

# The Power of Innocence

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*Amplifying the Voices of Exonerated Death-Row Survivors:  
How to Maximize the Power of Innocence*

Witness to Innocence

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# The More One Knows ...

- Most people don't think about the death penalty much
- Most people's minds are firmly made up about it because of their religious background
- About 2/3 of US supports it, in the abstract
- Moving from abstract notions to concrete facts is key
- No one expects government to work perfectly
- Putting a face on what that means is why we are here

# Innocence as an Argument

- There are many reasons to be opposed to the death penalty.
- What mobilizes you to be here in this room may or may not be an effective argument to people who do not already agree with you.
- Mobilizing your own constituency: Moral outrage might work.
- Convincing potentially hostile individuals to soften their support: Innocence works.



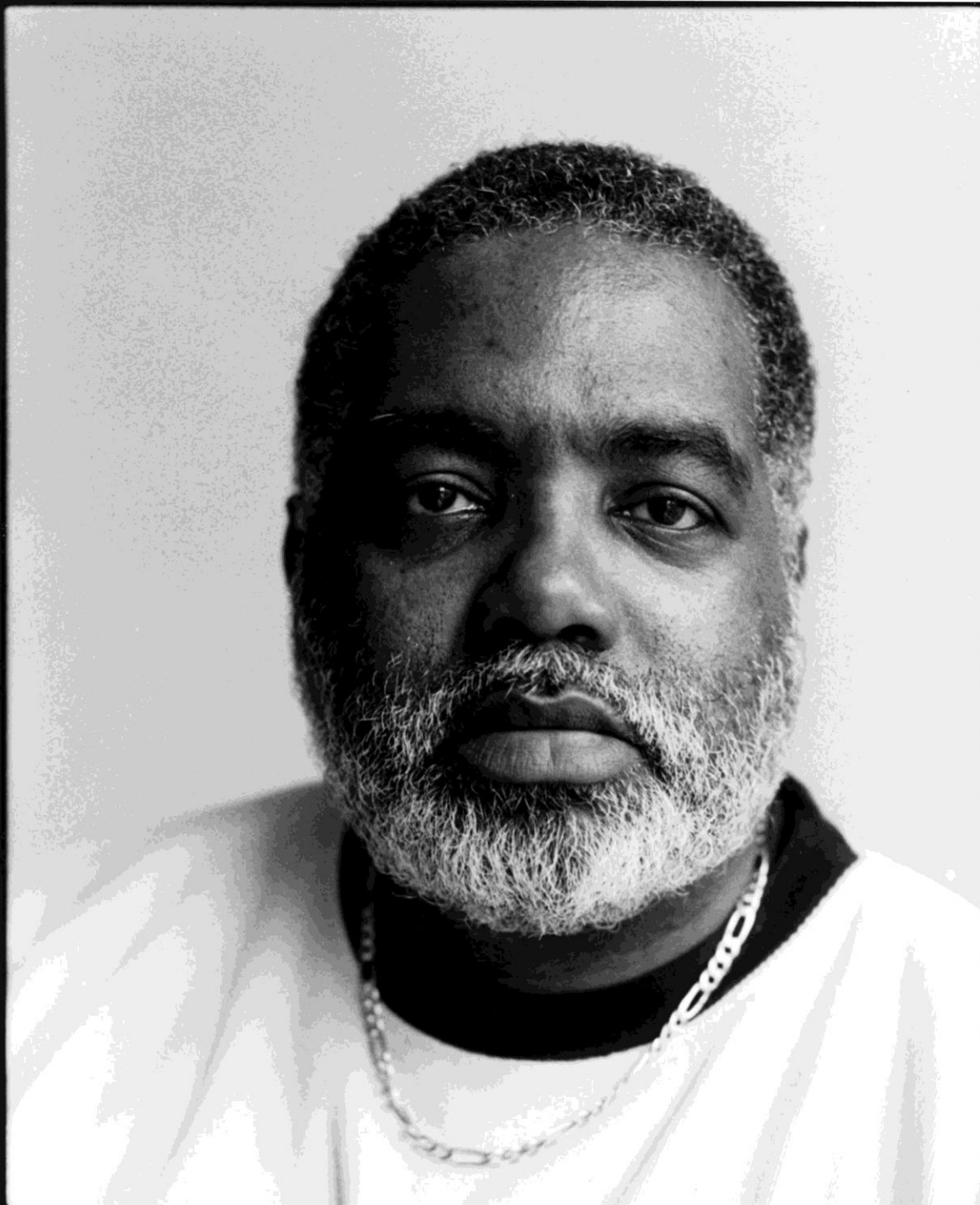
# Focus on errors, imperfections, flaws

- Most Americans support DP in abstract
- Confirmation bias blinds people to much evidence, such as lack of deterrence effect
- But many may not know:
  - How rare it is, how arbitrary
  - Number of errors, what this means in human terms
  - Falsity of the argument about “closure” for families
  - Cost
  - Possible alternative uses of those funds



# Possible counter-arguments

- Rehnquist: “Perfect the mechanism...”
  - More resources to the defense
  - Longer trials, more delays, etc.
  - Costs well summarized by Dick Dieter’s recent report and currently affecting many communities
  - Better to spend this money on other purposes
- Scalia: “What’s a few errors...”
  - Very unpopular argument
  - Impossible to make with Ray Krone, Delbert Tibbs, or Freddie Pitts in the room!

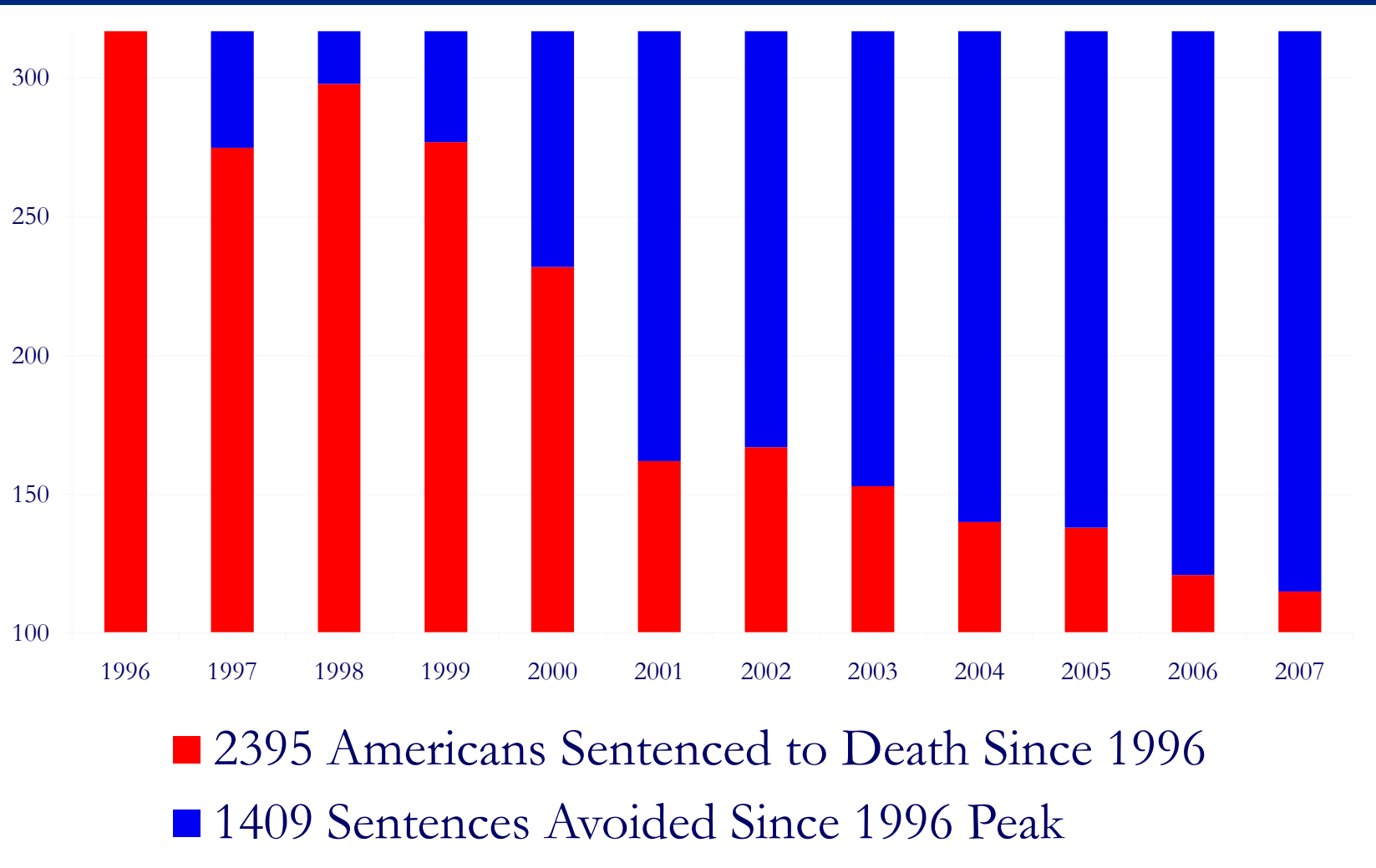


# Tipping points

- At any given time, public attention tends to focus on just a few aspects of a complex debate.
- Occasionally these “flip” as attention shifts
- This has occurred in the past 10 years or so
- Innocence is associated with an entire cluster of arguments about flaws, costs, practical problems
- Key is the shift away from the abstract to the practical
- “Discovery of innocence” has already saved many



