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Executive Summary

Truth in sentencing refers to a range of sentencing practices that aim to reduce the uncertainty about the length of time that offenders must serve in prison. During the 1990s, throughout the states and in the federal government there was considerable legislative activity related to truth in sentencing. By 1999, 41 states and the District of Columbia had passed laws or implemented some form of truth in sentencing, but the forms of truth in sentencing varied among the states. Overall, 29 of these jurisdictions required offenders to serve at least 85 percent of their imposed sentence, while 14 had other truth-in-sentencing requirements. And although all states' truth-in-sentencing policies regulated offenders' time to be served in relation to the imposed sentence, they used different methods to do so. For example:

- The base sentence to which the percentage to be served might be determinate or indeterminate, and for states with indeterminate sentences, the percentage requirements could apply to either the minimum or maximum sentence.
- Most states required that offenders serve at least 85 percent of their imposed sentences, but the percentage requirements ranged from 25 percent to 100 percent.
- Some states eliminated parole release and imposed determinate sentences, thereby permitting relatively precise calculations of release dates, assuming that good time credits were earned. Other states retained parole release, thereby potentially introducing ambiguity into the calculation of actual release dates while increasing the certainty about a minimum amount of time that must be served prior to release.
- States differed on the types of offenses that were subject to truth-in-sentencing requirements. In some states, all or most felony offenses were subject to truth in sentencing. In others, truth in sentencing was limited to the FBI's Part 1 violent offenses; still others included misdemeanor offenses.

At the federal level, the Violent Crime Control and Law Enforcement Act of 1994 ("the Crime Act"), as amended in 1996, provided for federal incentive grants to encourage states to expand their prison capacity for the purpose of incarcerating violent offenders. The grants were provided through two programs: the Violent Offender Incarceration and the Truth-in-Sentencing (VOI/TIS) Incentive Grants Programs. To receive VOI funding, a state only needed to give assurances that it had or would implement policies that ensured that violent offenders served a substantial portion of their sentences, that made punishment for violent offenses sufficiently severe, that assured that time served was appropriately related to the violent offender's status, and to protect the public. States that met these requirements could receive some funding and all states did receive funding under these criteria. States could enhance their VOI funding by demonstrating that they increased punishment for violent offenders.

According to the Crime Act, as amended in 1996, to become eligible to receive TIS funding, states had to demonstrate: (1) that they had certain truth-in-sentencing laws in effect; or (2) that they had passed truth-in-sentencing laws that that would be implemented within three years of their application for federal TIS funds; or (3) if they were states with indeterminate sentencing, that they had demonstrated that violent offenders serve on average not less than 85 percent of the prison term established by the state's sentencing and release guidelines, or that violent offenders serve on average not less than 85 percent of the maximum sentence imposed.

As originally enacted in 1994, $7.9 billion was authorized for appropriation as VOI and TIS grants to the states. Between 1996 and 1998, $6.9 million had been awarded as TIS grants (and another $6.8 million as VOI grants). By the end of 1999, 28 states and the District of Columbia had received federal TIS grants. Participation in the program was relatively stable, as 25 of the grantee states received their awards in first year of funding in 1996, and only 4 new jurisdictions joined the grantee roster in later years. In general, the amount of the TIS grants was relatively small (about 1 percent) in relation to the states' average annual corrections expenditures.

About this study

In 1998, the Urban Institute was awarded a grant (NIJ# 98-CE-VX-00006) to study the impacts of truth in sentencing on changes in the length of stay in prison and, consequently, on the size of state prison populations. The study was designed to measure several types of effects, including the extent of influence of the Federal sentencing reforms on state truth in sentencing and the effects of state reforms on length of stay in prison. The two main issues for the study therefore were:

1. Was there an influence of the federal TIS sentencing reforms on states' truth-in-sentencing laws and practices, and if so, how large was the influence? For example, did the federal reforms help to reduce the variation in truth-in-sentencing practices among the states and lead towards movement towards a common model? Or, did the federal grant program provide incentives for a wide variety of forms of truth in sentencing, and therefore reflect the heterogeneity of contemporary American sentencing?
2. As one of the aims of truth in sentencing is to increase the severity of sentencing for violent offenders, did the truth-in-sentencing reforms implemented in several states result in changes in sentencing practices that also had impacts on states' prison populations?

The research team conducted a comprehensive review of legislative activity leading to the enactment of the TIS provisions in federal law. We also conducted an extensive review of state sentencing reforms related to truth in sentencing, and of grant applications of states that received federal TIS grants. These reviews identified the timing of state and federal reforms, described state sentencing reform processes and how truth in sentencing related to ongoing reforms, and provided information leading to the categorization of state truth-in-sentencing reforms and analysis of the extent of change associated with the reforms. The study team also conducted in-depth, open-ended interviews with state officials in several states and telephone interviews with officials in other states. These interviews improved the understanding of how the states responded to federal TIS incentives. Finally, the study conducted a quantitative analysis of the change in "expected" prison outcomes (e.g., expected length of stay and expected prisoner populations) in an effort to measure the impacts of state truth-in-sentencing practices on state prisoner populations. Data from one state, from the Bureau of Justice Statistic's *National Corrections Reporting Program*, and the FBI *Uniform Crime Reports* were analyzed using offense-specific disaggregated flow models and mathematical decomposition methods to estimate the impact of "pre-sentencing" factors (such as changes in offenses and arrests), of sentencing decisions (such as the probability of imprisonment given arrest), and truth in sentencing (the percent of sentence served) on expected length of stay and the expected prison population.

