

# Race, Innocence, and the Death Penalty

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# A New View on an Old Debate:

- The death penalty is a government program run by bureaucrats and it is prone to cost-overruns, inefficiencies, and mistakes...
  - Peter Loge, *The Innocence Project*, 2002
- Capital punishment is a government program, so skepticism is in order...
  - George F. Will in the *Washington Post*, 6 April 2000
- Many people support the death penalty in the abstract. But the more you know about how it is actually administered, the more troubling it is. Thurgood Marshall was right (as usual).

# Three Points for Today

- Mistakes, errors, people like Edward Chapman, the surprising lack of accuracy in the system.
- Racial bias in where the death penalty is used, nationally.
- Racial disparities in who are the victims of crime v. use of the death penalty here in North Carolina.

# James Leibman et al. 2002: Why is there so much error in capital cases...

Review of ALL murder cases from 1973 to 1995 in those states having capital punishment

118,992 murder convictions

5,826 death sentences

All are reviewed by federal courts. This is unique in US criminal justice because of the history of state application of death sentences.

How many are overturned, with the federal judge requiring a new trial?

68 percent

# North Carolina's Experience

- 388 sentenced to death since 1976
- 157 on death row as of today
- 12 removed awaiting a new trial
  
- Not counting those still on death row or those awaiting trial leaves:
  - 219 with final decisions made
  - How many of these people have had their death sentenced reversed?

67 percent

# 67% of death sentences are dismissed

- 219 cases with final decisions made
- 5 were found INNOCENT
- 141 were sentenced to prison (131 for life; 10 for lesser terms)
- 146 of 219 is a 67 percent reversal rate



# Just 20 percent are executed

- 219 cases with final decisions made
  - 146 have their sentence reduced
  - 5 were commuted by the Governor
  - 25 died in prison (6 by suicide)
  - 43 were executed
- 
- 43 executions out of 388 death sentences...
  - 43 of 219 with final decisions: 20 percent

# A Rickety, Unreliable, System

- Reliability: does a process produce the same outcome twice?
- We might expect a decision as important as this to be extremely reliable, but actually the vast majority of initial decisions to impose death are overturned because of serious flaws.
- Are all government programs like this?

# Points of Comparison

- NASA: 131 shuttles sent off, 2 lost: 1.5%
- Social Security Administration
  - 3,600,000 people entitled to both retirement and widow benefits, 9,751 underpaid: 0.27%
- IRS: 67,000,000 electronic returns, 78,000 lost: 0.116%
- IRS: 3,000,000 packets with personal information sent by UPS, 181 lost: 0.06%
- 60 to 70 percent error in the case of court cases to send someone to death: why???

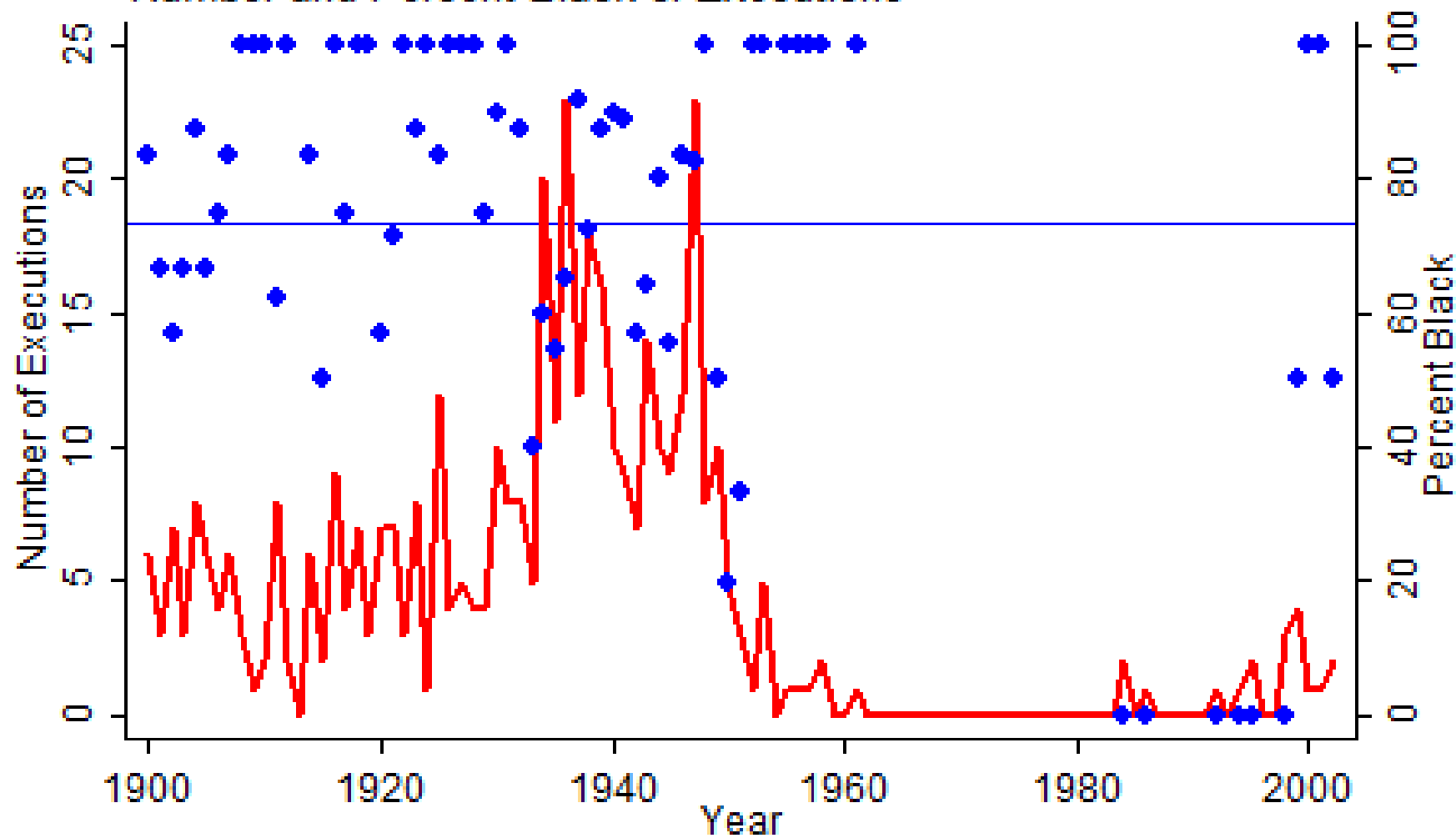
# Is 99.88% good enough?

