

The Influences of Truth-in-Sentencing Reforms on Changes in States' Sentencing Practices and Prison Populations

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Report to the National Institute of Justice
Grant # NIJ 98-CE-VX-0006



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Contents

Acknowledgements	ii
Summary and Overview	iii
Background	iii
Research questions and summary of key findings.....	iv
Overview of the report	vii
 CHAPTER 1. Varieties of Truth in Sentencing	 1
Introduction	1
Background on the federal truth-in-sentencing grant program	1
Evolution of eligibility for federal TIS grants	2
Truth-in-sentencing grants awarded to states.....	5
Truth in sentencing in the states.....	7
Conclusions	13
 CHAPTER 2. Influence of Federal Truth-in-Sentencing Reforms on States' Sentencing Systems	 16
Introduction and purpose of this chapter	16
Change in states' sentencing structures associated with federal reforms	17
Analysis of the patterns of change in states' truth-in-sentencing laws.....	18
Conclusions about the federal grant program role in influencing truth in sentencing in the states.....	27
 CHAPTER 3. Analysis of the Influences of Changes in Sentencing Practices on Prison Admissions and Prison Populations.....	 30
Introduction and summary of findings	30
Approach to the analysis.....	33
Analysis of percent of sentence served.....	41
State-specific results	42
Conclusions from the comparisons of the influences of sentencing reforms on prison populations in the seven states.....	43
State-specific results	48
 CHAPTER 4. Methodology	 88
Analysis of 1994 and 1996 federal truth-in-sentencing legislation in chapter 1.....	88
Matrix of changes in state sentencing structures in chapter 2.....	88
Estimation of expected length of stay in chapter 3.....	90
Decomposition of changes in admissions and expected prison population in chapter 3	93

Acknowledgements

This research was supported by grant #NIJ 98-CE-VX-0006 from the National Institute of Justice, Office of Justice Programs, U.S. Department of Justice. Points of view expressed in this report are those of the authors and do not necessarily represent the official position of the U.S. Department of Justice.

William J. Sabol served as the Principal Investigator and lead author of this report. Katherine Rosich contributed extensively to the conceptualization and writing of Chapters 1 and 2. Kamala Mallik Kane wrote the preliminary versions of these chapters and contributed to the analysis of changes in sentencing practices in Chapter 3. David Kirk and Glenn Dubin contributed to the conceptualization of the study and analysis of changes in sentencing practices. James P. Lynch of The American University contributed to the conceptualization and organization of the report.

Dr. Steve Van Dine, Director, Bureau of Research, Ohio Department of Rehabilitation and Correction provided data for this project. Dr. Allen J. Beck, Chief, Corrections Unit, and Doris Wilson and Paula Ditton of his staff provided assistance with the *National Corrections Reporting Program* data.

NIJ Program Monitors Janice Munsterman and Jordan Leiter (original grant monitor) provided assistance in the progress of this report.

Summary and Overview

BACKGROUND

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. Throughout the states and in the federal government, there has been, during the past decade, much legislative activity related to truth in sentencing. The federal Violent Crime Control and Law Enforcement Act of 1994 (hereafter, the Crime Act), as amended in 1996, provided for federal grants to states to expand their prison capacity if they increased the incarceration of violent offenders. The Violent Offender Incarceration and Truth-in-Sentencing (VOI/TIS) grant programs represented two federal efforts to encourage states to increase the use of incarceration. To receive VOI funding, a state only needed to give assurances that it had or will implement(ed) policies that ensured that violent offenders served a substantial portion of their sentences, that made punishment for violent offenses sufficiently severe, and 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.

The VOI grant program did not require states to change their sentencing laws; however the TIS grant program required that states demonstrate that they have specific laws regarding the sentencing of violent offenders. As originally enacted under the Crime Act, the TIS grant program had two general requirements for states to receive TIS funding:

- First, that states have implemented laws requiring convicted violent offenders to serve at least 85 percent of the sentence imposed; or
- Second, that states show that they have been increasing their punishment of violent offenders in recent years, and that they have laws requiring serious repeat violent offenders and drug offenders to serve 85 percent of their imposed sentences.¹

Subsequent amendments to the law in 1996 required states to demonstrate that they enacted laws that were to be implemented within 3 years of their grant application that required violent offenders to serve 85 percent of the sentence imposed. Chapter 1 provides more detailed description of the specific requirements contained in the laws. The Crime Act of 1994 provided that only states that had determinate sentencing could qualify for federal TIS grants. Subsequently, the 1996 amendments to the Crime Act expanded the requirements for TIS grants in several important ways, most notably, by allowing states that practiced indeterminate sentencing to qualify for federal TIS grants.

Upon expanding the eligibility requirements for federal TIS grants, the federal program recognized the variety of sentencing structures throughout the states and acknowledged that the federal requirements for grants could not require states to make dramatic changes to their sentencing practices in order to qualify for federal grant dollars (e.g., changes such as replacing indeterminate sentencing with determinate sentencing). Subsequently, the federal TIS grant program awarded grants to states that had forms of truth in sentencing that varied widely from the forms stated in the original, 1994 Crime Act grant eligibility requirements.

¹ Violent Crime Control and Law Enforcement Act of 1994, PL 103-322 § 20102 (a).

RESEARCH QUESTIONS AND SUMMARY OF KEY FINDINGS

These changes to the federal program mirror the key questions addressed in this report. In short, these research questions are:

- What was the variety of forms of truth in sentencing implemented among the states and how were these forms related to ongoing patterns of sentencing reform in the states?
- What was the influence of the federal TIS grant program on sentencing reforms throughout the states?
- How did the forms of truth in sentencing implemented in the states affect changes in prison populations through their effects on changes in the prison admission rate and changes in length of stay?

These three general questions provide the basis for the more specific questions addressed in this report. Chapter 1 of the report describes the changes in the federal TIS grant eligibility requirements over time, and the different forms of truth in sentencing described in the federal legislation that were the basis of the federal truth-in-sentencing grant program. Chapter 1 also describes the varieties of truth in sentencing implemented in the states and argues that the federal TIS grant eligibility criteria reflect both the federal recognition of a wide variety of sentencing practices among the states, and the federal acknowledgment that there is not a common or unified form of truth in sentencing.

As described in Chapter 2, the introduction of the federal TIS grant program was a significant event among the sentencing reforms occurring throughout the United States during the 1990s. This section of the report addresses the role of the federal TIS grant program in influencing states to implement truth in sentencing, first in forms that paralleled the federal criminal justice system (i.e., with violent offenders serving 85 percent of imposed sentences within determinate sentencing regimes with no parole), and second, to implement forms of truth in sentencing that did not require states adopt a common form of truth in sentencing or to make major changes to their sentencing systems in order to receive federal TIS grants.

Chapter 2 argues that the federal TIS grant program had very limited influence on the states to adopt truth in sentencing according to an 85 percent, determinate sentencing model, and second that it had marginal influences on the states to adopt other forms of truth in sentencing. Rather than as a major force for changing sentencing practices among the states, the federal TIS grant program is better understood as a program that reflected current sentencing practices and the reforms that were going on in the states. The program rewarded with TIS grants both states that made no changes to their existing sentencing structures—whether or not these states had an 85 percent rule with determinate sentencing—and also provided incentives for states to modify their sentencing laws to increase the percentage of sentence served. The extensive review and analysis of sentencing reform processes in the states conducted by this study strongly suggests that in no case was the federal program solely responsible for a state's decision to adopt truth in sentencing; in only a few states was it described as a major factor in a state's decision to adopt truth in sentencing; and in several states that made major reforms including adopting truth in sentencing, the federal TIS grant program was described as playing no role in the states' sentencing reforms. Further, as shown in Chapter 2, the landscape of sentencing practices prior to the federal TIS grant program looked remarkably similar to the landscape after the federal grant program was implemented. Where changes occurred, they generally were minor or moderate changes, or they reflected decisions by states to engage in sentencing reform and adopt truth in sentencing that were not as a result of the federal TIS grant program.

Table A. Changes in state truth-in-sentencing legislation, as related to violent offenders, before and after the passage of the 1994 Crime Act²

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 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)		
Truth-in-sentencing laws for violent offenders: Laws enacted before the 1994 Crime Act	=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		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		DC MS NY TN wi (5)	CT ky LA (3)	ar ma co md MI ne nh nv PA tx (10)	
	No statutory TIS requirements		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.

As shown by the states on the (shaded) diagonal of the matrix in table A (which is copied from table 2.1 in chapter 2), thirty states made no changes to their truth-in-sentencing structure after the implementation of the federal TIS grant program. Another 12 increased the severity of their existing truth-in-sentencing laws. The remainder made comparatively large changes by introducing new truth-in-sentencing laws. However, not all of the changes in the states can be ascribed to the federal TIS grant program.

Chapter 3 of the report takes information about sentencing reforms from the descriptions in the previous two chapters and addresses empirically the influence of truth-in-sentencing reforms on changes in prison population outcomes. This empirical analysis was conducted for seven states, which were chosen for several reasons; key among the reasons is the form of truth in sentencing and the extent of changes in sentencing policies undertaken during the early 1990s. The states are used analytically to identify common patterns of outcomes associated with, in particular, the changes in the prison admission rate and changes in length of stay.

