

Baumgartner, POLI 203

Spring 2016

NC trends and use of the death
penalty

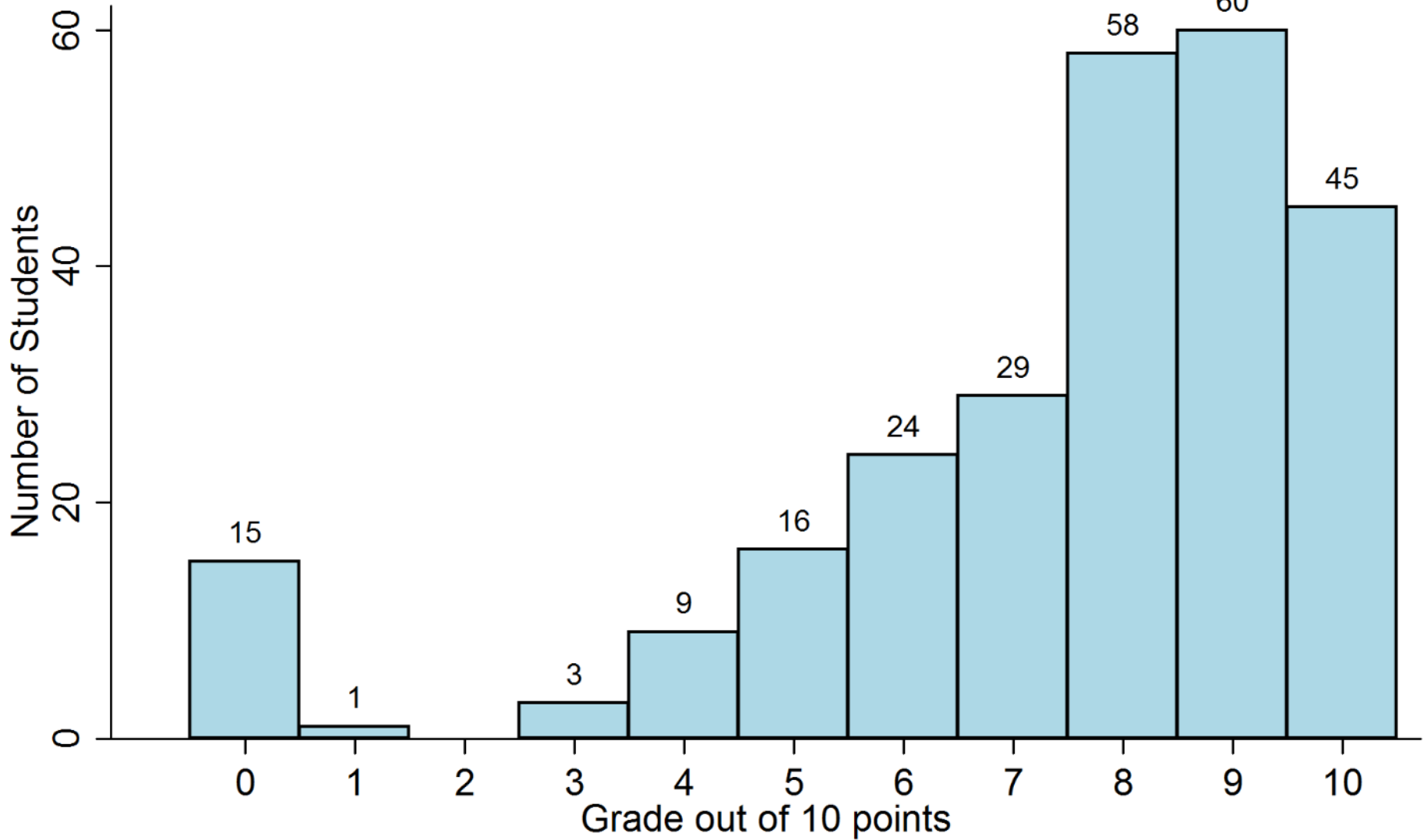
February 29, 2016

Reminders

- Central Prison visits: Please show up if you signed up. Empty spaces on the list just mean someone else was not able to go; this is impolite! If you attended, talk about what you saw in discussion.
- Papers due in a few weeks; see the class web site for a document about what we are looking for.