The Federal TIS Incentive Grant Program

As originally enacted under the Crime Act in 1994 and amended by the Department of Justice Appropriations Act of 1996, states could qualify for federal TIS grants if they demonstrated that they fit any one of five criteria:

- States with determinate sentencing could qualify if:
  - They had implemented truth-in-sentencing laws that require persons convicted of Part 1 violent offenses to serve not less than 85 percent of the sentence imposed, or
  - They had implemented truth-in-sentencing laws that result in persons convicted of Part 1 violent offenses serving on average not less than 85 percent of the sentence imposed; or
  - They had enacted but not yet implemented truth-in-sentencing laws that would be implemented within three years of their application date that required persons convicted of Part 1 violent offenses to serve not less than 85 percent of the sentence imposed.

- States with indeterminate sentencing could qualify if:
  - They demonstrated that persons convicted of Part 1 violent offenses serve, on average, not less than 85 percent of the prison term established under the state's sentencing and release guidelines; or
  - They demonstrated that persons convicted of Part 1 violent offenses serve on average not less than the maximum prison term allowed under the sentence imposed by the court.[1]

These criteria have guided the decision-making of the TIS grant program since its inception in 1996. Although the VOI/TIS grant program was established by law through the Crime Act in 1994, it was not implemented until 1996, when funds were appropriated by the Department of Justice Appropriations Act of April 26, 1996. The Appropriations Act also amended Subtitle A of the Crime Act. Truth in sentencing as set forth in the Appropriations Act of 1996 is therefore appreciably different from the 1994 provisions, most notably with the introduction of criteria for indeterminate sentencing states, with the elimination of a provision requiring that truth in sentencing be applied to repeat violent or serious drug offenders, and with the introduction of the definition of violent crimes as Part 1 violent crimes.

Influences of the Federal TIS reforms on state truth-in-sentencing policies

The 1996 changes to the federal TIS grant eligibility requirements – particularly the expansion of the eligibility criteria to address indeterminate sentencing – made it possible for all states to participate in the federal grant program. The changes in the criteria also allowed states to participate in the grant program without making substantive changes to their truth-in-sentencing laws. These changes raise the question: To what extent did the federal TIS reforms influence state reforms or did the federal reforms reflect state sentencing reforms that were already implemented or well in progress?

By the end of 1999, 42 jurisdictions – 41 states and the District of Columbia – had some form of truth-in-sentencing laws and an additional state (Utah) received a truth-in-sentencing grant without specific truth-in-sentencing laws. A total of 29 jurisdictions – 28 states and the District of Columbia – received TIS grants between 1996 and 1999. Twenty-two grantee states qualified under eligibility criteria that were established under the original 1994 law, while an additional six states – California, Delaware, Michigan, Oklahoma, Pennsylvania, Utah – qualified because of the expansion of the eligibility criteria

[1] See Department of Justice Appropriations Act, 1996, PL 104-134 § 20104 (a).

under the 1996 Amendment. The District of Columbia qualified because the National Capital Revitalization and Self-Government Improvement Act of 1997, which established the District's Truth-in-Sentencing Commission, set forth the requirements for sentencing reform in the District.[2]

Exhibit 1 shows the forms of truth in sentencing that are practiced in the states, and the extent to which state-level truth in sentencing changed following the passage of the 1994 Crime Act. Thirty states did not change their truth-in-sentencing laws at all, and the remaining 21 jurisdictions (20 states plus the District) changed their truth-in-sentencing laws to varying degrees. Exhibit 1 cross-classifies the states and the District of Columbia according to their pre-Crime Act truth-in-sentencing laws (down the left hand-side column) by their truth-in-sentencing laws enacted during the 1995-1999 period. Furthermore, each jurisdiction's truth-in-sentencing laws are classified according to two criteria: (1) whether they allow for parole release of violent offenders, or the degree of determinacy in their release decisions; and (2) whether they required violent offenders to serve at least 85 percent of their imposed sentence. These two criteria result in the five categories or "forms of TIS" represented in the table:

- No parole release for violent offenders:
  - *Statutory requirements that at least 85 percent of the determinate or maximum sentence be served.* Violent offenders must serve at least 85 percent of their imposed determinate (or fixed) sentences with no parole release; up to 15 percent of the sentence may be earned by good conduct credits.
  - *Statutory requirements that some other specific percentage – less than 85 percent – of the determinate or maximum sentence be served.* This is similar in all respects to the previous model, except that the percentage requirement is below 85 percent.
- Parole release for violent offenders:
  - *Statutory requirements that at least 85 percent of the determinate or maximum sentence be served.* Offenders are generally eligible for parole once they have served 85 percent of the sentence (either a fixed term or the maximum term of an indeterminate sentence), but actual date of release is at the discretion of the parole board; offenders may be held beyond 85 percent of the imposed term.
  - *Statutory requirements for another specific percentage of the minimum or maximum sentence be served.* Offenders are eligible for parole release after serving a required percentage of their sentences; the requirement frequently applies to the minimum term of an indeterminate sentence range.
- No statutory TIS requirements. States may have policies related to the time that offenders serve in prison, but there are no truth-in-sentencing laws requiring a certain percentage of the sentence to be served.