- Not for the IRS. Their inspector general's report concerning the 78,000 lost returns (out of 67 million) was entitled:
- "Additional Enhancements Could be Made to Strengthen Lockbox Security."
- Why do we accept an error rate of 70 percent in the case of putting someone to death whereas a rate of 0.12% is unacceptable in other cases?

# African-Americans in NC

- Percent of Population: 21.6
- Percent of those sentenced to death: 48.7
- Percent of those currently on death row: 53.8
- Percent of those executed: 32.6
- African-American Men:
- Percent of all homicide victims: 42.4
- Percent of all victims of murder for whom the killer was later executed: 2.3

# Number and Percent Black of Executions



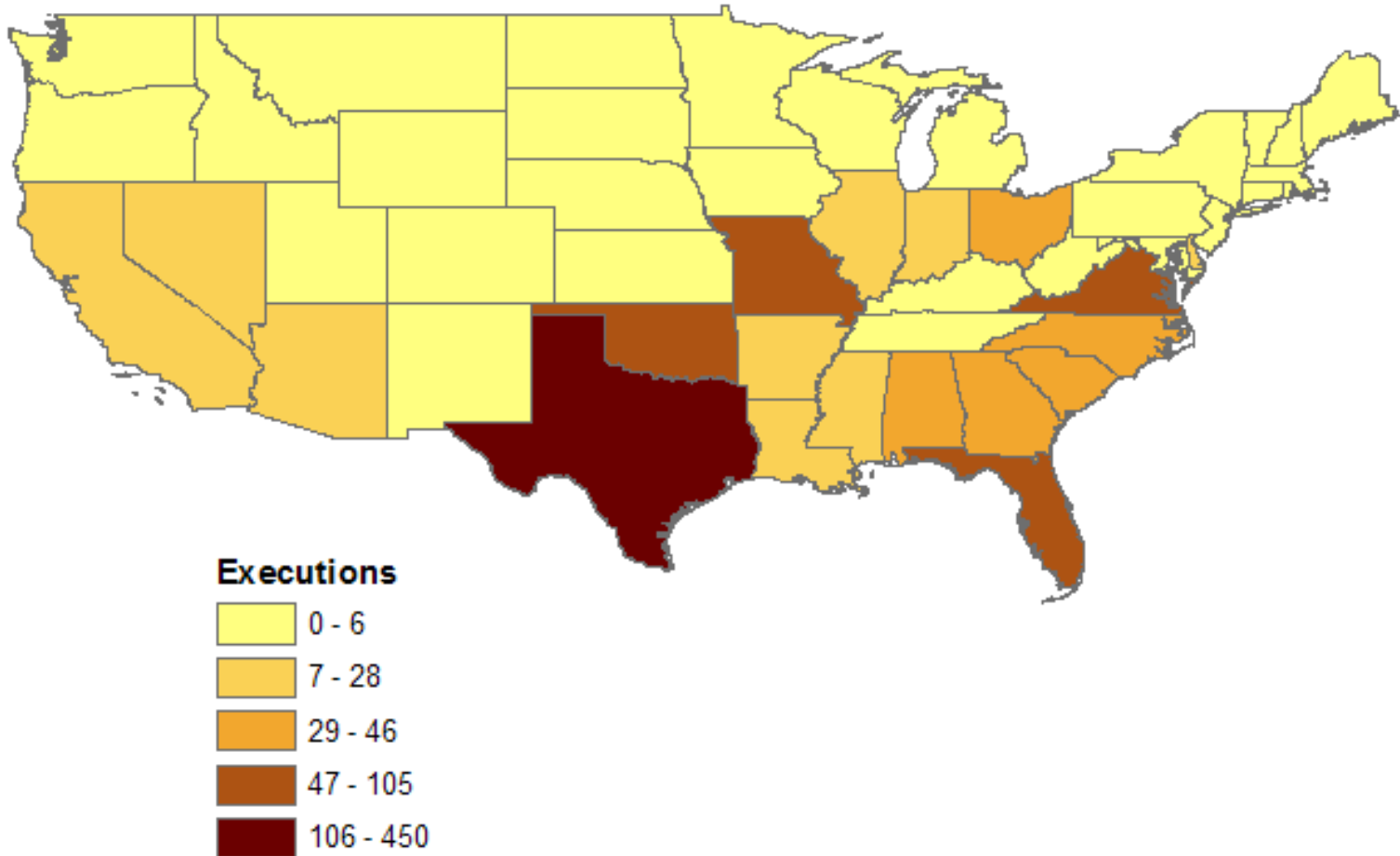
— Executions   ♦ Percent Black

North Carolina: Average Percent Black: 73.31

# Is North Carolina Different?

- Racial bias has much to do with geography
- Certain legal jurisdictions simply don't execute
- Jurisdictions with high minority populations are significantly more likely to execute their citizens
- Explains why executions are so prevalent in the South
- NC is similar to other southern states, but we have the Racial Justice Act so things may change.