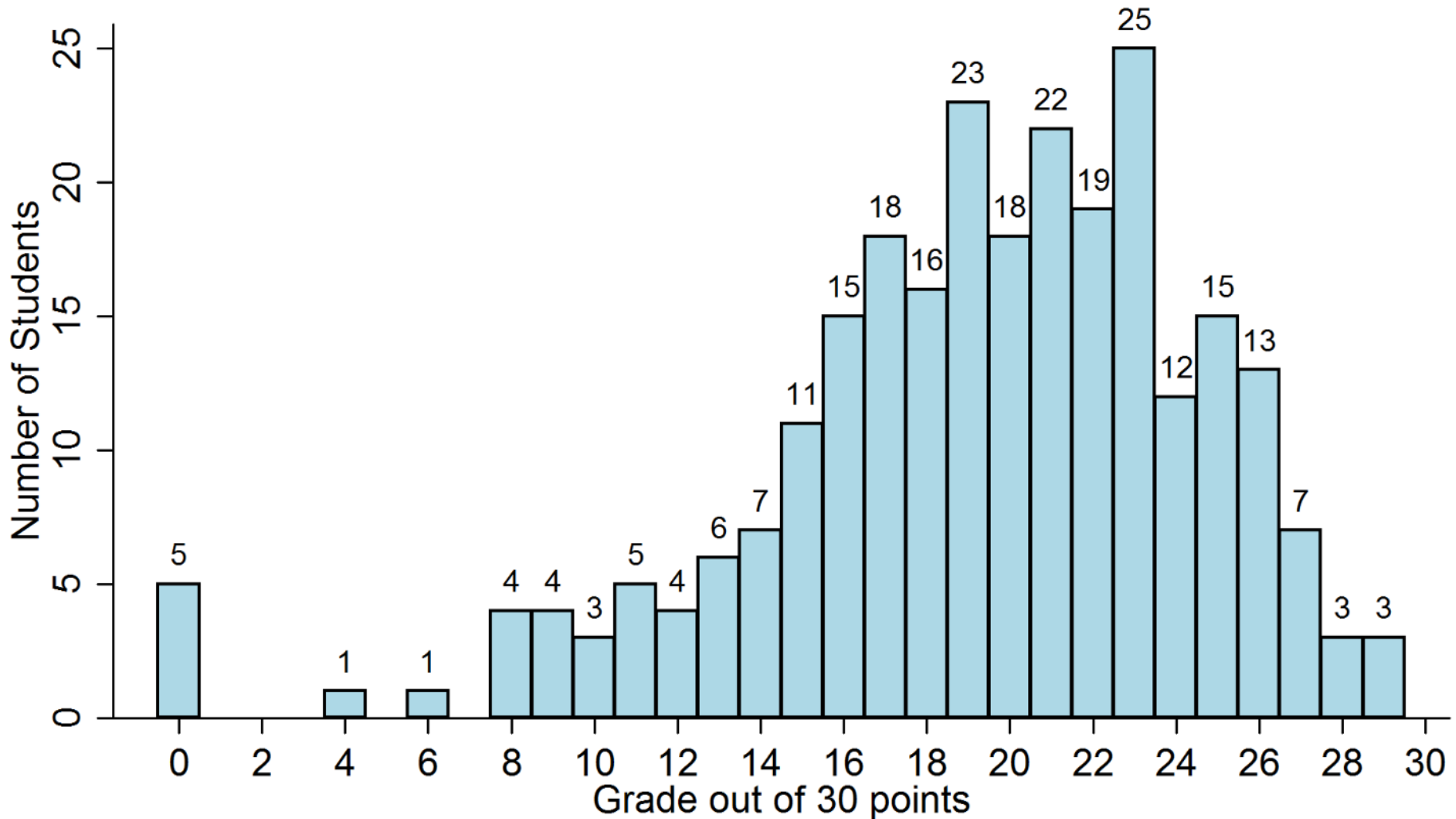
Third graded quiz, out of 10

Much better, Tar Heels!



Mean grade: 7.86; Median grade, 8. N = 245 / 260.

Three quizzes accumulated, out of 30. Keep studying.
We need to move this distribution to the right.



Mean grade: 19.2; Median grade, 20. N = 260.

Quiz from the other day

1. Judge Davis, the judge who heard the Bo Jones' first appeal, is known by what nickname?
_____ (The Deacon)
2. North Carolina used to use the now unconstitutional hard cutoff of _____ IQ points to classify intellectual disability in sentencing. (70)
3. What was the name of the organization that defended Bo Jones in The Last Lawyer? Hint: it is the same as that for almost all capital defendants in North Carolina. _____
(Center for Death Penalty Litigation (CDPL)).
4. What is the name of the primary witness who testified against Bo Jones in the original trial?
_____ (Lovely Lorden)
5. What was the occupation of Leamon Grady, Bo Jones' alleged victim? _____
(bootlegger)
6. Researchers found higher support for juvenile LWOP if the child in the question was black rather than white. The difference in support is statistically significant. However, was it MORE or LESS than one point on a 6-point scale? (LESS)
7. According to lecture, in what year did the last execution in North Carolina occur? _____
(2006)
8. What does Gary Griffin do now for a living? _____ (Works on capital appeals as an investigator / works for the state on capital defense)
9. In what North Carolina county was Bo Jones tried and convicted? _____ (Duplin)
10. What term do we use to refer to someone like Ricky Lee Sanderson, who ended all appeals and decided to go ahead with an execution as a way to give closure to the victim's family?
_____ (Volunteer)

Quiz 2 answers, fyi, from Feb 10

- According to Anthony Ray Hinton, who was “the white lady in the car” whose voice he heard for the first time in his friend’s car after leaving prison?
_____GPS_____
- In the early ‘90s, the term _____SUPER-PREDATOR_____ was used to describe a new type of juvenile offender who was claimed to be beyond rehabilitation.
- Montgomery v. Louisiana retroactively applied Miller v. Alabama’s decision that mandatory _____LWOP_____ for juvenile offenders was unconstitutional.
- About what percent of US homicide victims are White females? _____5-10_____
- The _____ALFORD_____ Plea refers a plea of guilty without acknowledging guilt.
- How many exonerations in total have occurred in the US since 1989? _____1733 (1600-1800)_____
- How many exonerations of death row inmates have occurred since 1973? _____156 (125-175)_____
- Fernando Bermudez made money in prison by selling _____CLOTHES_____.
- George Stinney was executed in 1944 at 14 years old. He was the only person to be exonerated after execution. What state was he from? _____SOUTH CAROLINA_____
- Among Black inmates executed since 1976 who had a single victim, about what percent of their victims were Black? _____40 (35-45)_____

Updates

- Gary Griffin
 - Confusing discussion about how he got out
 - <http://law.justia.com/cases/mississippi/supreme-court/1990/03-dp-0068-1.html>
 - Initial death sentence overturned because of prosecutorial misconduct, statements in court that were not permissible, including stating that the defendant had confessed.
 - He argued it was manslaughter, unintentional, that he only intended to hit him over the head (with a shotgun barrel). Prosecution argued it was premeditated, first degree.
 - New trial of guilt ordered in February 1990; crime was from February 1985
 - Negotiated plea deal, 2nd degree murder, 18 more years, then parole.

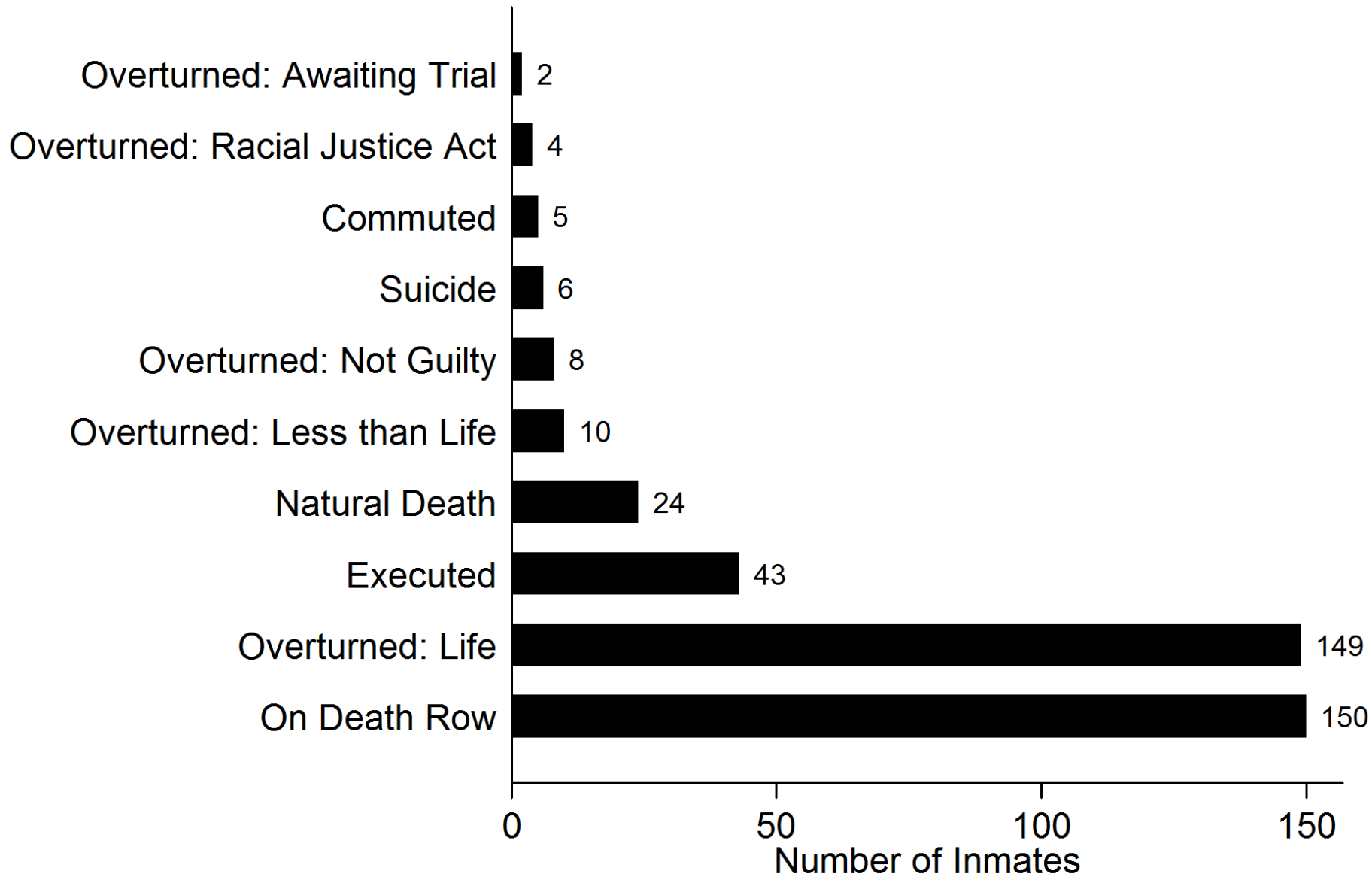
Homicide or Manslaughter?