To measure and analyze changes in expected prison populations, offense-specific disaggregated flow models of the criminal justice process were developed and applied to the data in each state. The

² See chapter 2 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.

expected prison population was a measure of the number of prisoners that would be expected from “current” sentencing decisions, including the number of offenders admitted into prison (the decision to imprison) and the expected length of stay for admissions cohorts. This expectation produces a prison population size assumed to result from these decisions, if the decisions were to persist. Comparisons were made between the expected prison populations in 1991 and 1996 (or 1998); or before and after the implementation of the reforms.

The differences in the expected number of prisoners before and after reforms were analyzed by decomposing the difference into two major components: (1) the amount of the change due to “pre-sentencing” factors—such as changes in population, in the crime rate, and in the arrest rate; and (2) the amount of the change associated with sentencing reforms, including truth in sentencing. Sentencing decisions were measured by the prison admission rate and by the estimated expected length of stay for offenders entering prison.

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 were 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 were 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 and patterns of outcomes were reviewed across the states to identify commonalities.

Table B shows some of the key outcomes of the analysis in summary form. The results from the analysis are shown for changes in the expected number of prisoners. The data in table B 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.

Table B. 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.

Additionally, as each state represents only a portion of the variety of forms of truth in sentencing and sentencing practices occurring 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:

- First, 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.
- Second, 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.
- Third, 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.
- Fourth, 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 decrease) that the size of prison populations in many jurisdictions would have expanded further 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.

OVERVIEW OF THE REPORT

The report consists of four chapters in addition to this summary. Chapter 1 describes the variety of forms of truth in sentencing and analyzes the changes in the federal TIS grant eligibility

requirements. Chapter 2 addresses the influence of the federal TIS grant program on sentencing reform changes in the states. Chapter 3 provides the results of the empirical analysis of changes in prison population outcomes in relation to changes in sentencing reforms. Chapter 4 describes the report's methodology.

CHAPTER 1.

Varieties of Truth in Sentencing

INTRODUCTION

This chapter reviews the evolution of eligibility criteria under which states could receive grants under the federal truth-in-sentencing (TIS) grant program, and it describes the variety of forms that truth in sentencing that have appeared in both states that received TIS grants and those that did not. The implementation of truth in sentencing occurred in states within the context of their ongoing patterns of implementing sentencing reforms. That there is no single or common form of truth in sentencing comes as no surprise, given the wide variety in sentencing practices among the states. Yet, there are several general forms of truth in sentencing as implemented among the states. These range from models resembling the federal justice system—with determinate sentencing, no parole release, and an 85 percent (or higher) time served requirement—to indeterminate sentencing models that regulate the percentage of sentence to be served before reaching parole eligibility. Implementation of truth in sentencing similarly varies at the state level, with determinate sentencing models yielding the greatest degree of certainty about time served in prison, and indeterminate models providing the least. State-level differences in sentencing structure and practice make it difficult to find more than these general forms of truth in sentencing. This variety in the specific form of truth in sentencing is part of the diversity of sentencing practice that has come to characterize state sentencing practices during the past few decades.

BACKGROUND OF THE FEDERAL TRUTH-IN-SENTENCING GRANT PROGRAM

Truth in sentencing is generally viewed as a means of guaranteeing that offenders serve prison terms that reflect the sentences imposed by judges. The federal Violent Crime Control and Law Enforcement Act of 1994 (hereafter, the Crime Act) provided for federal Violent Offender Incarceration and Truth-in-Sentencing Incentive Grants (together known as VOI/TIS). Under this grant program, eligible states may receive funding to expand their jail and prison capacity, to ensure that space is available to incarcerate violent offenders. The legislation specifically authorized grants to the states “to construct, develop, expand, modify, operate, or improve correctional facilities...[in order to] ensure that prison cell space is available for the confinement of violent offenders, and to implement truth-in-sentencing laws for sentencing violent offenders.”³ States applying for VOI/TIS grant funding were to provide assurances that they “have implemented or will implement correctional policies and programs, including truth in-sentencing laws that ensure that violent offenders serve a substantial portion of the sentences imposed, that are designed to provide sufficiently severe punishment for violent offenders, including juvenile offenders...[to ensure] that prison time served is appropriately related to the determination that the inmate is a violent offender and for a period of time deemed necessary to protect the public.”⁴

Beyond these general requirements, the 1994 Crime Act set forth separate conditions for states to receive Violent Offender Incarceration (VOI) grants and Truth-in-Sentencing (TIS) grants. The VOI program provided states with grants if they gave assurances that they had or will implement policies

³ Violent Crime Control and Law Enforcement Act of 1994, PL 103-322 § 20101 (a).

⁴ Violent Crime Control and Law Enforcement Act of 1994, PL 103-322 § 20101 (b) (1).

that ensured that violent offenders would serve a “substantial portion” of their sentences, that they provided “sufficiently severe” punishments for violent offenders, and that time served by violent offenders was sufficient to protect the public. The VOI program was a formula program with three tiers of funding that determined how much states could receive. In 1996, the first year of funding, all states received some funding under, at least, tier 1.

The TIS grant program, as specified in the 1994 Act, required states applying for TIS grants to meet one of two criteria: (1) They would have to demonstrate that they had laws in effect requiring violent offenders to serve at least 85 percent of the sentence imposed. This requirement resembles provisions within the federal criminal sentencing system, under which offenders serve no less than 85 percent of their imposed sentences.⁵ (2) States could show that, since 1993, they increased the percentage of convicted violent offenders sentenced to prison, increased the average prison time served by violent offenders, increased the percentage of sentence served by violent offenders, and that they had laws in effect requiring 85 percent of the sentence imposed to be served if the offender had a prior conviction for a violent or serious drug offense.⁶

EVOLUTION OF ELIGIBILITY FOR FEDERAL TIS GRANTS

These initial requirements for the TIS grant program changed before the grant program began. The VOI/TIS program was implemented one and a half years after the passage of the 1994 Crime Act, when funds were first appropriated through the Department of Justice Appropriations Act in 1996.⁷ After this, the program infrastructure was established and grants were awarded.⁸

However, the Appropriations Act of 1996 also amended the entire text of Subtitle A of the 1994 Crime Act.⁹ Truth in sentencing under this act (hereafter referred to as the 1996 Amendment) is different from the 1994 law, particularly with respect to the qualification criteria.

Table 1.1 shows the full text of the grant eligibility criteria under the 1994 and 1996 laws. The eligibility criteria for truth-in-sentencing grants changed appreciably from 1994 to 1996, as the eligibility criteria for TIS grants were expanded. First, the number of criteria under which states could qualify for funds increased from two to five. Under the 1994 law states were required to meet one of two eligibility criteria to receive grant funding. Those criteria were (1) having a law that requires all violent offenders to serve 85 percent of their imposed sentences and (2) having a law that requires repeat violent or serious drug offenders to serve 85 percent of their imposed sentences, provided that the state can also demonstrate that it has increased the use of prison for all violent offenders. With the 1996 amendment, however, states are eligible for funding if they meet any one of five conditions.

⁵ Sentencing Reform Act of 1984, PL 98-473 (1984).

⁶ Violent Crime Control and Law Enforcement Act of 1994, PL 103-322 § 20102 (a) (2).

⁷ Department of Justice Appropriations Act, 1996, PL 104-134.

⁸ Philip Merkle, Corrections Program Office, U.S. Department of Justice. Interview with the authors, October 28, 1999.

Although the VOI/TIS was established by law in 1994, no funds were appropriated until April 1996, and grants were not issued until later in 1996. Furthermore, the Corrections Program Office, the federal agency charged with implementing VOI/TIS and other correctional grant programs, had been established in 1995, but only with an appropriation for boot camp programs. The funding, infrastructure, and program staff needed to administer VOI/TIS were not put in place until 1996.

⁹ Department of Justice Appropriations Act, 1996, PL 104-134, as stated in section 114.