# Decline in death sentences since 1996 has already saved over 1,400

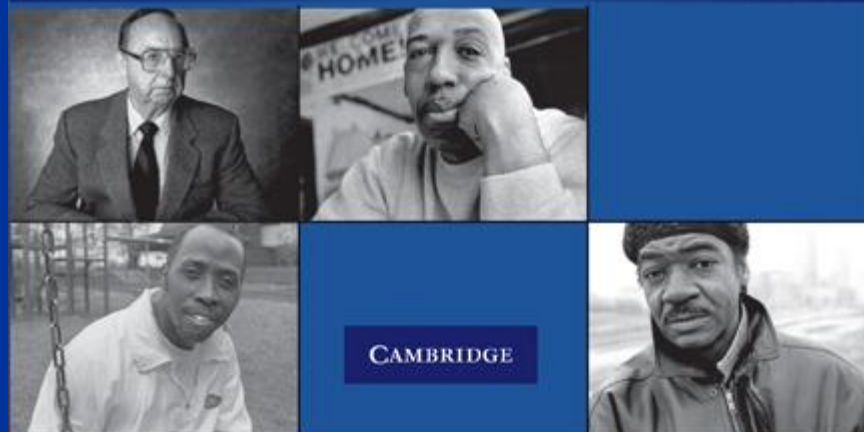






# THE DECLINE *of* the DEATH PENALTY *and the* DISCOVERY *of* INNOCENCE

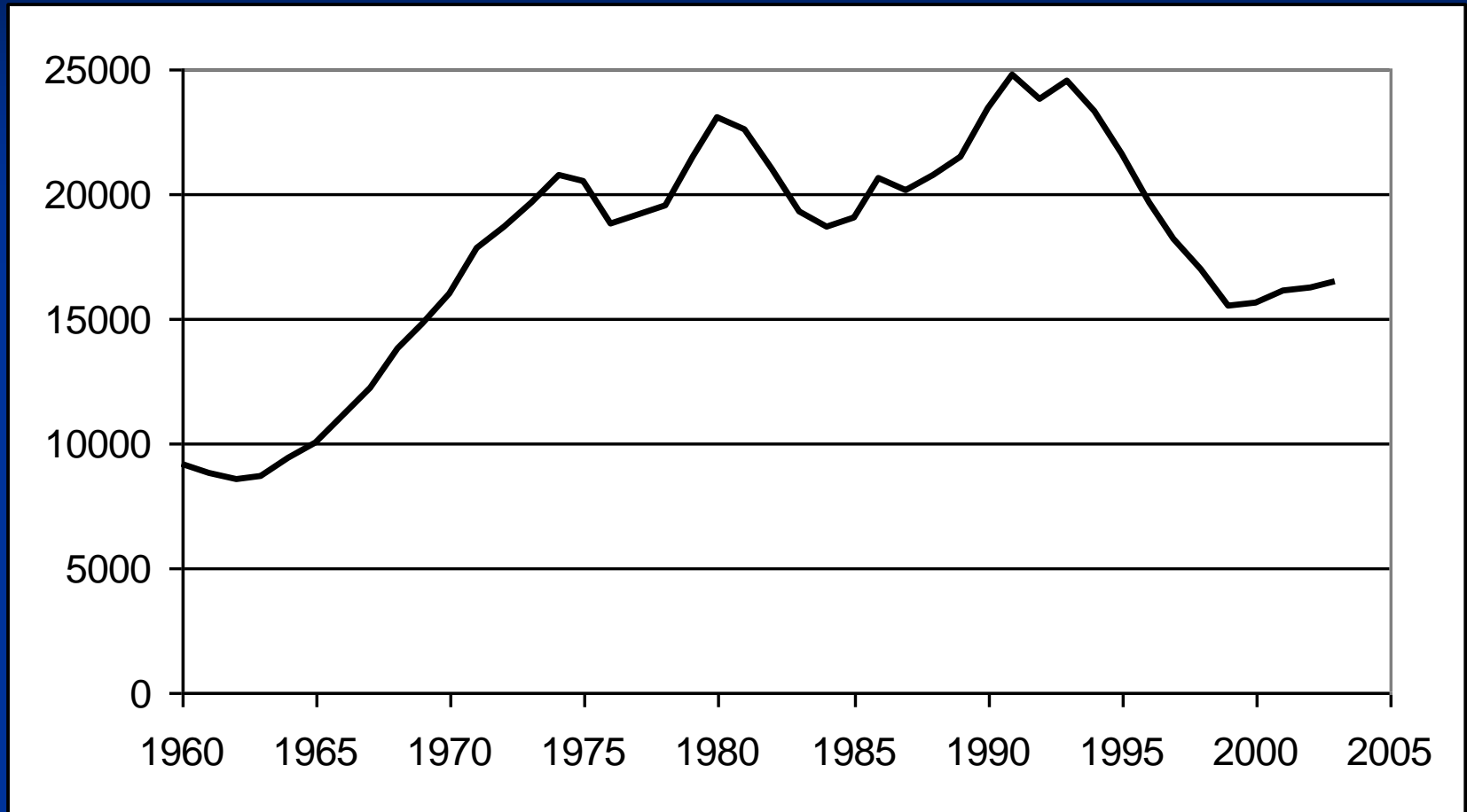
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# The Decline of the Death Penalty

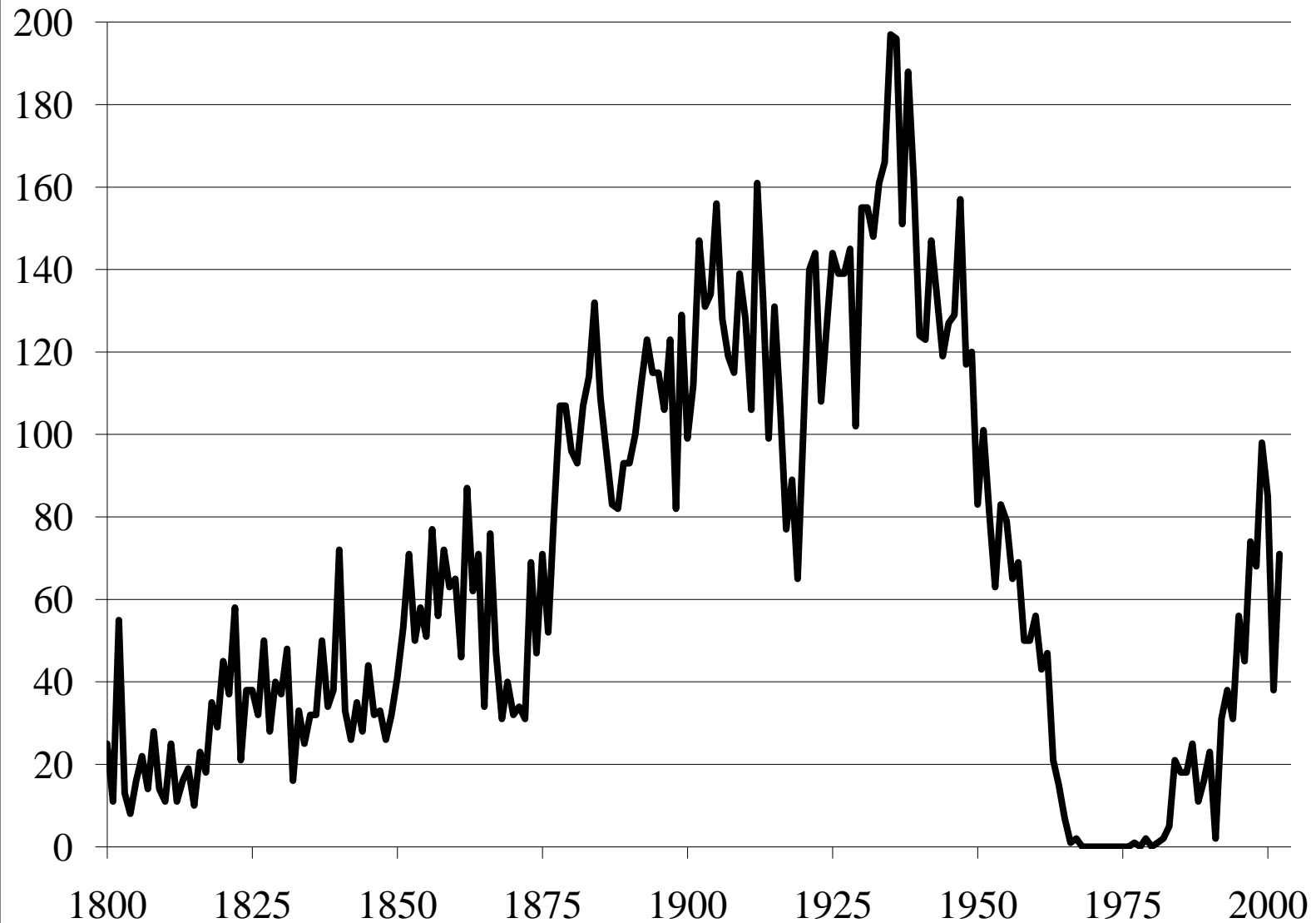
- Goals of project:
  - Explain an important policy change
  - Show power of framing
  - Demonstrate ability to use media coding, statistical models of framing
  - Predict and explain changes in public policy
  - Test the relative importance of framing, opinion, and events in explaining policy change
- Point for you: shows the power of the innocence argument in affecting the debate

