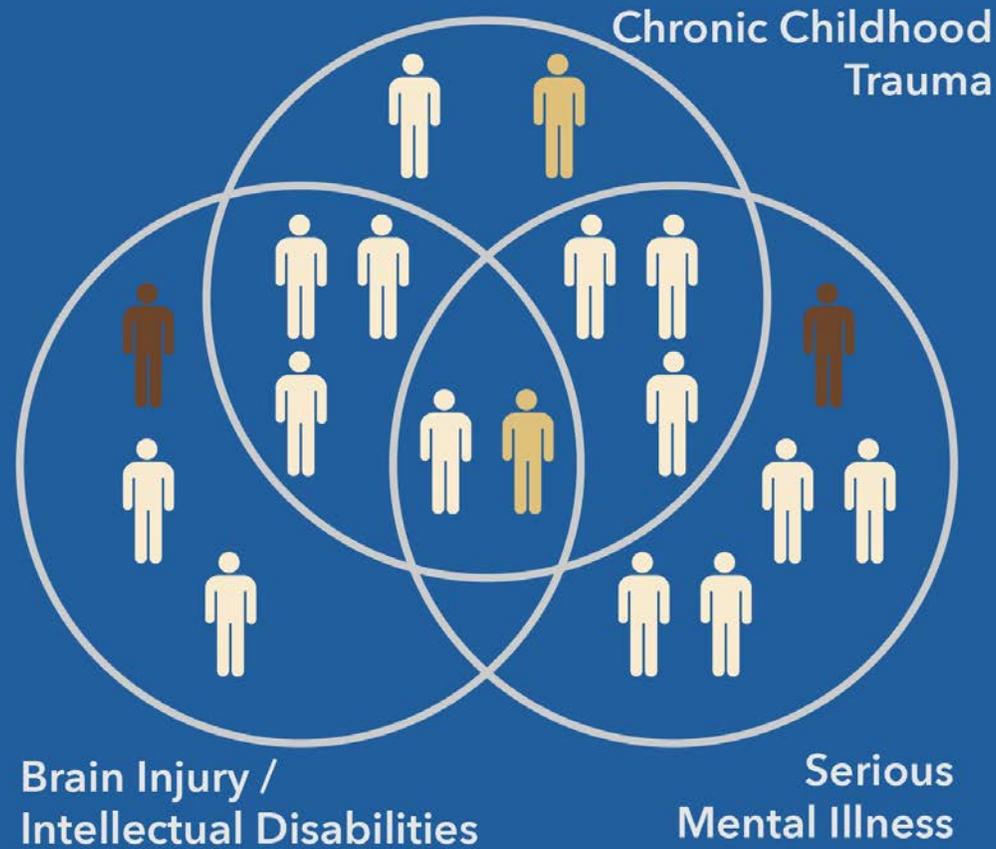
# PROBLEMATIC EXECUTIONS IN 2018



**DP** DEATH PENALTY  
**IC** INFORMATION CENTER

**IC** INFORMATION CENTER  
**DP** DEATH PENALTY

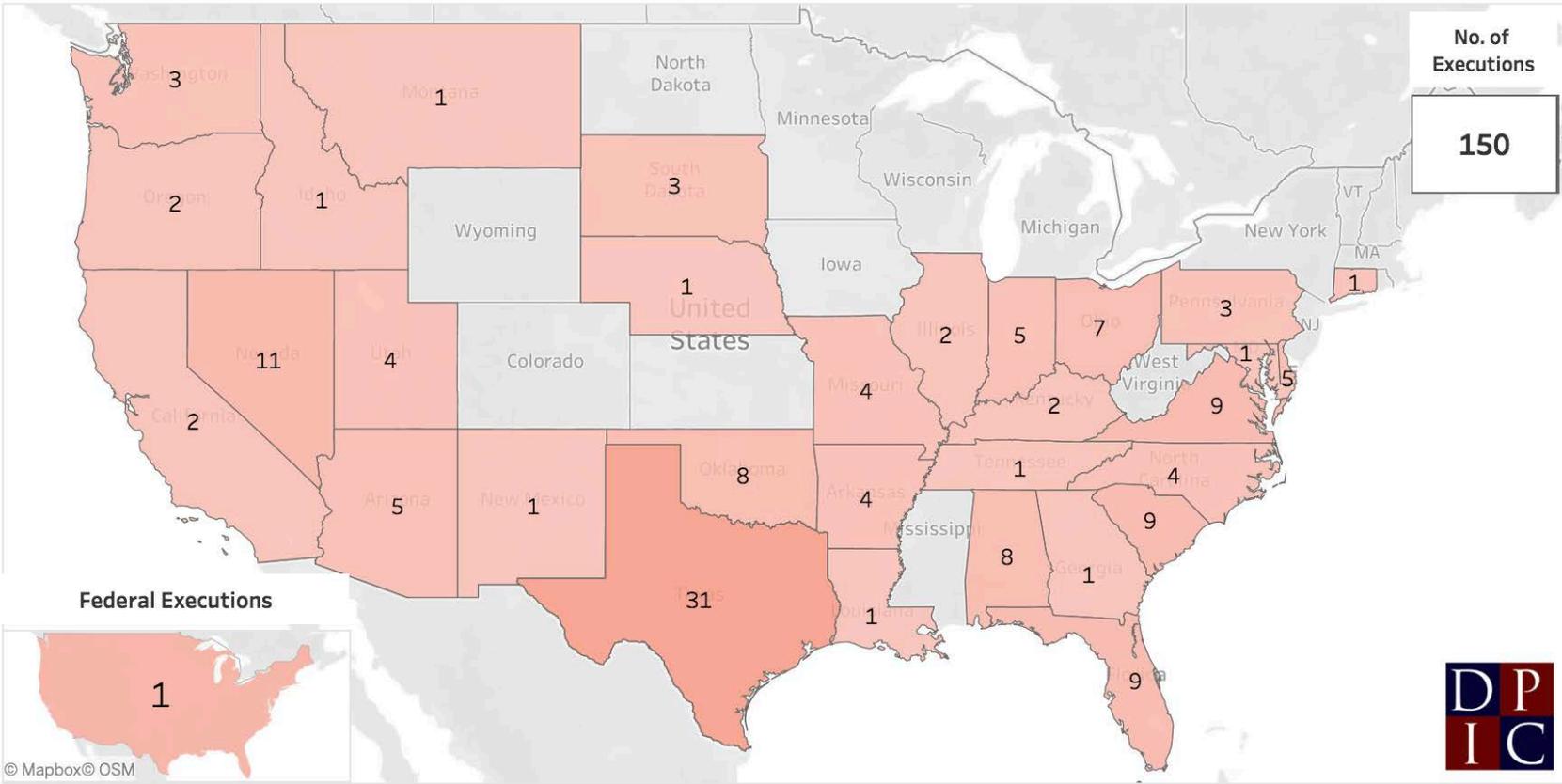
# Prisoners Executed in 2018



At least 18 of the 25 people executed in 2018 had significant mental, emotional, or cognitive impairments.



# “Volunteers”



- Ten percent of the prisoners put to death in the United States since 1976 voluntarily waived appellate review of their cases.

## Four prisoners attempted to drop appeals and “volunteer” for execution in 2018.



**Michael Eggers**

Executed  
in Alabama,  
March 15



**Carey Dean Moore**

Executed  
in Nebraska,  
August 14



**Rodney Berget**

Executed  
in South Dakota,  
October 29



**Scott Dozier**

Waived appeals in  
Nevada,  
died by suicide  
January 5, 2019

# Problematic Executions in 2018



Last words of Rodney Berget,  
executed by South Dakota  
October 29, 2018:

**“Is it supposed to  
feel like that?”**

Witnesses reported problems in at least 9 of the  
23 lethal-injection executions performed in 2018.

# Unconstitutional executions demonstrate the arbitrariness of capital punishment in the U.S.

- More than 200 people have been executed under death penalty practices that the United States Supreme Court since has declared unconstitutional.
- This does not include an estimated hundreds more who were denied federal habeas review of meritorious constitutional claims because the federal courts considered their claims new rules of law.

# Intellectual Disability

Cite as: 536 U. S. \_\_\_\_ (2002)

1

## Opinion of the Court

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D. C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

## SUPREME COURT OF THE UNITED STATES

No. 00–8452

DARYL RENARD ATKINS, PETITIONER *v.* VIRGINIA

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF  
VIRGINIA

[June 20, 2002]

JUSTICE STEVENS delivered the opinion of the Court.