Following the enactment of the TIS grant program, 30 states made no changes to their truth-in-sentencing laws; another 7 states made only modest changes to the percentage of sentence to be served by violent offenders; five states modified their truth-in-sentencing laws by both increasing the percentage of sentence to be served requirements and eliminating parole release decisions; and nine states that had no truth-in-sentencing laws prior to 1994 passed sentencing reforms that included truth-in-sentencing provisions. In most of these states, the sentencing reform process began prior to the Crime Act.

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[2] For more on the truth-in-sentencing reforms in the District of Columbia, see: William J. Sabol and James P. Lynch (2001). *Sentencing and Time Served in the District of Columbia Prior to Truth in Sentencing: Final Report.* Submitted to the National Institute of Justice, Washington, D.C., July. See also: *Report of the District of Columbia Advisory Commission on Sentencing*, April 5, 2000.

There was wide variation in the forms of TIS practiced by the 30 states that made no changes to their TIS legislation (on the shaded diagonal). Starting in the upper left corner, eight states – Arizona, California, Georgia, Minnesota, North Carolina, Oregon, Virginia, and Washington State – retained determinate sentences for violent offenders, required that at least 85 percent of the sentence be served, and did not allow parole release. These states generally passed their TIS laws between 1990 and 1994.[3] Two states – Alaska and Delaware – retained their pre-1994 truth-in-sentencing structure of determinate sentences, a less than 85 percent of the sentence requirement, and no parole release. Delaware, for example, has not altered its no parole release policy, in effect since 1990, or its 1993 TIS law requiring 75 percent of the sentence to be served. Although Delaware's law specifies 75 percent as the standard to be served, it qualified for a federal TIS grant by demonstrating that violent offenders actually served, on average, at least 85 percent of the imposed sentence.

Among indeterminate sentencing states, one state – Missouri – retained parole release, but it required that "dangerous felons" serve 85 percent of the maximum term before becoming eligible for parole release. Ten other states – Arkansas, Colorado, Massachusetts, Maryland, Michigan, Nebraska, New Hampshire, Nevada, Pennsylvania, and Texas – retained percentage requirements other than an 85 percent requirement and use parole release. The percentage may be based on either the minimum or maximum term, as in New Hampshire, for example, offenders have been required since 1982 to serve 100 percent of their minimum sentence before becoming eligible for parole release.

Finally, nine states had no truth-in-sentencing laws before the Crime Act and they did not pass truth-in-sentencing laws after the Crime Act. In these nine – Alabama, Hawaii, New Mexico, Rhode Island, South Dakota, Utah, Vermont, West Virginia, and Wyoming – the amount of time offenders serve in prison may be regulated by other means. For example, Utah has used a voluntary sentencing guidelines structure since 1985 to guide both sentencing and parole release decisions.[4]

The remaining twenty states and the District of Columbia made at least modest changes to their truth-in-sentencing policies following the passage of the 1994 Crime Act. In all of these states, the changes served to tighten restrictions on the release of violent offenders; for example, the states generally increased the percentage of sentence that violent offenders had to serve. Some states also eliminated parole release for violent offenders. Most of the reforms were incremental or marginal modifications to existing statutes. But in nine jurisdictions, major changes in sentencing structure occurred.

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[3] U.S. General Accounting Office. 1998. *Truth in Sentencing: Availability of Federal Grants Influenced Laws in Some States.* Washington, DC: U.S. General Accounting Office. GAO/GGD-98-42. February.
Half of the states described here enacted their TIS laws before 1994: Arizona (1993), Minnesota (1992), North Carolina (1993), and Washington State (1990). Of those enacted in 1994, Georgia's law was passed well before the federal 1994 Crime Act, on 3/30/94. The remaining states with TIS laws passed in 1994 were enacted within two months the 9/13/94 passage of the Crime Act: California (9/21/94), Oregon (11/94), and Virginia (9/30/94). Since these bills would have been drafted in advance of the passage of the Crime Act, the influence of specific provisions of the Crime Act are considered to be minimal.

[4] Utah is a special case. Exhibit 1 classifies it as voluntary, having no truth-in-sentencing laws. However, Utah practices a form of truth in sentencing within its system of sentencing and release guidelines. This sentencing structure, implemented in 1985, remained essentially the same throughout the 1990s, although the sentence recommendations have been revised over time.

Seven states increased the percent of sentence served. The changes in Connecticut, Florida, Illinois, Kansas, Kentucky, Louisiana and Maine were incremental changes to their existing truth-in-sentencing laws consisting of increases to the percentage of sentence to be served by violent offenders with no other changes to the truth-in-sentencing structure. Kansas, for example, maintained its determinate, no parole structure, but changed its 1993 TIS law from an 80 percent requirement to an 85 percent requirement in 1995. Similarly in Connecticut, a 1993 TIS requirement for offenders to serve 50 percent of their sentences before becoming eligible for parole release was increased to 85 percent in 1995.

Five jurisdictions – the District of Columbia,[5] Mississippi, New York, Tennessee, and Wisconsin – made larger changes to their truth-in-sentencing structure. In addition to increasing the percentage of sentence served requirements, they also altered their release mechanisms by eliminating parole for violent offenders. In Mississippi prior to 1995, for example, offenders were eligible for parole after they completed 25 percent of their sentences. The new law, passed in 1995, abolished parole and the percent of sentence to be served was increased to 85 percent. In most of these states, prior to the federal TIS program, truth in sentencing existed within an indeterminate sentencing framework, and the percentage requirements were usually less than 85 percent. The reforms enacted after 1994 not only increased the percentage requirement, but also reduced indeterminacy by eliminating parole release for violent offenders.