# Homicides: decline from 24,500 in 1993 to 15,500 in 2000

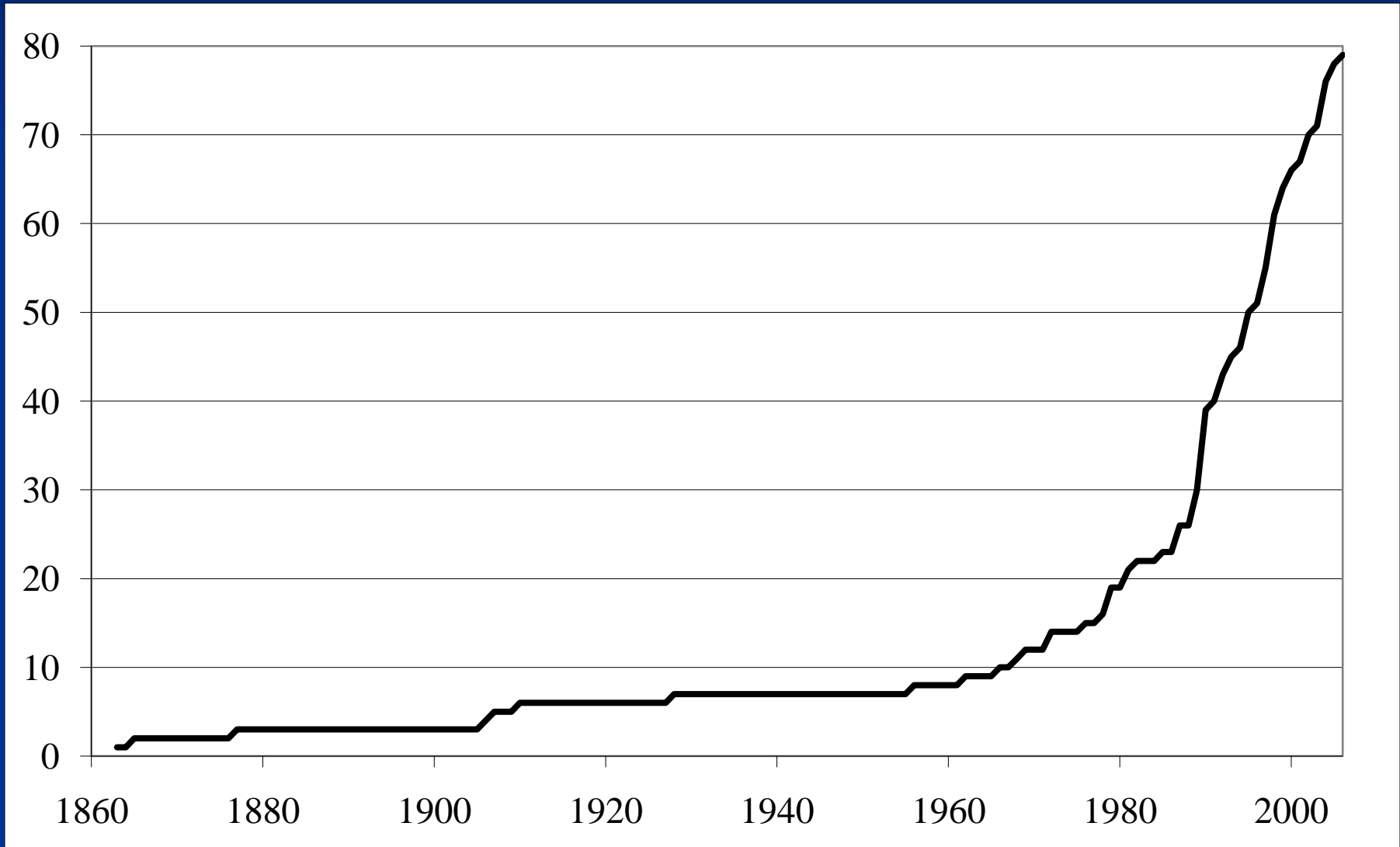


NB: France, UK, approx 400 per year

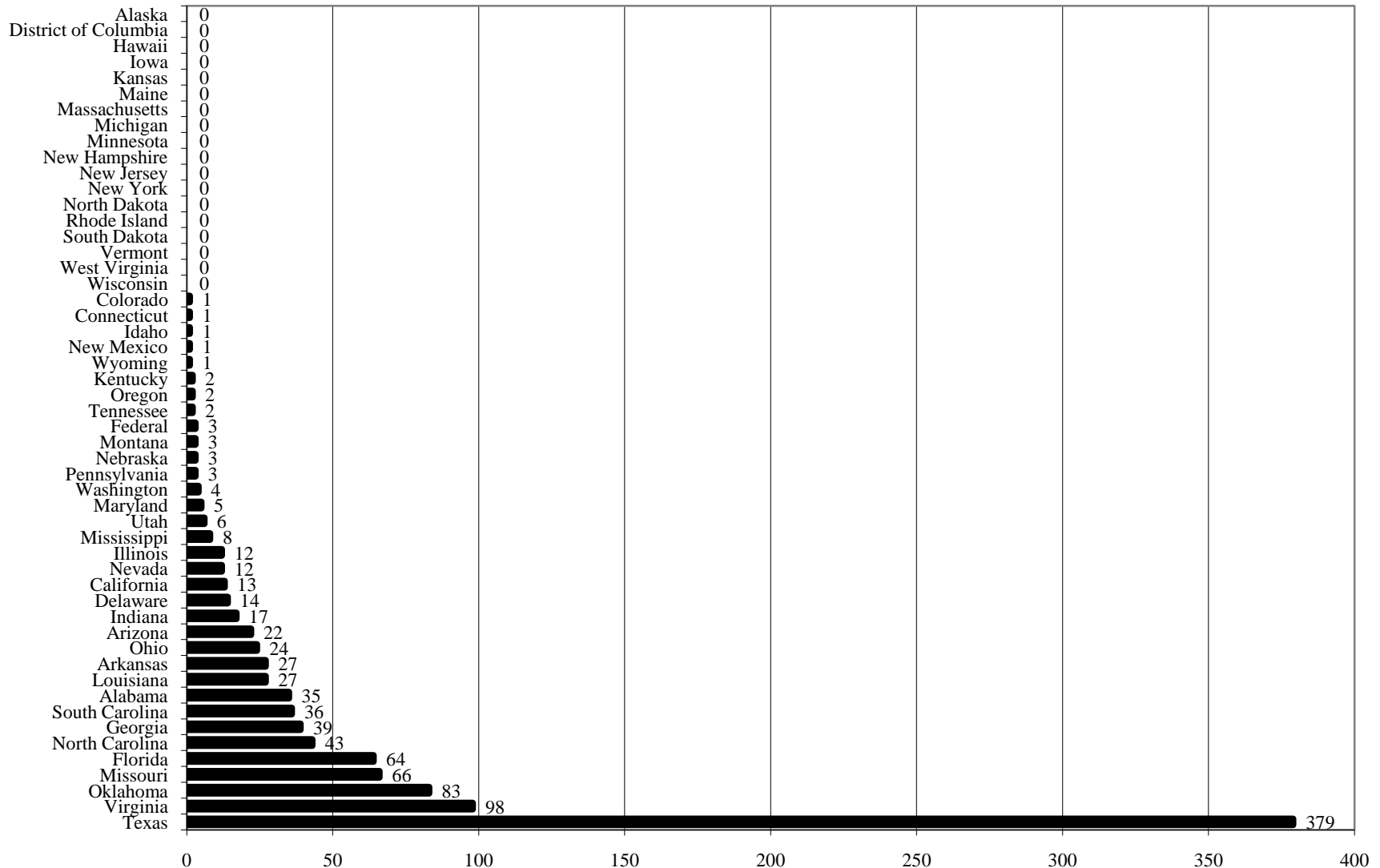
# Executions in the US, 1800-2002



# Number of Countries Having Abolished the Death Penalty



# Executions by State, 1977-2007



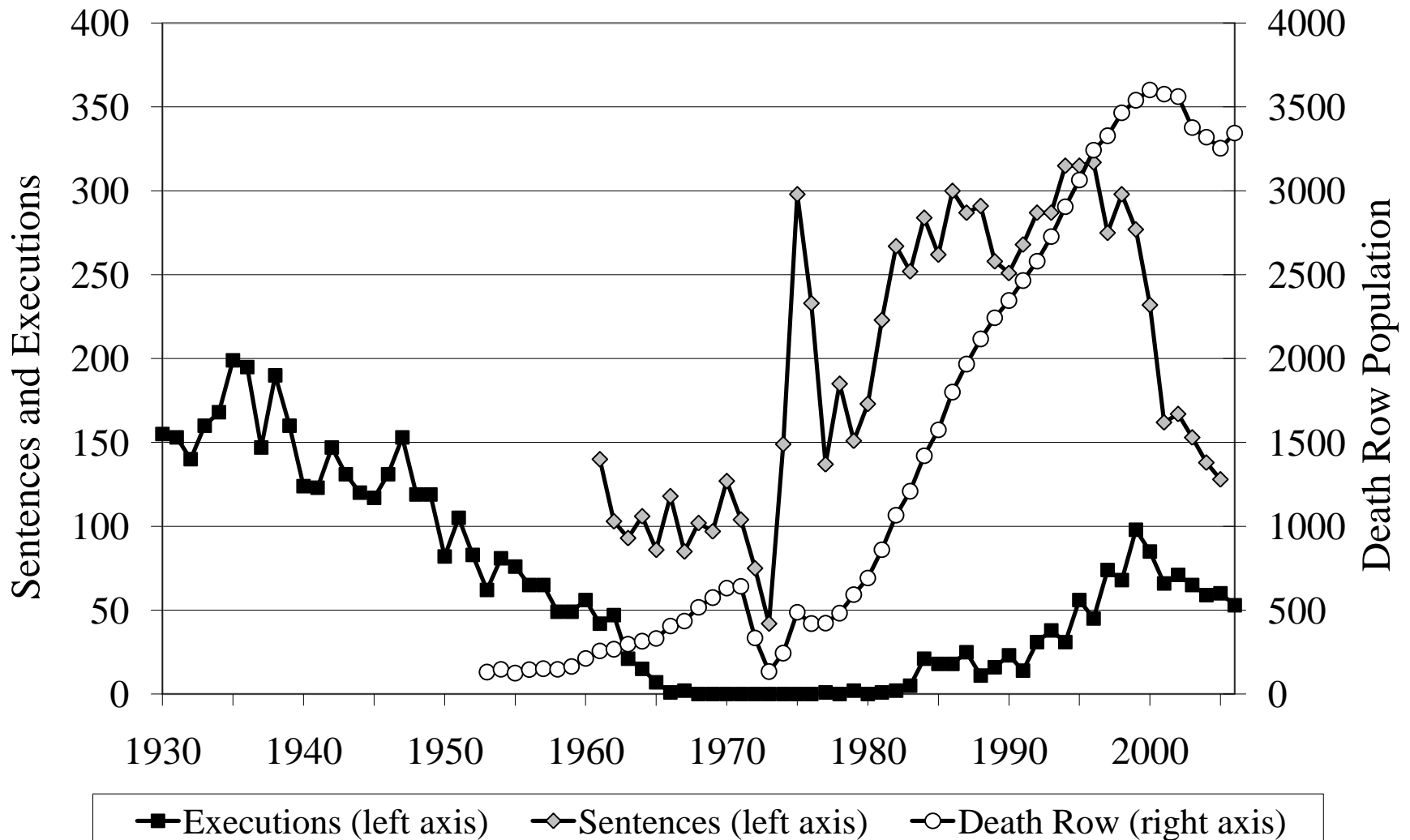


# Death Row Population v. Executions (since 1976)

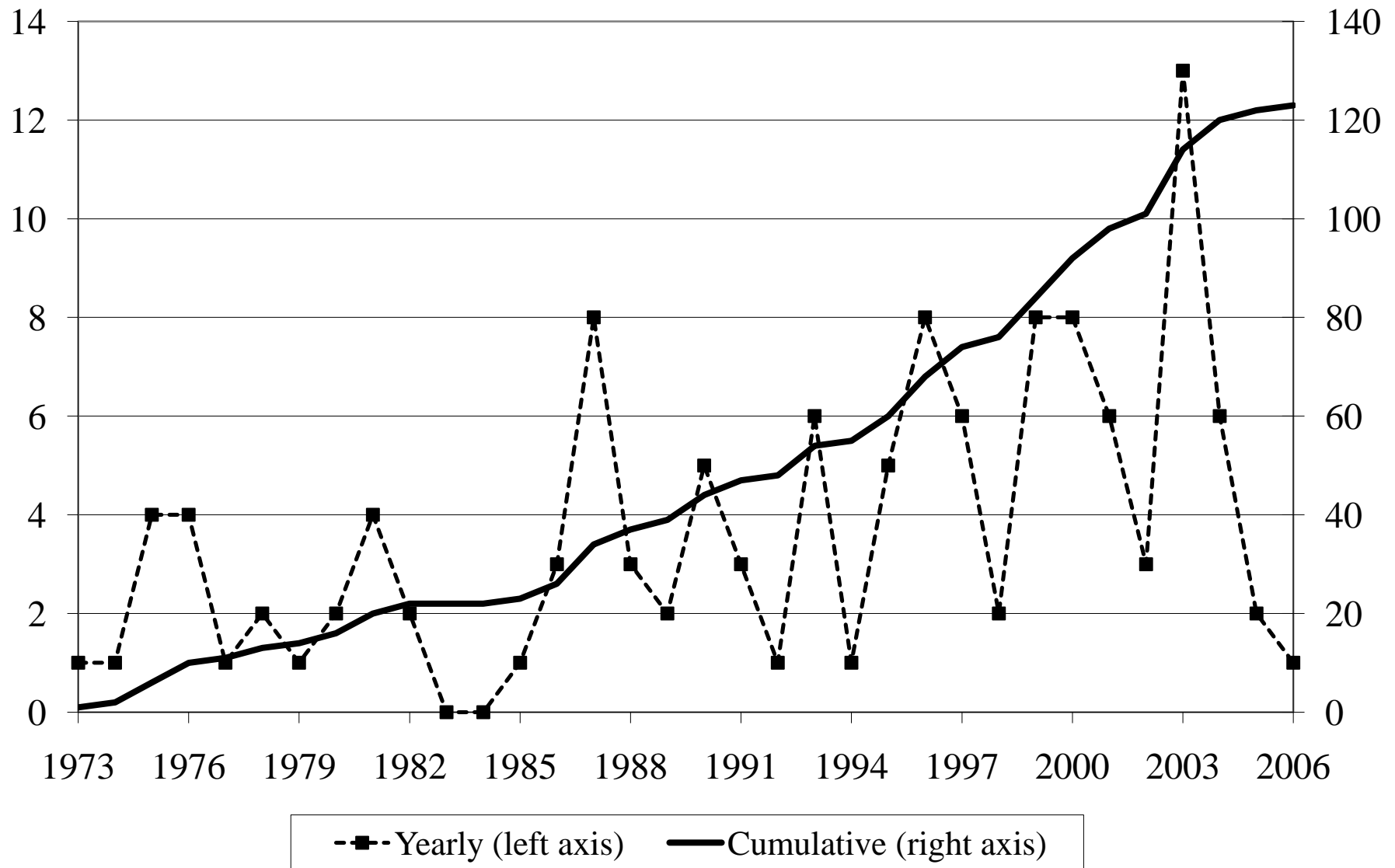
<u>State</u>	<u>Death Row</u>	<u>Executions</u>
Texas	392	379
Florida	398	64
California	657	13
Pennsylvania	228	3

Many states, like California, have a “virtual” death penalty system. Others are quicker to execute once the inmate is sentenced. Texas is in a class by itself, not for sentences, but for executions.

