

Imposing the 'Sentence'

# Factors Affecting Sentences

# Factors that affect Sentencing

- Who is responsible for sentencing in most criminal trials?
  - Judge
- Judges can use the following to legitimately influence the length of prison sentences:
  - Severity of the offense
  - Prior criminal record
  - Violence or weapons involved in offense
  - Crime committed for money.

# Judges are also influenced by...

- Social Class
  - Gender
  - Age

# Social Class Influence

- Who receives the most severe sentences?
- Members of the lower class may expect to get longer prison sentences than more affluent defendants.
  - Unable to attain quality legal representation

# Gender & Influence on Sentence

- Which gender receives the most severe sentence?
- Research indicates that women receive more favorable outcomes.
  - Male dominated criminal justice system thus women are treated with leniency

# Age Influence

- Who is given more leniency; older or younger?
- Older people will be punished more harshly than younger ones.
  - Greater opportunity to accumulate a criminal record → most state laws increase penalties for multiple offenders.

# Sentencing Models

How sentences are established?



# Sentencing Models

- Legal parameters determine the penalties that may be imposed by the court.
- Over the years, a variety of sentencing structures have been used in the United States:
  - Indeterminate
  - Determinate
  - Mandatory

# Indeterminate Sentences

- A term of incarceration with a stated **minimum** and **maximum** length.
  - 3 to 10 years
- Prisoner would be eligible for parole when his sentence reaches the minimum length.
- Allows for judicial discretion
- Sentence tailored to the individual
- Based on the idea that an offender would be placed in confinement until they had been rehabilitated.

# Determinate Sentence

- A *fixed* term of incarceration that follows the maximum set in law by the legislature, to be served by the offender for a particular crime.
  - Given a fixed number of years that may be served by the offender .... Ex. Up to 15 years for robbery, but judge can give a first time offender 5 years
- Tries to curb judicial discretion through sentencing guidelines
  - A recommended sentence based on the seriousness of the crime & background of an offender.
    - 5 years for robbery if no record
    - 7 yrs if the robbery was a second offense

# Mandatory Sentence

- A statutory requirement that a certain penalty shall be set and carried out in all cases on conviction for a specified offense or series of offenses.
- As a way to wipe out judicial discretion and be 'tough on crime'



# Mandatory Sentences, cont.

- 3 Strikes Law
  - Three Strikes and you are OUT!
  - Any person convicted of three felony offenses, even if the third crime is relatively trivial, is given a prison sentence.
  - Some states vary on guidelines....
    - Some say the third crime must be violent
    - Others, any of the first two must be violent
    - California → a man was given life for stealing a piece of pizza because it was his third offense.....

# Concurrent vs. Consecutive

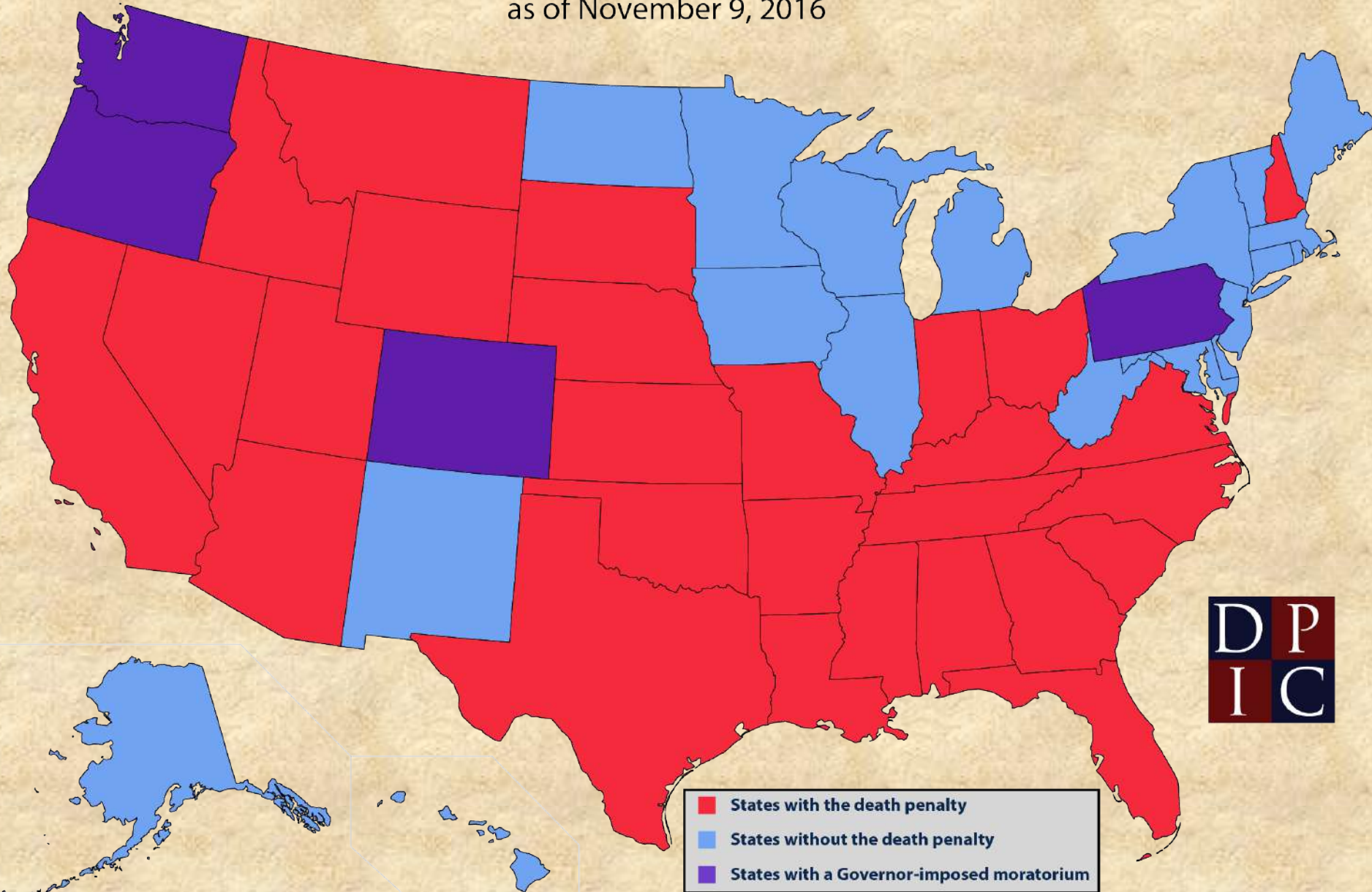
- When an accused is convicted of two or more charges, the judge must decide whether to impose consecutive or concurrent sentences.
- Concurrent- sentences for 2 or more criminal acts, served simultaneously and run together.
- Consecutive- sentences for 2 or more criminal acts, served one after the other.