Table 1.1. Comparison of TIS eligibility criteria in the 1994 Crime Act with the 1996 amendment

<p>Public Law 103-322—September 13, 1994 TITLE II—PRISONS Subtitle A—Violent Offender Incarceration and Truth-in-Sentencing Incentive Grants SEC. 20102. TRUTH-IN-SENTENCING INCENTIVE GRANTS (108 STAT. 1816)¹⁰</p> <p>(a) TRUTH-IN-SENTENCING GRANT PROGRAM.— Fifty percent of the total amount of funds appropriated to carry out this subtitle for each of fiscal years 1995, 1996, 1997, 1998, 1999, and 2000 shall be made available for Truth-in-Sentencing Incentive Grants. To be eligible to receive such a grant, a state must meet the requirements of section 20101(b) and shall demonstrate that the state—</p> <p>(1) has in effect laws which require that persons convicted of violent crimes serve not less than 85 percent of the sentence imposed; or</p> <p>(2) since 1993—</p> <p>(A) has increased the percentage of convicted violent offenders sentenced to prison;</p> <p>(B) has increased the average prison time which will be served in prison by convicted violent offenders sentenced to prison;</p> <p>(C) has increased the percentage of sentence which will be served in prison by violent offenders sentenced to prison; and</p> <p>(D) has in effect at the time of application laws requiring that a person who is convicted of a violent crime shall serve not less than 85 percent of the sentence imposed if—</p> <p>(i) the person has been convicted on 1 or more prior occasions in a court of the United States or of a state of a violent crime or a serious drug offense; and</p> <p>(ii) each violent crime or serious drug offense was committed after the defendant's conviction of the preceding violent crime or serious drug offense.</p>	<p>Public Law 104-134—April 26, 1996 TITLE II—PRISONS Subtitle A—Violent Offender Incarceration and Truth-in-Sentencing Incentive Grants SEC. 20104. TRUTH-IN-SENTENCING INCENTIVE GRANTS (110 STAT. 1321-16-17)¹¹</p> <p>(a) ELIGIBILITY.— To be eligible to receive a grant award under this section, a state shall submit an application to the Attorney General that demonstrates that—</p> <p>(1) such state has implemented truth-in-sentencing laws that—</p> <p>(A) Require persons convicted of a part 1 violent crime to serve not less than 85 percent of the sentence imposed (without counting time not actually served, such as administrative or statutory incentives for good behavior); or</p> <p>(B) Result in persons convicted of a part 1 violent crime serving on average not less than 85 percent of the sentence imposed (without counting time not actually served, such as administrative or statutory incentives for good behavior);</p> <p>(2) Such state has truth-in-sentencing laws that have been enacted, but not yet implemented, that require such state, not later than three years after such state submits an application to the Attorney General, to provide that persons convicted of a part 1 violent crime serve not less than 85 percent of the sentence imposed (without counting time not actually served, such as administrative or statutory incentives for good behavior); or</p> <p>(3) In the case of a state that on the date of enactment of the Department of Commerce, Justice, and state, the Judiciary, and Related Agencies Appropriations Act, 1996, practices indeterminate sentencing with regard to any part 1 violent crime—</p> <p>(A) Persons convicted of a part 1 violent crime on average serve not less than 85 percent of the prison term established under the state's sentencing and release guidelines; or</p> <p>Persons convicted of a part 1 violent crime on average serve not less than 85 percent of the maximum prison term allowed under the sentence imposed by the court (not counting time not actually served such as administrative or statutory incentives for good behavior).</p>
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Second, contained within this expansion of the number of criteria is another substantive change: truth-in-sentencing grants may be awarded to states with either determinate or indeterminate sentencing structures. The language of the 1994 Crime Act, that “persons convicted of violent crimes serve not less than 85 percent of the sentence imposed,”¹² suggests that the 85 percent requirement would apply to determinate sentences, since there is no mention of indeterminacy or whether “the sentence” refers to the minimum or maximum term of an indeterminate sentence.¹³ However, the 1996 amendment explicitly defined indeterminate sentencing¹⁴ and established provisions for granting funds to states that implement truth in sentencing within an indeterminate sentencing framework.

¹⁰ Violent Crime Control and Law Enforcement Act of 1994, PL 103-322 § 20102 (a).

¹¹ Department of Justice Appropriations Act, 1996, PL 104-134 § 20104 (a).

¹² Violent Crime Control and Law Enforcement Act of 1994, PL 103-322 § 20102 (a) (1).

¹³ Subtitle A of the Violent Crime Control and Law Enforcement Act of 1994, PL 103-322, contains no direct reference to indeterminate sentencing.

¹⁴ Department of Justice Appropriations Act, 1996, PL 104-134 § 20101 (1) provides the following definition of indeterminate sentencing: “Unless otherwise provided, for purposes of this subtitle...the term ‘indeterminate sentencing’ means a system by which (A) the court may impose a sentence of a range defined by statute; and (B) an administrative agency, generally the parole board, or the court, controls release within the statutory range.”

Third, under the expanded 1996 amendment, states that practice determinate sentencing qualify for grant funding if they meet one of three criteria. The first condition, that states must have implemented truth-in-sentencing laws requiring persons convicted of violent offenses to serve “not less than 85 percent of the sentence imposed,”¹⁵ is the same as the basic provision of TIS under the 1994 law. This definition presumes that each offender convicted of a violent offense would serve at least 85 percent of the sentence imposed, and is similar to requirements under the federal justice system. However, the 1996 amendment set forth additional definitions of truth in sentencing. States also qualify for grants if their TIS laws result in violent offenders collectively serving “*on average* not less than 85 percent of the sentence imposed”¹⁶ (emphasis added). Finally, determinate sentencing states qualify if they have “enacted, but not yet implemented”¹⁷ a truth-in-sentencing law, so long as offenders serve 85 percent of the sentence imposed within three years of the state's submission of its TIS grant application.

The 1996 amendment also contains two qualifying provisions for states that practice indeterminate sentencing. Unlike determinate sentencing states, these states are not required to have laws that mandate a specific percentage of sentences to be served to qualify for TIS grants. Indeterminate sentencing states are eligible for TIS funding if violent offenders serve, on average, at least 85 percent of either “the prison term established under the state’s sentencing and release guidelines,”¹⁸ or “the maximum prison term allowed under the sentence imposed by the court.”¹⁹

While the 1996 amendment expanded eligibility for TIS grants by introducing four new eligibility criteria, it also eliminated the second criterion in the 1994 law that pertained exclusively to repeat violent or serious drug offenders. This criterion would have allowed states with TIS laws requiring only violent offenders with a past violent or serious drug conviction to serve 85 percent of the sentence imposed to qualify for funding, provided that they could also demonstrate that they were increasing the use of prison for all violent offenders. Specifically, states applying under this criterion would have to show that since 1993 they (1) increased the proportion of convicted violent offenders sentenced to prison, (2) increased the average prison time which would be served, and (3) increased the percentage of sentence to be served.²⁰ This provision was eliminated by the 1996 amendment, except for a grandfather clause that allowed states that would have qualified under the original law to be eligible for funding in fiscal year 1996 only.²¹ With the deletion of this provision, the federal TIS legislation no longer contains language about increasing the actual time served; language addressing the actual length of sentences served is included in the VOI program only. Federal truth in sentencing is explicitly concerned only with ensuring the percentage of imposed sentences to be served.²²

Additionally, the 1996 amendment circumscribed the range of offenses subject to truth in sentencing to certain serious violent felonies. While the 1994 law required 85 percent of the sentence to be served for “violent crimes,”²³ the language did not specify particular offenses that the law should apply to. However, the 1996 amendment explicitly states that TIS should apply to “part 1 violent crimes,”²⁴ defined as murder, non-negligent manslaughter, rape, robbery, and aggravated assault.²⁵

¹⁵ Department of Justice Appropriations Act, 1996, PL 104-134 § 20104 (a) (1) (A).

¹⁶ Department of Justice Appropriations Act, 1996, PL 104-134 § 20104 (a) (1) (B).

¹⁷ Department of Justice Appropriations Act, 1996, PL 104-134 § 20104 (a) (2).

¹⁸ Department of Justice Appropriations Act, 1996, PL 104-134 § 20104 (a) (3) (A).

¹⁹ Department of Justice Appropriations Act, 1996, PL 104-134 § 20104 (a) (3) (B).

²⁰ Violent Crime Control and Law Enforcement Act of 1994, PL 103-322 § 20102 (a) (2).

²¹ Department of Justice Appropriations Act, 1996, PL 104-134 § 20102 (c).

²² Charles Moses, Office of Justice Programs, U.S. Department of Justice. Interview with the authors, November 30, 1999.

²³ Violent Crime Control and Law Enforcement Act of 1994, PL 103-322 § 20102 (a) (1).

²⁴ Department of Justice Appropriations Act, 1996, PL 104-134 § 20104 (a).

Grant eligibility could also be expanded to states with TIS laws covering “a reasonably comparable class of serious violent crimes, as approved by the Attorney General.”²⁶

In sum, the 1996 amendment provides wider eligibility for federal truth-in-sentencing grants. While the cornerstone of federal truth in sentencing, that offenders serve 85 percent of their imposed sentences, was laid out in the 1994 law, the 1996 amendment expanded eligibility for TIS funding to additional forms of truth in sentencing. The 1996 amendment detailed provisions for extending funding to states with various forms of truth in sentencing under both determinate and indeterminate sentencing structures, thus allowing a range of truth-in-sentencing policies to be considered eligible for federal grant funding.