The District of Columbia is a special case. In addition to increasing requirements and eliminating parole, it also undertook a comprehensive sentencing reform process. However, the sentencing reforms in the District were the direct result of the National Capital Revitalization Act of 1997. Prior to this Act, the District's truth-in-sentencing provisions were limited to mandatory minimum requirements for selected classes of violent offenders. For example, in 1992, the mandatory minimum amount that persons convicted of first-degree murder were required to serve prior to parole release eligibility was increased from 20 to 30 years. The Revitalization Act established the District's Truth-in-Sentencing Commission and required it to make recommendations to the Council of the District of Columbia about the sentencing of felony offenders. The Act also required the Commission's recommendations to meet the truth-in-sentencing standards of section 20104 (a) (1) of the Crime Act.[6]

Nine states – Idaho, Indiana, Iowa, Montana, New Jersey, North Dakota, Ohio, Oklahoma, and South Carolina – had no truth-in-sentencing requirements prior to the 1994 Crime Act, but each passed their first truth-in-sentencing laws between 1995 and 1999. Most of these states incorporated an "85 percent rule" into their new truth-in-sentencing laws, including Iowa, New Jersey, North Dakota, Ohio, Oklahoma, and South Carolina, but Idaho, Indiana, and Montana adopted lower percentage requirements. Among the "85 percent" states, Iowa and Ohio also abolished parole (to different degrees) while the rest incorporated truth in sentencing into their existing parole release structures. Though the specifics of the changes differed from state to state, in all nine of these states, truth in sentencing represents a significant shift from the past practice of how offenders were released from prison.

Several of these nine "major change" states undertook comprehensive sentencing reform that coincided with the federal TIS reforms. Ohio, for example, began its reform effort as early as 1991, when the General Assembly instructed the Ohio Criminal Sentencing Commission to develop a sentencing plan

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[5] But, as indicated previously, the District of Columbia's reforms were initiated by the federal Revitalization Act of 1997, rather than by the 1994 Crime Act. The District is a special case of direct Federal influence on its sentencing structure.

[6] See Sabol and Lynch, 2001, *op. cit.*

that considered several goals of sentencing. Most of the main components of Ohio's sentencing reform, including its 97 percent TIS requirement, were laid out in a 1993 plan for felony sentencing.[7] Subsequent legislation – Senate Bill 2, which passed in 1995 – established truth in sentencing in Ohio effective July 1, 1996. None of these "major change" states reported that they undertook their sentencing reforms in order to bring themselves into alignment with federal truth-in-sentencing requirements.

Among the 21 states that made changes to their truth-in-sentencing structure, the federal TIS program was reported (according to a GAO survey) to be a key factor in implementing the reforms in 5 states, but in these 5 states, the changes typically were modifications to the percent of sentence served.[8] In 10 of the 21 states, the federal program was reported to be a partial factor, and these states generally changed both the percentage requirements and method of release. In the remaining 6 of the 21 "change states," the federal program reportedly had no influence on their changes.

In sum, this analysis of state sentencing reforms indicates that, overall, the federal TIS grant program had relatively minor influence on state truth-in-sentencing policies. A relatively small number of states made large changes to their pre-1994 truth-in-sentencing structure, and for the most part, these changes can be explained in terms of ongoing sentencing reform processes in those states. The review showed that 30 states made no changes to their truth-in-sentencing policies, and another 11 made only modest changes. The 10 states that made substantial truth-in-sentencing reforms generally began their sentencing reforms before the implementation of the federal grant program, and truth in sentencing was incorporated into their reforms for a variety of reasons. In the special case of the District of Columbia, other federal legislation led to wholesale changes in sentencing structure that resulted in a new truth-in-sentencing structure.

Impacts on state prison populations

The second major research question in this study related to whether the truth-in-sentencing reforms that were adopted in the states had impacts on their prison populations. The truth-in-sentencing reforms implemented throughout the states generally aimed to increase the certainty of punishment for violent offenders by reducing the apparent disparity between sentence imposed and time served.

To examine the effects of truth in sentencing on prison populations, a cross-state, case-study approach was used to analyze changes over-time in prison population outcomes in seven states, Georgia, Illinois, New Jersey, Ohio, Pennsylvania, Utah, and Washington. These states had various forms of truth in sentencing that were implemented within different sentencing structures. Each state, nevertheless, was selected from one of three forms of truth in sentencing: (1) determinate sentencing states with a rule requiring violent (or all) offenders to serve 85 percent of their imposed sentences; (2) indeterminate sentencing states with truth-in-sentencing statutory provisions; and (3) an indeterminate sentencing state that implemented truth in sentencing through expectations about minimum terms and its release practices. Within these three broad forms, there was variation in the way truth in sentencing was implemented.

Methodology

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[7] David Diroll, Executive Director, Ohio Criminal Sentencing Commission. Interview, June 7, 1999. Also, Ohio Criminal Sentencing Commission. 1993. *A Plan for Felony Sentencing in Ohio.*

[8] U.S. General Accounting Office, 1998, *op. cit.*

Changes in prison population outcomes were analyzed by decomposing the results obtained from offense-specific disaggregated flow models of the incarceration process. These flow models analyzed transitions or movements between several decision points in this process; including:

- From the general population to the offender population;
- From offender populations to the arrest population;
- From arrest populations to the decision to admit to prison (or the prison admission rate, defined as the ratio of prison admissions to arrests);
- From prison admission to the expected length of stay;
- From expected length of stay to the expected number of prisoners.

