

Baumgartner, POLI 203

Fall 2014

Background on the DP in NC

Reading: Welty

From Last Time

- Finish up on sentences overturned
- Exonerations
- Revision to speakers series due to Fall Break
- TA and my office hours posted

Crimes Punishable by Death

- <http://www.deathpenaltyinfo.org/crimes-punishable-death-penalty#BJS>
- **North Carolina** - First-degree murder (NCGS §14-17) with the finding of at least 1 of 11 statutory aggravating circumstances (NCGS §15A-2000).
- http://www.ncga.state.nc.us/enactedlegislation/statutes/html/bysection/chapter_15a/gs_15a-2000.html

NC methods of execution

- Before 1910: hangings in front of local court house
- 1910: Executions centralized in Raleigh
 - Electric chair, no longer hangings
 - Gas chamber later
 - Lethal injections later
 - Each innovation an attempt to create a safer, calmer, more humane method
 - Similar to trends nationally.

NC response to Furman (1972)

- State v. Waddell (1973)
 - If the USSC won't allow jury and judge discretion, then the law shall be MANDATORY death for eligible crimes.
 - Murder, arson, rape, burglary
 - 120 people sentenced to death, quickly, largest death row in US
- Woodson v. NC (1976), USSC says this is unconstitutional

“Modern” Death Penalty

- Innovations required by US SC in Gregg v. Georgia (1976)
- Two-stage trials:
 - Guilt v. innocence (guilt phase)
 - Death v. prison term (penalty phase)
 - Review of aggravating and mitigating circumstances (but no guidance on how to weight)
 - “proportionality review” by the state SC

Crimes limited to Murder

- 1977: USSC says death for rape is not allowed
- 2008: USSC says death for rape of child is not allowed
- 1979: NC changes law to remove rape

Big reforms reducing the DP

- 1994: LWOP is the alternative to DP
- 2000: creation of Indigent Defense Services
- 2001: Prosecutors have discretion to seek DP
- 2002: no DP for mentally retarded (before US SC does same thing in *Atkins*, 2002)
- 2005: US SC rules in *Roper* against DP for juveniles
- 2006: Physicians oppose lethal injection, no more executions since then.
- 2009: RJA, revised 2011, repealed 2013

NC as Innovator

- Centralized Indigent Defense Services (still either unique or very rare)
- LWOP (now the case in every DP state)
- Discretion to prosecutors (now common)
- Mental handicap (now SC ruling)
- RJA (still unique)
- Innocence Inquiry Commission (unique in US)

- Lots of push-back on these reforms. IDS may have been the most significant.

