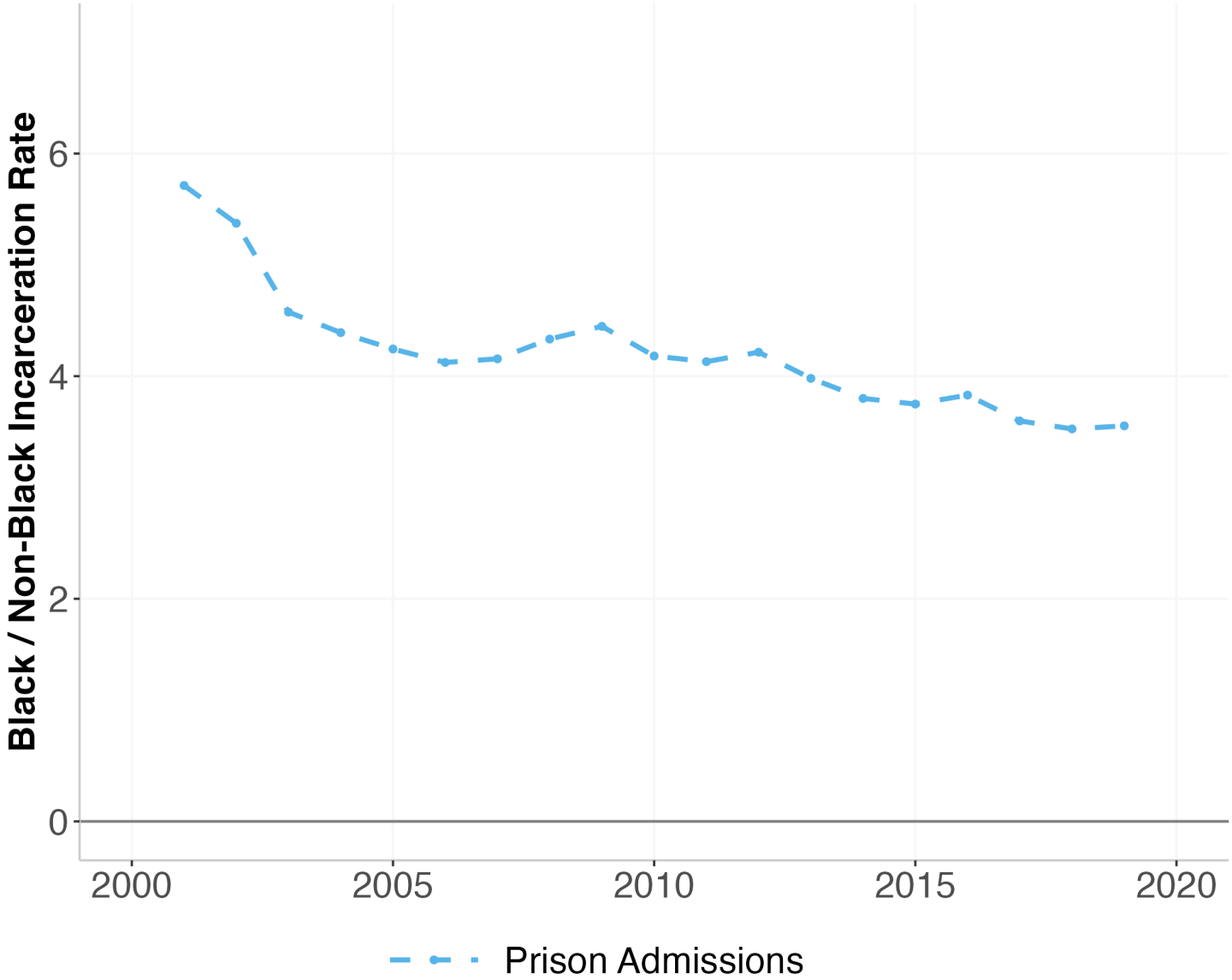


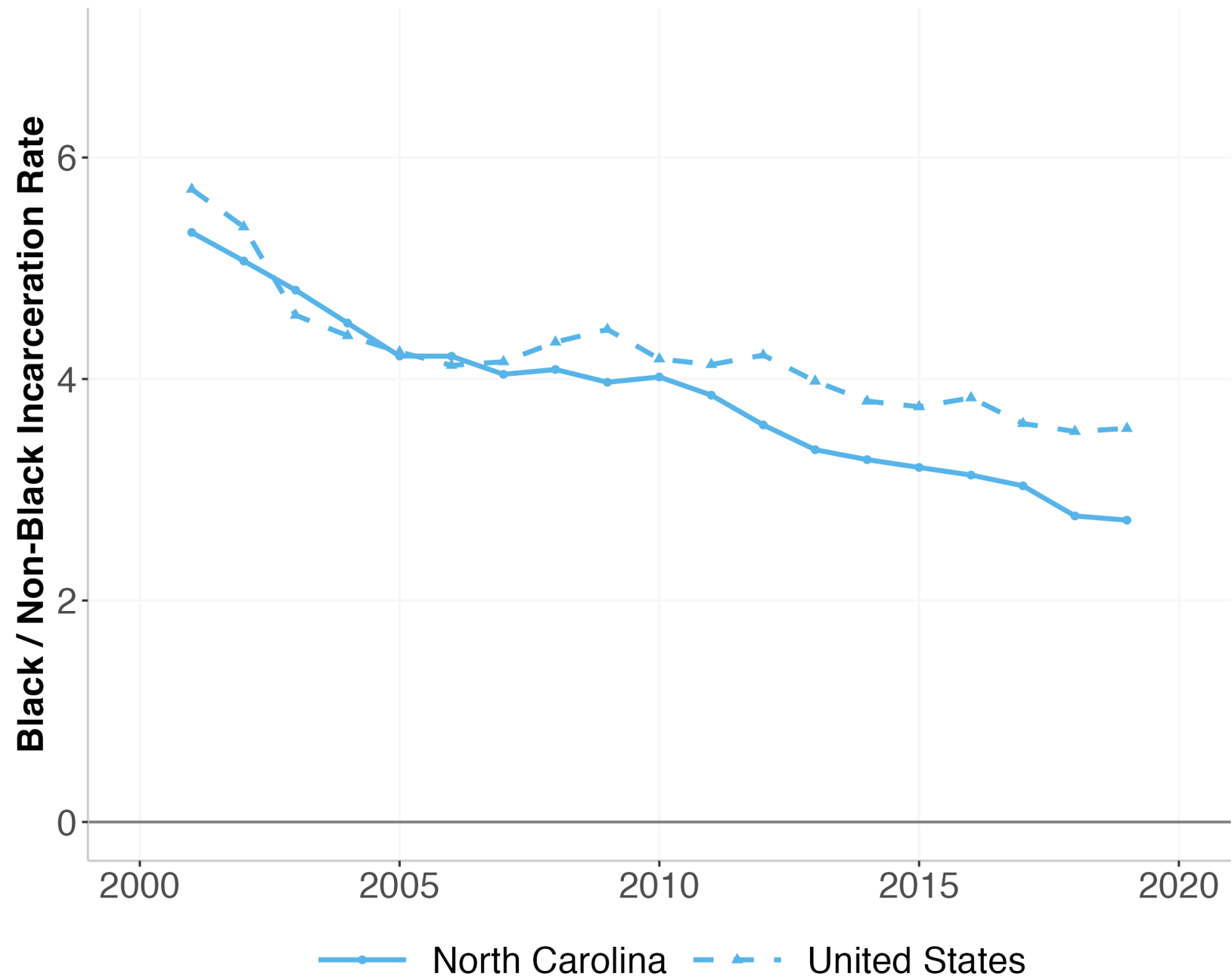
Prosecutors' Impacts on Racial Disparities

