

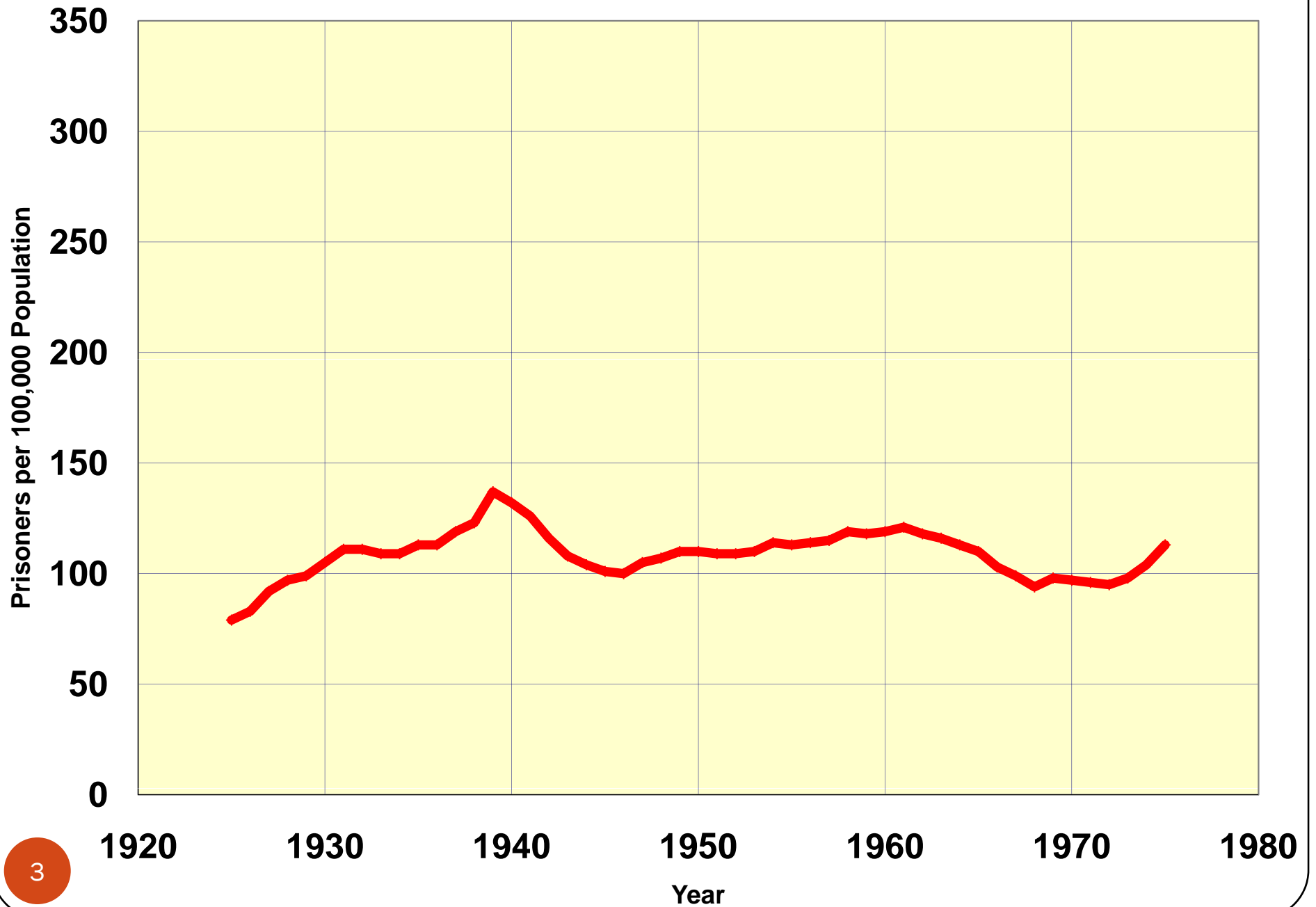
Risk Assessment and Crime Prevention in Structured Sentencing