- Various kinds of killing, see the NC Statutes, Chapter 14, article 6:
- <http://www.ncleg.net/gascripts/Statutes/StatutesTOC.pl?Chapter=0014>
- Sentencing guidelines:
<http://www.nccourts.org/Courts/CRS/Councils/spac/Sentencing/Punishment.asp>
- Murder in 1st degree (willful or premeditated) : Class A, punishment = LWOP or Death
- Second degree: Class B1 (192-240 months) or B2 (125-157 months) depending on degree of recklessness or drugs
- Voluntary Manslaughter: Any intentional killing in which the offender acted in the heat of passion or in response to provocation (not premeditated or planned): Class D, 51-64 months
- Involuntary Manslaughter: Involuntary killing (e.g., drunk driving): Class F, 13-16 months
- Self-defense (justifiable homicide): not a crime, no punishment.
- Note: in 1995 a drunk driver was prosecuted capitally because the DA interpreted the law to say the car was a murder weapon with multiple deaths... So these distinctions are sometimes hazy in practice and certainly subject to negotiation.
- Note: punishments go up if you have previous convictions, sometimes quite substantially.

Death, then parole?

- You'd be surprised...
- 65 percent of death penalties are overturned on appeal, nationally.
- When retried, most are sentenced to Life in prison, usually without the possibility of parole (LWOP)
- But some get lesser sentences, or are acquitted (exonerated).
- <https://www.ncdps.gov/Index2.cfm?a=000003,002240,002327,002338> search for “paroled” or “released”

North Carolina Death Penalty Outcomes, 1977-2014



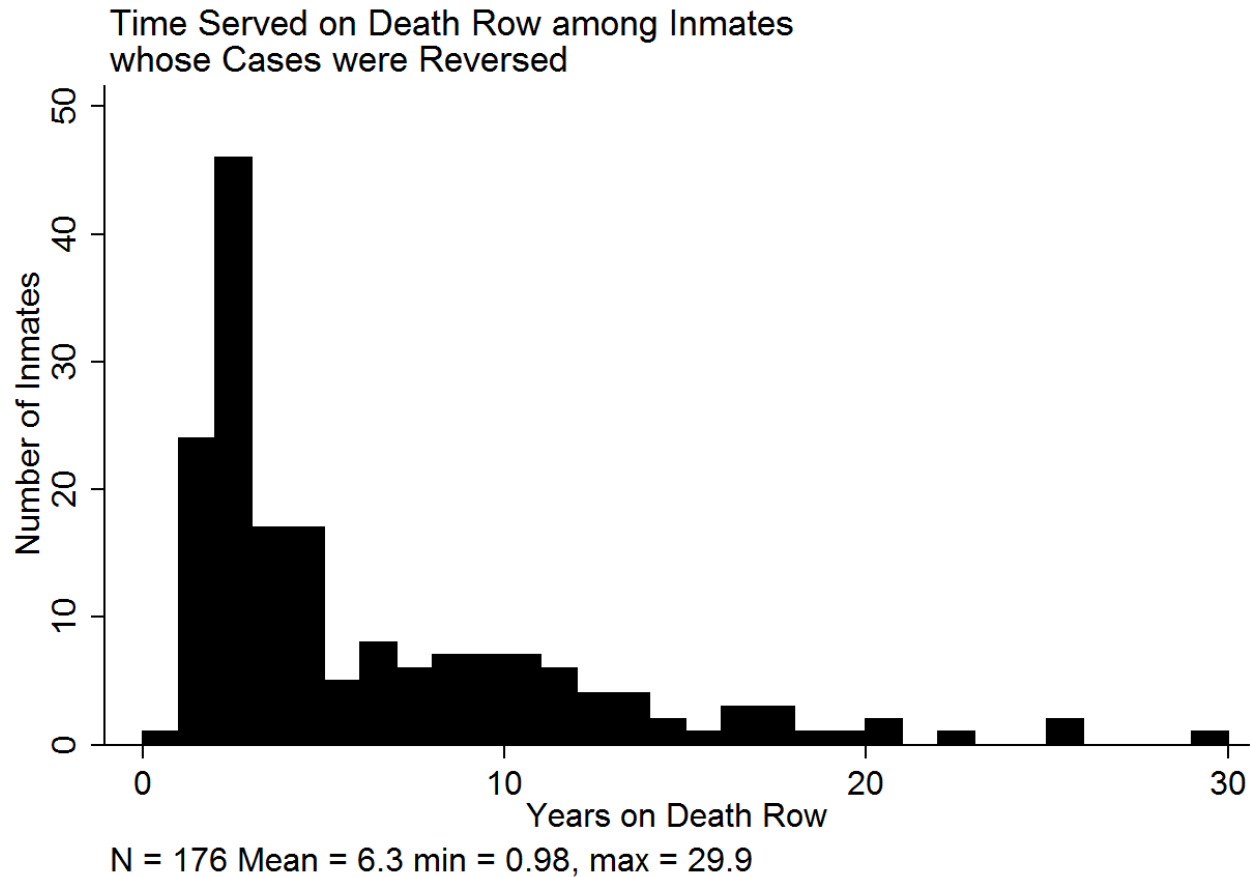
Based on 401 inmates sentenced to death, 1977 through Dec 31, 2014.

What Death Row Inmates have walked the streets in NC?