Those mentally retarded persons who meet the law's requirements for criminal responsibility should be tried and punished when they commit crimes. Because of their disabilities in areas of reasoning, judgment, and control of their impulses, however, they do not act with the level of moral culpability that characterizes the most serious adult criminal conduct. Moreover, their impairments can jeop-

- At least **43 intellectually disabled death-row prisoners** were executed before *Atkins* was decided.
- At least **20 people** have been executed post-*Atkins* in Texas under the standard declared unconstitutional in *Moore v. Texas*.
- Georgia continues to execute intellectually disabled prisoners with its insurmountable requirement of proving intellectual disability beyond a reasonable doubt.

# Offenders Under Age 18

Cite as: 543 U. S. \_\_\_\_ (2005)

1

## Opinion of the Court

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### SUPREME COURT OF THE UNITED STATES

No. 03–633

DONALD P. ROPER, SUPERINTENDENT, POTOSI  
CORRECTIONAL CENTER, PETITIONER *v.*  
CHRISTOPHER SIMMONS

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF  
MISSOURI

[March 1, 2005]

JUSTICE KENNEDY delivered the opinion of the Court.

This case requires us to address, for the second time in a decade and a half, whether it is permissible under the Eighth and Fourteenth Amendments to the Constitution of the United States to execute a juvenile offender who was older than 15 but younger than 18 when he committed a capital crime. In *Stanford v. Kentucky*, 492 U. S. 361 (1989), a divided Court rejected the proposition that the Constitution bars capital punishment for juvenile offenders in this age group. We reconsider the question.

- **22 prisoners under age 18** were executed before *Roper v. Simmons* was decided.

# Limiting the Consideration of Mitigating Evidence

HITCHCOCK *v.* DUGGER

393

Syllabus

HITCHCOCK *v.* DUGGER, FLORIDA DEPARTMENT  
OF CORRECTIONS

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR  
THE ELEVENTH CIRCUIT

No. 85-6756. Argued October 15, 1986—Decided April 22, 1987

Petitioner was convicted of first-degree murder and sentenced to death in a separate postconviction proceeding. In that proceeding, the trial judge instructed the advisory jury not to consider, and himself refused to consider, evidence of mitigating circumstances not specifically enumerated in the Florida death penalty statute. Following unsuccessful appeals and state and federal collateral proceedings, petitioner filed an application for a writ of habeas corpus in Federal District Court, claiming that the advisory jury and the sentencing judge had been precluded by law from considering evidence of nonstatutory mitigating circumstances. The District Court denied the application, and the Court of Appeals affirmed.

*Held:* Petitioner was sentenced to death in proceedings that did not comport with the requirement that the sentencer may neither refuse to consider nor be precluded from considering any relevant mitigating evidence. *Skipper v. South Carolina*, 476 U. S. 1; *Eddings v. Oklahoma*, 455 U. S. 104; *Lockett v. Ohio*, 438 U. S. 586. Under the circumstances of this case, petitioner's death sentence cannot stand. Pp. 395-399.

770 F. 2d 1514, reversed and remanded.

SCALIA, J., delivered the opinion for a unanimous Court.

- **23 people** were executed before *Hitchcock* unanimously overturned Florida's unconstitutional limitation on the what evidence judges and juries were permitted to consider in deciding whether to spare a defendant's life.

# Requiring a “causal nexus” between mitigating evidence and the crime.

Cite as: 542 U. S. \_\_\_\_ (2004)

1

## Opinion of the Court

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## SUPREME COURT OF THE UNITED STATES

No. 02–10038

ROBERT JAMES TENNARD, PETITIONER *v.* DOUG  
DRETKE, DIRECTOR, TEXAS DEPARTMENT OF  
CRIMINAL JUSTICE, CORRECTIONAL  
INSTITUTIONS DIVISION

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF  
APPEALS FOR THE FIFTH CIRCUIT