# The Ultimate sentence

The Death Penalty

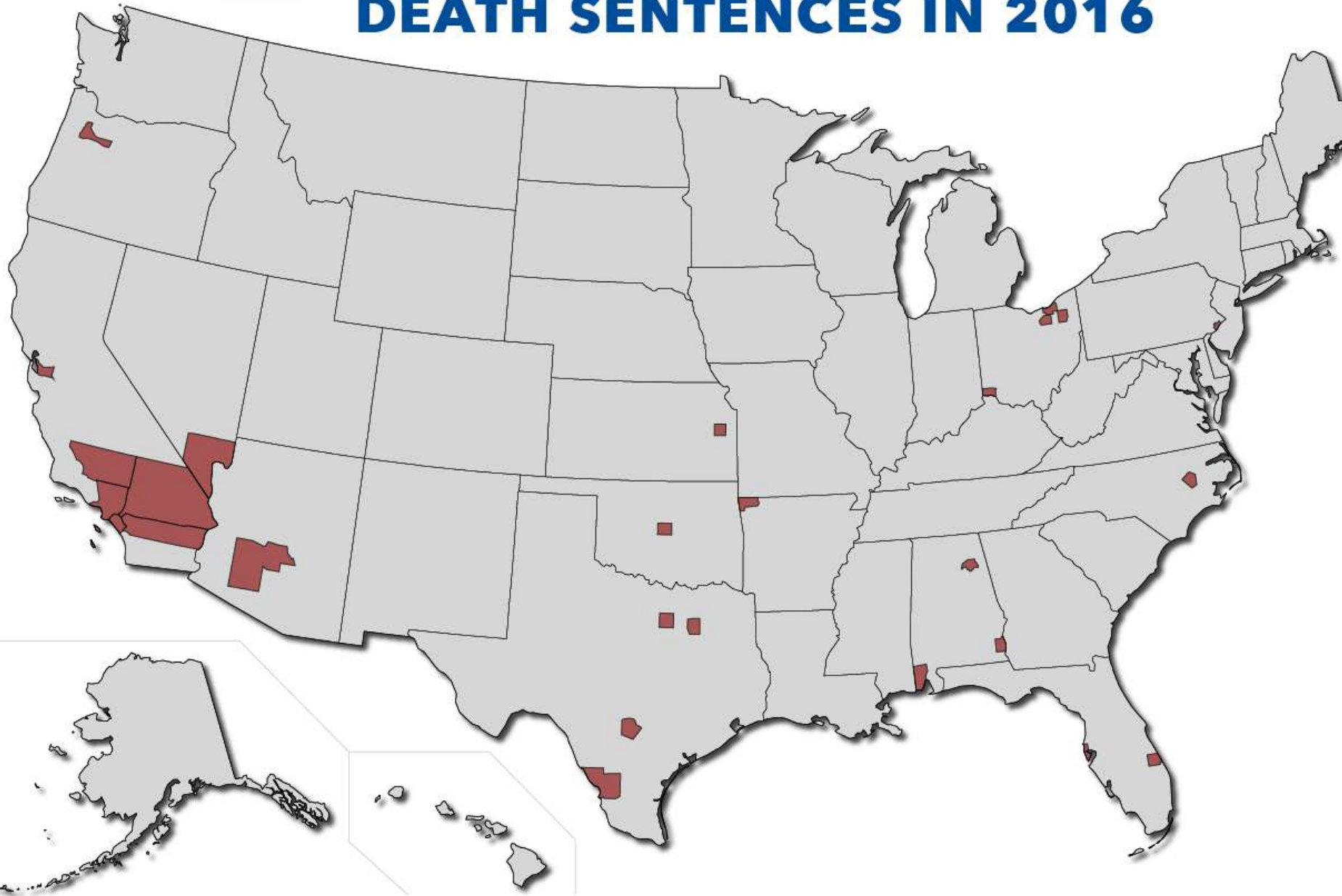
# States with and without the death penalty