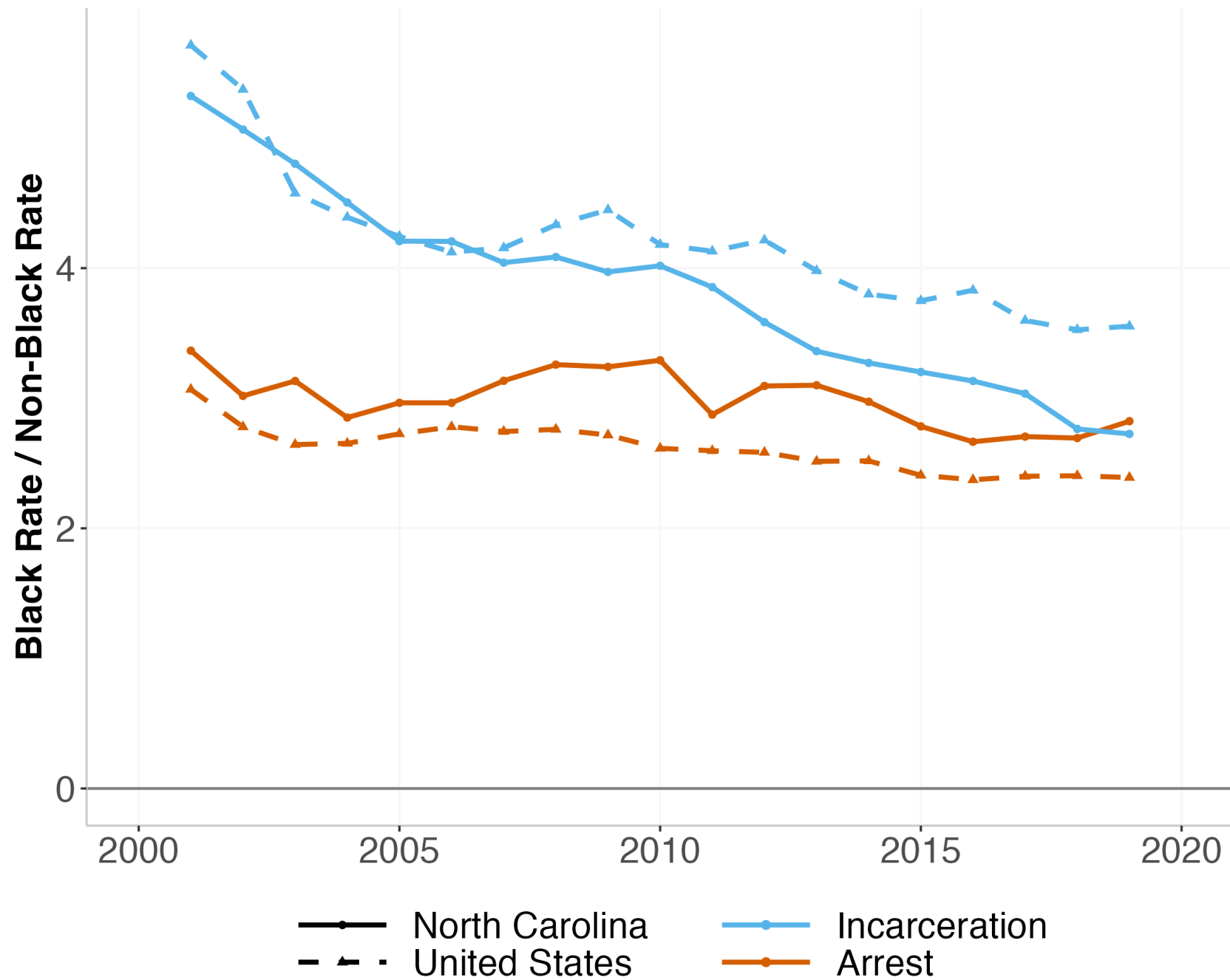
National Academies Workshop Prosecution

Hannah Shaffer