# Death Sentences, Executions, and the Size of Death Row, 1930-2006



# Exonerations, 1973-2006



# Exonerees: From Human Interest to Confirmation of an Established Theme

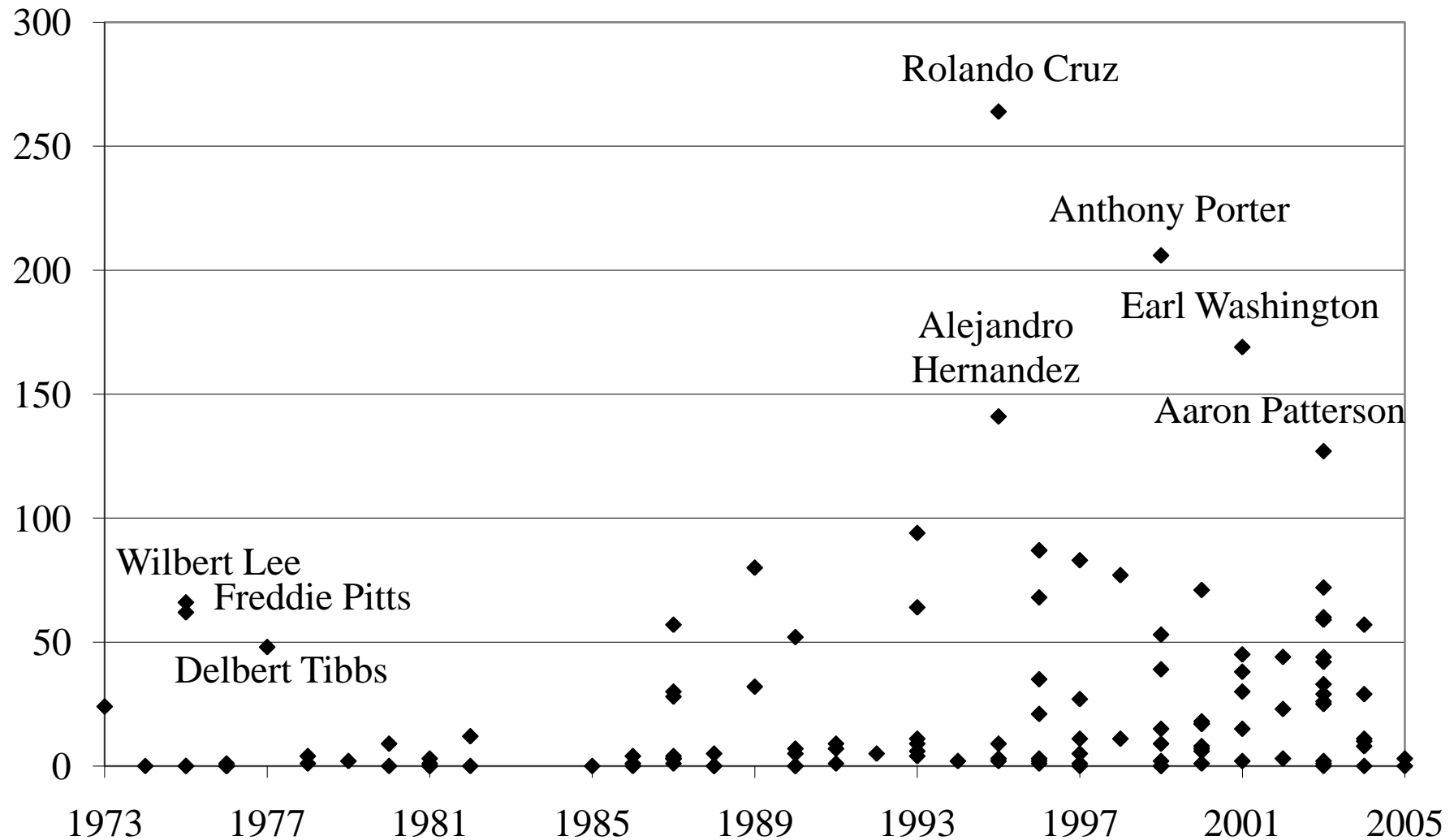




Photo by Barred From Life

# A Framing Multiplier Effect

<u>Time Period</u>	<u>Average Exonerations</u>	<u>Average Stories</u>	<u>Stories per Exon.</u>
73-91	3	9	3
92-98	4	85	33
99-05	7	212	40



# A Social Cascade

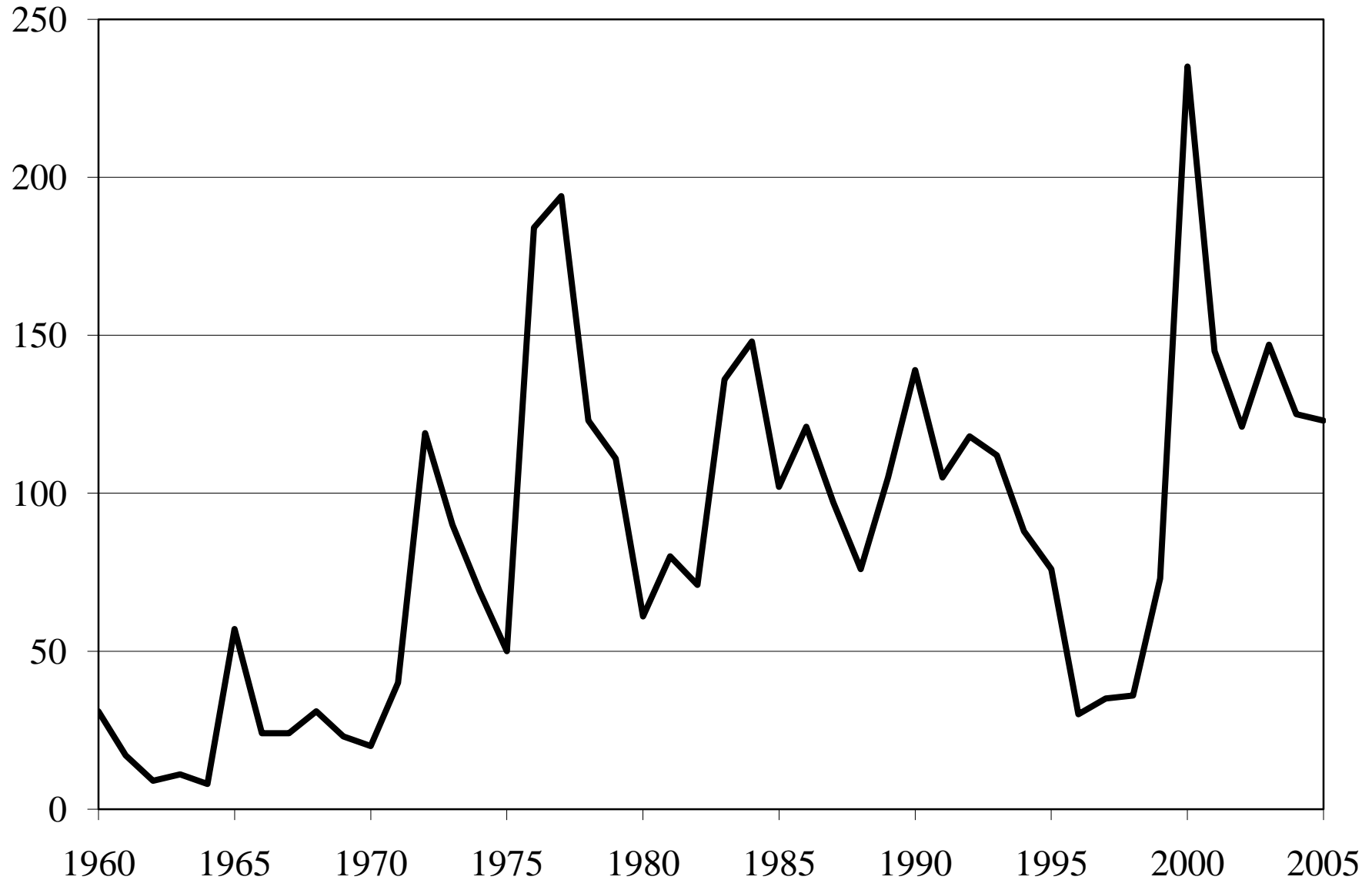
Somehow, the concept of innocence has entered the social discourse. People understand a new way of thinking about the death penalty.

Old issue-definition: Morality / constitutionality

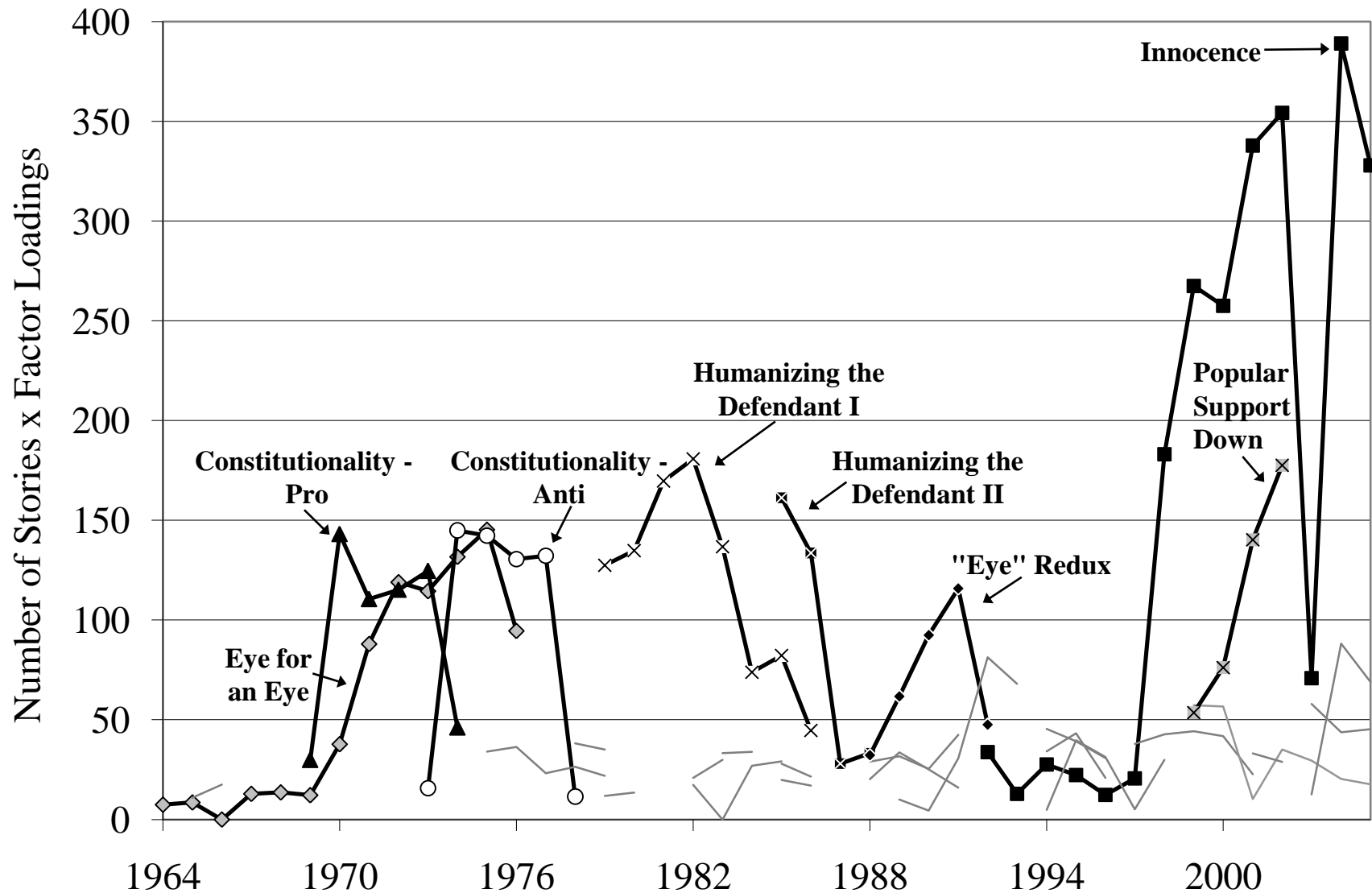
New issue-definition: Innocence / system is broken / human institutions cannot be perfect

Documenting these trends and this cascade effect is one goal of our book.