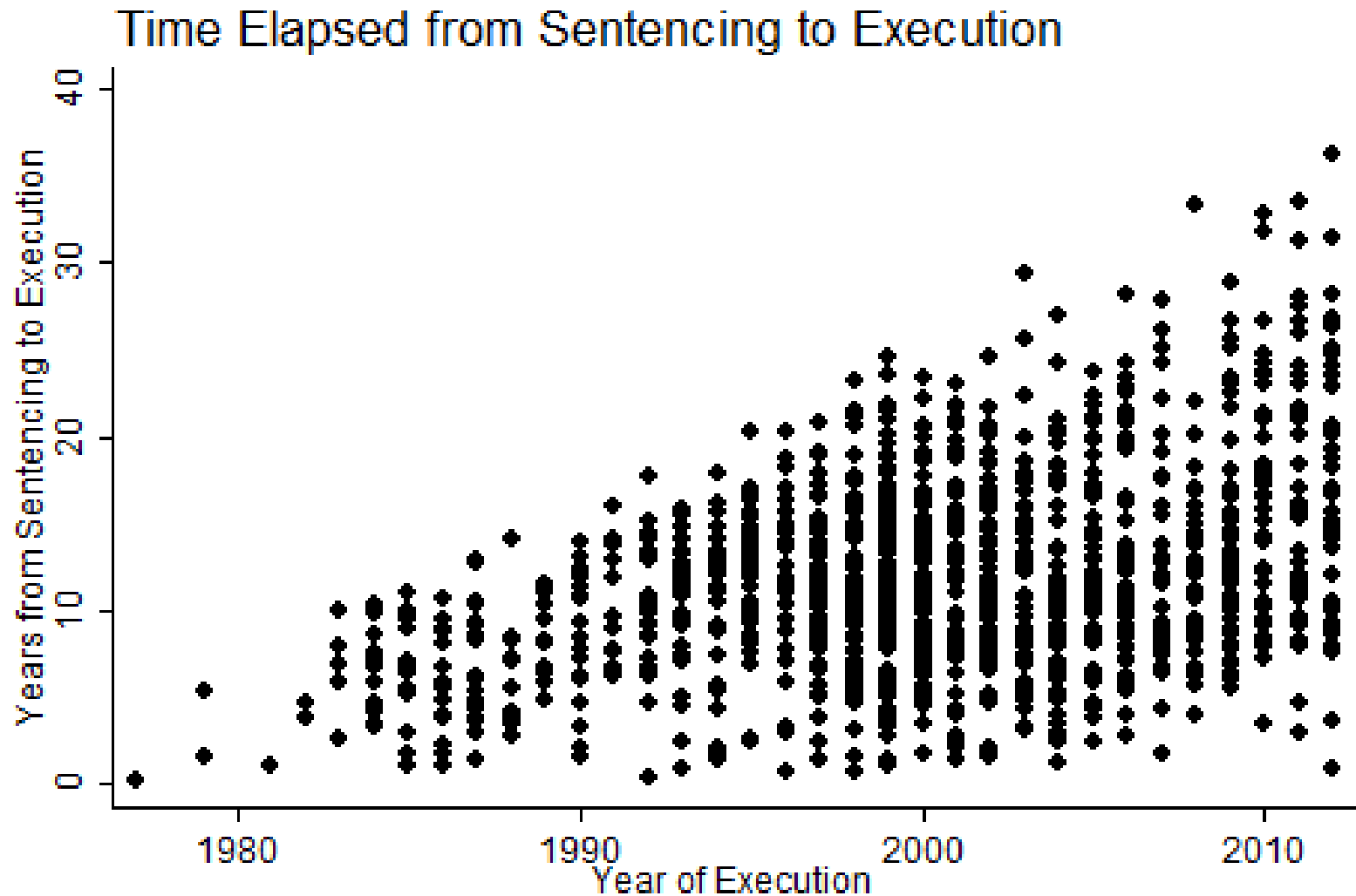
The Process

- Rule 24 hearing: Prosecutor announces if they are going to “seek death”
- If yes, a capital process ensues
 - Indigent Defense Services assigns two attorneys
 - Possible hearing to determine mental capacity
 - 12, not 6 peremptory challenges
 - Two-stage trial
 - Appeal by right to NCSC, USSC

Post-Conviction Appeals

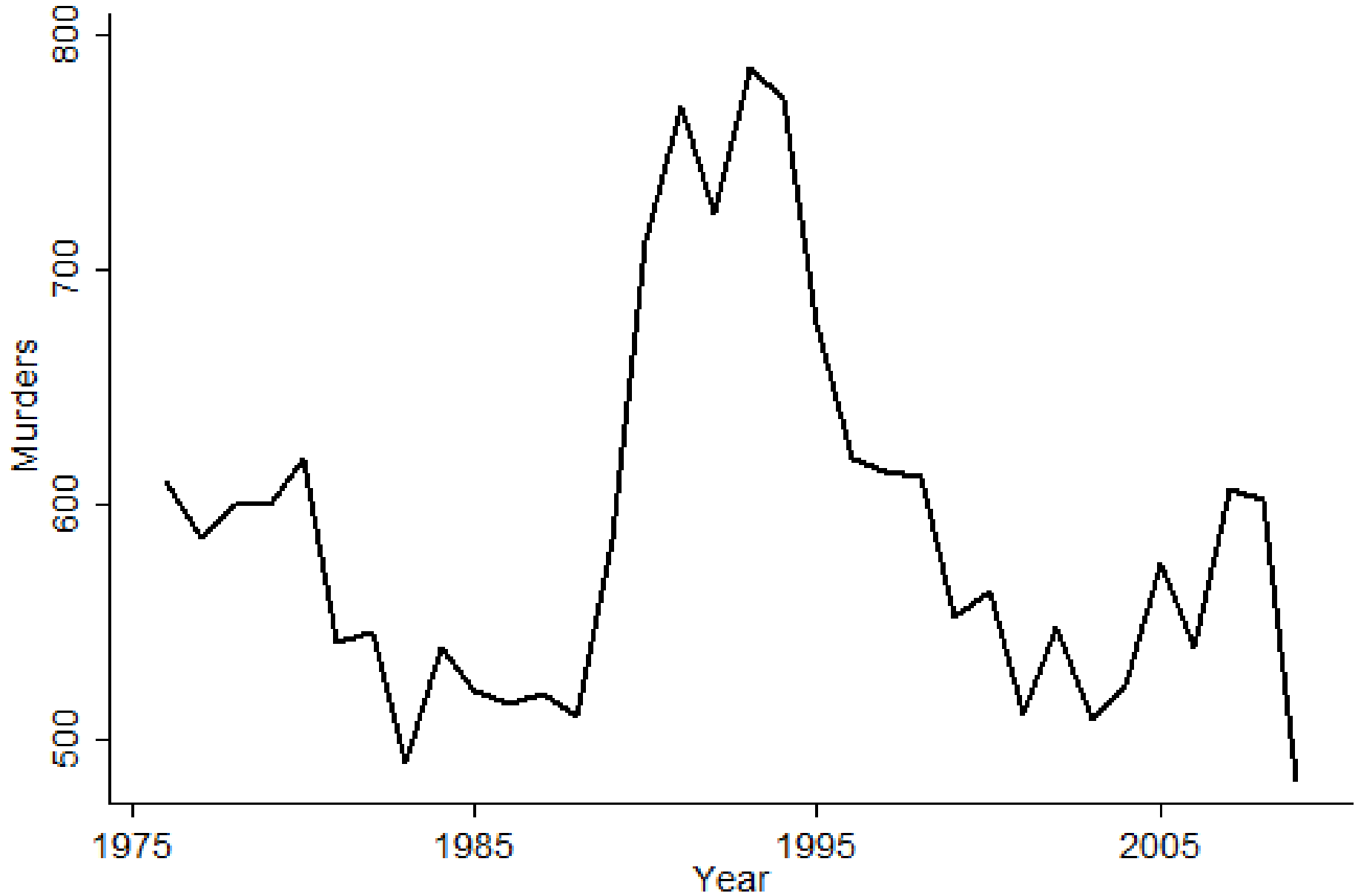
- State collateral review
 - Motion for Appropriate Relief
- Federal collateral review
 - Habeas Corpus petition to federal court
- At that point, execution date can be set
- Seek clemency from governor (highly unlikely)