# Three States Alone Account for Half of all US Executions



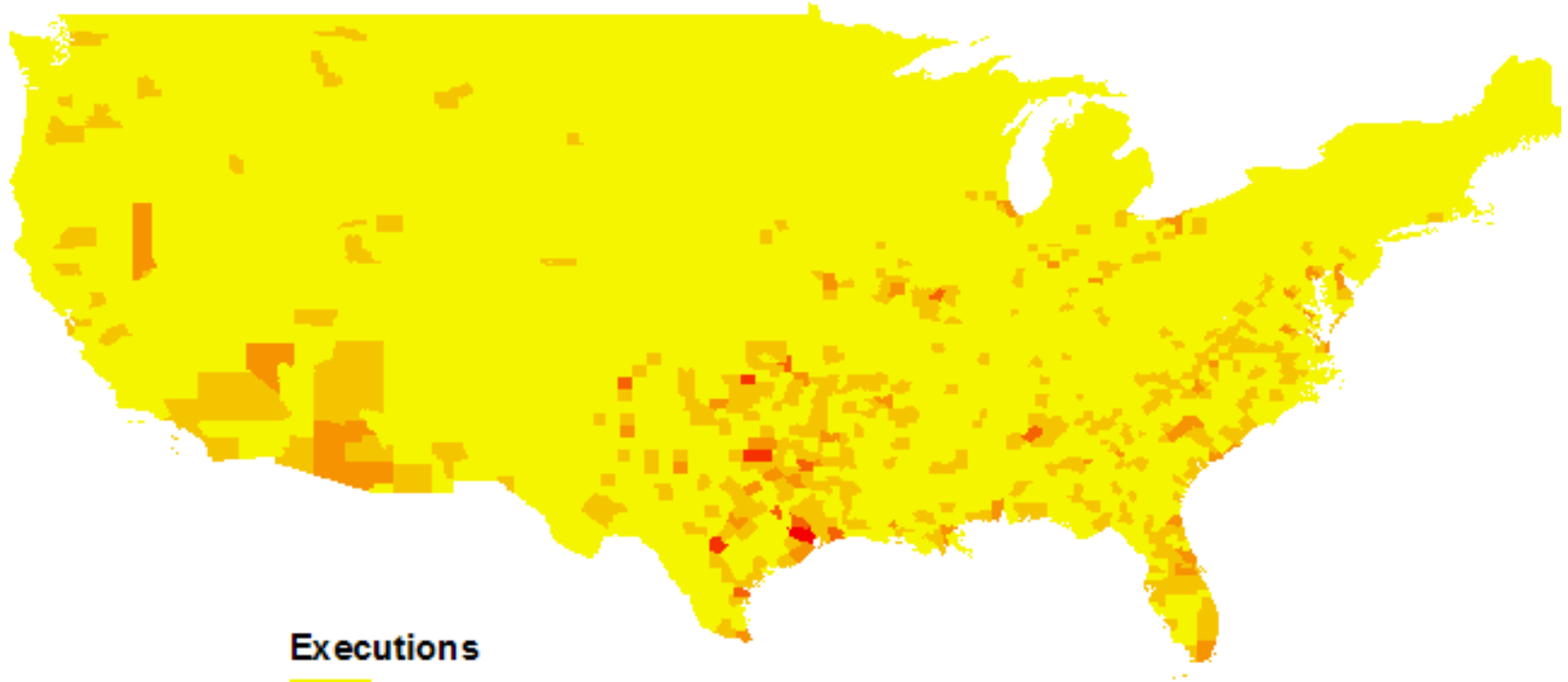


# 13 States, 89 percent of US Executions

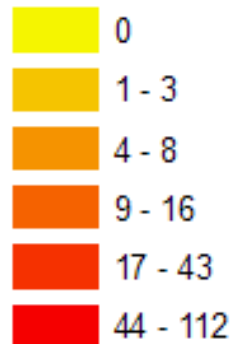
State	Executions	Percent
Texas	450	37.6
Virginia	105	8.8
Oklahoma	91	7.6
Florida	68	5.7
Missouri	67	5.6
Georgia	46	3.9
Alabama	44	3.7
North Carolina	43	3.6
South Carolina	41	3.4
Ohio	36	3.0
Louisiana	28	2.3
Arkansas	27	2.3
Arizona	24	2.0
22 other states	From 1 to 20	11.6
17 other states	Zero	0.0
Overall	1,196	100.0