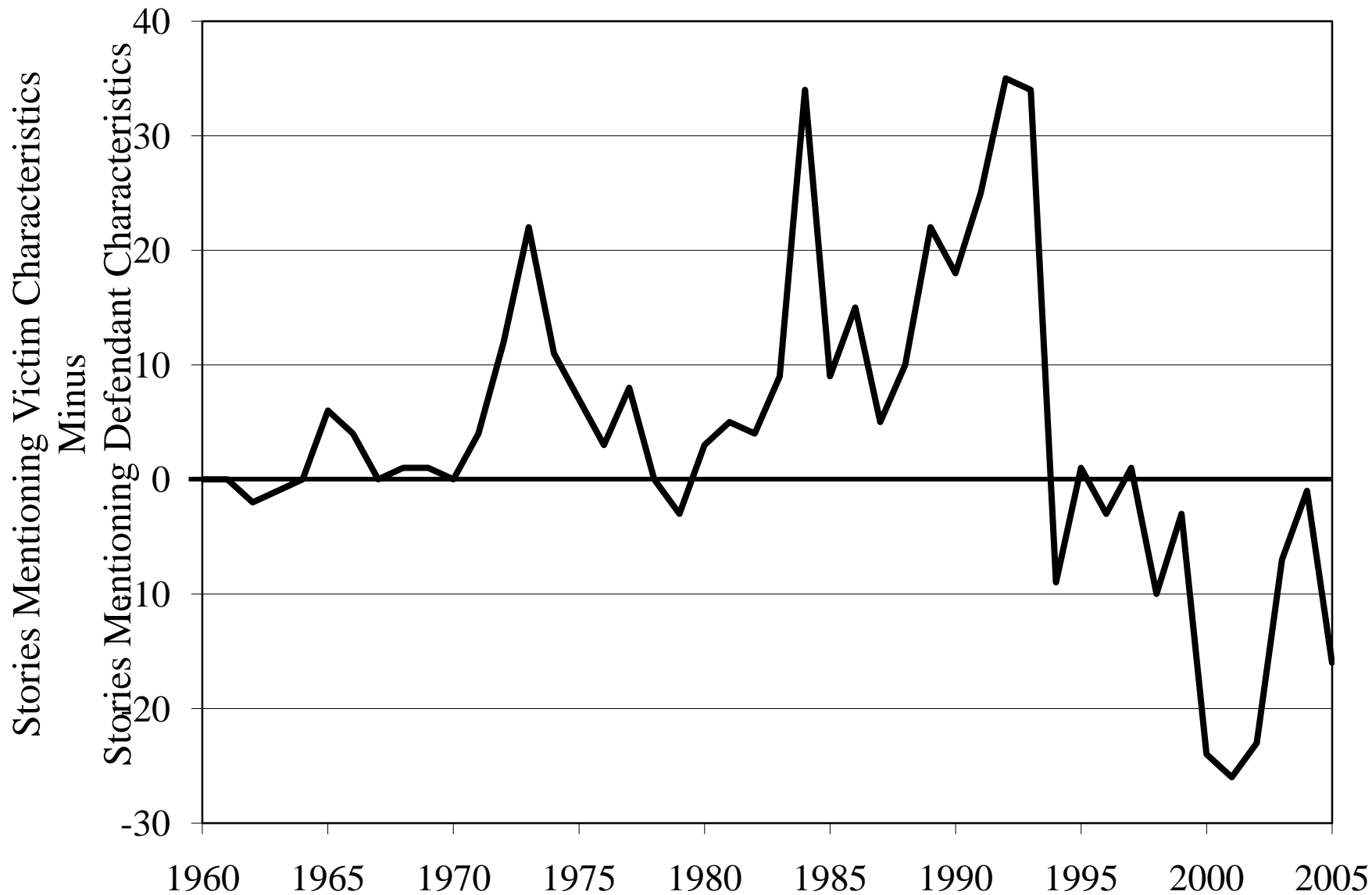
# Total Number of *NYT* Articles, 1960–2005