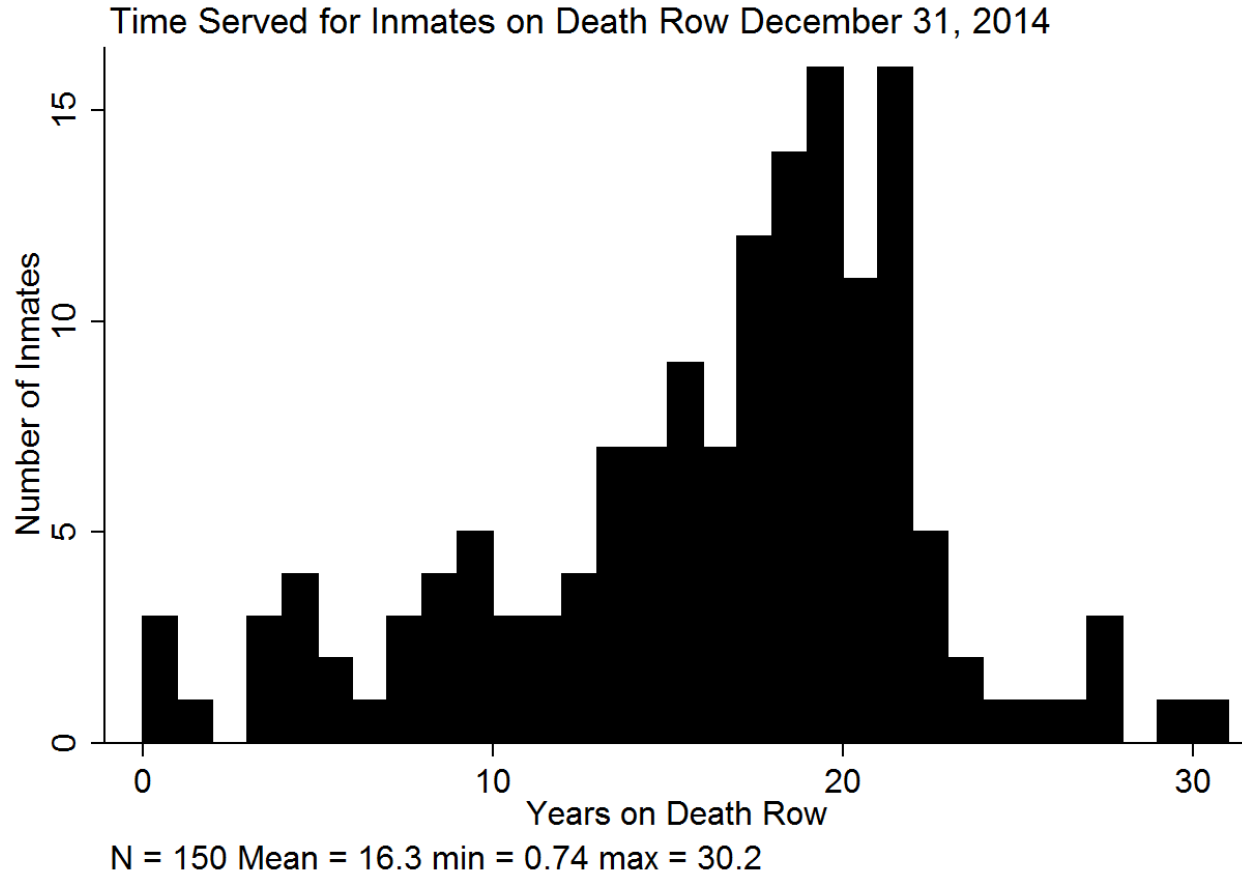
- 29 inmates have walked out of prison
 - 15 resentenced to Life before 1992 (sentenced to death 1977-1986). There was no LWOP until 1994. Therefore they got Life With Parole, which meant at the time 20 years.
 - 6 resentenced to less than life, served their terms and were released.
 - 8 were exonerated.

Time on Death Row before reversal.

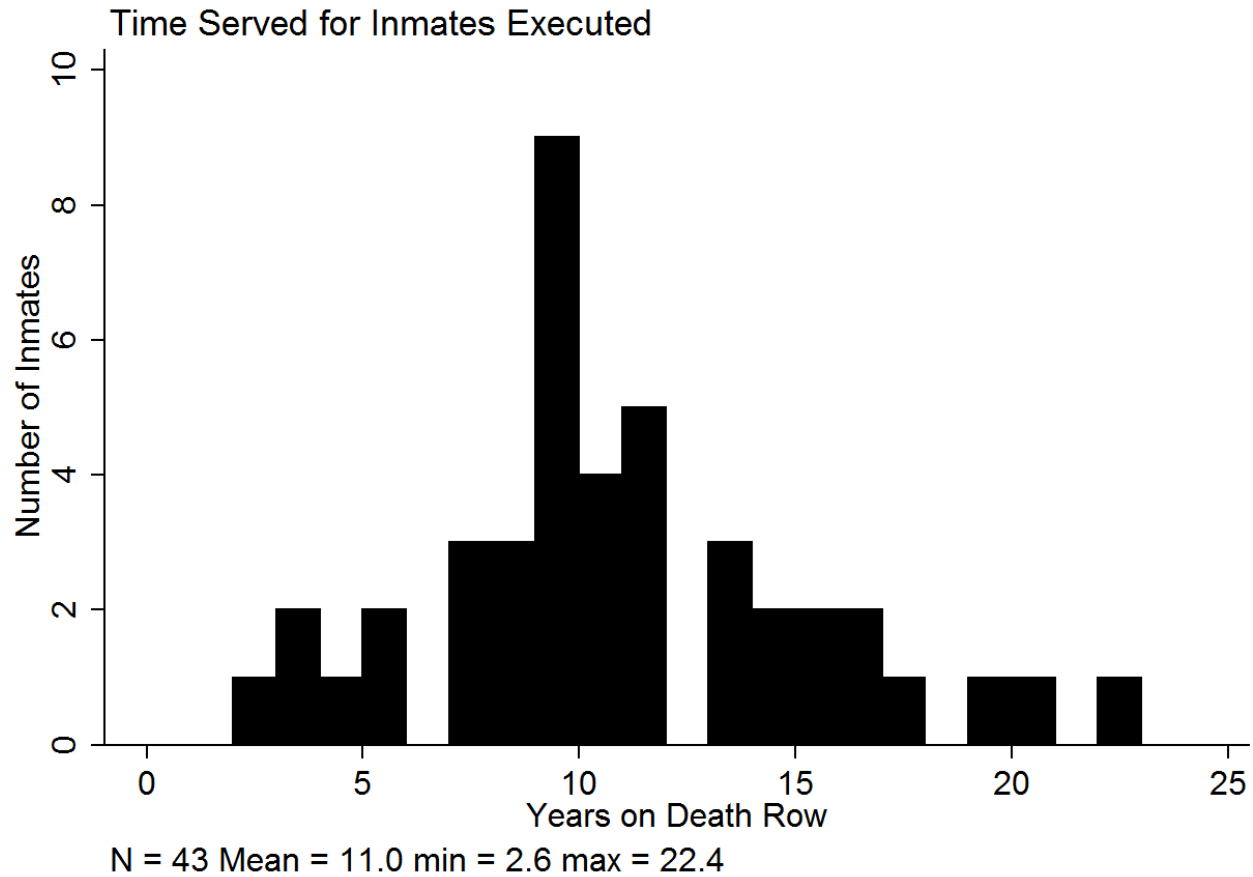
Henry McCollum: 30 years.