Expected length of stay was estimated for persons admitted into prison using one of two methods. First, data on all persons released from state prisons during the period prior to the implementation of new truth-in-sentencing reforms were analyzed using a regression to predict the determinants of length of stay. Variables such as type of offense, length of sentence imposed, and demographic variables were used to estimate the regressions; the estimated parameters from these regressions were then applied to the individual observations for persons admitted into prison under a similar sentencing regime. Second, for persons admitted into prison under truth-in-sentencing regimes, the truth-in-sentencing model was applied to the individual data. For example, violent offenders subject to Ohio's truth-in-sentencing reforms are expected to serve 97 percent of their imposed sentence; hence, expected length of stay for Ohio's truth-in-sentencing offenders equals 0.97 times the length of sentence imposed.

The expected number of prisoners is a measure of the "stable prison population" that would result if the volume of offenders entering prison during a given period of time and their expected length of stay were to remain constant over time. This quantity assumes stability in admissions and sentences to be served. As such, it does not necessarily equal the stock prisoner population, as the prisoner stock population will, at any time, contain offenders who were admitted into prison in previous years. The expected number of prisoners was used in a "comparative static" fashion in that the expected population in one period is compared to that in another period. Used in the comparative static framework, the expected number of prisoners includes two dimensions of the severity of sentencing under different regimes: The severity associated with the use of prison, and the severity associated with the expected duration of stay in prison.

The data on population, offenses, arrests, prison admissions, expected length of stay, and expected prison populations were analyzed separately by offense and then aggregated to produce state-level totals in each of two periods: a pre-reform period (1990 or 1991) and a post-reform period (1996 or 1998); the exact years depended on data availability. For most states in the analysis, these periods provided for a "before/after" comparison of outcomes of prison admissions and expected prison population size. The flow models provide important information about the flow rate or transitions between stages of the incarceration process. This information is used in the decomposition analysis.

Decomposition methods were used to analyze the sources of changes in prison admissions and in the expected number of prisoners. Sources of change were grouped into three pre-sentencing stages – population, offending, and arrests – and three sentencing decisions – the prison admission rate, the sentencing process as measured by the expected length of stay in prison, and the expected number of prisoners. Separate offense-specific disaggregated flow models were developed for 1991 and 1996 for each state except Ohio. For Ohio, the comparison periods included 1990, 1996, and 1998.

Differences in outcomes – the number of prison admissions and the expected prisoner population – were decomposed into the effects attributable to changes in each stage of the criminal justice process. Specifically, these effects were changes in the population, changes in offending (for Part 1 violent and Part 1 property offenses), changes in arrests, changes in the prison admission rate, and changes in expected length of stay. By decomposing the changes in prison admissions and expected prisoner populations into these components, it was possible to examine the absolute and relative contributions of changes in each factor to the observed changes in sentencing outcomes.

Discussion of results

The results from this comparative, case-study approach are not generalizable to the nation as a whole, nor are they generalizable to specific groups of states, as the states that were included in the analysis were chosen for specific reasons. States were selected in part because they had different forms of truth in sentencing, adopted it at different times, or implemented it in conjunction with other sentencing reforms; and in part because of data availability, or because they complemented states analyzed in other studies of truth in sentencing. However, the comparative case study approach allows for "analytic generalizability" in which comparisons across states are made within a common framework to assess whether similar or different processes and outcomes arise among the different types of states.[9]

Exhibit 2 shows that prior to reforms, two of the states had determinate sentencing and five had indeterminate sentencing with parole release as their primary form of sentencing violent offenders. After reform, the two determinate sentencing states (Washington and Illinois) retained their sentencing structure and made moderate to small changes in implementing truth in sentencing. Three of the indeterminate states adopted determinate sentencing (Georgia, Ohio, and New Jersey). Ohio and New Jersey made major changes in sentencing, and truth in sentencing was part of the reform package; Georgia made moderate changes. The other two indeterminate states (Pennsylvania and Utah) retained their indeterminate sentencing structures, which already included some form of TIS. However, Pennsylvania amended its sentencing guidelines, while Utah made no major changes. Thus, the variation in sentencing structure and reforms allows for comparisons with different degrees of change and across structures.

In conjunction with the offense-specific disaggregated flow models and the decomposition of changes, information about sentencing reforms in each state was used to develop hypotheses about the sources of changes in the size of expected prison populations. Essentially, the hypotheses stated whether the extent of a state's reforms would lead one to conclude that sentencing policy changes were likely to have larger effects on changes in expected prisoner populations than the effects of changes in pre-sentencing factors, such as the volume of violent crimes and arrests. As the volume of violent crimes declined during the 1990s, changes in crime rates and arrests need to be included in the analysis directly, lest decreases in expected prisoner populations be incorrectly attributed to sentencing policy changes, when in fact they should be attributed to changes in pre-sentencing factors.