Time delays, all US executions

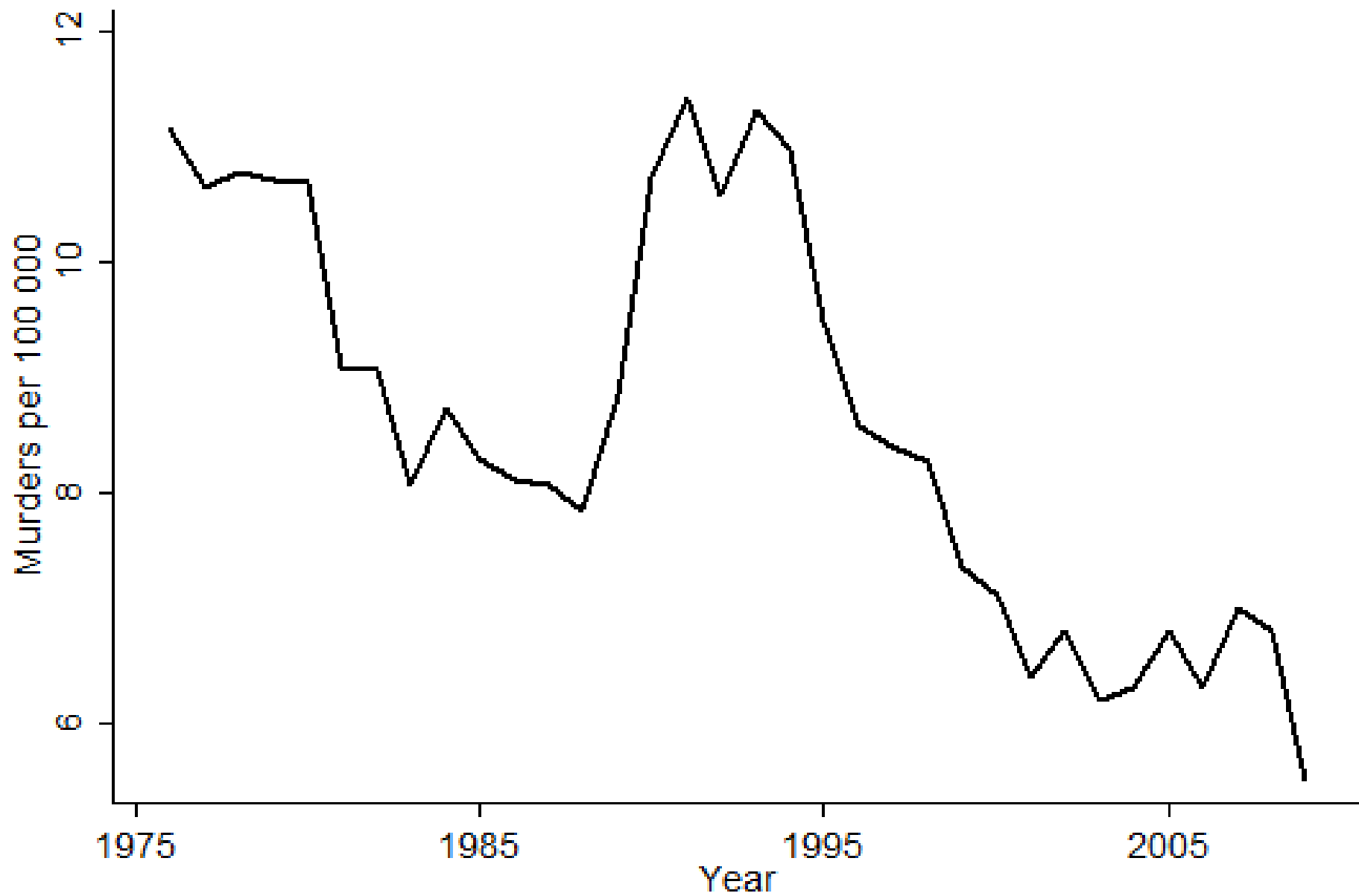


Each year adds 107 Days to Time from Sentence to Execution

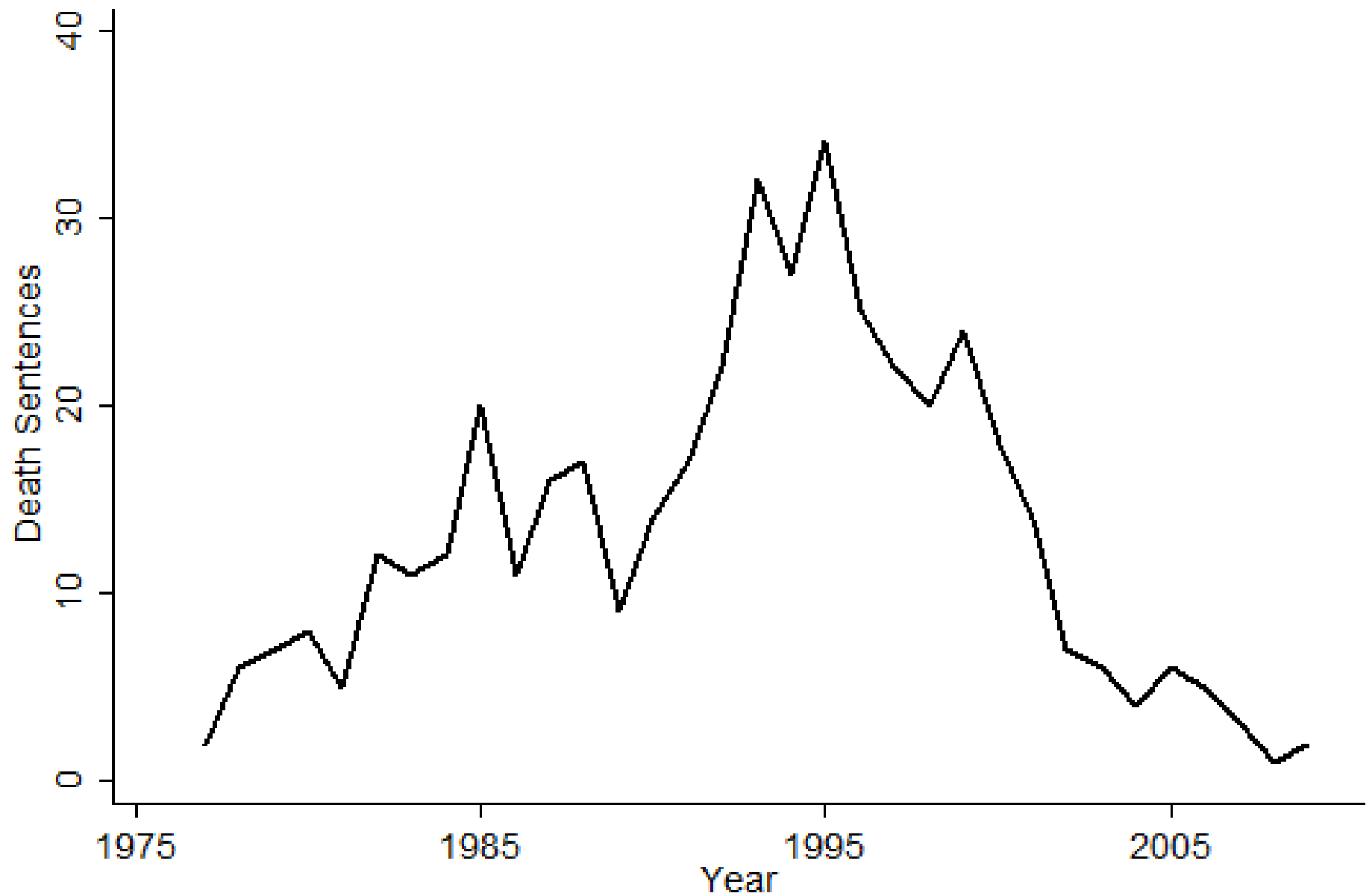