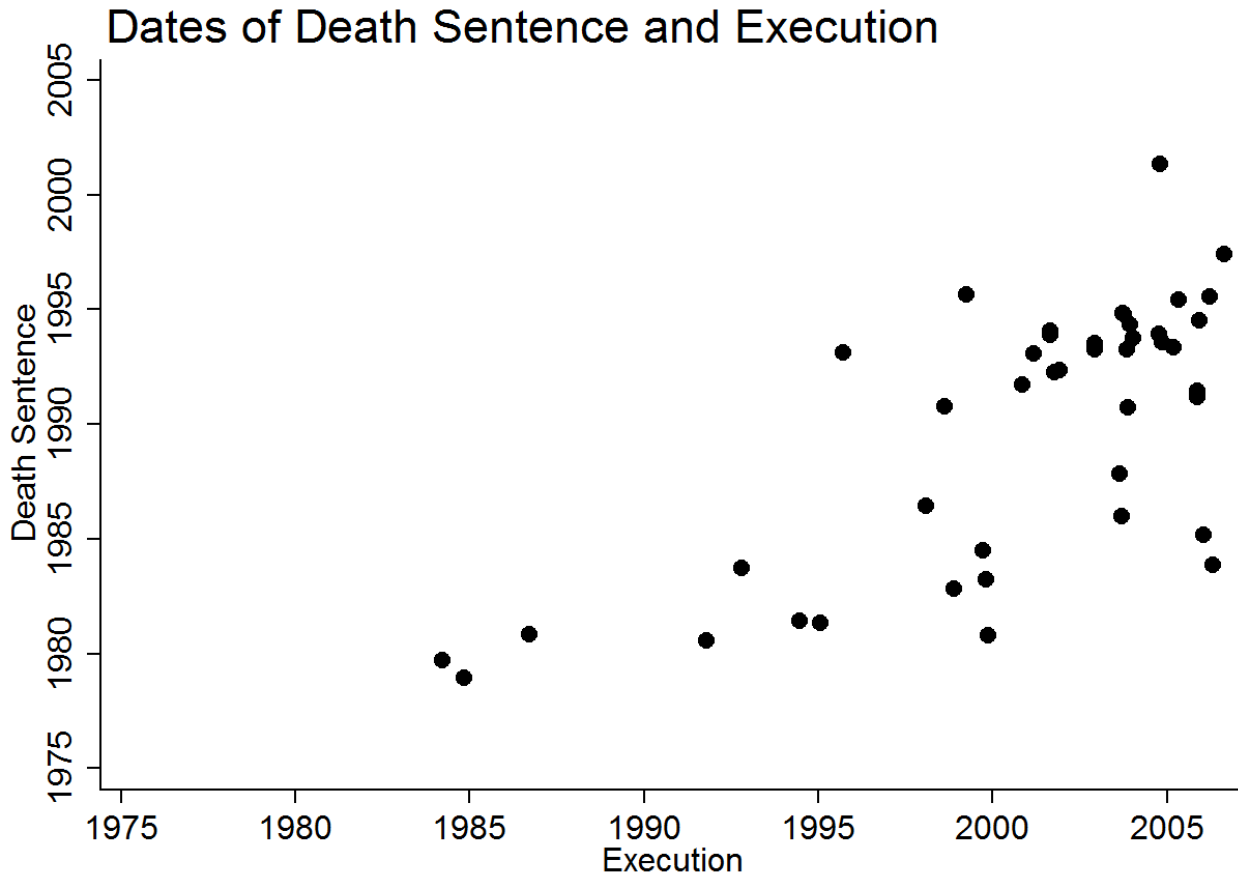
Current Death Row



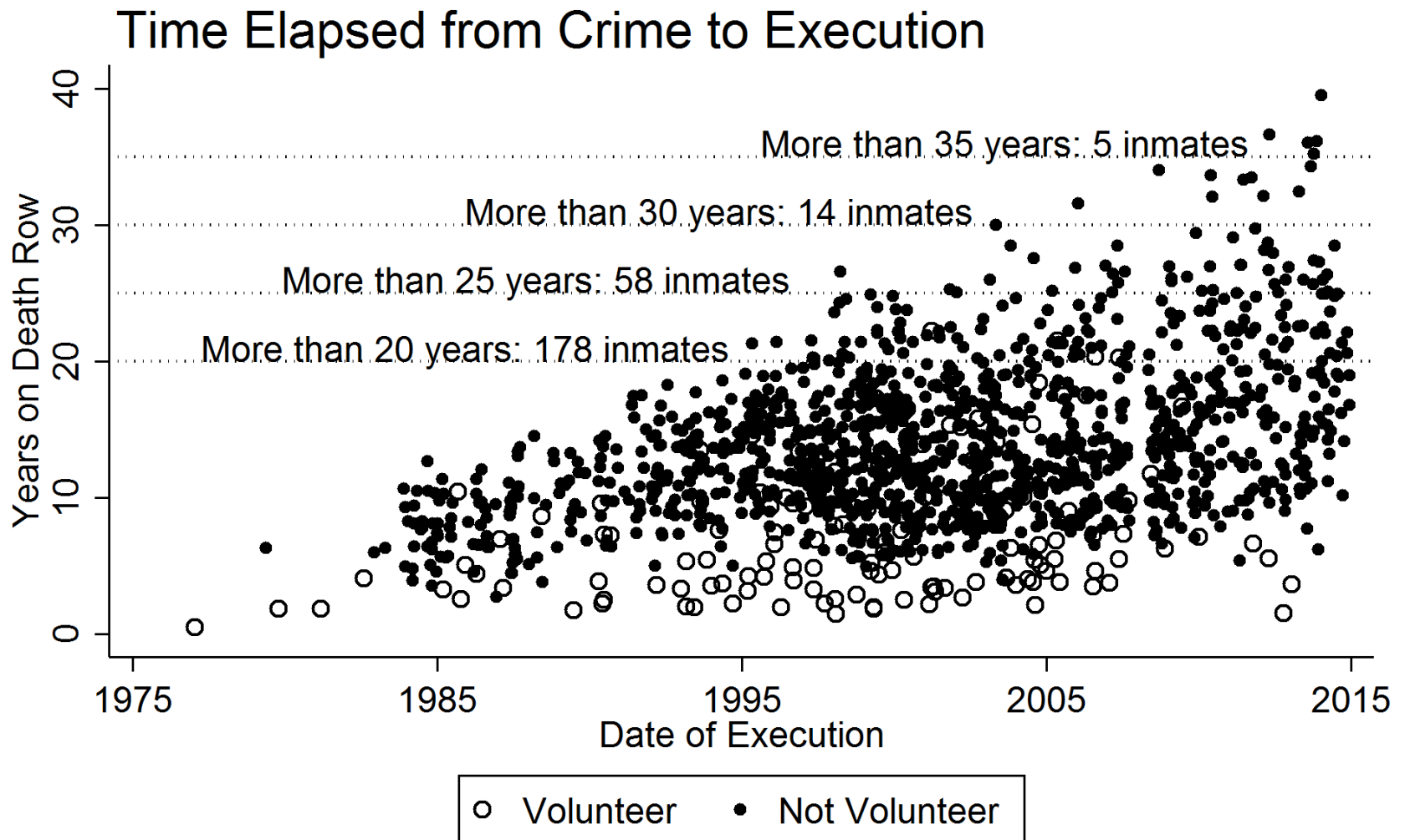
Delays before Execution, NC



Time before execution was growing in NC as in the US.