# 2,706 Counties: No Executions

## 46 Counties: Half the National Total



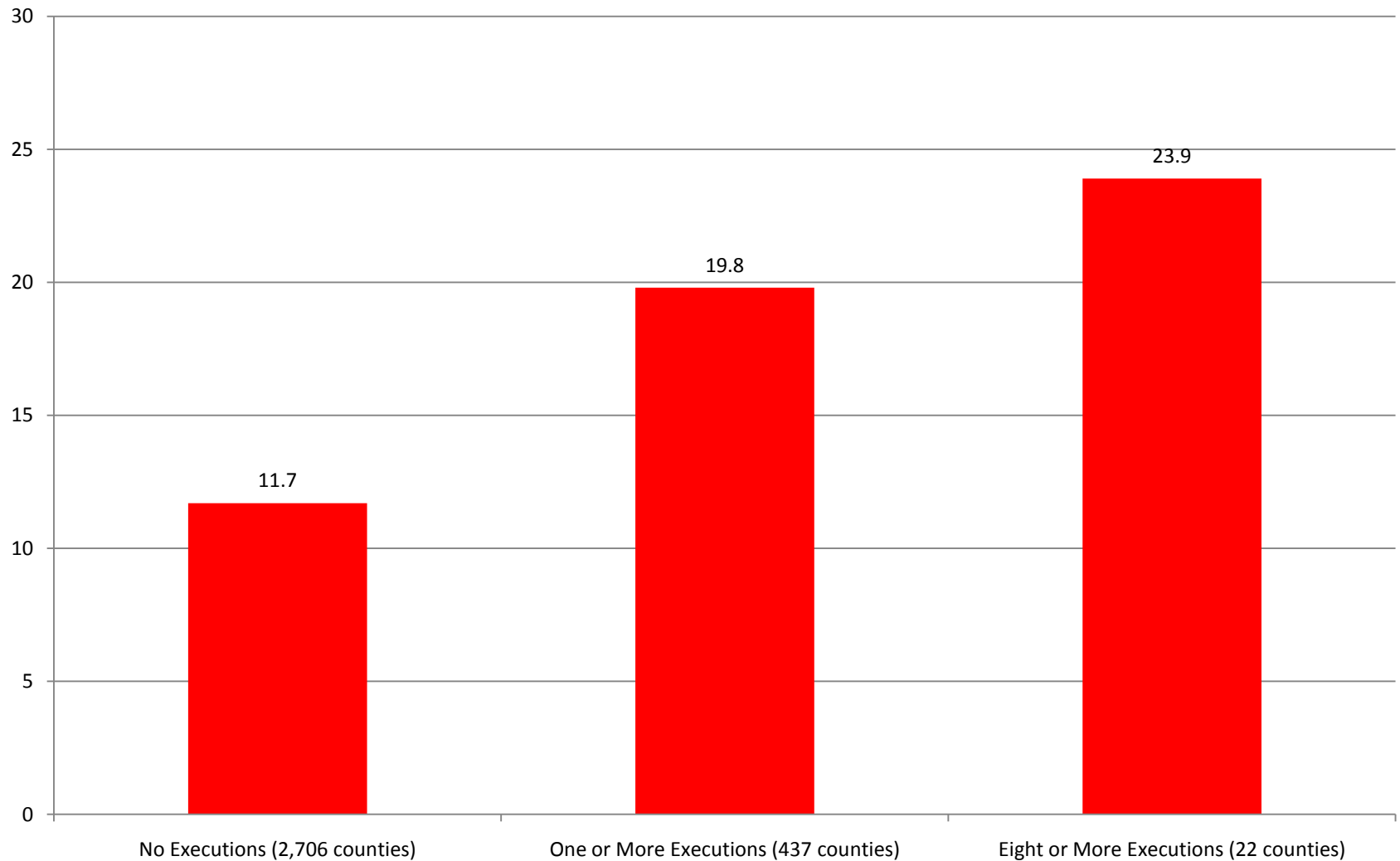
### Executions



# A Few Counties, A Lot of Executions

County	Executions since 1977	Cumulative Percent
Harris, TX (Houston)	112	9.6
Dallas, TX	43	13.2
Oklahoma, OK	36	16.3
Tarrant, TX (Fort Worth)	34	19.2
Bexar, TX (San Antonio)	30	21.7
St. Louis County, MO	16	23.1
62 other counties	4 to 13 each	55.3
35 other counties	3 each	64.3
85 other counties	2 each	78.8
249 other counties	1 each	100.0
2,706 counties	None, since 1977	
Total, 3,141 counties	1,173	100.0

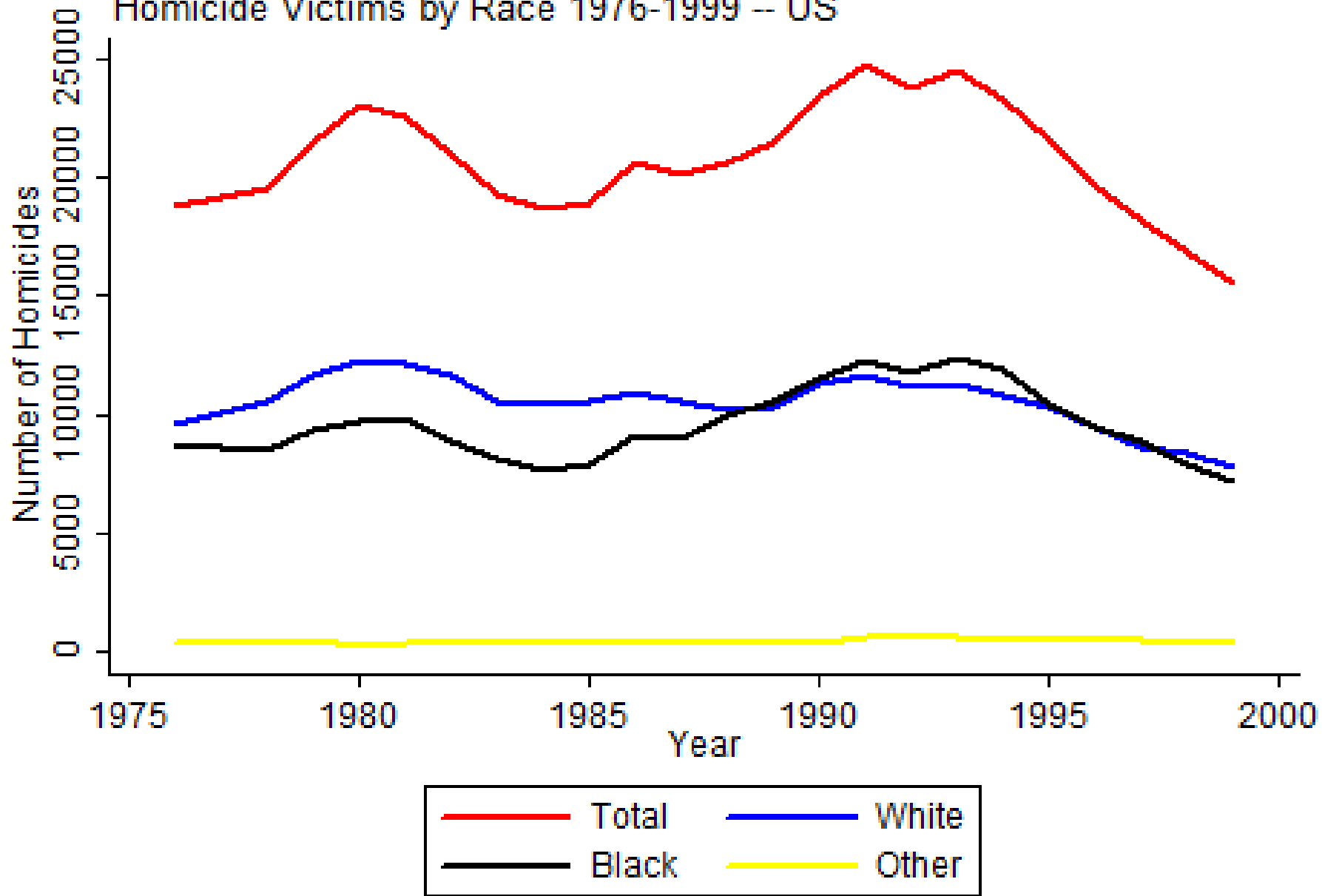
# It's More than Just Geography: Percent Minority Population