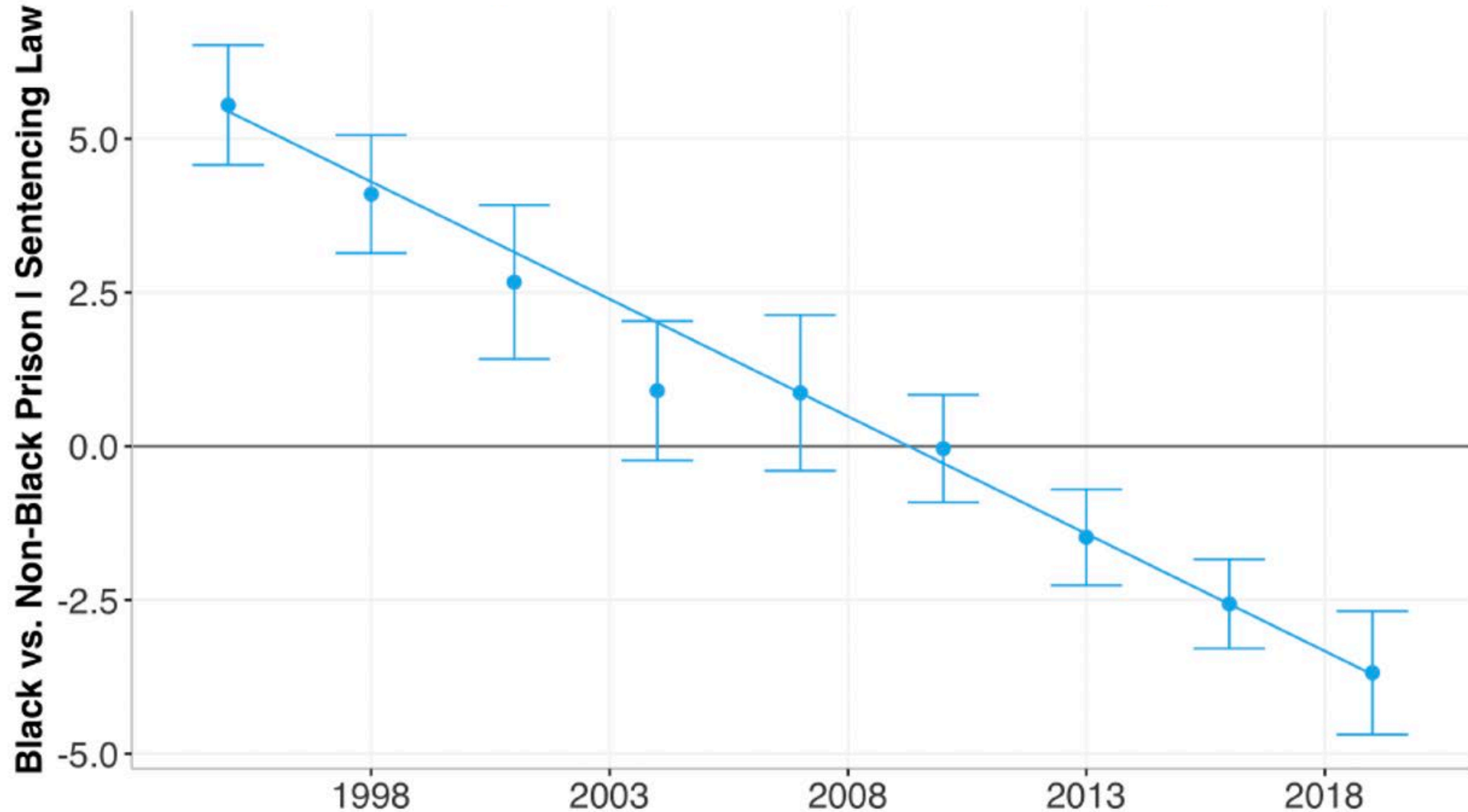
National Trend in Incarceration Disparities