US executions by time delay

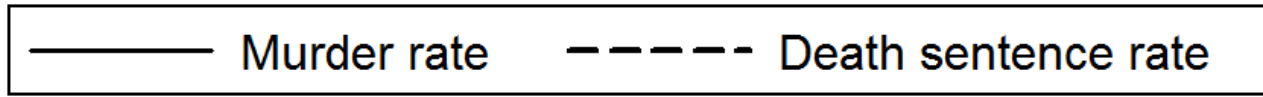
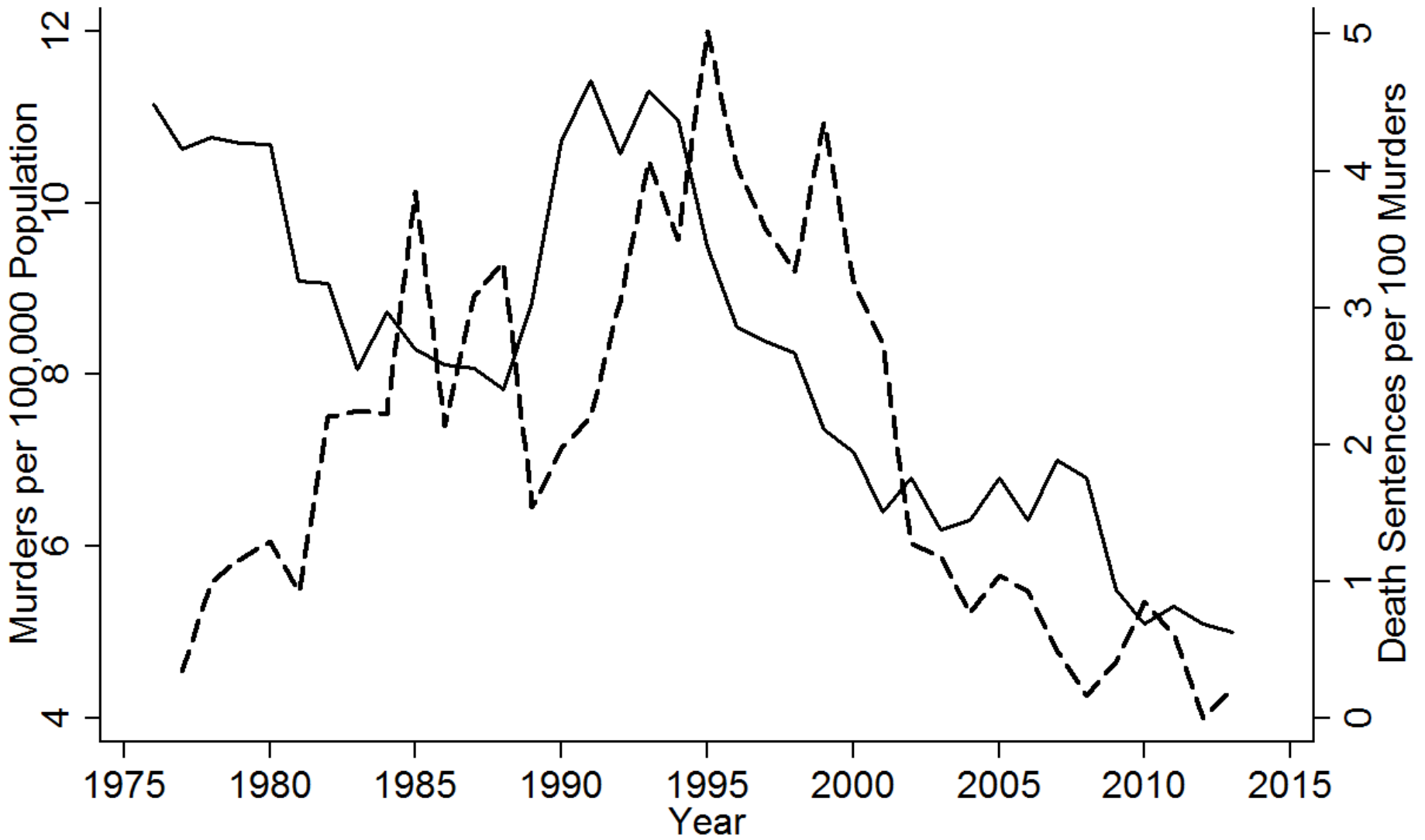


Includes 1,379 of 1,394 executions from 1977 through 2014.
Excludes 15 cases where the exact date of the crime is unavailable.
Volunteers: 137, Non-volunteers, 1,257