NC Murders Since 1976



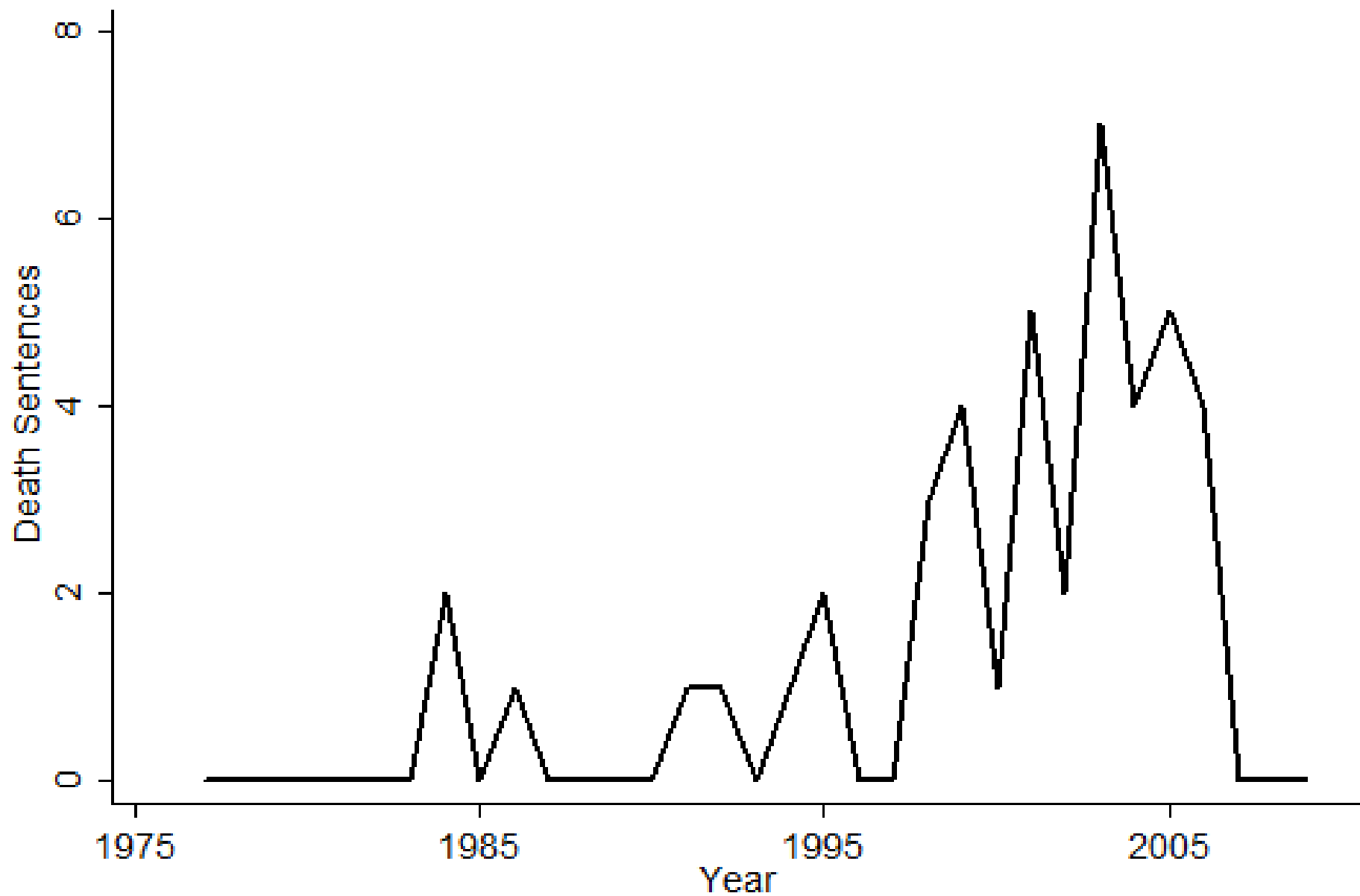
NC Murder Rates Since 1976



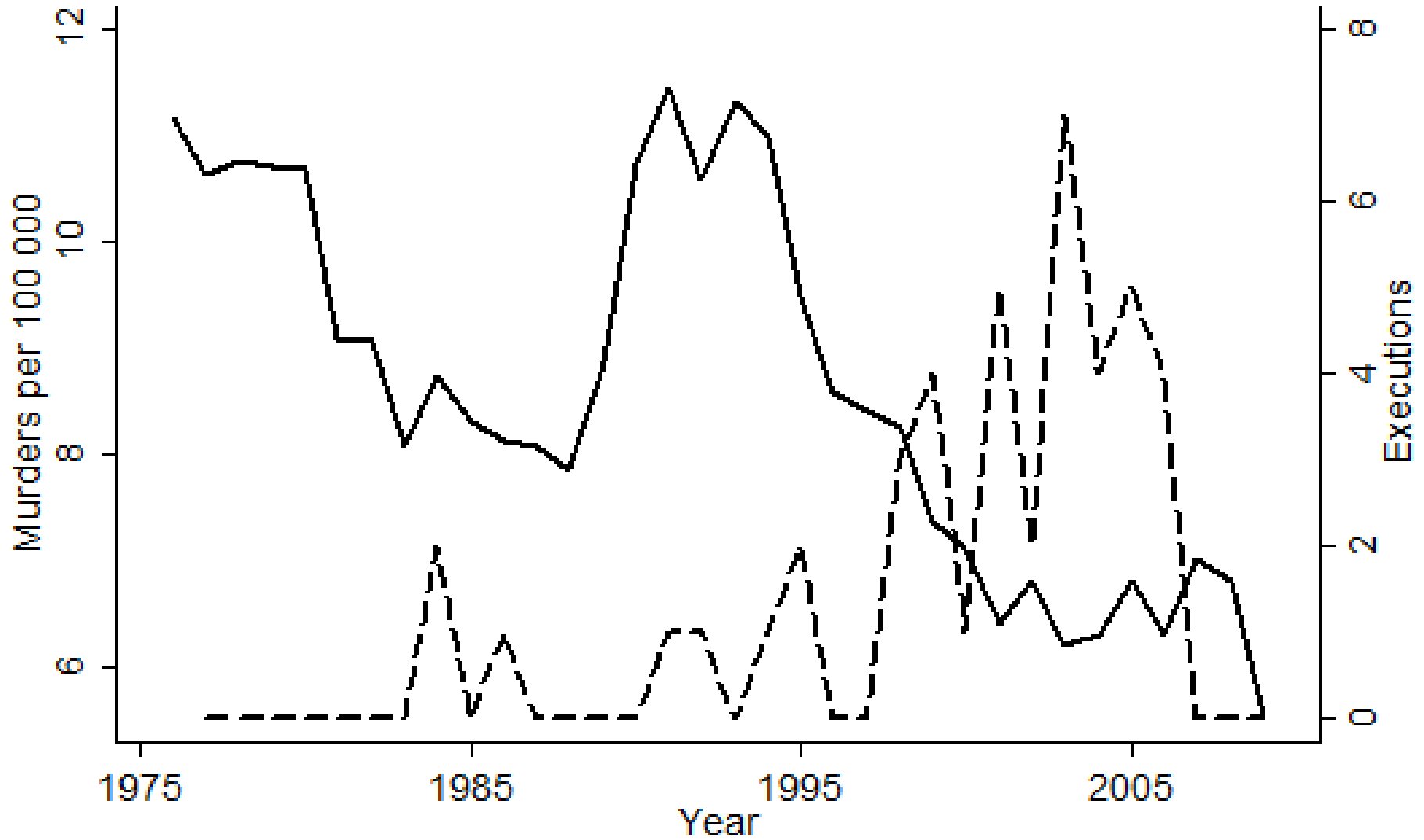