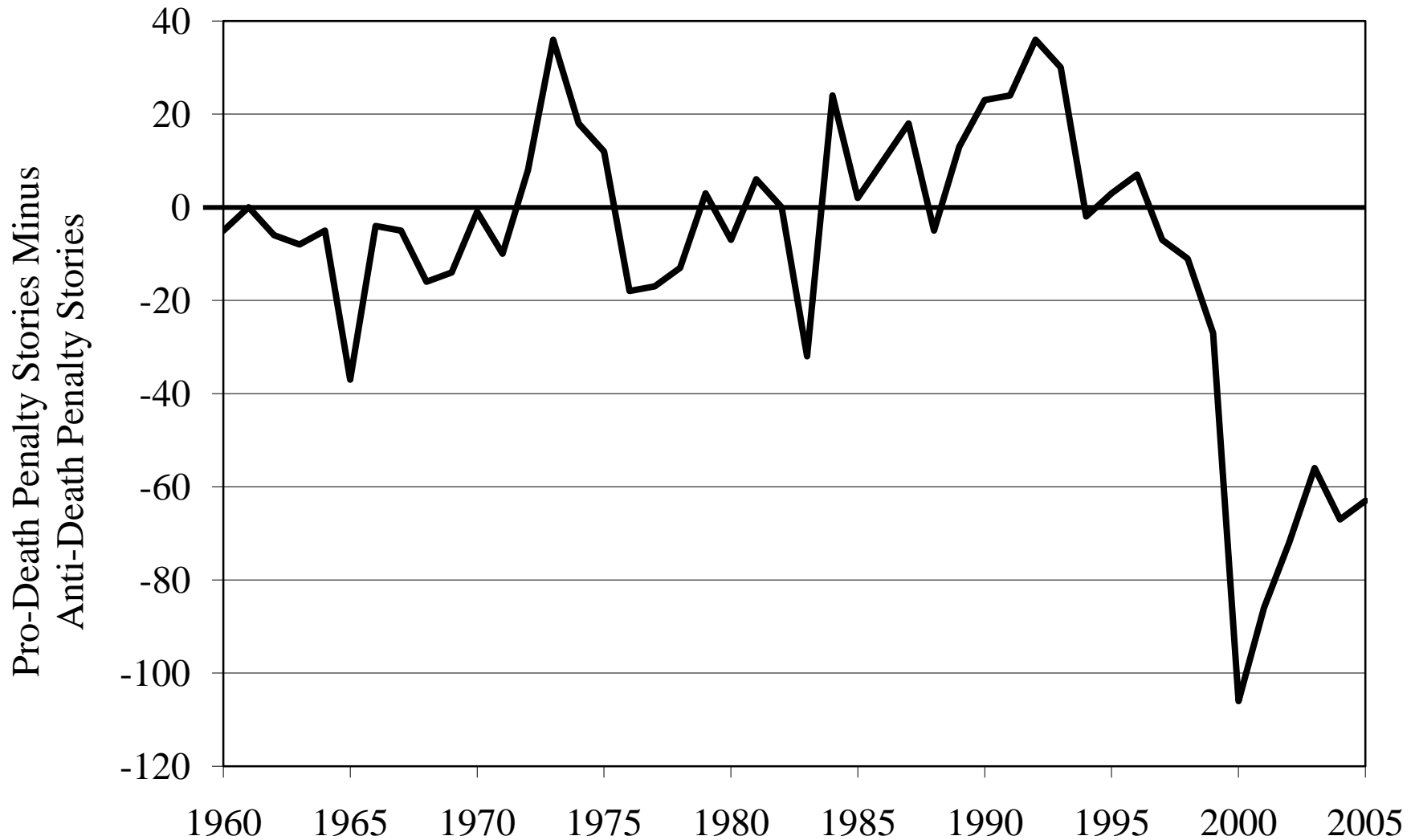
# Statistically Identified Issue-Frames



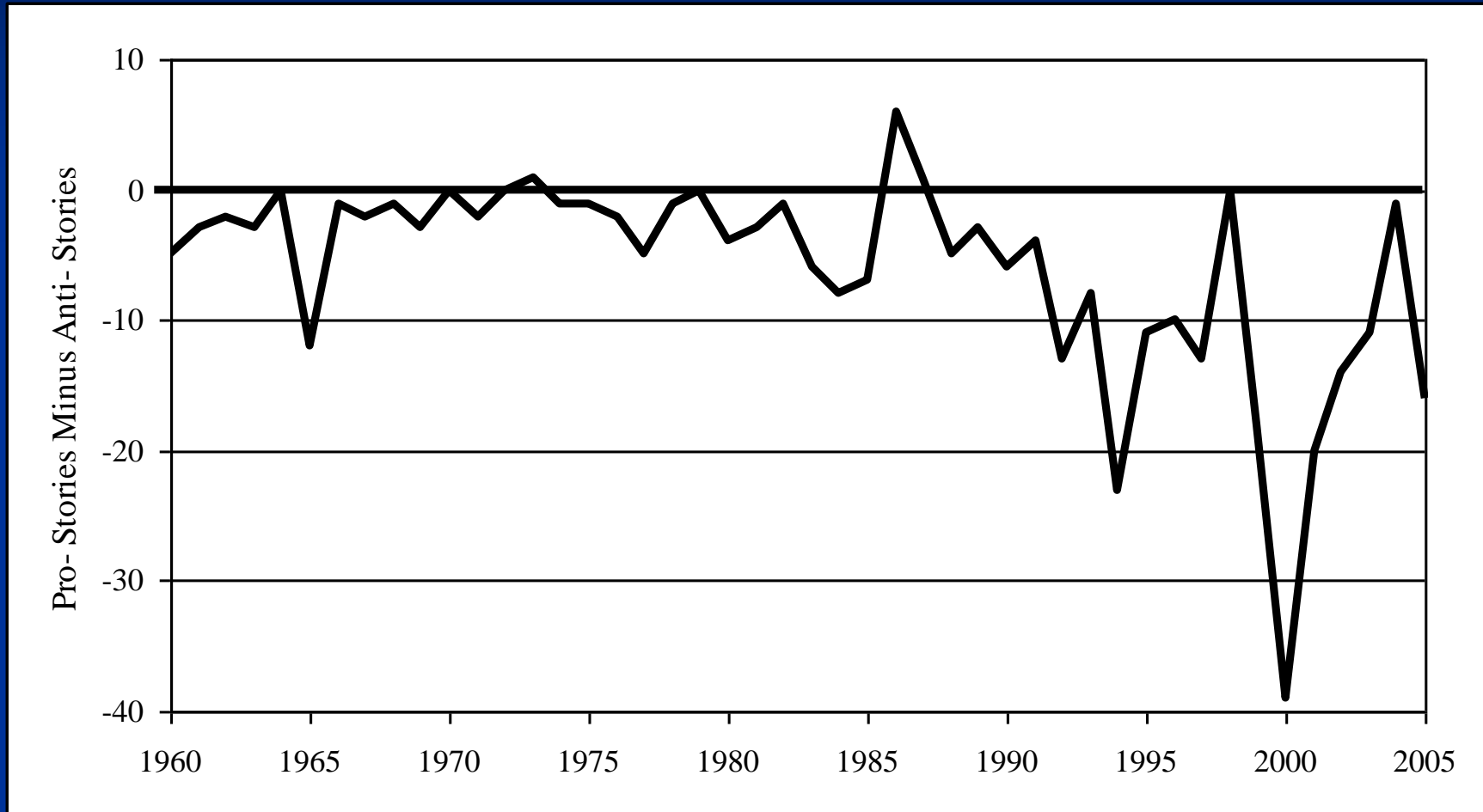
# From the Victim to the Defendant



# The “Net Tone” of NYT Coverage, 1960–2005

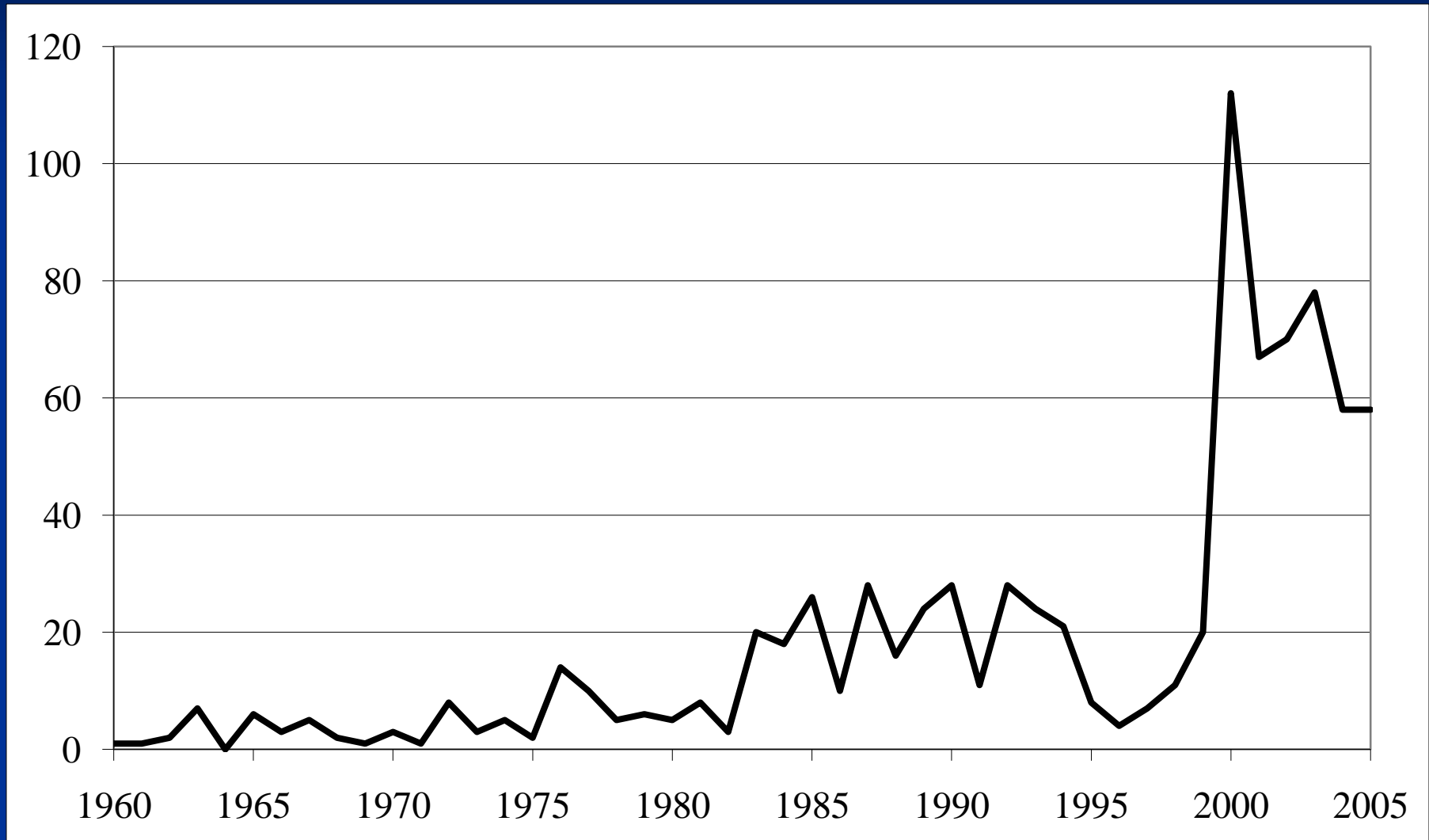


# The “Net Tone” of Readers’ Guide, 1960–2005



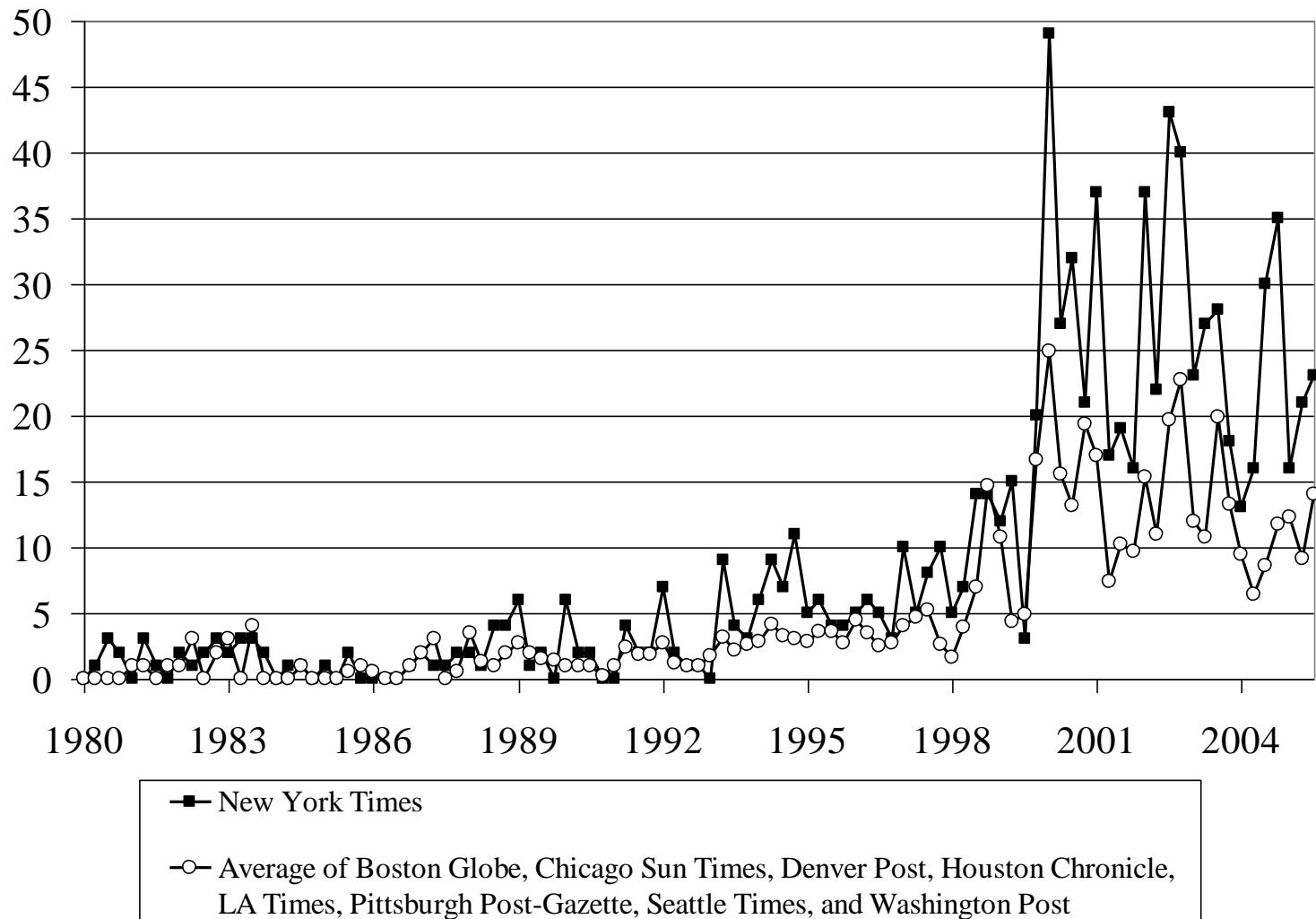


# The Rise of the “Innocence” Frame

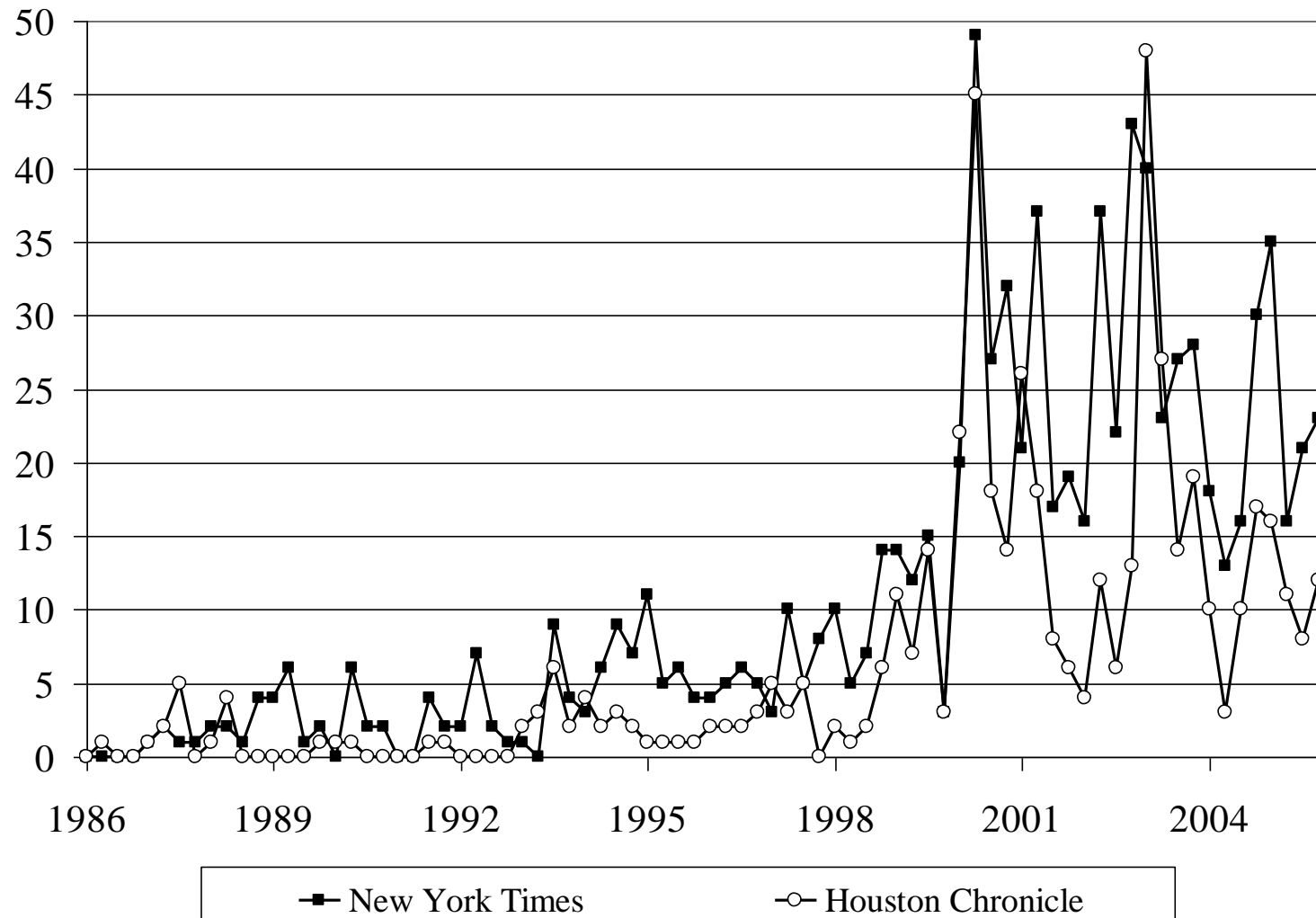


Includes: Innocence; Evidence; System-is-Broken; Mention of the Defendant

# “Innocence” in the NYTimes v. Other Papers



# “Innocence” is in the Houston Chronicle too



# Policy Impact

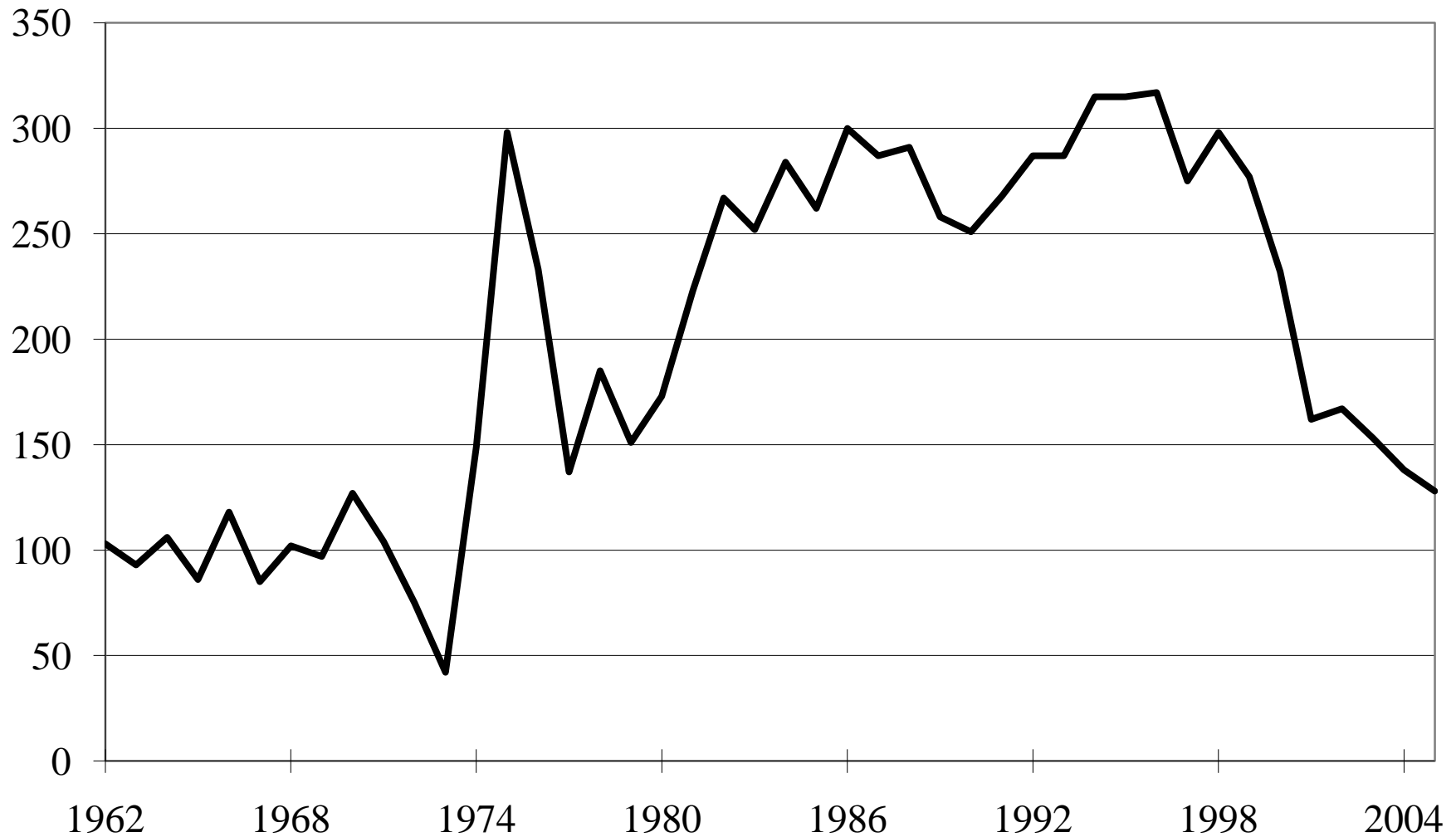
Annual Death Sentences as the most appropriate dependent variable