The Court System's Impact on Racial Disparities



Isolating Discretion

Challenge: How to net out constraints on discretion, particularly from weak evidence?

Design: Measure the change in charge reductions for defendants who just qualify for mandatory prison (vs. those with slightly shorter criminal records who do not)

		PRIOR RECORD LEVEL							
		I 0 Pts	II 1-4 Pts	III 5-8 Pts	IV 9-14 Pts	V 15-18 Pts	VI 19+ Pts		
OFFENSE CLASS	A	Death or Life Without Parole							
	B1	A	A	A	A	A	A	DISPOSITION MONTHS Aggravated Range	
		240 - 300	288 - 360	336 - 420	384 - 480	Life Without Parole	Life Without Parole		PRESUMPTIVE RANGE Mitigated Range
		192 - 240	230 - 288	269 - 336	307 - 384	346 - 433	384 - 480		
	B2	144 - 192	173 - 230	202 - 269	230 - 307	260 - 346	288 - 384		
		A	A	A	A	A	A		
		157 - 196	189 - 237	220 - 276	251 - 313	282 - 353	313 - 392		
	C	125 - 157	151 - 189	176 - 220	201 - 251	228 - 282	251 - 313		
		94 - 125	114 - 151	132 - 176	151 - 201	169 - 225	188 - 251		
		A	A	A	A	A	A		
D	73 - 92	100 - 125	116 - 145	133 - 167	151 - 188	168 - 210			
	58 - 73	80 - 100	93 - 116	107 - 133	121 - 151	135 - 168			
	44 - 58	60 - 80	70 - 93	80 - 107	90 - 121	101 - 135			
E	A	A	A	A	A	A			
	64 - 80	77 - 95	103 - 129	117 - 146	133 - 167	146 - 183			
	51 - 64	61 - 77	82 - 103	94 - 117	107 - 133	117 - 146			
F	38 - 51	46 - 61	61 - 82	71 - 94	80 - 107	88 - 117			
	I/A	I/A	A	A	A	A			
	25 - 31	29 - 36	34 - 42	46 - 58	53 - 66	59 - 74			
G	20 - 25	23 - 29	27 - 34	37 - 46	42 - 53	47 - 59			
	15 - 20	17 - 23	20 - 27	28 - 37	32 - 42	35 - 47			
	I/A	I/A	I/A	A	A	A			
H	16 - 20	19 - 24	21 - 26	25 - 31	34 - 42	39 - 49			
	13 - 16	15 - 19	17 - 21	20 - 25	27 - 34	31 - 39			
	10 - 13	11 - 15	13 - 17	15 - 20	20 - 27	23 - 31			
I	I/A	I/A	I/A	I/A	A	A			
	13 - 16	15 - 19	16 - 20	20 - 25	21 - 26	29 - 36			
	10 - 13	12 - 15	13 - 16	16 - 20	17 - 21	23 - 29			
J	8 - 10	9 - 12	10 - 13	12 - 16	13 - 17	17 - 23			
	C/I/A	I/A	I/A	I/A	I/A	A			
	6 - 8	8 - 10	10 - 12	11 - 14	15 - 19	20 - 25			
K	5 - 6	6 - 8	8 - 10	9 - 11	12 - 15	16 - 20			
	4 - 5	4 - 6	6 - 8	7 - 9	9 - 12	12 - 16			
	C	C/I	I	I/A	I/A	I/A			
L	6 - 8	6 - 8	6 - 8	8 - 10	9 - 11	10 - 12			
	4 - 6	4 - 6	5 - 6	6 - 8	7 - 9	8 - 10			
	3 - 4	3 - 4	4 - 5	4 - 6	5 - 7	6 - 8			