NC Death Sentences Since 1976



NC Executions Since 1976

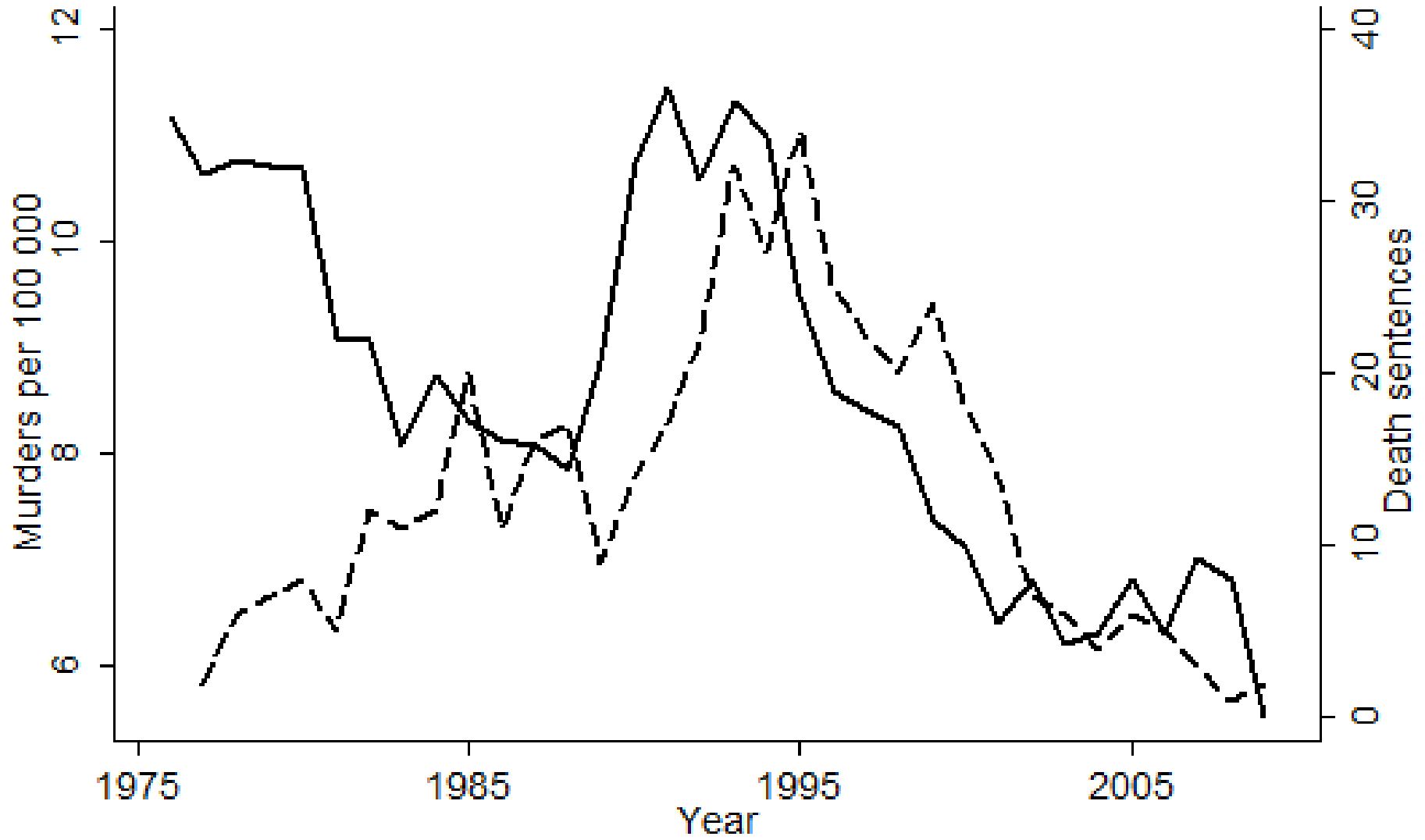


NC Murder Rate and Executions Since 1976