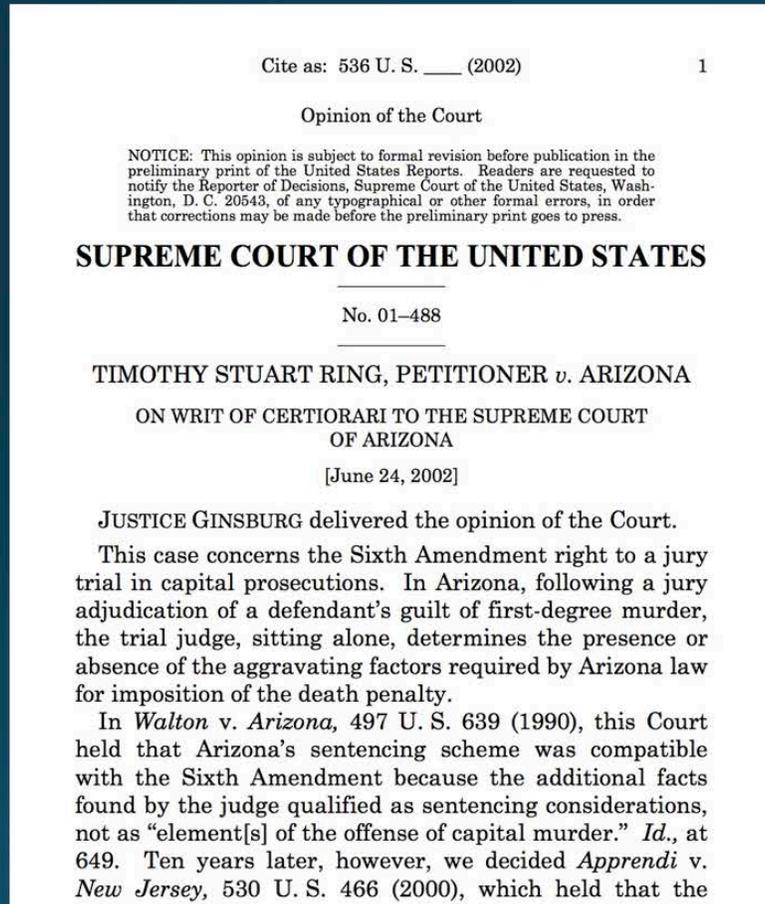
[June 24, 2004]

JUSTICE O’CONNOR delivered the opinion of the Court.

In *Penry v. Lynaugh*, 492 U. S. 302 (1989) (*Penry I*), we held that the Texas capital sentencing scheme provided a constitutionally inadequate vehicle for jurors to consider and give effect to the mitigating evidence of mental retardation and childhood abuse the petitioner had presented. The petitioner in this case argues that the same scheme was inadequate for jurors to give effect to his evidence of low intelligence. The Texas courts rejected his claim, and a Federal District Court denied his petition for a writ of

- At least 90 people were executed before the U.S. Supreme Court decided *Penry Lynaugh* and *Tennard v. Dretke*, and held that the Texas death penalty statute did not permit the jury to give meaningful effect to mitigating evidence.

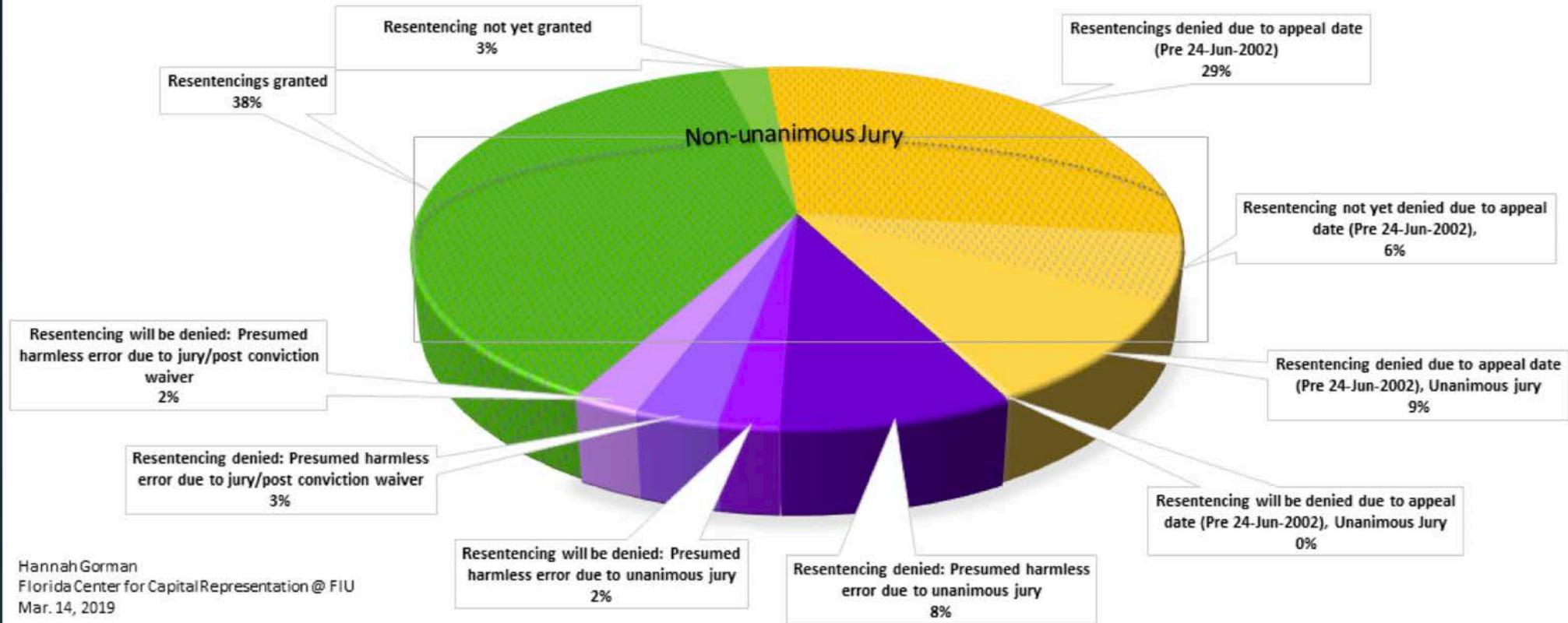
# Judicial Fact-Finding on Life or Death