Excluded from the sample

A

Mandatory Prison

I/A, C/I/A, I, C

Not Mandatory Prison

e.g., Selling Cocaine

e.g., PWID Cocaine

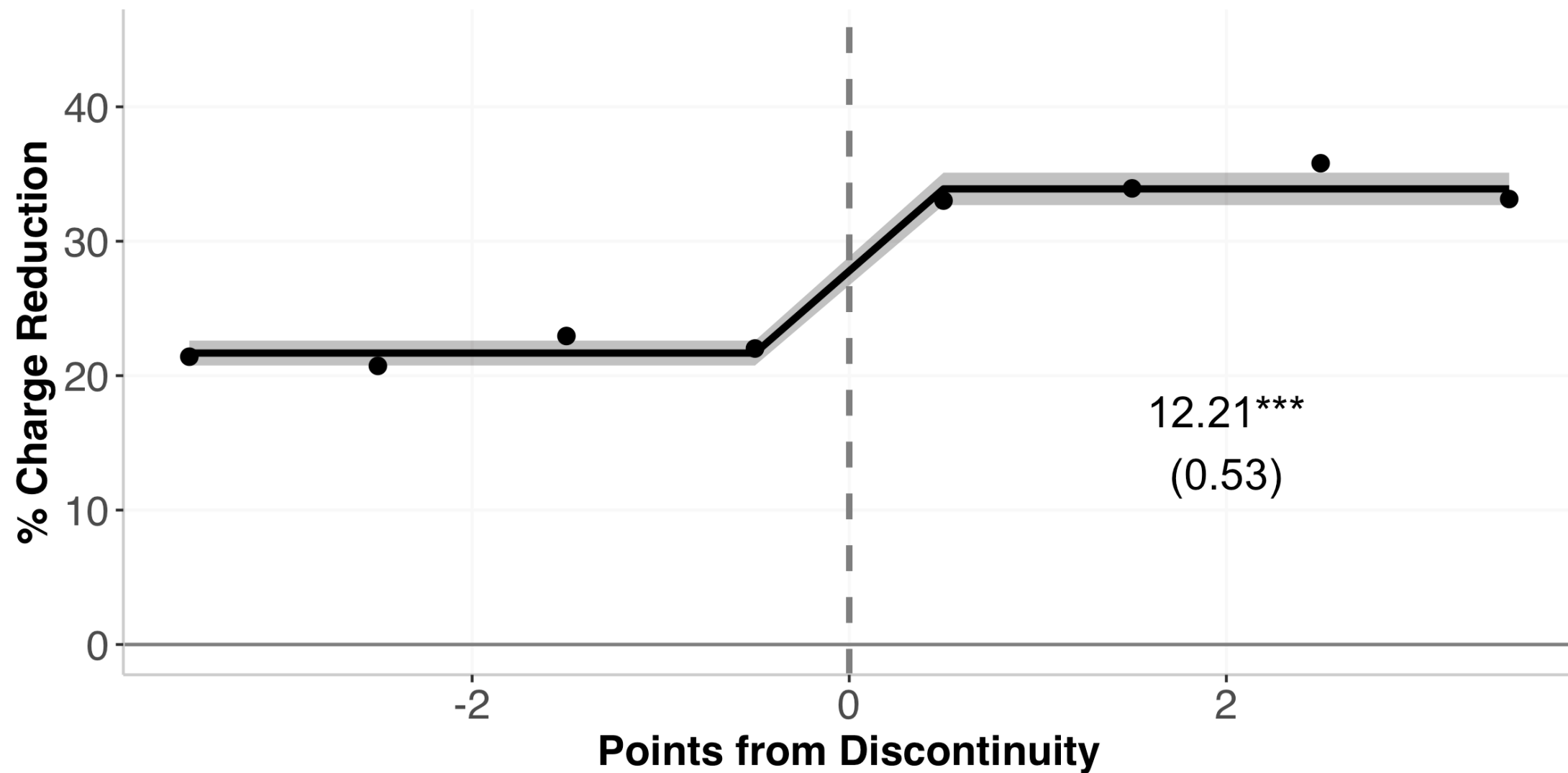
e.g., Possess Cocaine

e.g.,
Selling
Cocaine