— Murders per 100,000 - - - - Executions

NC Murder Rate and Death Sentences Since 1976



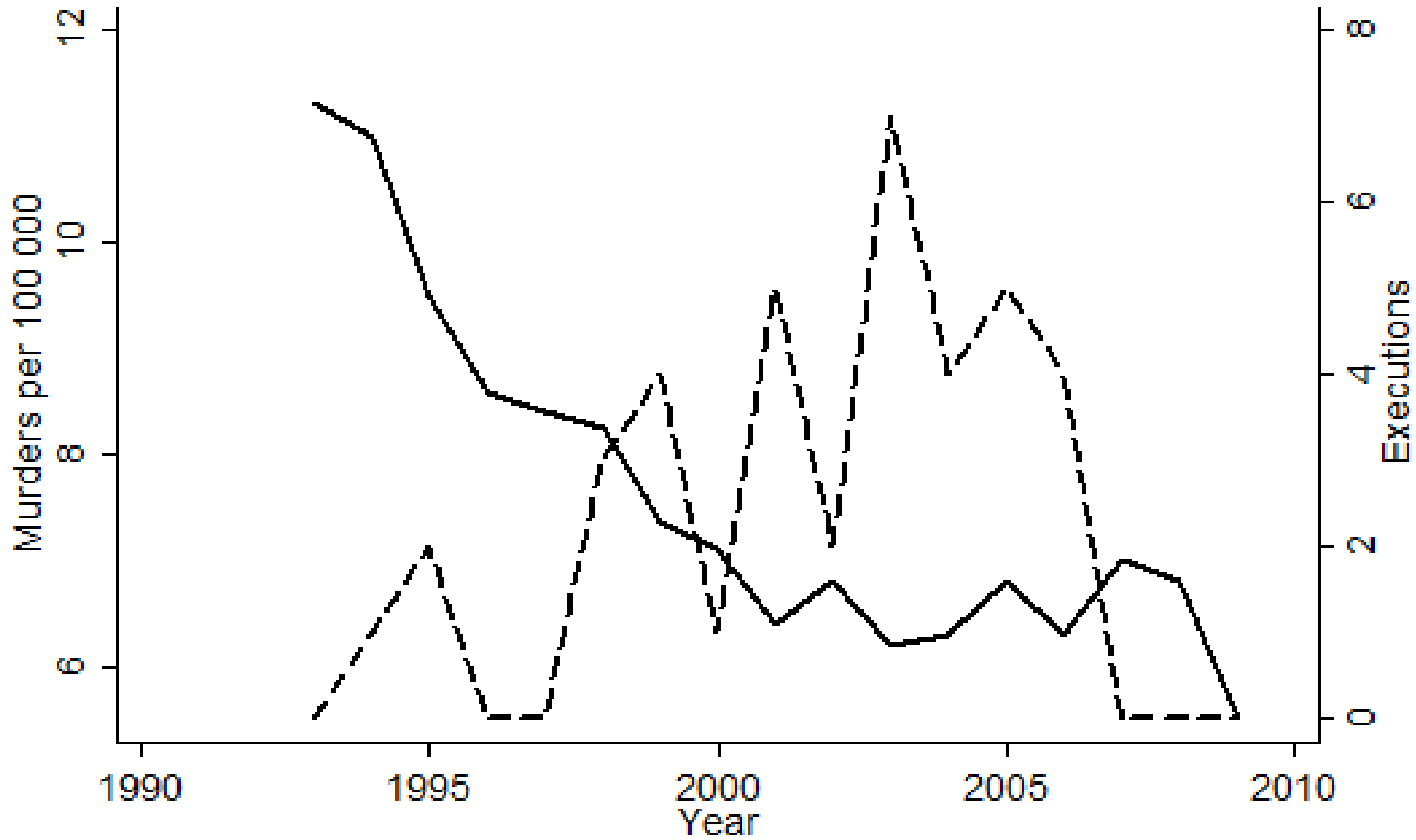
— Murders per 100,000 - - - - - Death Sentences