as of November 9, 2016

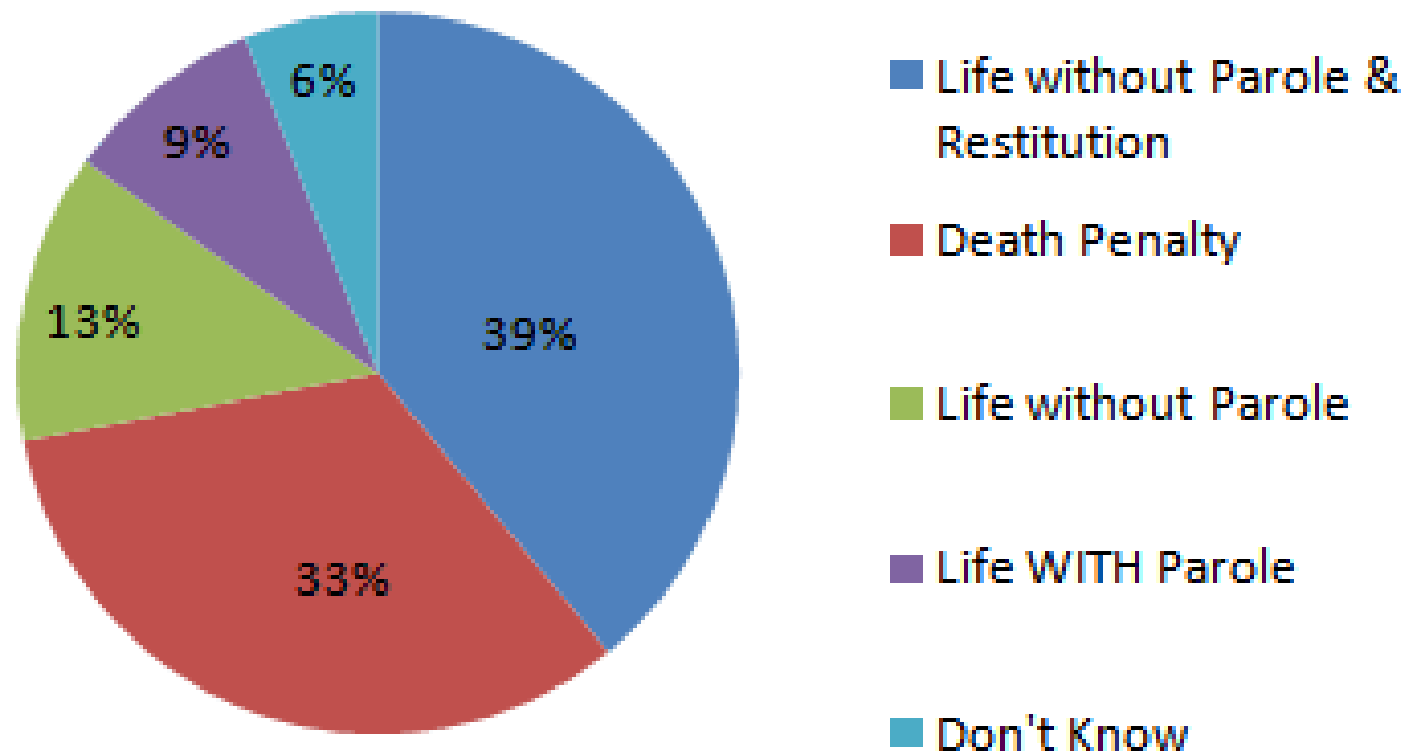




# COUNTIES THAT IMPOSED DEATH SENTENCES IN 2016



# Preferred Punishment for Murder



*Source: Death Penalty Information Center - November 2010*

# Trends

- **In 2014, death sentences reached their lowest level in 40 years with only 73 people sentenced to death.**
- **31 states, plus the Federal government, have had no executions in the last 5 years**
- **<https://deathpenaltyinfo.org/execution-list-2016>**

# Supreme Court & Capital Punishment

- Overall, the Court has generally supported capital punishment. But, they have restricted its use...
- *Ring v. Arizona*: a jury, not judge, must make the critical findings to send offenders to death row.
- *Atkins v. Virginia*: people who are mentally ill or retarded may not be executed. It is seen as cruel and unusual punishment.
- *Roper v. Simmons*: the Court set an age limit of 18 years. If an offender was not 18 at time of crime, may not be sentenced to death for that crime.
- *Baze v. Rees*: lethal injection is an acceptable form of capital punishment and it is not cruel & unusual.
  - KY background!