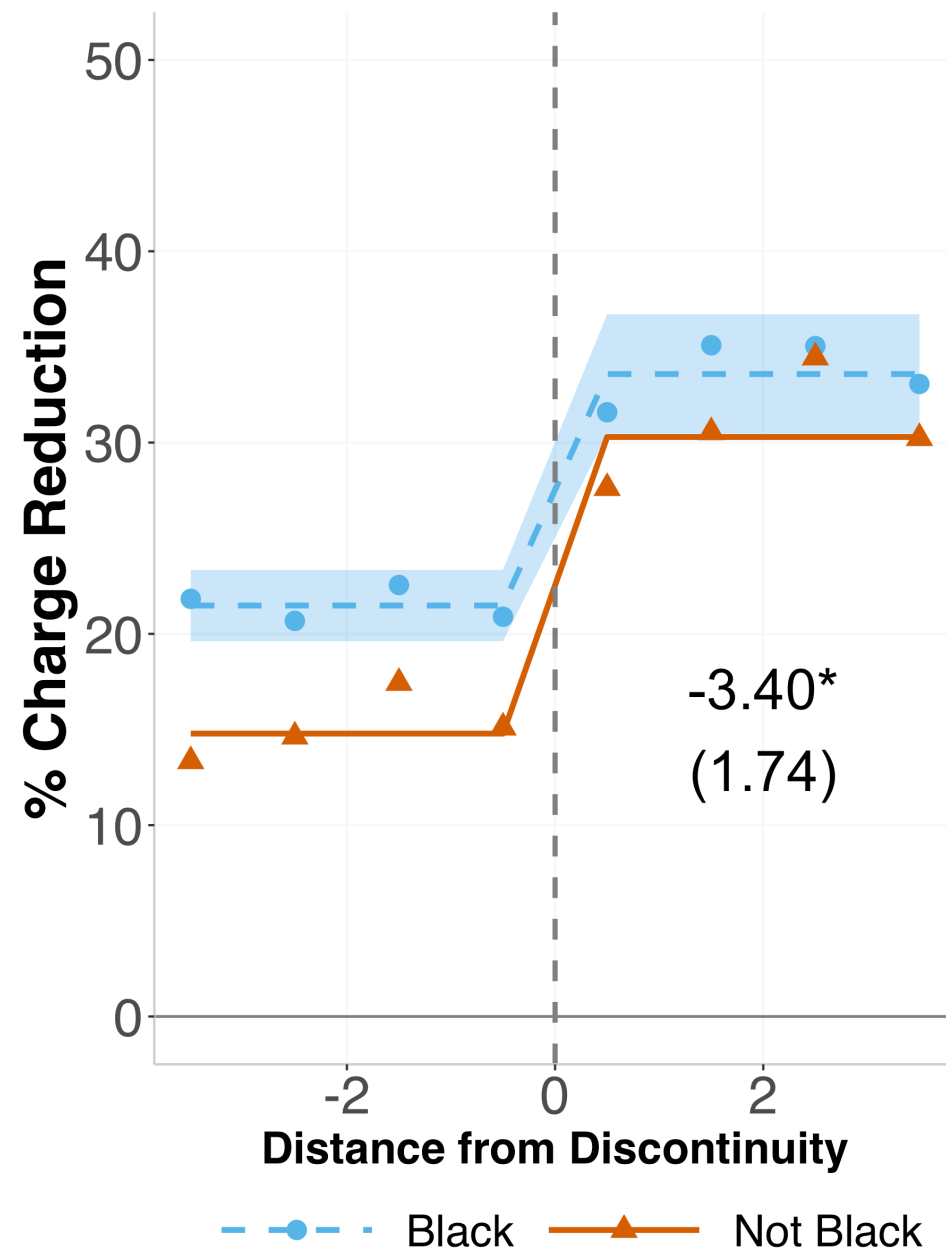
e.g.,
PWID
Cocaine

e.g.,
Possess
Cocaine

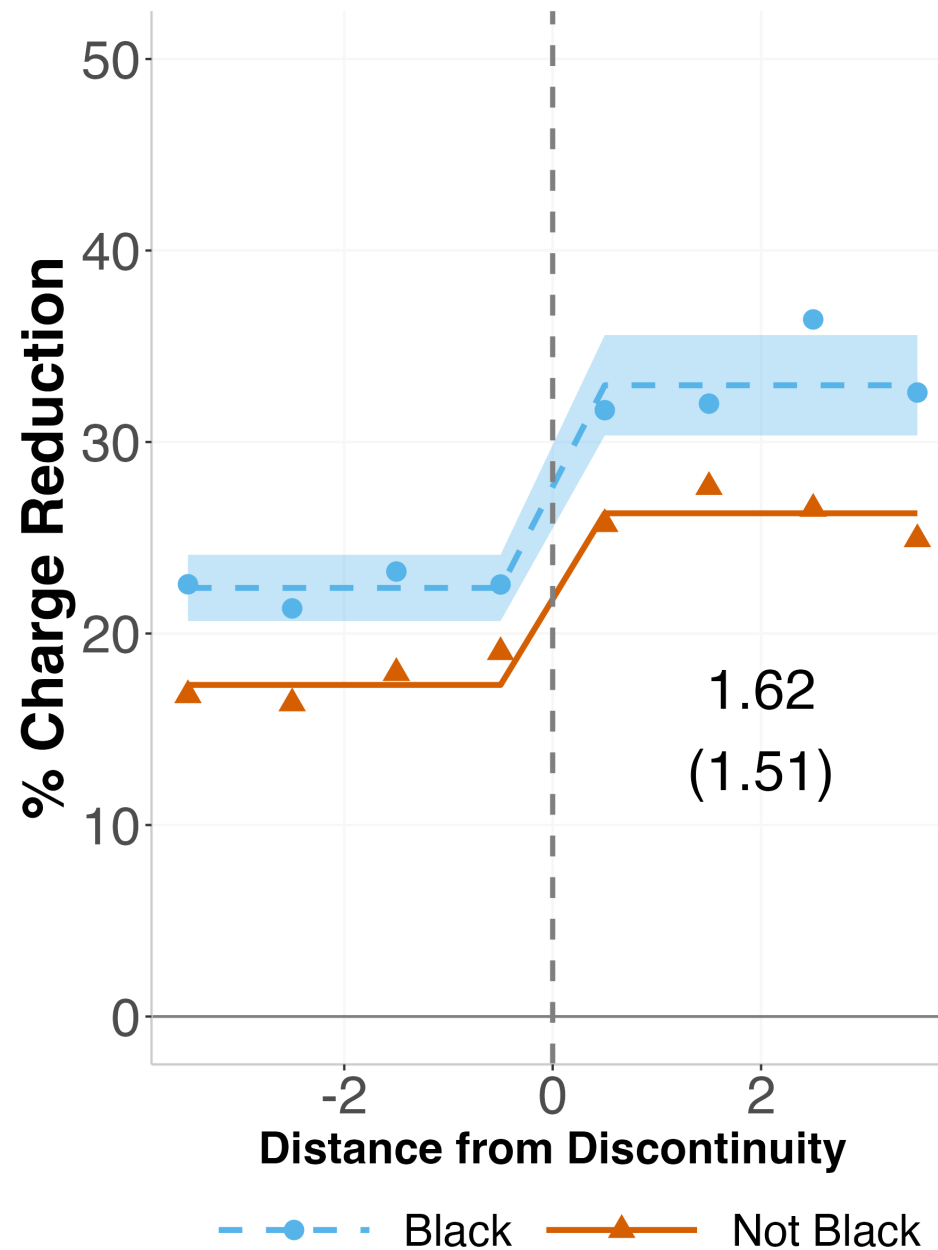
Aggregate Change in Charge Reductions



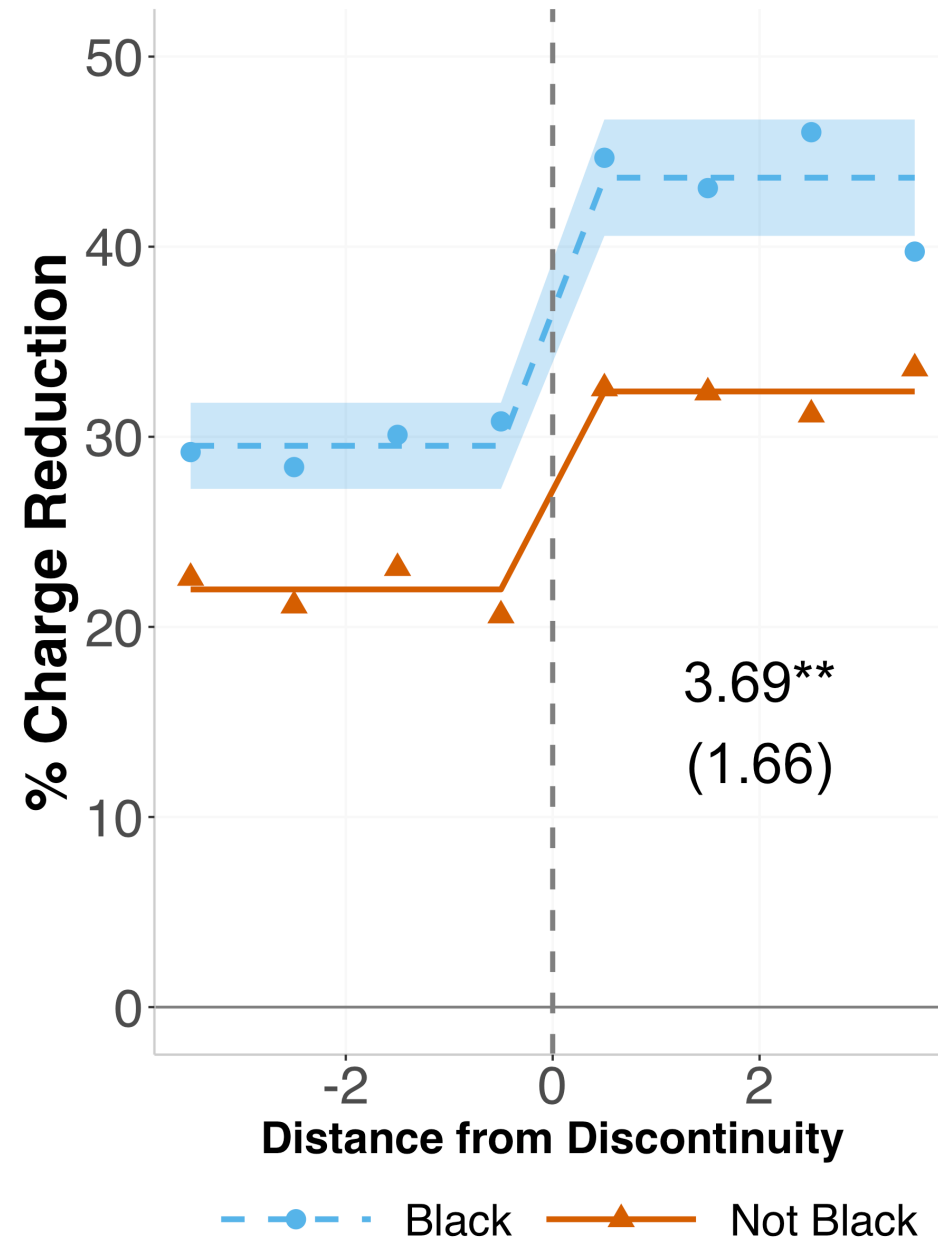
Compounded Disparities from 1995-2010



Passed Through Disparities from 2006-2013



Offset Disparities from 2014-2019



Implication: Prosecutors have come to use their discretion to offset disparities in arrests, driving part of the decline in incarceration disparities.