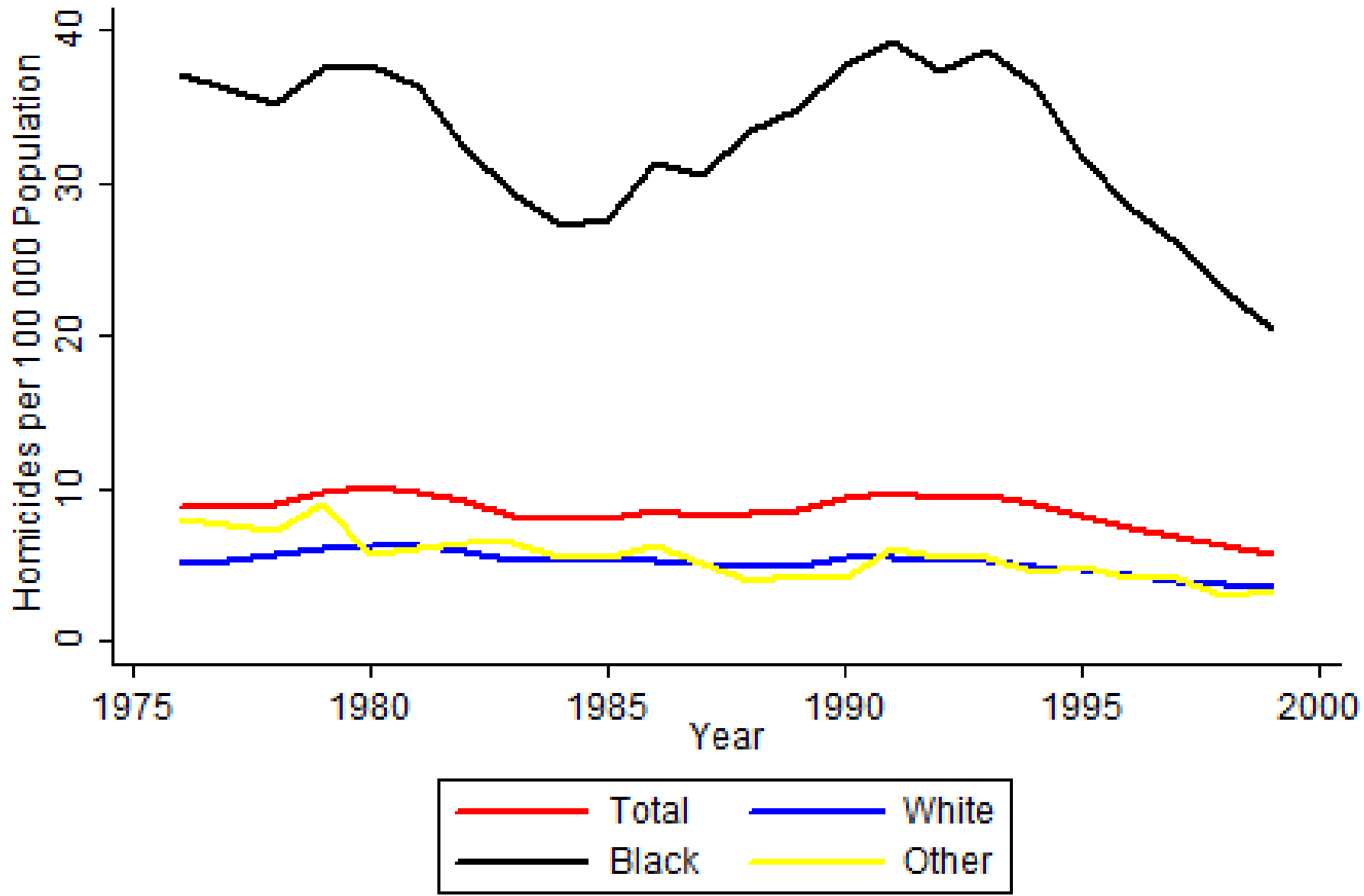
# Victims of Homicide, Victims of Execution: Whose Lives are More Precious?