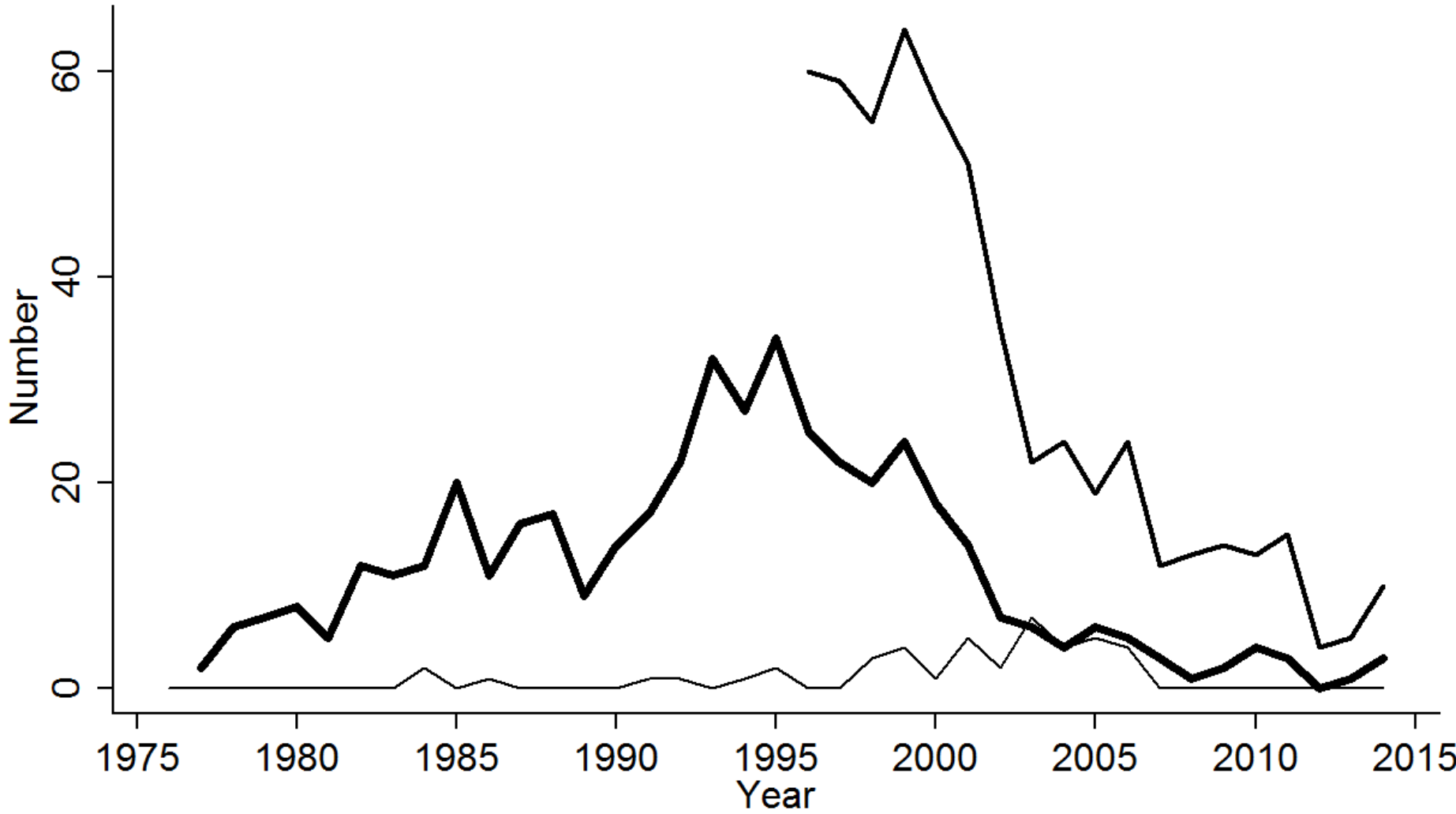
Three Periods for NC

- 1976 to about 1990: homicides high, death penalty growing dramatically
- 1990-2000: both high; homicides begin to drop
- 2000-2015: both in precipitous decline

NC Murder Rate and Death Sentence Rate Since 1976

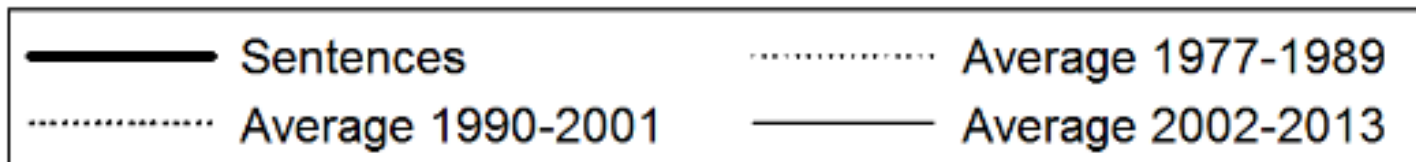
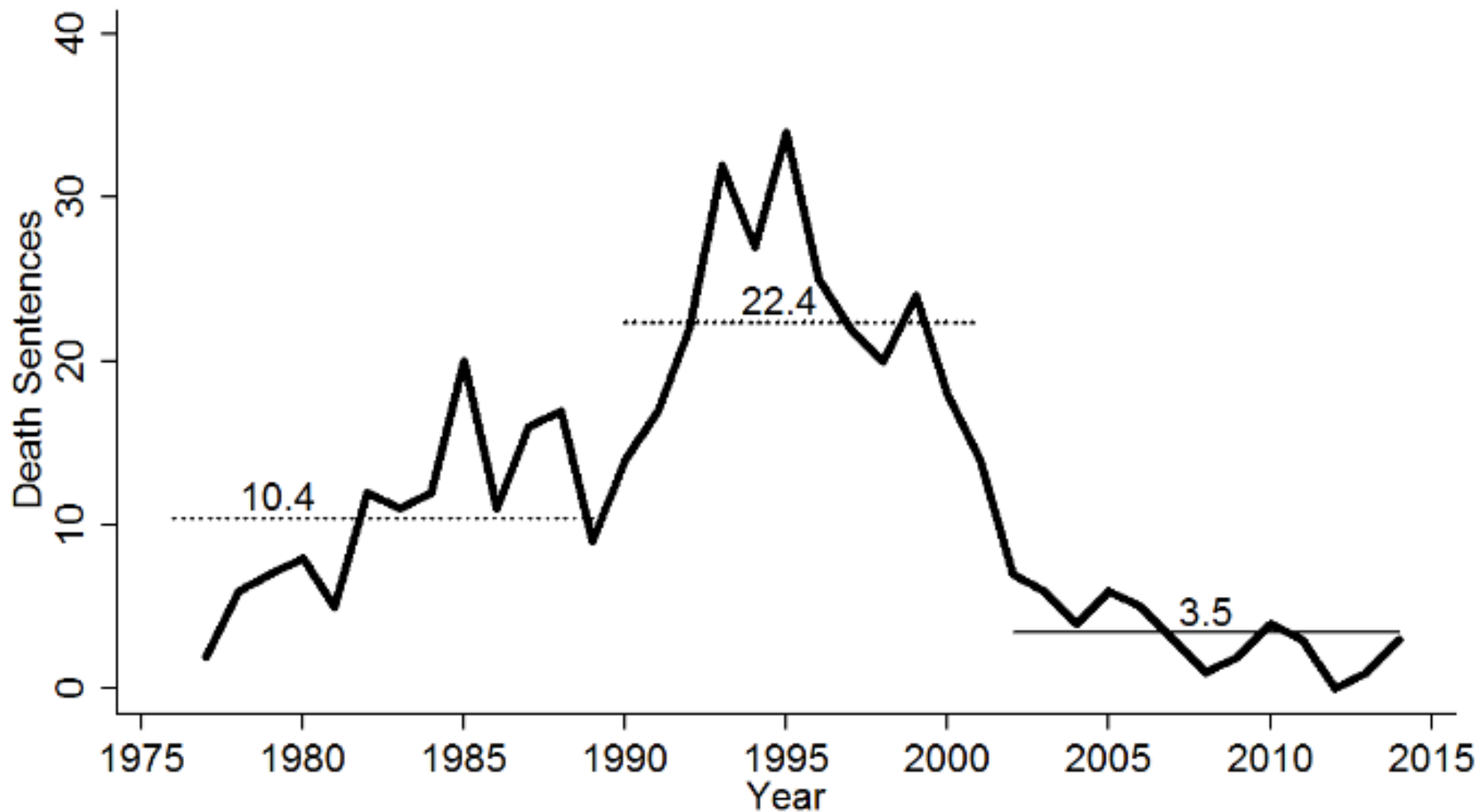