Juries not faced with a hypothetical question as posed in surveys

Juries presented with strong stimulus, not like aggregate public opinion

May be different, should definitely be less inertial

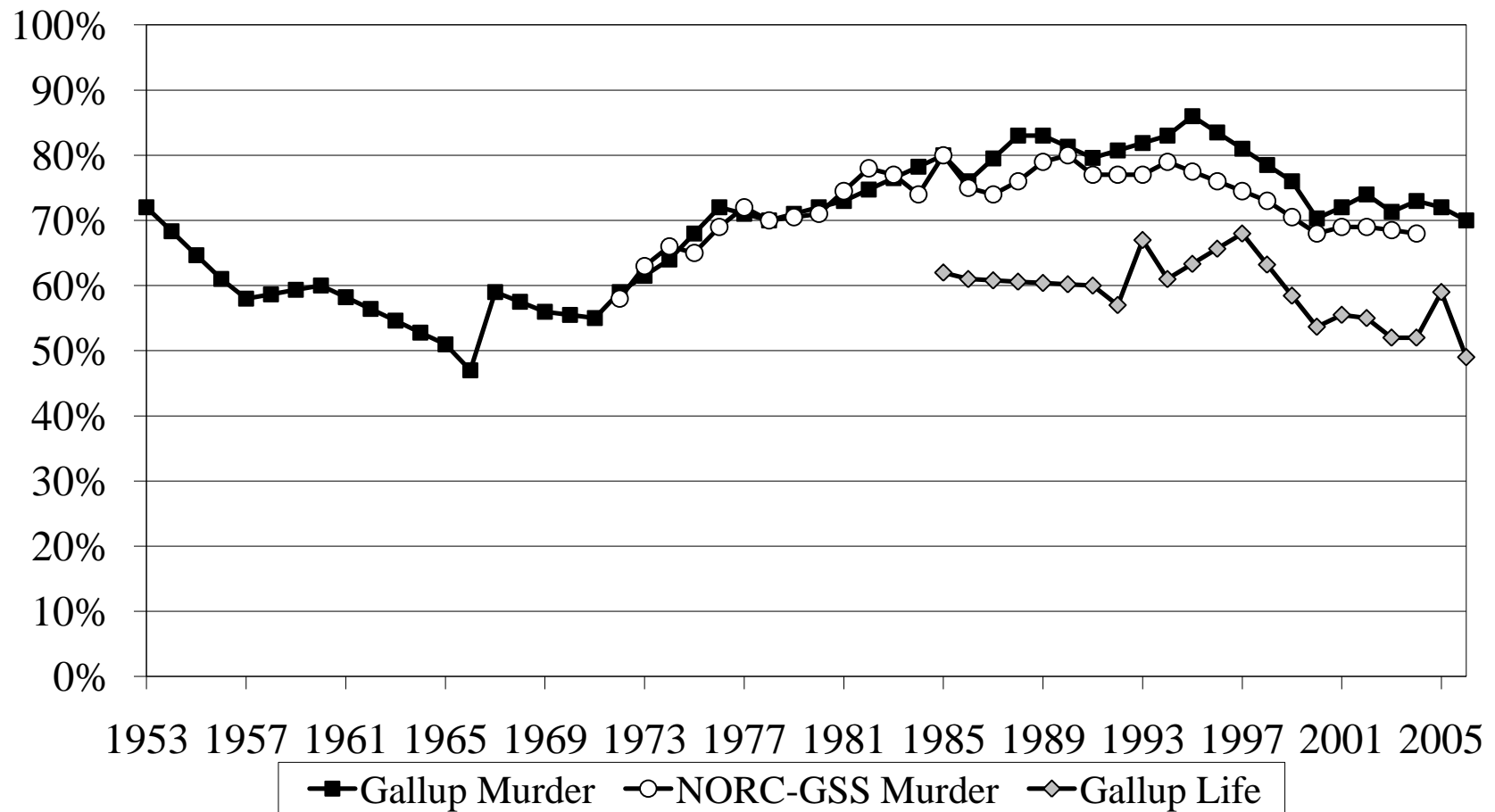
# Reminder: Number of Death Sentences



# Measuring Public Opinion

- 65 different questions posed in identical manner by the same survey organization
- 292 surveys used from 1960 to 2004 to construct the index
- The index is based on Jim Stimson's method of combining survey data, as used in his construction of the measure of "public mood"
- It is similar to a factor analysis, using all available data, focusing on trends over time

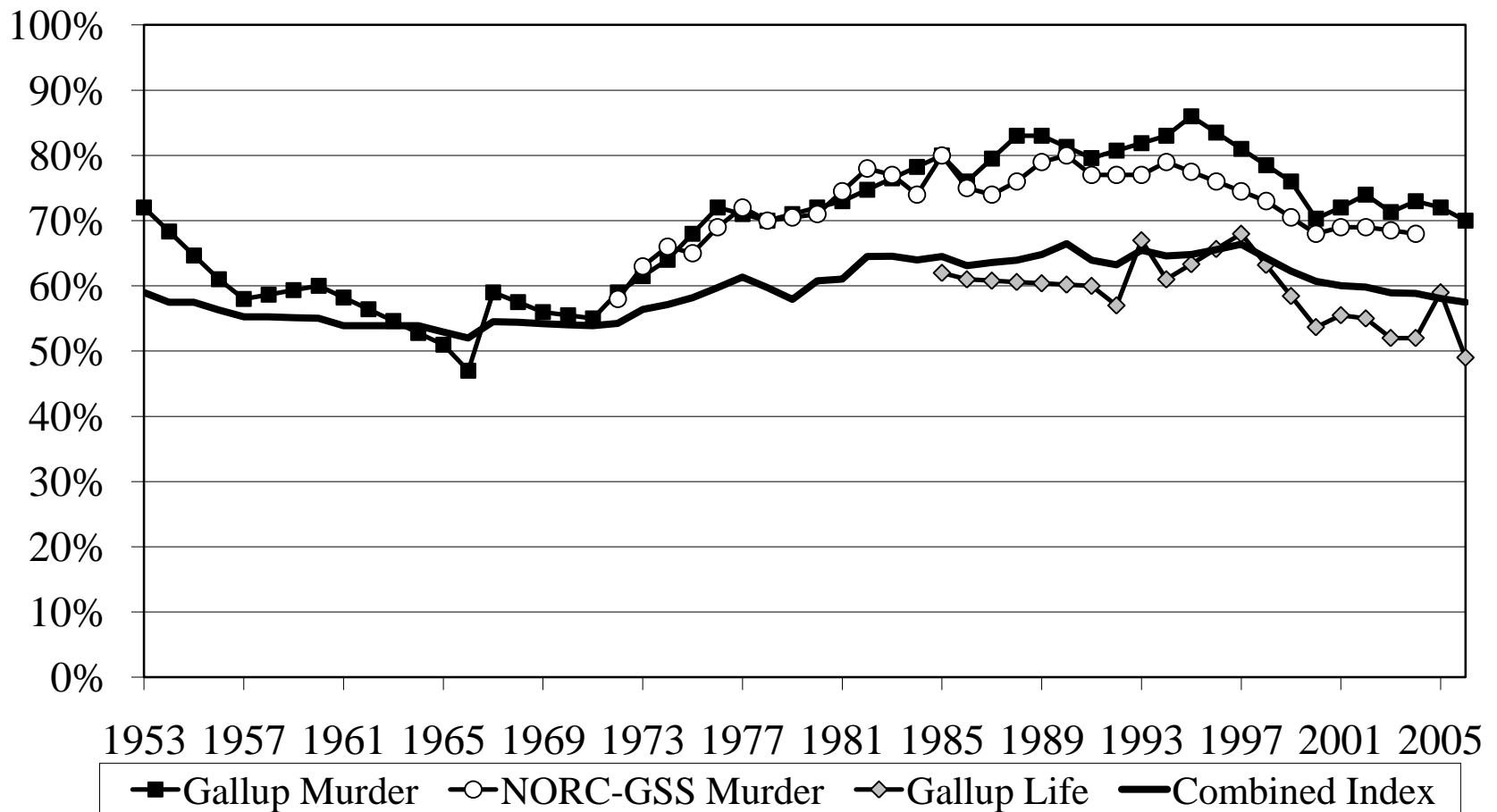
# Establishing a Single Public Opinion Series: I, raw data