The data from the flow models are analyzed primarily to determine whether "pre-sentencing" factors – changes in population, offenses, and arrests – versus sentencing decisions associated with sentencing reforms had larger influences on expected prisoner populations. The data for each state were examined in light of the state-specific hypotheses. After these were completed, the patterns of outcomes were reviewed across the states to identify commonalities. Exhibit 3 shows in summary form some of the key

[9] This concept of analytic generalizability is Robert Yin's, and it is based on his work on case-study methodologies. See Robert K. Yin, 1994. *Case Study Research: Design and Methods.* Thousand Oaks, CA: Sage Publications.

outcomes of the analysis. The results from the analysis are shown for changes in the expected number of prisoners. The data in Exhibit 3 show the extent to which changes in pre-sentencing factors have larger effects on changes in the expected prisoner population than do changes in sentencing factors.

The seven states illustrate several different models of sentencing reform and truth in sentencing. The various forms of truth in sentencing and the degree of change in each state is summarized in Exhibit 2. The states range from Ohio – which made the most radical changes in sentencing structure when it implemented truth in sentencing – to Utah, which essentially made no changes between 1991 and 1996. In between, Washington increased its percentage of sentence to be served requirements for violent offenders, but made no other major changes, while Pennsylvania did not increase its percentage requirements for violent offenders but made other changes to its guidelines. Georgia both increased its percentage requirements and eliminated parole for violent offenders, while Illinois – another determinate sentencing state – only increased its percentage requirements while not changing parole release decisions. New Jersey also changed its sentencing system rather significantly by introducing an 85 percent TIS requirement in 1997, but those data were not available.

The variety of experiences allow for comparisons of effects of truth-in-sentencing reforms in different contexts. A general conclusion from the analysis of prison outcomes across the states is that the effects on prison outcomes were generally larger in states that made larger changes to their sentencing structures when they implemented truth in sentencing. Ohio illustrates this principle, as it made the largest changes to its sentencing system, and the changes for violent offenders in prison admissions and expected prisoners are large and strongly associated with Ohio's sentencing reforms.

Pennsylvania also illustrates this conclusion: Even though Pennsylvania did not change its percentage requirements or its application of truth in sentencing, it did modify its sentencing guidelines to increase the severity of punishment for violent offenders, and changes in outcomes for violent offenders (especially changes in expected prisoners) were also strongly associated with its sentencing reforms. But in these two "large change" states, the truth-in-sentencing reforms were either included as part of the reform package (Ohio) or did not result in a change in sentencing policy (Pennsylvania). Hence, these states show how reforms other than and in addition to truth in sentencing lead to changes in prison population outcomes.

At the other end of the spectrum, Utah did not make changes to its sentencing system following the receipt of its federal truth-in-sentencing grant, and its prison outcomes reflect this absence of change in sentencing practices. Both changes in admissions and expected prisoners for violent offenders arise primarily from changes in pre-sentencing factors, although changes in the prison admission rate (as opposed to length of stay) influenced the expected number of violent prisoners. Similarly, New Jersey appears as a "no change" state (due to data limitations), and consequently, changes in prison admissions and expected prisoners also are associated with pre-sentencing factors rather than changes in sentencing decisions.

In the three "intermediate change" states – Washington, Georgia, and Illinois – the results were somewhat mixed. In all three states, the implementation of truth in sentencing involved increasing their percentage requirements for violent offenders. And, in all three, the changes in sentencing practices following the implementation of truth in sentencing were associated with changes in violent offender admissions and expected number of prisoners. But, focusing on the change in the expected number of prisoners, the effects of the prison admission rate and length of stay varied among the states. Hence, there was no uniform pattern of effects of the two sentencing decisions on changes in the expected number of

violent offense prisoners, even though each state implemented essentially the same type of sentencing reform. In Washington, changes in the prison admission rate had a slightly larger effect on the change in the expected number of prisoners than did the change in expected length of stay. In Georgia, changes in the prison admission rate had a much larger effect on the expected number of violent offense prisoner than did the change in length of stay. Thus, in Washington and Georgia, the expected length of stay effect was not observed as expected. However, in Illinois, changes in expected length of stay had large positive effects on the expected number of violent offense prisoners. These results imply, among other things, that sentence lengths served can increase or remain the same under truth in sentencing, a result that should come as no surprise.

A second conclusion about the implementation of truth in sentencing is that even if the reforms emphasize the percent of sentence served, the implementation of truth in sentencing can be observed in the use of prison. If one objective of truth in sentencing is to increase the control of judges over sentencing decisions and to make the sentence served equivalent to the sentence imposed, then judges are in a better position to evaluate the effects of their decisions. Hence, by increasing the use of prison for violence (as occurred in both Georgia and Washington) while maintaining control over the length of sentence served (through truth in sentencing), judges are in a position to expand the use of prison for more violent offenders, achieve some incapacitation or just deserts effects – while not changing appreciably the amount of time that violent offenders serve in prison. In both Georgia and Washington, expected length of stay increased while the prison admission rate increased more. To the extent that truth in sentencing is about giving judges greater control over sentencing outcomes, the Georgia and Washington cases illustrate a model in which judges increased the use of prison for violence while managing to increase lengths of stay only slightly above their pre-reform levels.