Death Penalty Trends in NC -- 1976-2014

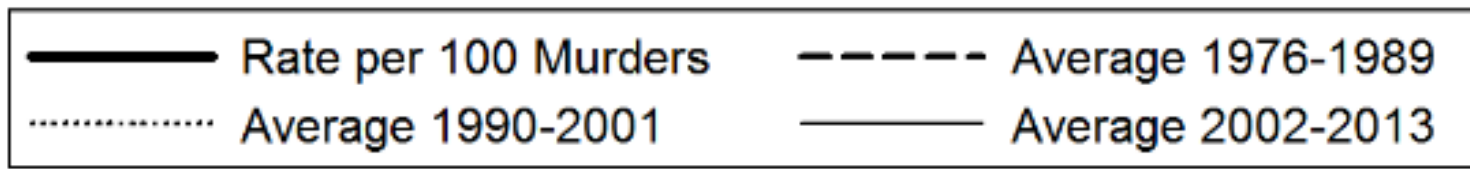
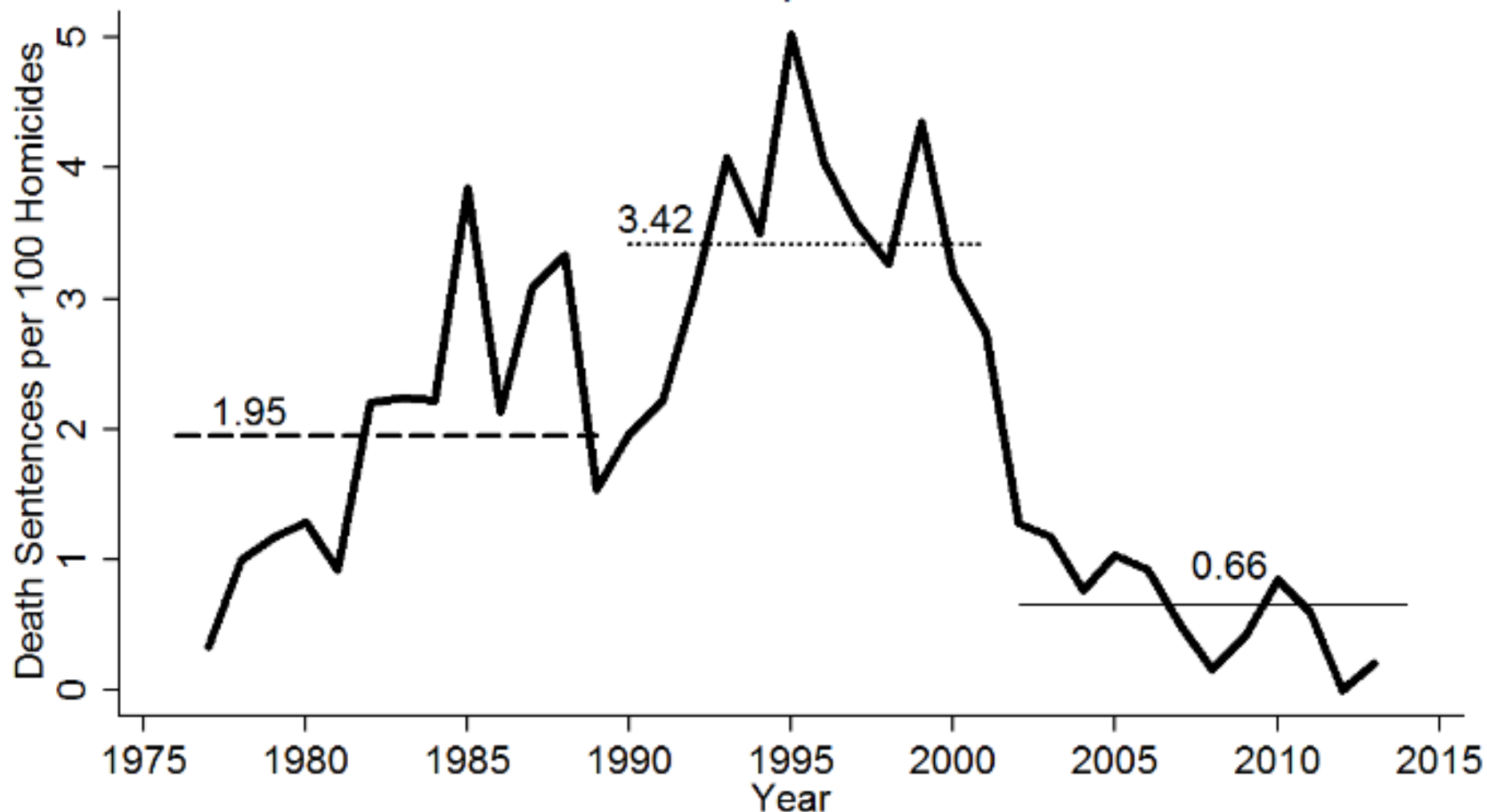


Capital Trials Death Sentences
Executions

Death Sentences



Death Sentences per 100 Homicides



Death Case finished in Wake County

- Wake County trial (not Durham, as I had said in class, my mistake). Wake is 69% white, 21% black.
- Travion Smith sentenced to life, not death
- Jury deliberated for ... one hour!
- Sixth time in a row juries have given life, not death, in Wake County.
- DA questions whether we should have DP, though she sought it.
- <http://www.newsobserver.com/news/local/crime/article61773012.html>
- <http://www.twcnews.com/nc/triangle-sandhills/news/2016/02/23/wake-co--da-to-consider-community--message--about-capital-punishment-.html>

Juries not going for death?

- James Holmes (Aurora CO movie theater)
- Ted Kaczynski (Unabomber, negotiated plea)
- Jeffrey Dahmer (Milwaukee cannibal, plea)

- Travion Smith's accomplice, plea deal for LWOP

Prominent killers not receiving death

- James Earl Ray: sentenced to 99 years for killing MLK, Jr.
- John Hinckley, attempted assassination of Ronald Reagan
- Herman Bremer, attempted assassination of Gov. George Wallace (AL)
- Lee Harvey Oswald (JFK), killed before trial
- Jack Ruby (killed JFK killer Oswald, died in prison before his second trial)

Negotiating Strategy

- Both Ken Rose and Gary Griffin mentioned their job is often to convince defendants to plead guilty to get LWOP or Life rather than go to trial.
- Travion Smith “risked it” or “took the gamble” and got the outcome he would have negotiated for: LWOP.
- If juries won’t give death in Wake Cty NC, then will prosecutors be able to negotiate?
- Is death / should it be a bargaining chip?