TRUTH-IN-SENTENCING GRANTS AWARDED TO STATES

The federal government has awarded truth-in-sentencing grants annually since 1996. In implementing the law, the Department of Justice established five criteria for evaluating state applications. These criteria, shown in table 1.2, are taken directly from the Crime Act, as amended in 1996. To qualify, states must demonstrate that they are eligible under any one of the five conditions.²⁷

Table 1.2. TIS grant eligibility criteria used by the Corrections Program Office²⁸

To be eligible for Truth-in-Sentencing Incentive Funds, a state must demonstrate <i>any</i> one of the following:	
Determinate sentencing states	
I.	The state has implemented truth-in-sentencing laws that require persons convicted of a Part 1 violent crime to serve not less than 85 percent of the sentence imposed; or
II.	The state has implemented truth-in-sentencing laws that result in persons convicted of a Part 1 violent crime serving on average not less than 85 percent of the sentence imposed; or
III.	The state has enacted, but not yet implemented, truth-in-sentencing laws that require the state, not later than 3 years after it submits an application for funds, to provide that persons convicted of a Part 1 violent crime serve not less than 85 percent of the sentence imposed.
Indeterminate sentencing states	
To qualify for funds as an indeterminate sentencing state, the state must demonstrate that it practiced indeterminate sentencing and met one of the following two criteria on April 26, 1996, the date the statute was amended.	
IV.	Persons convicted of a Part 1 violent crime on average serve not less than 85 percent of the prison term established under the state's sentencing and release guidelines; or
V.	Persons convicted of any Part 1 violent crime on average serve not less than 85 percent of the maximum prison term allowed under the sentence imposed by the court.

These five criteria allow for a variety of forms of truth in sentencing to become eligible for federal funding. As with the 1996 amendment, the first criterion, that offenders must serve “not less than 85 percent” of the sentence imposed, is the only one that is identical to the original 1994 law. All of the other criteria are similar, but represent variations of this first conceptualization. Though the

²⁵ Department of Justice Appropriations Act, 1996, PL 104-134 § 20101 (2) provides the definition of part 1 violent crimes as: “murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the federal Bureau of Investigation for purposes of the Uniform Crime Reports.”

²⁶ Department of Justice Appropriations Act, 1996, PL 104-134 § 20105 (e).

²⁷ Philip Merkle, Corrections Program Office, U.S. Department of Justice. Interview with the authors, October 28, 1999.

Also Charles Moses, Office of Justice Programs, U.S. Department of Justice. Interview with the authors, November 30, 1999.

While it is generally true that five criteria were used to evaluate state grant applications, an additional, sixth criterion was used in 1996. In that year only, states could qualify for funding if they met the now obsolete provision for repeat violent and drug offenders that was contained in the original 1994 Crime Act, but removed through the 1996 amendment.

²⁸ Corrections Program Office homepage at <http://www.ojp.usdoj.gov/cpo/voitis.htm>, accessed on May 26, 1999.

federal truth in sentencing is often characterized as the “85 percent rule,” the five criteria stated within the law differ on some important dimensions, including:

- *Sentencing structure.* Following the 1996 amendment, truth in sentencing may exist under either determinate or indeterminate sentencing systems, as the law contains criteria for funding both types of states. Determinate sentencing is characterized by the imposition of a fixed term of punishment, whereas indeterminate sentencing typically involves the imposition of a sentence range and discretionary release by a parole authority. Beyond this simple distinction, determinate and indeterminate sentencing systems are qualitatively different on a number of factors, including sentencing philosophies, lengths of punishment, and release mechanisms. A full description of the differences between determinate and indeterminate sentencing is beyond the scope of this paper, but this topic has been addressed thoroughly in the literature.
- *Base sentence to which the percentage requirement is applied.* The sentence to which the 85 percent requirement is applied differs. In states with determinate sentencing, a single sentence is available as the base for the percentage requirements. In indeterminate sentencing states, the maximum sentence is the base to which the percentage is generally applied. Generally, the law stipulates that the 85 percent requirement be applied to “the [fixed or determinate] sentence.” As under indeterminate sentencing a sentence range may be imposed rather than a fixed term, the language used in the fourth and fifth criteria acknowledges this difference. Under the fourth criterion, the 85 percent requirement applies to the prison term as established by the state's sentencing and release guidelines. Similarly, under the fifth criterion, the 85 percent requirement applies to the maximum term established by the court.
- *Percent of the imposed sentence that must be served.* Though federal TIS is characterized as an “85 percent rule” and most of the criteria for TIS grants require that a state's TIS standard for individual offenders be at least 85 percent of the sentence imposed, the second criterion is different in that a state need not require that 85 percent be served by each offender. Rather, it is sufficient that the state's requirements, whatever they may be, result in a collective average of 85 percent of the sentence imposed. The language of this criterion allows states with requirements of less than 85 percent to qualify, so long as they demonstrate an average service of 85 percent of the imposed sentence.

States received grants under each of these eligibility criteria. A total of 28 states and the District of Columbia received TIS grants between 1996 and 1999, comprising nearly 60 percent of states in the nation. Table 1.3 shows the states that were funded according to the criteria under which they qualified. Twenty-one grantee states were deemed eligible under the first criterion, which requires offenders to serve 85 percent of the determinate sentence imposed; this qualification was established under the 1994 legislation. Twenty-two states (the 21 in the first column plus Illinois) would have qualified under the original 1994 law. Twenty of these 22 required 85 percent to be served by all violent offenders, and the remaining two states—New York and Illinois—required repeat violent offenders to serve 85 percent. An additional seven states—California, Delaware, Michigan, Oklahoma, Pennsylvania, Utah and the District of Columbia—qualified because of the expansion of the eligibility criteria under the 1996 Amendment.

The changes in federal law with respect to grant eligibility allowed the federal TIS program to include more states as potentially eligible in 1996 than in 1994. The broadening of the eligibility criteria was responsible for a substantial increase in the size of the grant program; One-quarter of all the states receiving grants qualified under the eligibility criteria added in 1996. The expansion of truth-in-sentencing eligibility criteria from 1994 to 1996, and the subsequent growth of the TIS grant program attributable to this change, highlights an important point: truth in sentencing takes on

different forms, even within the federal grant program. There is an even greater diversity of truth-in-sentencing policies at the state level, as will be illustrated in the next section.

Table 1.3. Qualifying criteria for states receiving TIS Incentive Grants: 1996-1999²⁹

Determinate sentencing states				Indeterminate sentencing states		1994 provision funded only in 1996
(I)	(II)	(III)		(IV)	(V)	
85% of the sentence imposed	On average, 85% of the sentence imposed	85% law enacted, but not yet implemented		85% according to sentencing and release guidelines	85% of the maximum term imposed	85% of the sentence for violent offenders with a prior violent of serious drug offense
AZ	NC	DE	DC	CA**	CA**	IL
CT	ND	(1)	OK	MI	(1)	NY*
FL	NJ	(2)		NY*		(2)
GA	NY*			PA		
IA	OH			UT		
KS	OR			(5)		
LA	SC					
ME	TN					
MN	VA					
MO	WA					
MS	(21)					

Notes: Number of states in each column is given in parentheses.

* New York appears in this table three times because it is the only state to have qualified under different criteria in different years of the grant program. New York initially qualified under the 1994 provision for repeat violent and serious drug offenders; its law provided for indeterminate sentencing for first time offenders, but determinate sentences with an 85 percent requirement for repeat violent offenders. In 1997 and 1998, New York made the argument (in its TIS grant applications) that it should qualify under the criterion for indeterminate states with sentencing and release guidelines because first time violent offenders were subject to laws regulating parole eligibility. In 1998, New York passed legislation requiring determinate sentences with 85 percent truth in sentencing for all violent offenders; thus, in 1999, New York applied for funding under the criterion for determinate sentencing states with and 85 percent requirement.

** California appears in this table twice because it applied for TIS funds under both criteria for indeterminate sentencing states in each year; therefore, this does not represent a change in eligibility criteria over time.

TRUTH IN SENTENCING IN THE STATES

The array of truth-in-sentencing policies at the state level is even more varied than the eligibility criteria for the federal grant program. There are states that meet the federal grant criteria, states that do not qualify for federal truth-in-sentencing incentive funds yet consider their laws to be truth-in-sentencing laws, and states without any truth-in-sentencing laws.³⁰ By 1999, a total of 42 states and the District of Columbia had adopted laws or policies to regulate the percentage of imposed sentences that offenders will serve in prison. As Table 1.4 shows, many of the states with truth in sentencing meet the federal standards for TIS grant funding, but about one-third do not.

²⁹ TIS grant eligibility criteria were recorded from the states' 1996-1999 grant applications to Corrections Program Office.

³⁰ National Institute of Corrections. 1995. *State Legislative Actions on Truth in Sentencing: A Review of Law and Legislation in the Context of the Violent Crime Control and Law Enforcement Act of 1994*. Washington, D.C.: U.S. Department of Justice, May 26. NCJ 157895.

The National Institute of Corrections (NIC) surveyed state officials to assess the states' likelihood of meeting the 85 percent TIS grant requirement and found a number of states with other types of truth in sentencing requirements. States were not provided with a definition of truth in sentencing and responded to the survey based on their own interpretations of the term. The NIC accepted the states' definitions for the purposes of tabulating the survey results. Some states identified as having TIS through this survey subsequently did not qualify for the federal grant program.