- Following slides show numbers and rates per 100 000 population of being a victim of homicide
- Blacks, especially young black males, are the victims
- These crimes very rarely lead to death sentences

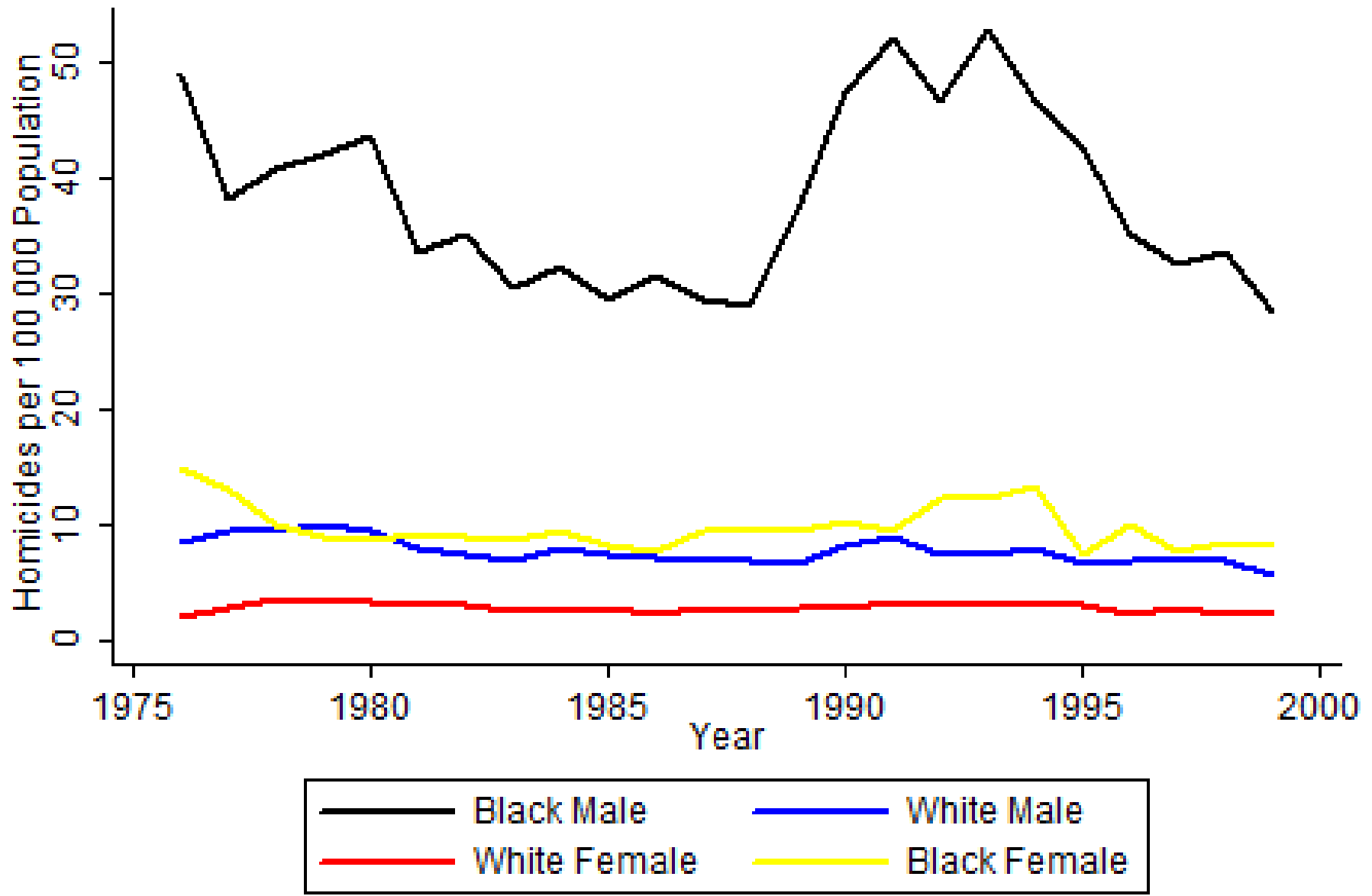
Homicide Victims by Race 1976-1999 - US



### Homicide Victimization Rates by Race 1976-1999 -- US

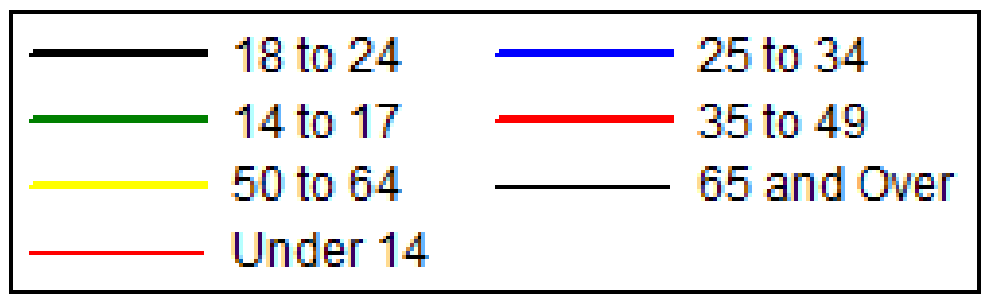
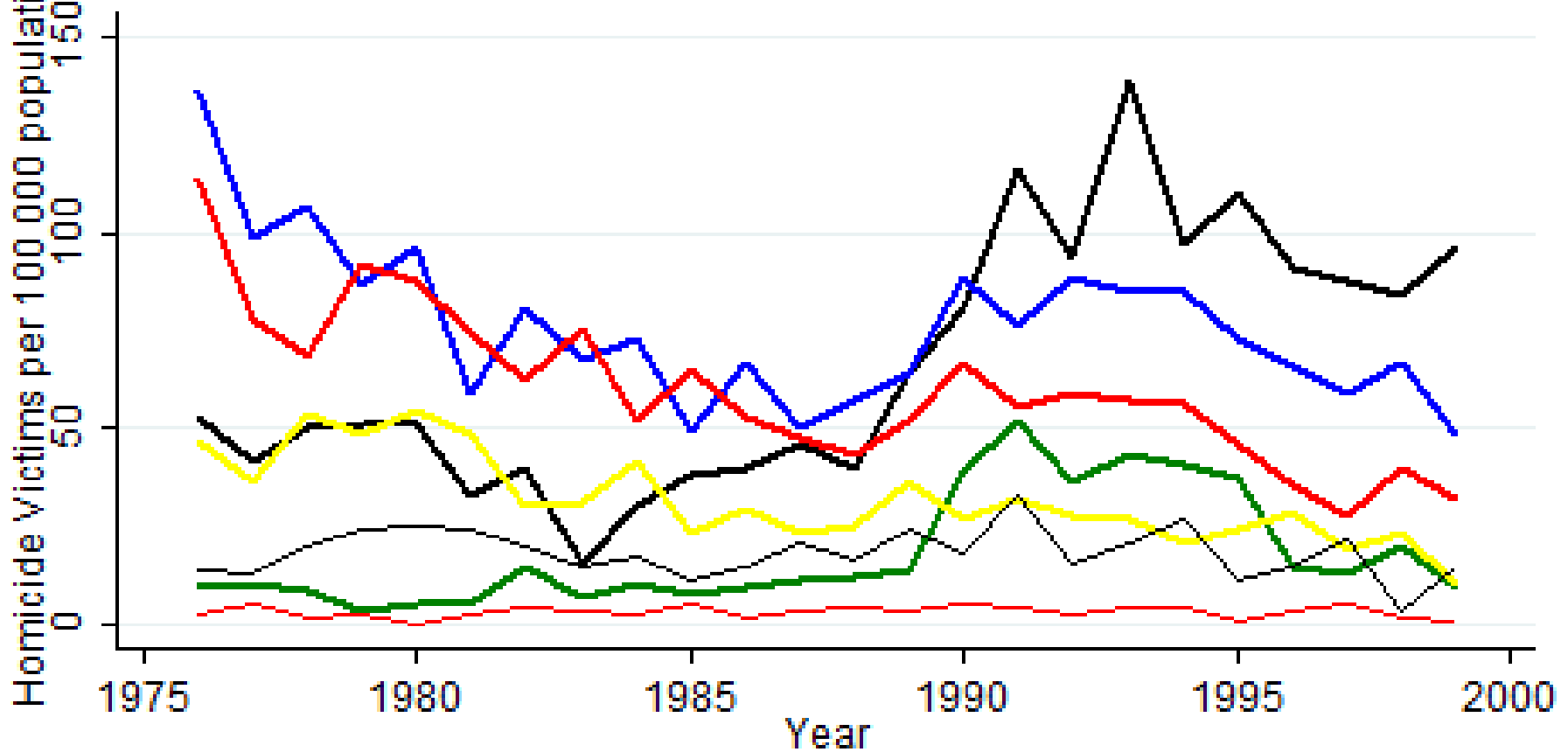


Homicide Victimization Rates by Race and Gender 1976-1999 – NC





# Homicide Victimization Rates for Black Males 1976-1999 – North Carolina



# Executions in North Carolina since 1977

- 43 executions