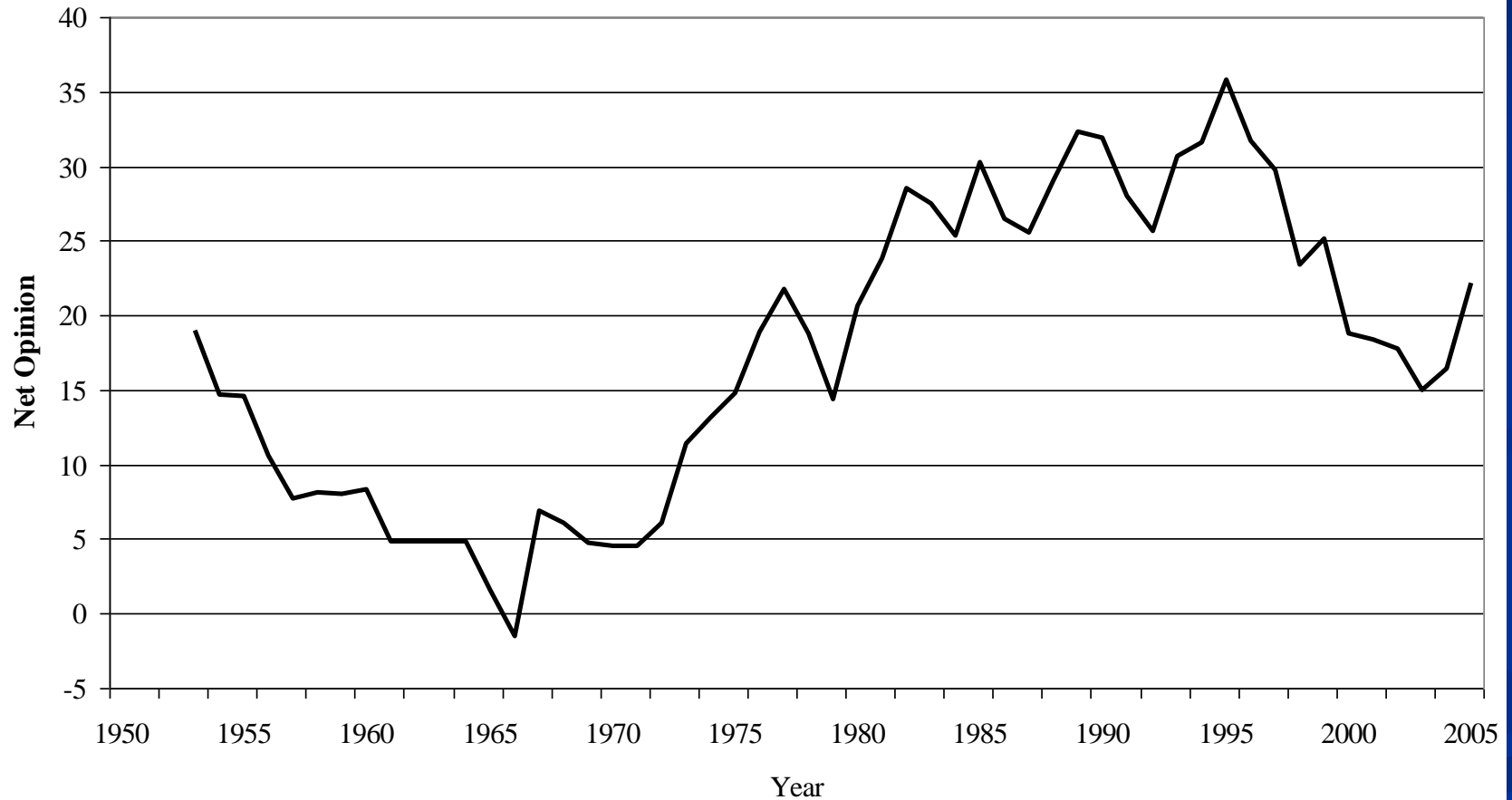
Data show the three most commonly asked questions, but 65 series are used.



# Establishing a Single Public Opinion Series: II, the index

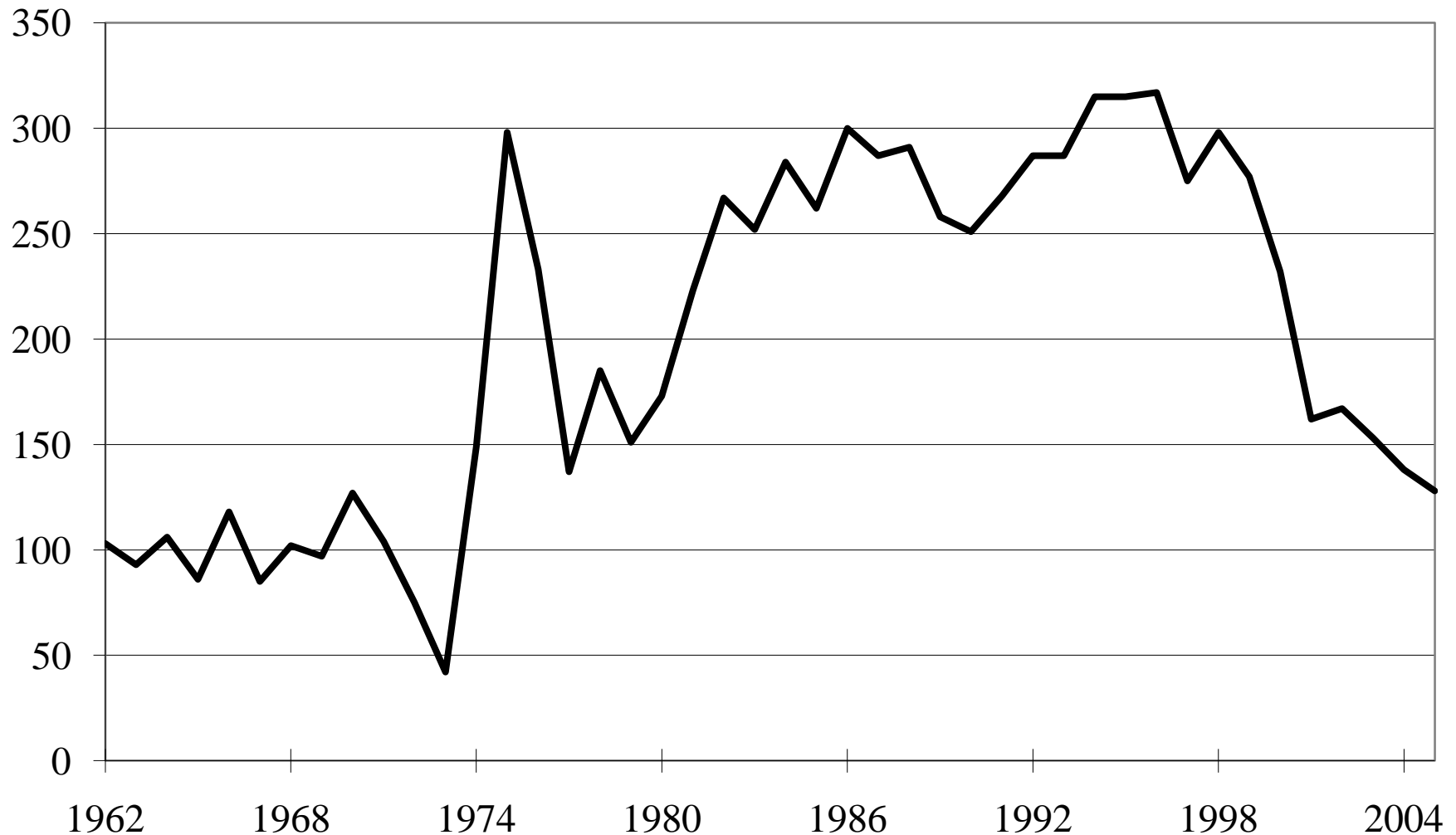


# Net Public Opinion, 1960-2004



# Number of Death Sentences

## Can We Predict this Series?



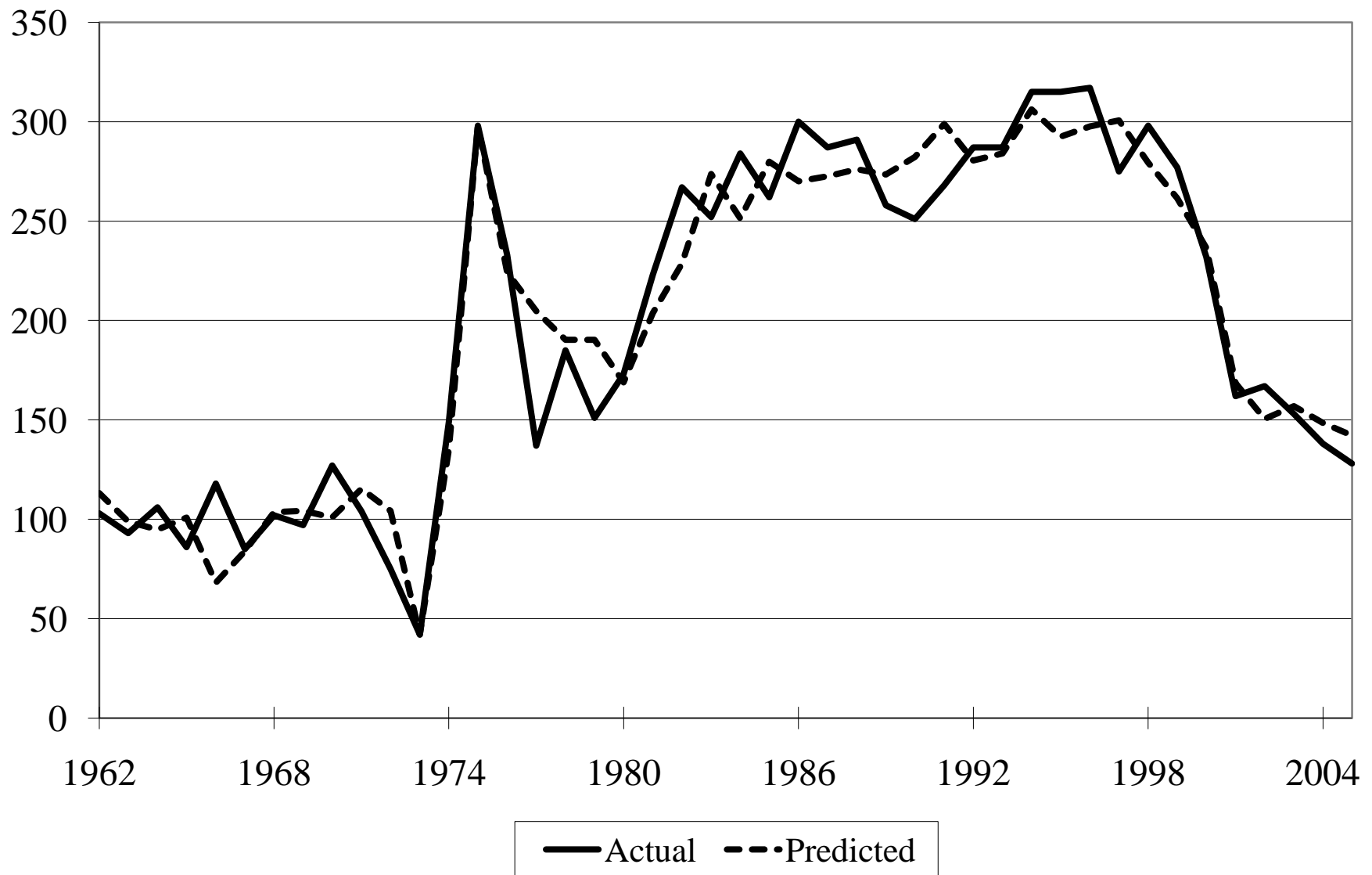
# Predicting Annual Death Sentences

Annual Number of Death Sentences =  
22.92 (19.20) +  
0.316 x Sentences<sub>t-1</sub> (0.097) +  
0.453 x Net Tone of *New York Times*<sub>t-1</sub> (0.137) +  
0.817 x Homicides (thousands)<sub>t-1</sub> (1.437) +  
5.059 x Opinion<sub>t-1</sub> (1.069) +  
-67.80 x 1973 dummy (25.80) +  
129.49 x 1975 dummy (25.34)

$R^2 = .930$  (N=42)

Note: Analysis is annual from 1963 to 2005.

# Predicted and Actual Death Sentences



# Interpretation

$0.453 \times \text{Net Tone of } New York Times_{t-1} (0.137)$

A 10-point shift in news coverage: 4.5 fewer death sentences in the following time period, with a longer term impact of 6.7 fewer.

1992: Net tone = +36

2000: Net tone = -106

Shift of 142 points

Expected impact: 98 death sentences

# Interpretation

$$5.059 \times \text{Opinion}_{t-1} (1.069)$$

This is a big impact:

In the long term, after inertia plays out:

15 point shift in opinion: 111 fewer death sentences



# Estimating Error Rates

Many possible ways of doing this:

138 exonerations v. 1,000+ executions:  $\sim 13\%$

Impossible to know exactly how many innocent have been killed. Rare that serious inquiries are made. We'll never know the actual percentage, plus it is not clear what number would be "ok."

But: How reliable is the *system*? Here we can see some more reliable data, and it will shock you, as it did me when I learned of it doing this research.

# 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

# Points of Comparison

- NASA: 127 shuttles sent off, 2 lost: 1.6%
- 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%
- On these comparisons, the death penalty looks more like a FEMA operation...

# Should we expect better in the case of death?

- Yes: it is the most important decision a government ever makes, to put a person to death
- Yes: it is irreversible
- Yes: massive resources go into insuring accuracy
- No: A brutal crime has occurred, passions are high
- No: A trial is by nature imperfect and based on incomplete and conflicting information

# Put a face on “mistakes”

- Background, statistics, bla bla bla
- Meeting these men, listening to them, hearing their stories is powerful stuff
- (Much more powerful than dull professors with charts...)

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