Table 1.4. State truth-in-sentencing laws³¹

Federally-compliant 85% TIS			Other TIS laws		No TIS laws
AZ	LA	OH	AK	MT	AL
CA	ME	OK	AR	NE	HI
CT	MI	OR	CO	NH	NM
DC	MN	PA	ID	NV	RI
DE	MO	SC	IN	TX	SD
FL	MS	TN	KY	WI	VT
GA	NC	UT*	MA	(14)	WV
IA	ND	VA	MD		WY
IL	NJ	WA			(8)
KS	NY	(29)			

Notes: Number of states in each group is given in parentheses.

* According to its 1996-99 grant applications to the Corrections Program Office, Utah's truth-in-sentencing policy is not codified in statute, but it is accepted as truth in sentencing by the federal grant program.

All states' truth-in-sentencing policies involve regulating offenders' time to be served in relation to the sentence imposed; however, the actual measures that are implemented vary greatly from state to state. Truth-in-sentencing practices across states vary along many of the same lines as the federal eligibility criteria, and also differ on additional dimensions.

- *Base sentence to which the percentage requirement is applied.* 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. For example, Georgia and New Hampshire both have 100 percent requirements, but Georgia applies its TIS rule to the maximum sentence, whereas New Hampshire requires 100 percent of the minimum term to be served.
- *Percentage of sentence to be served.* The federal TIS grant requires at least 85 percent of the sentence to be served, but states have requirements ranging from 25 percent to 100 percent. Most states, including Maine, Louisiana, and Washington require 85 percent to be served. Other states require less than 85 percent to be served; Massachusetts has a 75 percent requirement, Indiana requires 50 percent and Montana requires 25 percent of the imposed sentence to be served.
- *Release mechanism affected by truth in sentencing.* Truth in sentencing may be achieved by altering release practices, by restricting sentence reductions for good behavior (i.e., "good time"), or a combination of the two. In states with truth in sentencing and no parole, offenders will serve a predictable amount of time because they must be released when 85 percent of their sentences are completed (assuming all possible good time credits are earned); Washington State illustrates this model. However in states with parole, offenders are required to serve a minimum percentage before they are eligible for release. In this case, there is no guarantee of when the offender would be released because the parole board could refuse to grant release. Under a parole release system, such as in Pennsylvania, TIS does not yield certainty in the percentage or actual amount of sentence served. Rather, TIS guarantees the minimum time to be served.
- *Length of sentences imposed.* The actual time served by offenders depends upon the length of sentence imposed as well as the percent of sentence served. Differences among states in

³¹ Adapted from table 1, p. 2 in Ditton, Paula M. and Doris James Wilson. 1999. *Truth in Sentencing in State Prisons*. Bureau of Justice Statistics Special Report. Washington, D.C.: U.S. Department of Justice. NCJ 170032. This report addresses states with and without 85 percent requirements and included states that did not meet the federal eligibility criteria for grant funding.

the lengths of sentences imposed prior to implementing truth in sentencing and changes to the lengths of sentences after implementing can lead to differences in the impact of truth in sentencing on length of stay and subsequently the growth of prison populations. In most states and in the federal law, there is no explicit language about sentence lengths. Rather, the language refers to the severity of punishment or appropriate severity. As sentences are determined by statutes, guidelines, and judges' decisions, the states will vary widely on these factors.

- *Offenses subject to truth-in-sentencing requirements.* States also differ on the types of offenses that are subject to truth-in-sentencing requirements. To qualify for federal TIS grants, states must have TIS laws that apply to offenders convicted of UCR part 1 violent offenses (i.e., murder, rape, robbery, and aggravated assault). Many states have used this standard or something closely resembling it. Other states require that most or all felony offenses be subject to truth in sentencing. In Ohio, for example, truth-in-sentencing requirements apply to all felony offenders, while in Delaware, they apply to almost all offenders, including misdemeanors.³² Still other states specify different subsets of offenses for truth in sentencing. In New York TIS applies to all "violent felony offenders,"³³ a class that includes sale and possession of firearms, whereas in Illinois the 1995 TIS law applied to offenses causing "great bodily harm."³⁴

Truth in sentencing within the context of other state sentencing laws

As shown above, truth in sentencing is manifested in different forms across states. Many of these variations stem from broader differences in sentencing and release practices at the state level. Sentencing practices have come to vary widely from state to state in the past three decades.³⁵ For most of the 20th century, all states followed an indeterminate sentencing model. While the details differed from state to state, this sentencing structure was characterized by the imposition of broad sentencing ranges by judges, discretionary release by parole boards, and widespread use of disciplinary credits and other incentives by correctional authorities. Rehabilitation was an important principle underlying indeterminate sentencing, and this was reflected in the practice of case-by-case decision making.

Truth-in-sentencing legislation builds upon the foundations of other sentencing reforms of the past two decades. Beginning in the 1970s, critiques of the then commonly used indeterminate sentencing and parole release systems questioned their fairness and effectiveness. Problems of disparities in sentencing, leniency of judges, and the perceived failure of correctional rehabilitation programs contributed towards the "get tough on crime" approaches to sentencing, which generally involved using determinate sentences, reducing parole decision making authority, adopting mandatory sentences for certain classes of offenses and for habitual offenders, and increasing sentencing severity. These generalized approaches to sentencing forms eventually led to expansion of prison populations, overcrowding, and fiscal constraints. By the early 1990s, sentencing reforms became more focused on incapacitating the most serious violent offenders, increasing the use of intermediate sanctions for nonviolent offenders (and thereby leading to a reallocation of scarce prison resources), and public protection and victims rights.

³² The Honorable Richard Gebelein, Superior Court of Delaware, and John O'Connell, Delaware Statistical Analysis Center. Interview with the authors, February 26, 1999. About 90 percent of the criminal code is covered by Sentencing Accountability Commission (SENTAC) guidelines and truth in sentencing requirements.

³³ New York's 1996-99 VOI/TIS applications.

³⁴ Illinois' 1996 VOI/TIS application.

³⁵ See, for example, Michael Tonry. 1999. *The Fragmentation of Sentencing and Corrections in America*. Issues for the 21st Century, Papers From the Executive Sessions on Sentencing and Corrections. Washington, D.C.: U.S. Department of Justice. September. NCJ 175721.

A discussion of the full extent of the changes in reforms is beyond the scope of this chapter, but the trends that occurred in sentencing reform legislation in the 1980s and early 1990s included:

- A shift to determinate sentencing;
- An emphasis on structured sentencing models involving sentencing guidelines that were either presumptive or grid-based;
- Restrictions on or abolition of parole decision making and good time credits for offenders in prison;
- First reducing judicial discretion (through guidelines) and then strengthening the role of judges (through the abolition of parole);
- Emphasis on diversionary programs and intermediate sanctions for nonviolent offenders, as prison overcrowding increased;
- Greater emphasis on incapacitation, deterrence, and just deserts models of punishment over rehabilitation;
- Efficiency in prison management, through determinate sentencing and selective incapacitation; and
- Crime control models of criminal justice over proportionality and equity models.

The general principles were reflected in the array of sentencing law changes adopted by the states. For example, according to the Bureau of Justice Statistics, 16 states have sentencing guidelines and active commissions; all but 5 states have adopted mandatory minimum sentences for using a deadly weapon; and all but 2 have habitual offender laws.³⁶ States have also passed other reforms, determinate sentencing, restrictions on or abolition of parole, reductions in good time credits, three-strikes laws, and truth-in-sentencing laws.

The result of this diverse array of activity by the states, as shown in table 1.5, is a wide variety of sentencing reforms among the states, adopted at different times from the 1980s through the 1990s (and in a few cases, before then). From the perspective of sentencing reform activities, truth in sentencing is but one of the many reforms that were adopted to increase the certainty and severity of punishment for violent offenders.

The reforms coexist with prior sentencing policy; the implementation of reforms may not be completely consistent with previous practices, mandatory sentences in indeterminate sentencing may reflect different criminal justice philosophies and goals. Consequently, there is a patchwork of sentencing practices in the states, ranging from traditional indeterminate sentencing to fully determinate sentencing. Between these are states that impose determinate sentences but retain parole release, indeterminate states with sentencing guidelines, and states that impose both indeterminate and determinate sentences depending on the type of offense or the offender's criminal history. So, at the close of the 20th century, there is no single American model of sentencing; most states are using a mixture of sentencing practices.³⁷

³⁶ Bureau of Justice Statistics. 2000. *State Court Organization, 1998*. Washington, D.C.: U.S. Department of Justice. NCJ 178932.

³⁷ This is Tonry's (1999) conclusion.