Alfred Blumstein
H. John Heinz III College
Carnegie Mellon University

Some Brief History to Provide Context

- Indeterminate Sentences (Min \ll Max) – prior to mid-70s
 - Lots of discretion to judges
 - Much flexibility in parole boards' release decisions
 - Risk assessment in “salient factor score” or equivalent
- Impressively stable incarceration rates
- Incarceration policy controlled by the CJS
- Sins of the scientists
 - Evaluation of rehabilitation – narrow treatment technologies
 - Results were largely “null-effects”
 - “Nothing works”

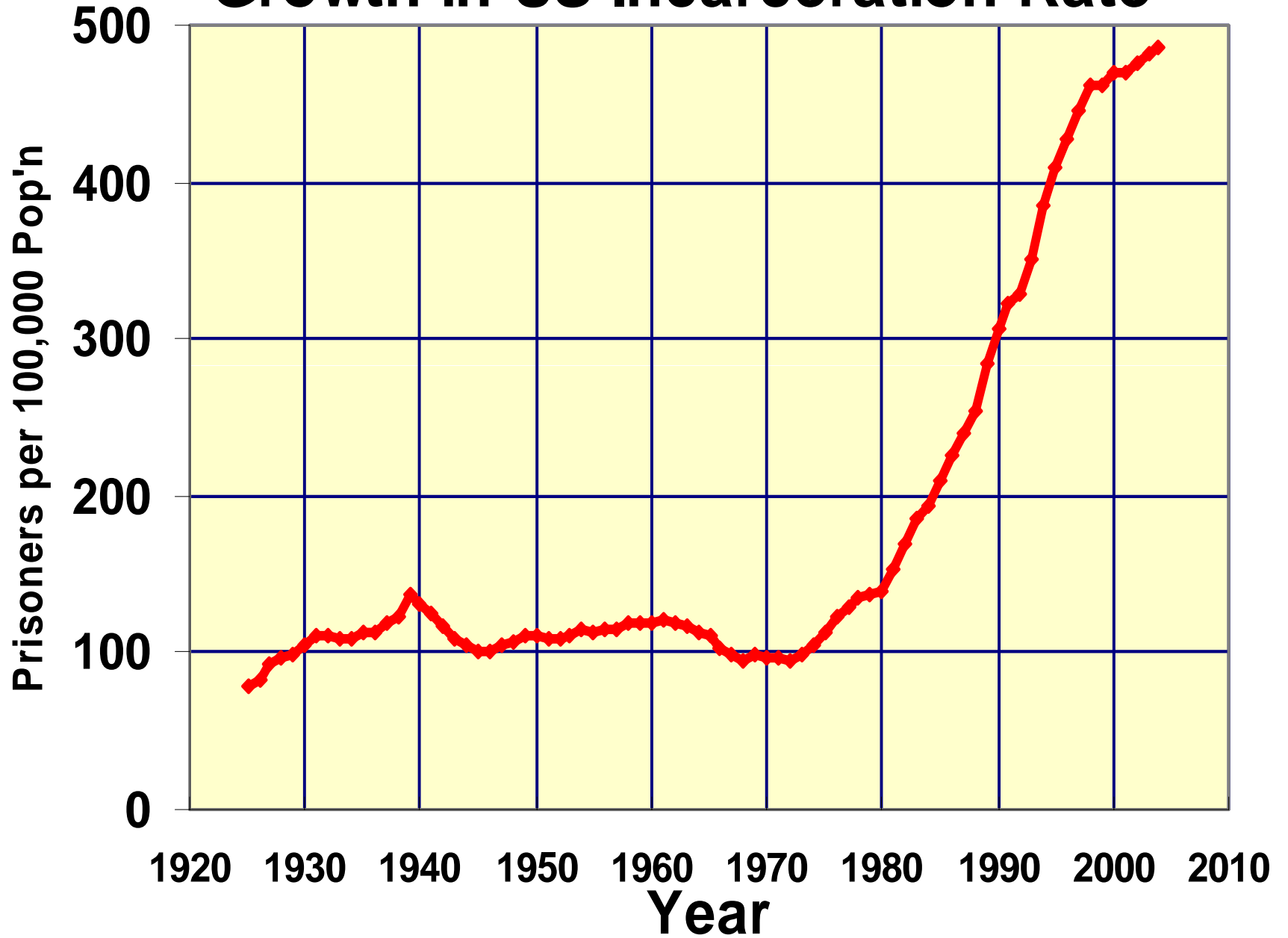
U.S. Incarceration Rate: 1925-1975



Political response

- Initially from the Left: “Do less”
- Response from the Right: “Lock ‘em up”
 - Support from the concerned public: “Do Something” about crime
 - Legislative Field Day: mandatorics, 3-strikes, determinates
 - Presumed effect on crime regardless of the evidence (e.g., drugs)
 - Escalating process: “Tough” vs. “Soft” on Crime
- Regime change: control moved from CJS to legislature to DAs
- Sentencing guidelines sometimes intended as a restraint on the runaway legislative process – only limited success
- Important concern was “disparity”
 - Treat similar crimes similarly

Growth in US Incarceration Rate



Where We Are Now

- States facing serious budget crunches
 - Corrections growth a major contributor
 - And revenue declines in the recession
- Emerging coalition of fiscal conservatives and those concerned with treatment and prevention
 - Crime rates are at their lowest level since the 1960s
- A number of states seeking and finding ways to reduce prison populations
 - Consequent constraints on sentencing guidelines
 - Want fewer in and shorter time served
 - More explicit concern for offender risk in the community

Incorporating Offender Risk

- Guidelines typically involve matrix of (Offense Gravity Score) by (Prior Record Score)
 - OGS is largely retribution
 - PRS invokes consideration of retribution + Risk (x Seriousness)
 - Few levels: Felonies > Misdemeanors, Adult > Juvenile
 - Rarely take account of recency (to reflect declining risk with time clean)
- Risk Assessment always involved some attention to risk factors
 - Early start, age at current offense, number of priors, substance abuse problems, family situation, education, jobs, etc., etc
 - “54 Risk Factors in 10 Domains”
 - Rarely incorporated into guidelines, but VA, MO, others are initiating