- **At least 11 people were executed prior to the U.S. Supreme Court decisions in *Ring* and *Hurst* requiring that a defendant had a right to a jury determination of all facts that the state must prove for the death penalty to be imposed.**

# Florida is preparing to carry out 150+ unconstitutional executions.

The Arbitrary Nature of Florida's Death Penalty Law:  
The Impact of *Hurst* on Death Row



Hannah Gorman  
Florida Center for Capital Representation @ FIU  
Mar. 14, 2019

Date	First Name	Last Name	Race	Age at Crime	Age At Death	State	Race of Victims
09/11/1985	Charles	Rumbaugh	White	17	28	Texas	1 White
01/10/1986	James	Roach	White	17	25	South Carolina	2 White
05/15/1986	Jay	Pinkerton	White	17	24	Texas	2 White
05/18/1990	Dalton	Prejean	Black	17	30	Louisiana	1 White
02/11/1992	Johnny	Garrett	White	17	28	Texas	1 White
07/01/1993	Curtis	Harris	Black	17	31	Texas	1 White
07/28/1993	Frederick	Lashley	Black	17	29	Missouri	1 Black
08/24/1993	Ruben	Cantu	Latino	17	26	Texas	1 Latino
12/07/1993	Christopher	Burger	White	17	33	Georgia	1 White
04/22/1998	Joseph	Cannon	White	17	38	Texas	1 White
05/18/1998	Robert	Carter	Black	17	34	Texas	1 Latino
10/14/1998	Dwayne	Wright	Black	17	24	Virginia	1 Black
02/04/1999	Sean	Sellers	White	16	29	Oklahoma	3 White
01/10/2000	Douglas	Thomas	White	17	26	Virginia	2 White
01/13/2000	Steven	Roach	White	17	23	Virginia	1 White
01/25/2000	Glen	McGinnis	Black	17	27	Texas	1 White
06/22/2000	Shaka	Sankofa	Black	17	36	Texas	1 White
10/22/2001	Gerald	Mitchell	Black	17	33	Texas	1 White
05/28/2002	Napoleon	Beazley	Black	17	25	Texas	1 White
08/08/2002	T.J.	Jones	Black	17	25	Texas	1 White
08/28/2002	Toronto	Patterson	Black	17	24	Texas	3 Black
04/03/2003	Scott	Hain	White	17	32	Oklahoma	2 White

## Race and Executions— Juvenile Offenders

- **22 juvenile offenders were executed in the United States between 1976 and 2005, when the U.S. Supreme Court barred the death penalty for crimes committed before age 18.**
- **In 17 of those cases (77.3%), all of the victims were white.**
- **In 12 of those cases (54.5%), the executed juvenile offender was black or Latino.**
- **8 of the juvenile executions – more than 1/3 – involved interracial murders. 87.5% of those murders involved a single white victim. Only black prisoners were executed for interracial murders.**