NC Murder Rate and Death Sentences Since 1993



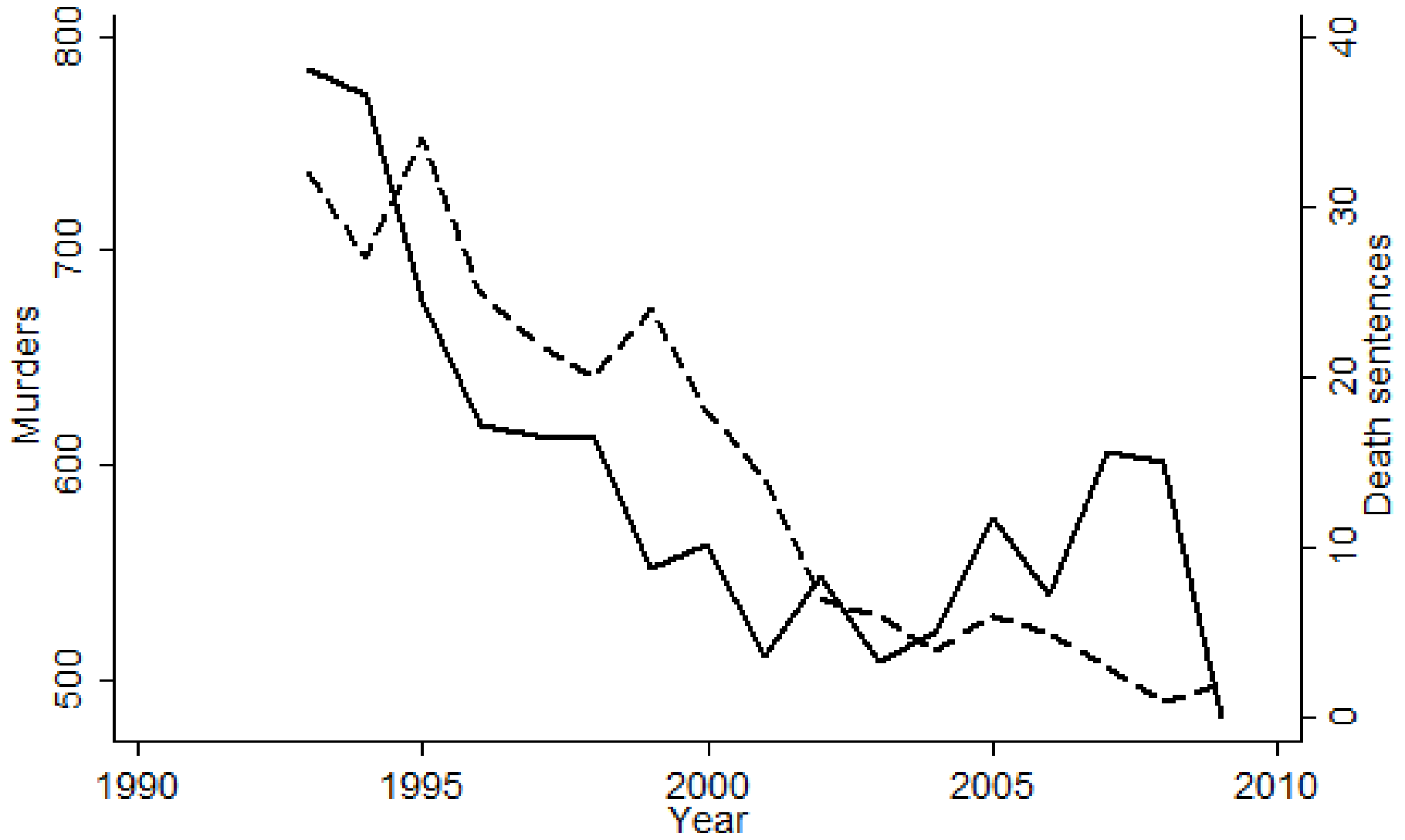
— Murders per 100,000 - - - - - Death Sentences