- 56 victims, as a few had multiple victims
- 44 of the 56 victims were white
  
- Just one person was executed for the crime of killing an African-American man
- A second person killed a black man in a triple slaying, and he was also executed

# A difference of 40 to 1

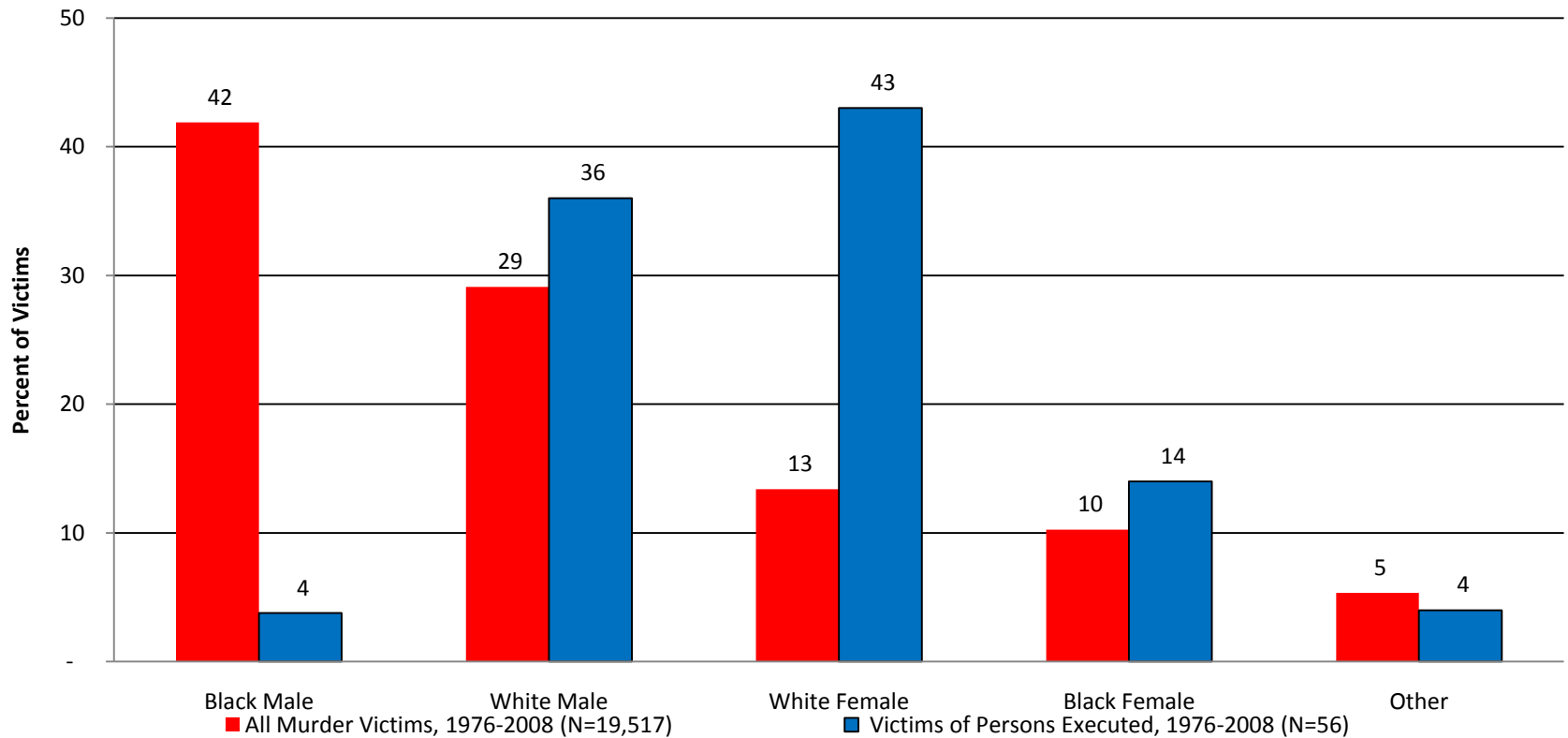
Race and Gender of Victim	All NC Murder Victims	Among those Executed	Rate of Execution (Executions per 1,000 victims)
Black Male	8,271	2	0.24
Black Female	2,267	8	3.53
White Male	5,852	20	3.42
Other Race or Unknown Gender	739	2	2.71
White Female	2,388	24	10.05
All cases combined, 1976 to 2008	19,517	56	2.87