A third important consideration about the implementation of truth in sentencing in these states was its timing. Across all states except Utah, the number of reported violent crimes decreased between 1991 and 1996. And, the influence of this change in offending on the expected number of prisoners, along with changes in arrests and population – the pre-sentencing factors – was generally large and negative. The influence of changes in offending and arrests on prison outcomes are important to assess in the contexts in which truth in sentencing is implemented within determinate systems with no parole release. Ohio, Washington, Georgia and Illinois illustrate this. Each requires violent offenders to serve at least 85 percent of their imposed sentences. And in each, the decrease in the number of violent offenses between 1991 and 1996 led to large negative effects on the expected number of prisoners. In Georgia, the decline in violent offenses was responsible for a decrease of 1,892 in the expected number of prisoners; had violent offending in 1996 remained at the 1991 level, the expected number of violent offense prisoners in Georgia would have increased by 882, rather than decreased by 1,010, and this does not take into consideration the decrease in violent crime arrests during this period. Similarly, in Washington, the decline in violent offenses led to a decrease of 938 in the expected number of violent offense prisoners. Again, had violent offending remained at its 1991 level, these 938 additional violent offenders would have been added to the expected number of prisoners. In Illinois, the increase would have been 4,291 additional violent offenders had the number of violent offenses in 1996 equaled the 1991 level.

These three states do not allow for parole release for violent offenders. Hence, if violent crime rates increase under truth in sentencing, and if sentencing decisions reflect the 1996 decisions, changes in offending can lead to relatively large increases in prison populations, and in states that do not allow for parole release, changes in offending under truth in sentencing (as practiced in 1996) could encourage states to expand their prison capacity substantially.

This issue relates to truth in sentencing and corrections management. To the extent that truth in sentencing gives judges the latitude to control both who goes to prison and how long they stay there, truth in sentencing can contribute to more efficient allocation of corrections resources, provided judges decisions are consistent with a state's sentencing priorities. However, this model breaks down if pre-sentencing factors such as offenses and arrests change dramatically and thereby contribute more to the prison population. Under these conditions of large changes in pre-sentencing factors, the same, apparently rational decisions to broaden the use of incarceration for more violent offenders while only slightly increasing length of stay, can have dramatic consequences for managing prison populations. Thus, the absence of "release valves" for managing prison populations under truth in sentencing may not appear as a problem so long as violent crime is decreasing or is stable, but if violent crimes increase, then the apparently rational allocation of corrections resources may create new prison management problems.

As each state represents only a portion of the variety of forms of truth in sentencing and sentencing practices that exist throughout the United States, it is not possible to draw general conclusions about the effects of truth in sentencing on sentencing practices throughout the nation. However, the entire analysis of prisoner population changes in the seven states whose data were analyzed leads to several conclusions about truth-in-sentencing reforms in these states:

- When implemented as part of a larger sentencing reform process, truth-in-sentencing reforms are associated with large changes in prison population outcomes; however, the changes are more appropriately associated with the broader sentencing reforms than with truth in sentencing in particular.
- In states that did not make changes to their sentencing structures by implementing truth in sentencing, changes in prison population outcomes are more strongly influenced by changes in pre-sentencing factors than by changes in sentencing practices. This is logical, as sentencing practices did not change even though truth in sentencing was implemented, and the source of changes in prison populations would therefore reside with changes in pre-sentencing factors.
- In states that made moderate to marginal changes in their sentencing structure when they implemented truth in sentencing (such as increasing the percentage of sentence to be served by violent offenders), the effects of changes in sentencing practices on prison outcome generated two patterns. In one case, even though the truth-in-sentencing reforms increased the percent of sentence served and therefore led to the expectation that changes in length of stay would affect sentencing outcomes, the observed result was one in which changes in the prison admission rate for violent offenders had a larger influence on prison population outcomes than did changes in expected length of stay. This is suggestive of a sentencing model in which judges, who now have more control over the length of sentence served, use this authority to expand the use of prison for more violent offenders than previously, while at the same time increasing the expected length of stay marginally. In the second case, the increase in percentage requirements led to larger increases in length of stay, and consequently, a larger effect of length of stay on the expected number of prisoners.
- As truth in sentencing was implemented during a period when violent crime was decreasing, the effects of changes in violent crime rates on prison population outcomes cannot be understated. In some states, changes in violent crime rates and arrests for violent crimes led to large decreases in the expected number of prisoners and in the number of prison admissions. This leads to the conclusion that had violent crimes remained at their 1991 levels (rather than decreasing), the size of prison populations in many jurisdictions would have expanded more than they did. Further, in states with determinate sentencing and no parole release, the absence of a "release valve" on the correctional system could potentially pose new challenges for

managing corrections populations if violent crimes and arrests increase and if sentencing practices under truth in sentencing mirror those observed in 1996 (or 1998). This result suggests that truth in sentencing as a corrections management tool has limited effectiveness. The sentencing and corrections system are still subject to the volume and composition of offenders entering them, and truth-in-sentencing practices can do little to change this.

Exhibit 1. Changes in state truth-in-sentencing legislation, as related to violent offenders, before and after the passage of the 1994 Crime Act[10]

States that received federal TIS grants at any time during 1996-99 are marked in bold uppercase letters. Other states are in lowercase letters.