Date	First Name	Last Name	Race	Age at Crime	Age At Death	State	Race of Victims
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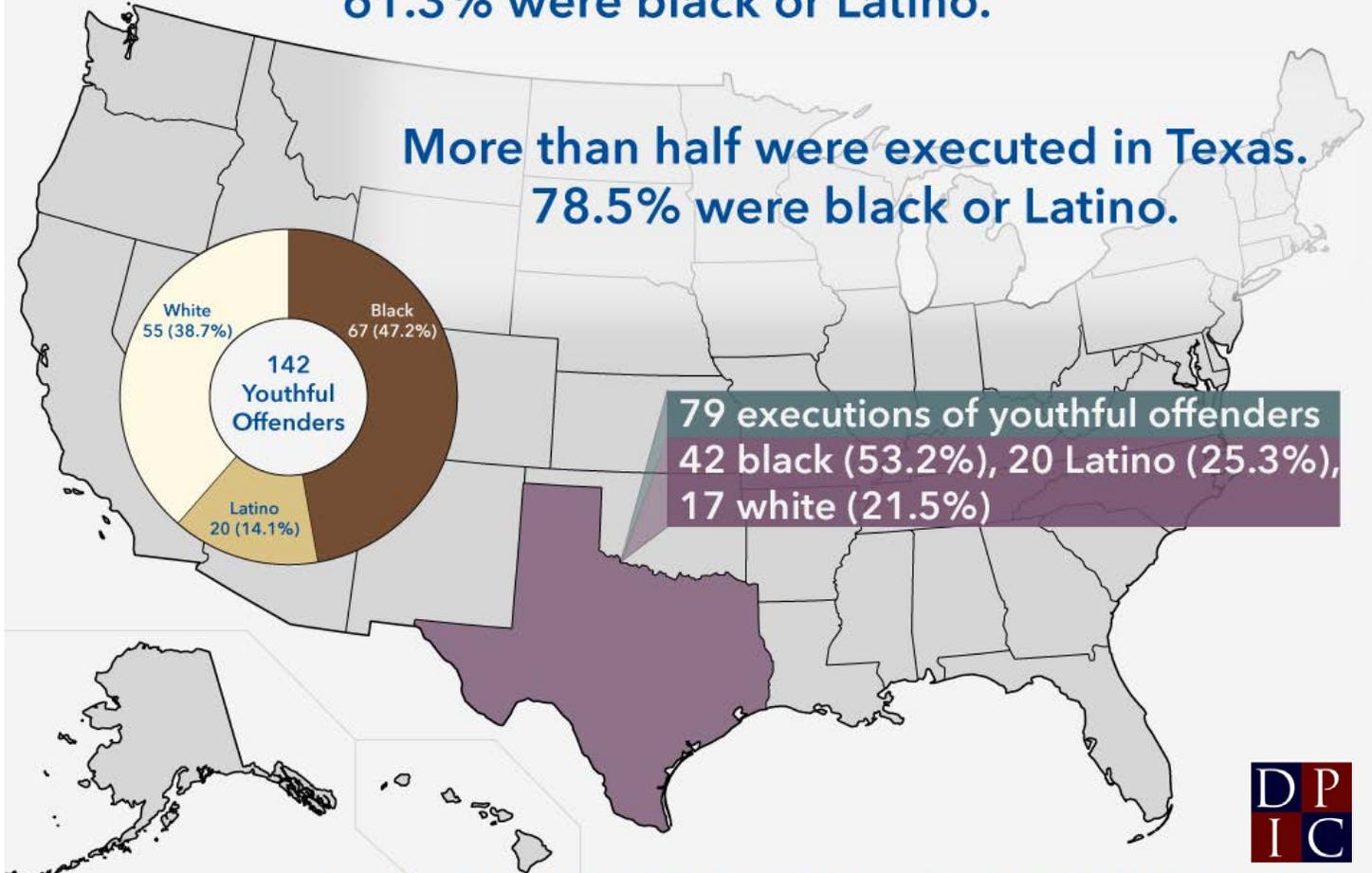
## Race and Executions— Juvenile Offenders

- 10 of the executed juvenile offenders were white (45.5%). All were executed for killing white victims. Half of those cases had two or more victims.
- 11 of the executed juvenile offenders were black (50.0%). Only one of the 11 cases had more than one victim. Nearly 2/3 of the black juvenile offenders who were executed – 7 of 11 – had been sentenced to death for killing one white victim.

## Race and Executions— Vulnerable Defendants

Disproportionately, executions in the U.S. reflect racial stereotyping concerning the dangerousness of young black and Latino men.

142 youthful offenders aged 18-20 were executed in the United States between 2000 and 2015.  
61.3% were black or Latino.



Source: Oren M. Gur, et al., Capital Punishment for Offenses Committed by Youth: A Population-Based Analysis, American Society of Criminology, Annual Meeting, New Orleans, LA (Nov. 16, 2016).