Difference in odds from black male victim to white female victim: **40 to 1**

# Victims of homicide

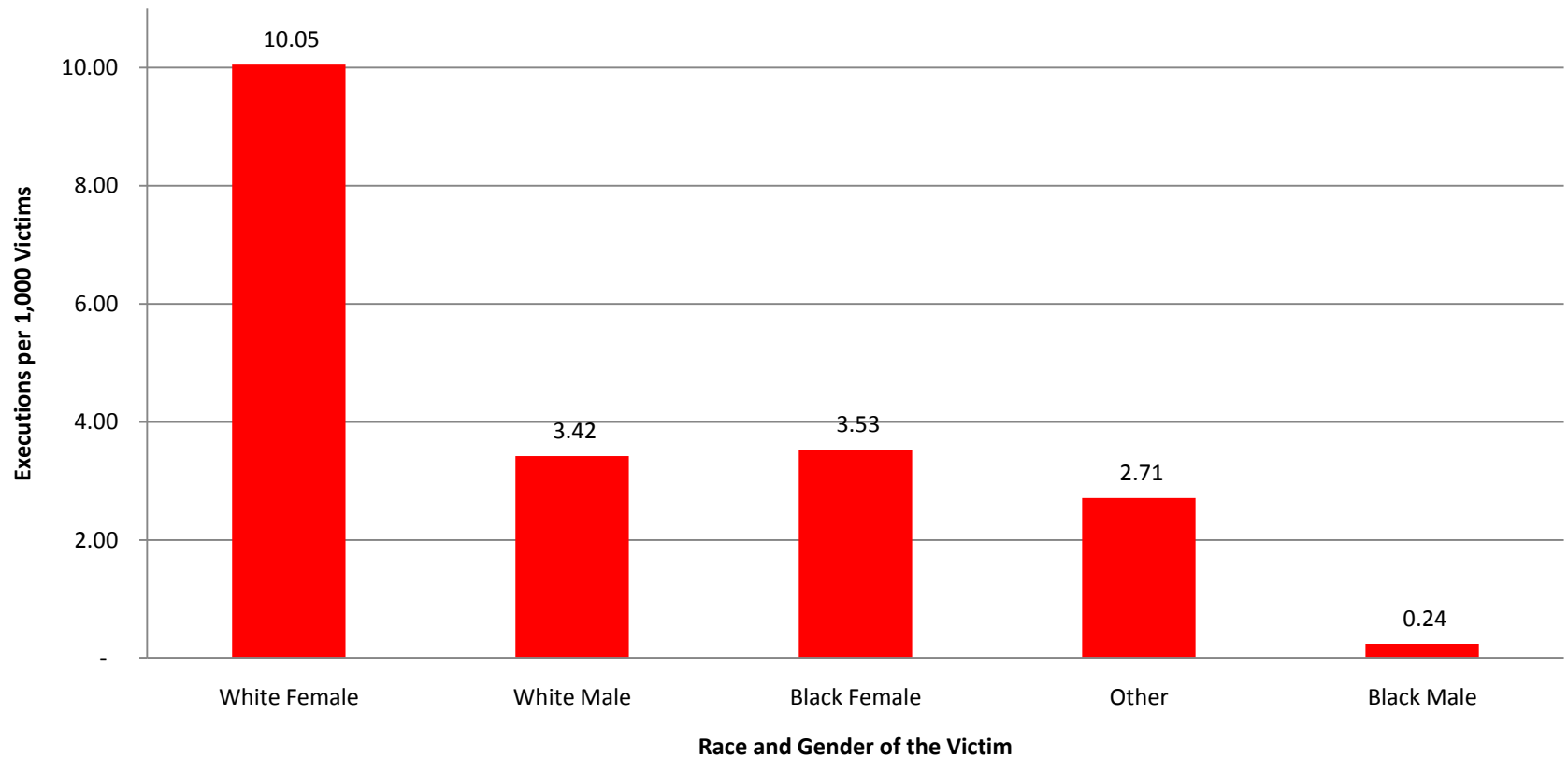
## Victims of those executed

Race and Gender of NC Homicide Victims, by Execution Status



# Odds of the Offender being Executed, by Characteristics of the Victim

Execution Rate per 1,000 Homicides



# Someone has some explaining to do

- The Racial Justice Act prohibits capital punishment if:

“Death sentences were sought or imposed significantly more frequently as punishment for capital offenses against persons of one race than as punishment of capital offenses against persons of another race.”

Justice should be blind.

The Racial Justice Act simply  
demands that it be color-  
blind as well.