Truth-in-sentencing laws for violent offenders: Laws enacted before the 1994 Crime Act			Truth-in-sentencing laws for violent offenders: Laws enacted after the Crime Act, January 1, 1995 through December 31, 1999				
			≥85% of determinate or maximum sentence required by statute	Other specific percent (<85%) of determinate or maximum sentence required by statute	≥85% of determinate or maximum sentence required by statute	Other specific percent of minimum or maximum sentence required by statute	No statutory TIS requirements
			No parole release (reflects determinacy in system)		Parole release allowed (reflects indeterminacy in system)		
	≥85% of determinate or maximum sentence required by statute	No parole release (reflects determinacy)	**AZ CA GA MN NC OR VA WA** (8)				
	Other specific percent (<85%) of determinate or maximum sentence required by statute	No parole release (reflects determinacy)	**FL IL KS ME** (4)	ak **DE** (2)			
	≥85% of determinate or maximum sentence required by statute	Parole release allowed (reflects indeterminacy in system)			**MO** (1)		
	Other specific percent of minimum or maximum sentence required by statute	Parole release allowed (reflects indeterminacy in system)	**DC MS NY TN** wi (5)		**CT** ky **LA** (3)	ar co ma md **MI** ne nh nv **PA** tx (10)	
	No statutory TIS requirements	Parole release allowed (reflects indeterminacy in system)	**IA OH** (2)	in (1)	**NJ ND OK SC** (4)	id mt (2)	al hi nm ri sd **UT*** vt wv wy (9)

Notes: Number of states in each cell is given in parentheses.
* Utah does not have truth-in-sentencing statutes but received federal grant funding on the basis of its truth-in-sentencing practices.

[10] For the details about how states were located on the table, as well as for additional information about the "parole release" and "no parole release" categories, see chapter 2 of: William J. Sabol, Katherine Rosich, Kamala Mallik Kane, et al. (2002) *The Influences of Truth-In-Sentencing Reforms on Changes in States' Sentencing Practices and Prison Populations.* Submitted to the National Institute of Justice, Washington, DC. March.

Exhibit 2. Sentencing structure and reforms

State	Summary of key changes in sentencing structure between 1991 and 1996		
	Pre-reform	Post-reform	Extent of change
Georgia	Indeterminate sentencing, no requirements for violent offenders to serve a specific percent of sentence	Determinate sentencing for selected violent offenses; 100% requirement for serious violent felonies and a minimum sentence of 10 years.	Moderate amount of change through the implementation of the percentage requirement and abolition of parole for violent offenders Previous average percent served estimated to range from 42% to 51% of sentence.
Washington	Determinate sentencing with sentencing guidelines; 67% requirements for all offenders; violent offenders served about 75% served in practice.	Determinate sentencing; 85% requirement applied to violent offenders; 67% requirement retained for less serious nonviolent offenders.	Small to no change in practice. Pre-reform practices were very similar to the post-reform practices. Previous average percent served was about 75%.
Illinois	Determinate sentencing; no specified percentage requirements for violent offenders, but good time credits of up to 50%.	Determinate sentencing with an 85% requirement for violent offenders.	Moderate amount of change through the implementation of the 85% requirement. Previous average percent served was about 45%.
Ohio	Indeterminate sentencing with parole release; substantial good time credits.	Determinate sentencing; all felonies are to serve 97% (1 day good time per month). Abolished parole for new law offenders.	Major change in sentencing in adopting both determinate sentencing with no parole and truth in sentencing.
New Jersey	Indeterminate sentencing with parole release decisions; no sentence percentage requirements.	Determinate sentencing with an 85% requirement for violent offenders. Statutory truth-in-sentencing provisions adopted.	Major change in sentencing structure with the implementation of truth in sentencing. Previous average percent of sentence served was about 40%
Pennsylvania	Indeterminate sentencing with sentencing guidelines that emphasized more severe punishments for violent offenders. Offenders required to serve at least the minimum term prior to parole eligibility.	Indeterminate sentencing with sentencing guidelines that emphasized more severe punishments for violent offenders. Offenders required to serve at least the minimum term prior to parole eligibility.	Changed the emphasis of the guidelines; "capacity constraint" model and more emphasis on violence. TIS laws reflected past practice and introduced no changes to PA's sentencing practices.
Utah	Indeterminate sentencing with parole release. Good time rules determine eligibility for parole release. Truth in sentencing implemented by practice, based on a specified percentage of the expected term to be served based on good time rules.	Indeterminate sentencing with parole release. Good time rules determine eligibility for parole release. Truth in sentencing implemented by practice, based on a specified percentage of the expected term to be served based on good time rules.	No change in sentencing structure. Previous average percent of sentence served was estimated at between 33% and 36%.

Exhibit 3. Relative magnitude of effects on changes in expected prisoner violent offender populations of changes in pre-sentencing factors and changes in sentencing decisions

State	Extent of pre/post reforms change in sentencing policy	Pre-sentencing factors	Sentencing decisions	
			Prison admissions	Expected length of stay
Georgia	Moderate	Largest effect	Second largest effect	Smallest effect
Washington	Minor	Largest effect	Second or third largest*	Second or third largest*
Illinois	Moderate	Largest effect	Second largest	Smallest effect
Ohio	Major	Second largest	Largest effect	Smallest effect
New Jersey	Minor (pre-reform)	Largest effect	Second largest	Smallest effect
Pennsylvania	Moderate	Second largest	Largest effect	Smallest effect
Utah	Minor	Largest effect	Second largest	Smallest effect

Notes: * The "switching" of the order of the two sentencing decisions results from different estimates of expected length of stay. For the second estimates, in which expected length of stay is longer, its effects are larger than the prison admission decision. In neither case do the sentencing factors exceed the effects of the pre-sentencing factors.

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