NC Murder Rate and Executions Since 1993



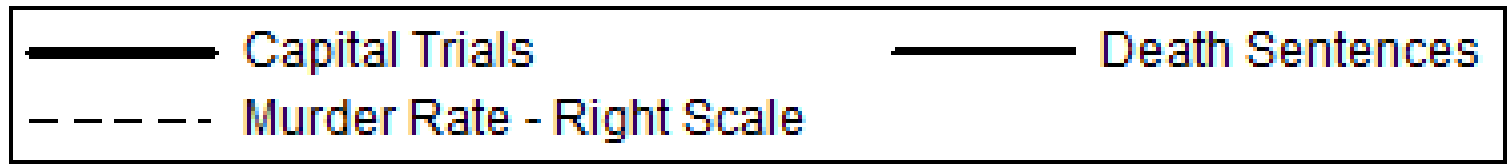
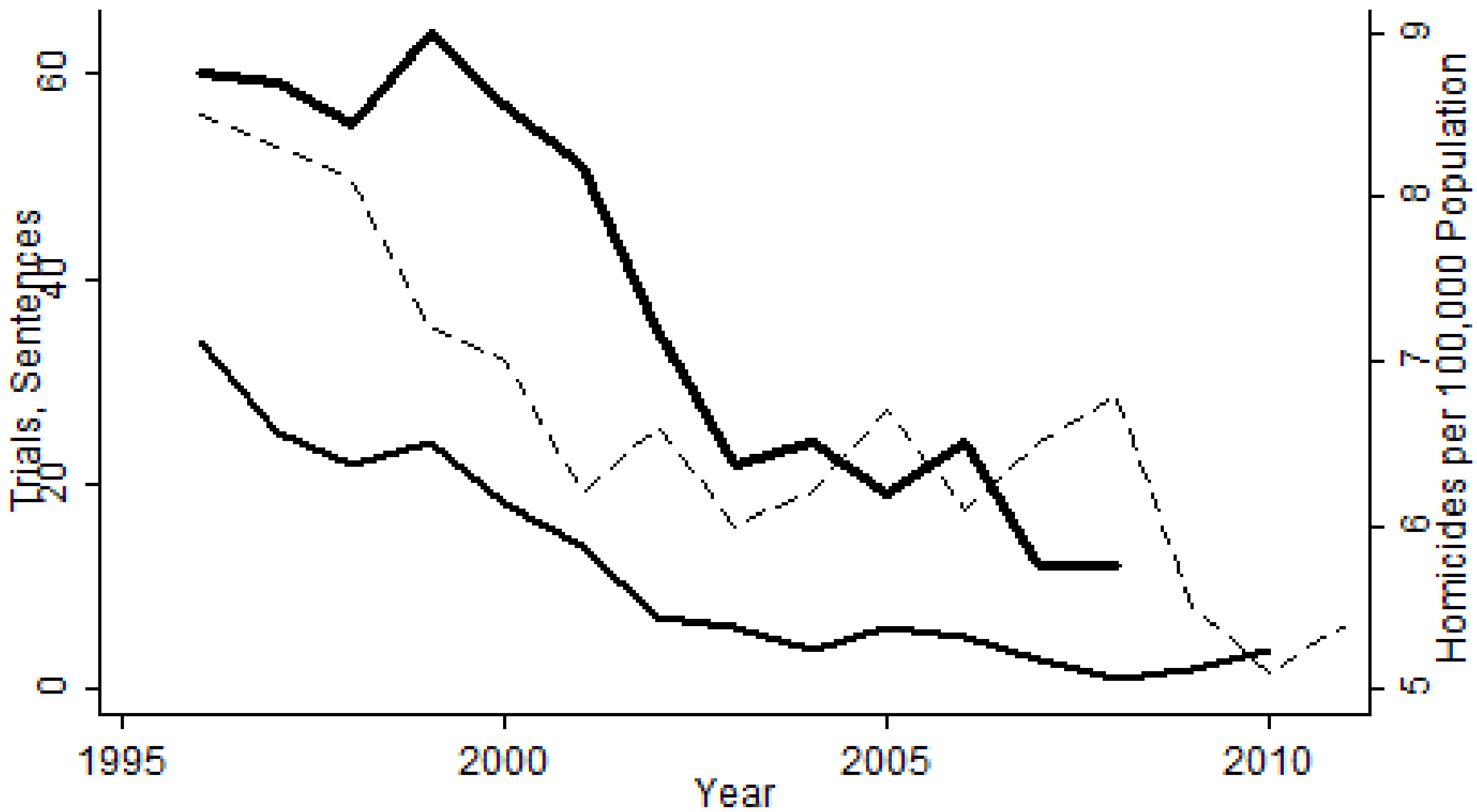
— Murders per 100 000 - - - - Executions

NC Murders and Death Sentences Since 1993



— Murders - - - - - Death Sentences

NC Murder Rates and Death Penalty Trends, 1996 to 2011



NC Death Penalty Trends, 1996 to 2011