Table 1.5. Dates of sentencing law and prison release decision changes implemented in states that received federal truth-in-sentencing grants (as of date of source documents)³⁸

State	State TIS law enacted / implemented*	Good time reduced	Parole restricted** or abolished	Sentencing guidelines implemented	Three strikes laws	Habitual offender laws
Arizona	1993 / 1994	1994	1994	—	—	Yes
California	1994	1994	1994	—	1994	Yes
Connecticut	1994 (50%) 1995 / 1996 (85%)	—	1994 1996	—	1994	Yes
Delaware	1989 / 1990	1990	1990	1987	—	Yes
District of Columbia	1997 / 2000	1994	2000	2001	—	Yes
Florida	1995	1993 & 1995	1983 & 1995	1983	1995	Yes
Georgia	1994 / 1995	1984	1995	—	1995	Yes
Illinois	1995	1995	1978	—	—	Yes
Iowa	1996	1996	1996	—	—	Yes
Kansas	1992 / 1993 (80%) 1995 (85%)	1993 & 1995	1993	1993	1994	Yes
Louisiana	1995 / 1997			1992	1994	Yes
Maine	1995	1995	1976	—	—	—
Michigan	1994	1994	1994	1981	—	Yes
Minnesota	1992 / 1993	1993	1980	1980	—	Yes
Mississippi	1995	1995	1995	—	—	Yes
Missouri	1994	1994	1994	1997	—	Yes
New Jersey	1997	—	1997	—	1995	Yes
New York	1995 & 1998	—	1995 & 1998	—	—	Yes
North Carolina	1993 / 1994	1994	1994	1994	1994	Yes
North Dakota	1995	—	1995	—	1995	Yes
Ohio	1995 / 1996	1996	1996	1996	—	Yes
Oklahoma	1997 / 1998	1998	1998	Under study	—	Yes
Oregon	1989 / 1990 (80%) 1994 / 1995 (100%)	1989 & 1995	1989	1989	—	Yes
Pennsylvania	1911	—	—	1982 & 1994	1995	Yes
South Carolina	1995 / 1996	—	1996	Under study	1995	Yes
Tennessee	1995	—	1995	1989	1995	Yes
Utah	1985	—	—	1985 & 1998	1995	Yes
Virginia	1994 / 1995	1995	1995	1991	1994	Yes
Washington	1990	1984 & 1990	1984	1984	1993	Yes

Notes:

* The year is listed only once if the state TIS law was enacted and implemented in the same year.

** In some states, parole has been abolished for certain classes of offenders (e.g., violent offenders) but is retained for other prisoners.

Truth-in-sentencing policies were implemented against this backdrop of variation in sentencing practices. As with other sentencing reforms, states have adopted truth in sentencing for a variety of reasons. The certainty of time served is often a goal of truth in sentencing, but for different reasons. Ohio, for example, viewed truth in sentencing as a means of increasing judicial discretion since, under TIS, the time served would closely match the judicially imposed sentence. The certainty of truth in sentencing is also seen as a tool for managing correctional resources, for example in North Carolina, in conjunction with sentencing guidelines. Still other states view truth in sentencing as a means of

³⁸ The primary data sources used to create this table are listed below; they were supplemented with unpublished information, such as state VOI/TIS applications and interviews with state officials. Full citations are given in Chapter 4, under the section entitled "Matrix of Changes in State Sentencing Structure in Chapter 2."

State TIS laws: adapted from page 6, figure 1 of U.S. General Accounting Office. 1998.

Good time and parole restrictions: Bureau of Justice Assistance. 1995; Bureau of Justice Assistance. 1998; and Ditton, Paula M. and Doris James Wilson. 1999.

Sentencing guidelines: Bureau of Justice Assistance. 1995.; Bureau of Justice Assistance. 1998; and Kauder, Neal B., Brian J. Ostrom, Meredith Peterson, and David Rottman. 1997. *Sentencing Commission Profiles*.

Three strikes laws: adapted from exhibit 10, pp. 10-11, of Clark, John, James Austin and D. Alan Henry. 1997.

Habitual offender laws: Bureau of Justice Statistics. 2000. *State Court Organization, 1998*. Washington, D.C.: U.S. Department of Justice. NCJ 178932.

increasing the public trust in the criminal justice system. Other goals include increased punitiveness and the selective incapacitation of violent offenders. These varying goals guide the nature of truth in sentencing from state to state.

To illustrate how truth in sentencing might differ according to the context set by other characteristics of the criminal justice system, consider the potential impact of truth in sentencing within a seemingly homogenous group—federal TIS grantees that qualified under the determinate 85 percent criterion. The earlier discussion of Table 1.3 showed that most of the grantee states qualified under the requirement that offenders serve 85 percent of their determinate sentences. However, this categorization masks some important distinctions between these states. While all of these states impose fixed sentences on violent offenders and require them to serve 85 percent of their sentences, truth in sentencing is implemented differently in accordance with other sentencing policies on the “front-end” and release policies in effect on the “back-end.” Table 1.6 shows all TIS grant states classified according to their sentencing and release policies to see how time served by offenders might differ based on these differences. States were categorized along one axis according to whether guidelines are used in the imposition of sentences, to indicate the degrees of structured sentencing. On the other axis, states were divided among those that do and do not allow parole release for violent offenders, which gives an indication of how certain the release date is. In a non-parole state, offenders would have a definite release date once they served their 85 percent, assuming they earned the maximum good time possible. However in a parole state, offenders would be eligible for parole after serving their 85 percent; since there is no guarantee that release would be granted at the parole eligibility date, it is possible that offenders would serve more than 85 percent of their imposed sentences.

Table 1.6. Sentencing structure of TIS grant recipient states

States that qualified under the criterion that violent offenders had to serve 85 percent of their determinate sentences are marked in bold upper case letters.

	Abolished parole for violent offenders		Parole release of violent offenders allowed
Have Sentencing Guidelines	de	OH	LA
	FL	OR	mi
	KS	VA	MO
	MN	WA	pa
	NC		ut
No Sentencing Guidelines	AZ	il	CT
	ca	ME	NJ
	dc	MS	ND
	GA	NY	ok
	IA	TN	SC

In Table 1.6, states that qualified for grant funding under the determinate, 85 percent truth-in-sentencing criterion are shown in uppercase. These states are distributed in each of the four possible combinations of sentencing guidelines and parole release. Actual sentences served in states in the upper left corner of the grid would be the most predictable because the sentence imposed is regulated by guidelines and the time of release is determinate. Actual sentences served in states in the lower right corner are probably the least predictable because judges have greater discretion in the imposition of sentences, and the release decisions are at the discretion of the parole board. States in the remaining two cells would likely fall in between these two extremes.

Even though the first grant criterion implies that the states have similar TIS laws, this examination of other sentencing and release factors illustrates how truth in sentencing differs within the context of different sentencing and release structures. The five criteria for truth-in-sentencing

grants outlined in the federal grant program, and the even wider variation of truth-in-sentencing concepts manifested in state law, show that there is no single or common definition of or approach to truth in sentencing. Rather, truth in sentencing is manifest in specific forms in various states, and within the various forms, state-level variation in sentencing structure also conditions the general forms of truth in sentencing.

CONCLUSIONS

This chapter aimed to show the variety of forms in which truth in sentencing was manifested in the states. It began by documenting the evolution of the federal TIS grant program eligibility requirements from those in the 1994 Crime Act to the amended criteria that appeared in 1996 that formed the basis of the TIS grant program. The evolution and expansion of the federal TIS grant criteria enabled states (particularly those with indeterminate sentencing) to become potentially eligible for TIS grants, as under the 1994 Crime Act, their sentencing structure precluded them from grant eligibility.

The five federal TIS grant criteria are broad enough to allow considerable variety in the forms of truth in sentencing that were adopted (or existing) in the states. The eligibility criteria are also associated with a wide variety in forms of truth in sentencing implemented in the states. For example, at one extreme, states may require serious felony violent offenders to serve 100 percent of their sentences; other states have a form of truth in sentencing that is very much like that in place in the federal criminal justice system, which requires all felony offenders to serve at least 85 percent of their imposed determinate sentences with no parole releases; other states, particularly indeterminate sentencing states, require certain percentages of minimum terms to be served, usually around 100 percent of the minimum, before offenders become eligible for parole release.

The variety in the forms of truth in sentencing implemented in the states is consistent with the variety of meanings that truth in sentencing can have. Truth in sentencing was not, for example, a term that was widely used by states in drafting their legislation to require violent offenders to serve specified percentages of their imposed sentences. The Ohio revised code, for example, which codified its sweeping sentencing reforms in 1996—for which truth in sentencing was a key goal—used the phrase “truth in sentencing” only twice in more than 1000 pages of code. Similarly, other states’ legislation uses the phrase infrequently or not at all. (North Carolina’s code, for example, does not use the phrase to describe its sentencing reforms.)

To the extent that truth in sentencing reflects or represents sentencing policies that aim to increase the certainty and severity of punishment for, particularly, violent offenders, it should have some common meaning or purpose among the states that implemented it. Even in terms of its broader purposes, however, there is variety. The following summary statements about the meaning and purpose of truth in sentencing are derived from the review of literature and legislation about truth-in-sentencing reforms. They show that even in terms of the broader purposes, there is wide variety of opinion about the purposes of truth in sentencing.

- *Truth in sentencing is about “truth” and public trust.* The actual time served should be made public, and most offenders should serve the exact time imposed by the judge. Simplicity and honesty should be its guiding principles. There should be no “funny math” and no exceptions to the rules.³⁹ Truth in sentencing should mean that a 30-year sentence is just that, a 30-year sentence with no parole.⁴⁰

³⁹ David Diroll. 1997. “Ohio Adopts Determinate Sentencing.” In *Sentencing in Overcrowded Times*, edited by Michael Tonry and Kathleen Hatlestad (110-114). New York: Oxford University Press.