Bringing Risk Assessment into Guidelines

- Model becomes much more complicated than a matrix
- Many models have been developed and tested
 - Typically for a particular class of offender (by crime type, violent, juvenile, MI, drugs, age, violent, etc., etc.)
 - Risk score intended to correlate well with recidivism risk
 - Narrower focus on model yields better correlation
- Developing an assessment instrument
 - Risk Factors to be included, Weights/Points to be given
 - Elaborate or focused on offender types
 - Relating prediction to OGS and PRS to affect G/L sentence
 - Mechanics easily done by computer, but remains “mysterious”

Some Specifics on Risk Assessment

- Elaborations on approach developed by David Oldfield, MO DoC
- Scoring system related to prior offending history
- Prior “unrelated” events
 - Felonies/misdemeanors, violent/non-violent, sex, drugs
 - Jail/prison, no. of incarcerations, revocations
- Age: initiation of career, current event, current, lambda (events/year)
- Substance abuse
- Employment
- Time clean since last event – redemption opportunity
- How to incorporate into guidelines:
 - Modify prior-record score, aggravating/mitigating factors
- Evaluate with released offenders and their recidivism experience

Problems created

- Increases disparity
 - Like (in terms of just offense and history) are not treated alike
- Distorts proportionality
 - An important principle in any sentencing structure
 - Focus on recidivism can lead to a sentence for a **serious** low-rate offense being lower than sentence for a **minor** high-rate offense
 - e.g., spouse murder vs. burglar or low-level drug dealer
- Technocracy Dominates Transparency
 - Creates discomfort in the dominant lawyer/judge culture
 - Complexity/richness needs computers to spin out the sentence
 - But Sentencing Guidelines have paved the way

Some approaches to consider

- Incorporate risk assessment into what is now the PRS
- Make it a Risk-Prior Record Scale
 - Not much more complicated than some PRS's
 - It can vary with offense type, so multiple matrices by offense
 - Already in VA guidelines
- Address recency
 - Incorporate results from research on Redemption
 - Blumstein and Nakamura, Criminology-May/09, NIJ Journal-June/09
 - Risk of a new crime declines with time clean
 - Crosses the age-crime curve
 - Comes "close enough" to the never-arrested