Reversal concentrated in arrests likely initiated by the police.

Penalty for Criminal Records

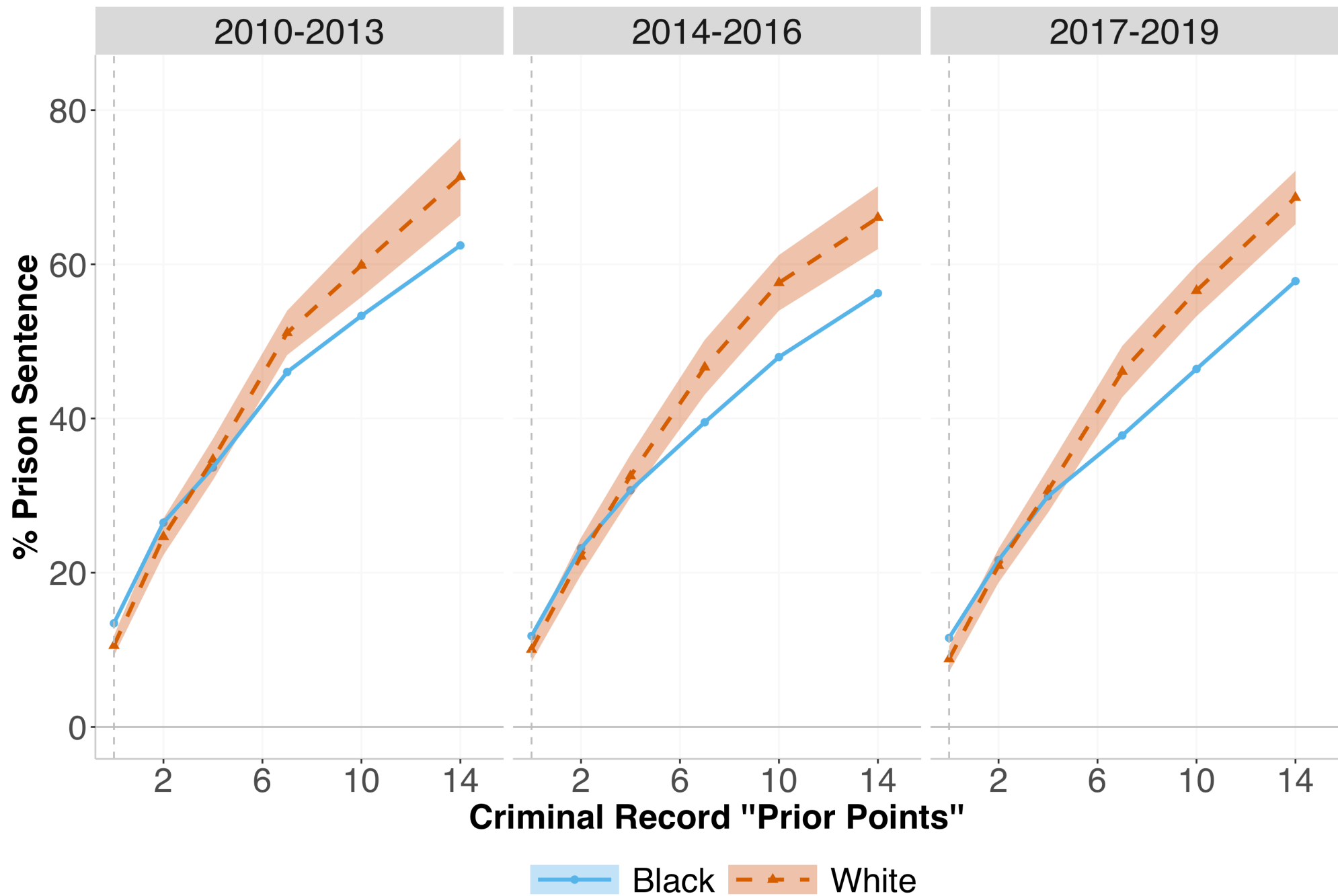
Laws and beliefs lead to *huge* sentencing penalties for longer records.

Question: How does the sentencing penalty for prior convictions differ by race? Has this contributed to the decline in incarceration disparities?

Higher Penalty for White Defendants' Prior Records

Higher Penalty for White Defendants' Prior Records

Higher Penalty for White Defendants' Prior Records



Prosecutor Survey

1. Survey of 203 N.C. prosecutors in 2020
2. Link to court records
3. Asked about the source of disparities

Prosecutors who perceive bias offset disparities