⁴⁰ The Honorable Toby Roth. 1994. *Congressional Record*. 103rd Congress, April 20, 1994. Page E725.

- *Truth in sentencing is linked to “restorative justice.”* The corollary to these statements about certainty of sentencing is that the public (and especially victims) have the right to know that offenders will serve the full term of punishment imposed, and that judges and corrections systems are expected to keep up their ends of the bargain about sentencing and punishment.
- *Truth in sentencing is about just punishments and about increasing the range and severity of offenses eligible for truthful sanction.* For public safety, the most violent and dangerous offenders should be punished the most severely. This can be accomplished by (1) increasing the penalties tied to each offense; (2) by increasing the percentages of sentences served on sentences, without reducing the sentence length imposed; or (3) by increasing the number and type of offenses that will be punished more severely. These objectives are achieved by different methods. For example, in Washington State, the legislature has consistently modified the severity of specific offenses, thereby increasing the severity of punishment for specific offenses. This is in comparison to, say, Pennsylvania, where the sentencing guidelines were modified to focus more severe punishments for violent offenders. Ohio’s sentencing reform combined both of these elements by revising the felony severity levels of offenses and increasing punishments for the most severe felonies.
- *Truth in sentencing is about reassessment and management of criminal justice system resources, especially corrections resources.* By increasing the certainty of punishment, truth in sentencing provides the opportunity for managers to better allocate scarce prison space. This objective of truth in sentencing emerges from the prison overcrowding problems of the late 1980s. Cost effectiveness and management of resources is, in this objective, the key contribution of truth in sentencing. This has also led to a greater emphasis on intermediate sanctions for nonviolent offenses, as a way to save prison space for more serious offenses.
- *Truth in sentencing is about structuring sentencing outcomes.* The goal of truth in sentencing is to reduce the decision-making discretion of certain criminal justice decision makers. This may result in no less discretion (or even more discretion) for judges, but it reduces the discretion of corrections’ decision makers. This goal is the outgrowth of the movement in the 1980s to create determinate sentencing, and it is consistent with the use of sentencing guidelines.
- *Truth in sentencing is an issue of semantics.* The issue is the sentence to which the “truth” is applied. Pennsylvania, for example, argued that its sentencing system, developed in 1911, was “truthful” because offenders know that they have to serve the minimum sentence imposed prior to parole release. Practically, this system for releasing offenders is similar to those in jurisdictions that allow for release following 85 percent of an imposed determinate sentence, but in which a parole decision is still required or the length of time served beyond the 85 percent is a function of the amount of good time earned.

That there are a wide variety of goals for truth in sentencing suggests that there would also be variety in the forms of it that were implemented in the states. The truth-in-sentencing reforms were adopted in the states during a period of change in sentencing structure. Other reforms—such as sentencing guidelines, “three strikes” provisions, and habitual offender laws—also were adopted during the same period that the truth-in-sentencing reforms were adopted. The coincidence of the implementation of these reforms suggests that truth in sentencing was part of a broader array of reforms that were designed to increase the certainty and severity of punishment for specific classes of offenders. For example, among the states that received federal TIS grants, no state adopted only truth in sentencing without having adopted at least one other reform that either increased the certainty or severity of punishment of (at least) violent offenders. The adoption of truth in sentencing along with other, similarly purposed reforms, suggests that while sentencing practices may be fragmented, that there also is some degree of consistency of purpose in adopting these reforms.

CHAPTER 2.

Influence of Federal Truth-in-Sentencing Reforms on States' Sentencing Systems

INTRODUCTION AND PURPOSE OF THIS CHAPTER

The previous chapter documented the variety of forms of truth in sentencing among the states. It argued that the 1996 expansion of criteria in the federal truth-in-sentencing grant program to include states with indeterminate sentencing and states with other than 85 percent rules for the percent of sentence served both recognized the wide variety of sentencing systems throughout the states and opened the grant program to all states. The first chapter also described how the implementation of truth-in-sentencing reforms fit into a broader pattern of sentencing reform in the states.

Additionally, the change in the eligibility criteria of the federal grant program also expanded the opportunity for the federal initiative to influence sentencing reforms across the states. By expanding the eligibility requirements so that all states could participate, and by developing criteria that permitted states to receive grants without having to make major changes to their sentencing systems, the federal truth-in-sentencing grant program also expanded its opportunities to influence states to make changes in their sentencing of violent offenders that would bring them closer to the federal, 85 percent standards, and that would result in more uniformity in the sentencing of violent offenders across the states.

Given these changes in eligibility criteria and in the opportunity to influence states, the main question that this chapter addresses is: to what degree did the federal grant program influence states to change their sentencing of violent offenders and to adopt standards for sentencing violent offenders that were similar to the 85 percent standards? More generally, the question under review is the degree to which the federal grant program influenced states to change the way that they sentenced violent offenders and to bring their laws closer to federal law. Specifically, the chapter addresses three questions:

- To what extent have the states, collectively, incorporated truth in sentencing into their punishment of violent offenders?
- Following the implementation of the federal truth-in-sentencing program, how much change occurred in the sentencing structures of states in order for them to receive grants or to implement truth in sentencing?
- In the states that changed their laws, to what extent were they influenced by the federal truth-in-sentencing initiative?

Through the analysis of state sentencing laws, of interviews with various state and federal officials, and of reports about the implementation of truth in sentencing, the chapter finds first, that most states implemented some form of truth in sentencing; second, that the implementation of (specifically) truth-in-sentencing laws generally did not result in a radical departure from existing sentencing practices in the states; rather, its implementation occurred either without any change, with modest to moderate change, and in a few cases, the implementation occurred as part of a major overhaul of a state's sentencing system; and third, the federal grant program was a comparatively minor influence on states to change their sentencing structure.

CHANGE IN STATES' SENTENCING STRUCTURES ASSOCIATED WITH FEDERAL REFORMS

A strict view of the influence of the federal reforms and grant program on states adoption of truth in sentencing would suggest that states that did not have truth in sentencing prior to the federal program adopted truth in sentencing after the program and as a result of the program. This would be measured by a change in the form or status of states' sentencing structures from non-truth in sentencing to truth in sentencing, by the adoption of reforms that were similar to the federal grant eligibility criteria, and by state officials' acknowledgements that the federal program influenced their decisions to adopt truth in sentencing.

However, the context of changes in sentencing structure that was described in Chapter 1 suggests that this strict view of the federal influence is unlikely to be supported. Even if a state dramatically changed its pre-Crime Act sentencing structure—for example, from indeterminate sentencing with parole—to a post-Crime Act structure that was similar to federal criminal sentencing—for example, determinate sentencing with an 85 percent rule and no parole—it would not necessarily follow that federal grant program was responsible for the change, despite the coincidence in time. Rather, a state may have started a reform process prior to the federal TIS grant program, and that process could have ended after the federal program was implemented. In such a case, the initiative for the reform would have come from the state, rather than the federal government.

To assess the influence of the federal grant program, state sentencing laws and TIS grant applications were reviewed to identify changes in sentencing structure that were begun prior to the federal program, to examine the nature of the reforms, and to assess the reasons that states applied for federal TIS grants. Also, extensive interviews with state and federal officials were conducted to learn more about states' sentencing reform processes, and how these were linked to initiatives at the federal level.

The analysis leads to the conclusions that: first, TIS policies in a majority of states in the nation, thirty, could not have been influenced by the federal TIS program because those states made no significant changes to their existing policies after the passage of the 1994 Crime Act. These states included 21 states with TIS laws already on their books and 9 states with no TIS policies in statute. Among the 30 “no change” states, 13 qualified for federal grant funds on the basis of their existing laws and policies. These states did not have to make changes to their sentencing structure in order to receive federal TIS grants, and thus, they could not have been influenced by the federal program.

Second, the remaining twenty states and the District of Columbia either changed existing TIS requirements or introduced new TIS laws following the 1994 Crime Act. Changes ranged from minor, incremental increases in the percentage of sentence served to major overhauls of the state sentencing structure, yet in all of these states, reforms served to tighten restrictions on the release of violent offenders. Seven states increased the percentage of sentence to be served without altering other aspects of their sentencing structure, another five states increased the percent of sentence served while also eliminating parole release, and nine states adopted statutory truth-in-sentencing requirements for the first time ever. However, the timing of these legislative changes is but one factor in concluding that the federal program was an influential factor in the reform process.

Third, of the 21 states that changed their TIS requirements, 16 qualified for federal TIS funding, but the changes were often influenced more by ongoing state reform processes rather than the federal incentive grant program. As these changes were implemented after the federal program, some of these states could have been influenced by the federal TIS grant program. However, in most cases, these reforms started before the federal TIS program was introduced, and in other cases state officials reported that their reforms were not strongly influenced by the federal TIS program. In one case (the District of Columbia) sentencing reforms were in direct response to federal law, but the changes to sentencing in the District of Columbia occurred as a result of the National Capital Revitalization and

Self-Government Improvement Act of 1997.⁴¹ Interestingly, the National Capital Revitalization Act of 1997 recommended a truth-in-sentencing structure for the District of Columbia that was based on the 1994 Crime Act eligibility requirements, including its repeat drug offender provisions, rather than the federal TIS grant program standards that were based on the 1996 legislation.

Thus, the federal influence on changes in states' sentencing structures and the adoption of truth in sentencing in the states was comparatively minor. This is, perhaps, not unexpected for reasons related to the comparatively small amounts of the federal TIS grant incentives and because of the broader patterns of sentencing reforms that were going on in the states. The federal TIS grant program is perhaps better understood in terms of the broader changes in sentencing that were occurring in the 1980s and 1990s (as outlined briefly in Chapter 1). The federal TIS grant program was consistent with the general trends in sentencing in the states, and it primarily complemented them by offering small amounts of incentive funding to expand prison capacity to states that had already adopted or were in the process of adopting truth in sentencing. However, in some states federal grant incentives may have contributed to modest changes in sentencing structure.

ANALYSIS OF THE PATTERNS OF CHANGE IN STATES' TRUTH-IN-SENTENCING LAWS

Table 2.1 shows the change in state TIS laws before and after the passage of the 1994 Crime Act. The rows along the left side of the table describe the TIS laws that were in place before the 1994 Crime Act, while the columns along the top of the table use the same categories to describe TIS laws enacted since the passage of the Crime Act. To facilitate comparisons between the federal TIS initiative and state legislative changes, states were arrayed according to the degree to which they enacted an "85 percent rule" and also distinguished on their prison release mechanisms—i.e., those with and without parole release for violent offenders. State truth-in-sentencing structures fell into five categories; the first two are specific to states without parole release (e.g., a determinate sentencing framework), while the remaining three apply to states with more indeterminate systems incorporating parole release:

1. *At least 85 percent of the determinate or maximum sentence is required by statute (no parole release).* This category most closely resembles the cornerstone of the federal truth-in-sentencing grant program, that offenders serve at least 85 percent of their imposed sentences. Under this model of truth in sentencing, offenders are sentenced to a fixed term and may not be released until they have served at least 85 percent of the sentence imposed. Since parole release is not allowed, this type of truth in sentencing is usually achieved by limiting the "good time" offenders can receive. Offenders are released from prison after they have served the required percentage, if they earn the maximum good time possible. Depending on the offense committed and other sentencing requirements within the state, offenders are either released from custody entirely, or released to some form of community supervision.
2. *Other specific percentage—less than 85 percent—of the determinate or maximum sentence is required by statute (no parole release).* This model of truth in sentencing is similar in all respects to the one above, except that the percentage requirement is below 85 percent.
3. *At least 85 percent of the determinate or maximum sentence is required by statute (parole release allowed).* This model is similar to the first category, but operates within a parole release system. 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. Once released, offenders are typically supervised by a parole agency.

⁴¹ Title XI of Pub. L. 105-33, 111 Stat. 712 (August 5, 1997), *amended* Pub. L. 105-274, 111 Stat. 2419 (October 21, 1998).

4. *Other specific percentage of the minimum or maximum sentence is required by statute (parole release allowed).* A variety of truth-in-sentencing configurations fall into this category. Offenders are required to serve a specific percentage of their sentences, but the requirement frequently applies to the minimum term of an indeterminate sentence range. Offenders are eligible for parole release after completing their specified percentage, and once released are typically under the supervision of a parole agency.
5. *No statutory TIS requirements.* In this category, states may have policies regulating 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. This model most closely resembles traditional indeterminate sentencing, under which a parole board decides an offender's release date, and the offender is supervised by a parole agency upon release.

A state's position on this matrix reflects the types of changes that occurred following the 1994 Crime Act. States that fall along the diagonal (shaded area) retained the same TIS legislative structure that they had before the Crime Act was passed.

Table 2.1 shows, first, that 30 states, those along the (shaded) diagonal, retained the same truth-in-sentencing structures they had before the passage of the 1994 Crime Act. Of these 30 "no change" states, 13 already had laws and policies that were consistent with the federal TIS grant program eligibility requirements provided by the 1996 amendments to the 1994 Crime Act. Hence, these states made no law changes as a result of the federal TIS grant program.

Second, 11 states and the District of Columbia made incremental changes to their truth-in-sentencing laws after the federal TIS grant program was implemented. (These states are located in the three cells containing Florida, the District of Columbia, and Connecticut.) These states had existing truth-in-sentencing laws before the 1994 Crime Act, but increased the severity of those laws by increasing the percentage of sentence to be served. Five of these 12 jurisdictions—the District of Columbia, Mississippi, New York, Tennessee, and Wisconsin—also increased determinacy in their sentencing of violent offenders by eliminating parole release. In the District of Columbia, however, other federal laws provided the initiative for its truth-in-sentencing reforms.

Third, nine states adopted statutory TIS requirements for the first time ever following the 1994 Crime Act. (These states are shown in the unshaded part of the bottom row.) However, in several of these states that made major reforms, the sentencing reform process was begun prior to the federal TIS grant program.

State TIS provisions at the close of the 1990s

By the end of the 1990s, over 80 percent of the states had incorporated some form of truth in sentencing into their punishment of violent offenders. Table 2.1 shows that 41 states and the District of Columbia had passed truth-in-sentencing legislation by 1999, and an additional state, Utah, had truth-in-sentencing policies in place, but it did not have a truth-in-sentencing statute, while it still qualified for federal TIS funds. (Except for Utah, these are shown in the first four columns of table 2.1.)

The question under review, though, is to what extent the 1999 truth-in-sentencing outcome can be attributed to the federal TIS grant program? While some states did enact truth in sentencing after the passage of the Crime Act, the majority of the states, 34, already had some truth-in-sentencing provisions in place by the end of 1994. (Thirty-three of these are represented in the first four rows of table 2.1; Utah is also considered to have truth in sentencing.) Only nine states had introduced truth in sentencing following the 1994 Crime Act, and by 1999, eight states had not adopted any truth-in-sentencing laws.

Of the states that adopted truth-in-sentencing provisions, many have TIS rules that resemble the federal 85 percent rule. Forty-two jurisdictions have some form of truth-in-sentencing laws; these fall into either the "85 percent or greater" or "other specific percent" categories in the first four columns of

table 2.1. A forty-third jurisdiction, Utah, does not have a truth-in-sentencing law but it meets the federal eligibility criteria though its practices. Of these 43 truth-in-sentencing jurisdictions, 27 (shown in the first and third columns) have adopted an 85 percent requirement. Nineteen of these 27 states' truth-in-sentencing laws currently require violent offenders to serve at least 85 percent of their sentences within a determinate sentencing framework (shown in the first column). The other eight states (shown in the third column) require 85 percent of the maximum term within a parole release framework.

Table 2.1. Changes in state truth-in-sentencing legislation, as related to violent offenders, before and after the passage of the 1994 Crime Act⁴²
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 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)		
Truth-in-sentencing laws for violent offenders: Laws enacted before the 1994 Crime Act	=85% of determinate or maximum sentence required by statute	AZ CA GA MN NC OR VA WA (8)				
	Other specific percent (<85%) of determinate or maximum sentence required by statute	FL IL KS ME (4)	ak DE (2)			
	=85% of determinate or maximum sentence required by statute			MO (1)		
	Other specific percent of minimum or maximum sentence required by statute	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	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.

Eight states (in the cell in the bottom, right-hand corner of table 2.1) do not practice truth in sentencing. (Utah is included in that cell because it has no truth-in-sentencing law; however it received a federal TIS grant because of its practices—see Chapter 1, table 1.2, under eligibility criterion IV.)

⁴² For the most part, the location determinations were made by reviewing the language in each state's TIS law. However, some items, (such as the specific violent offenses eligible for parole) might be affected by other legislation that could not be accounted for within the scope of this project. For example, a state with parole release for violent offenders may have other laws making certain types of violent offenders ineligible for parole, such as habitual offenders or sex offenders. In this case, it was assumed that some violent offenders could be released on parole, and therefore, the state was classified as having parole release.

Change in state truth-in-sentencing legislation

The data in table 2.1 show that 30 states (on the shaded diagonal) did not make any significant changes to their TIS legislation for serious violent offenders after the passage of the 1994 Crime Act. They retained the sentencing structures they had before the Crime Act, and did not make major structural changes to their TIS laws or release practices through 1999. Twenty-one of these 30 “no change” states fell into four groups of truth in sentencing: (1) retained truth-in-sentencing laws requiring 85 percent with determinate sentencing and no parole; (2) retained truth-in-sentencing laws requiring less than 85 percent with determinate sentencing and no parole; (3) retained laws requiring 85 percent with parole release; and (4) retained an alternate truth-in-sentencing requirement with parole release. Finally, a fifth group of 9 “no change” states retained their status of having no truth-in-sentencing laws.

1. *85 percent or more requirements with no parole release.* The eight states—Arizona, California, Georgia, Minnesota, North Carolina, Oregon, Virginia, and Washington State—in the cell in the upper left-hand corner of table 2.1 retained truth-in-sentencing laws requiring the serving of 85 percent of the sentence within a determinate sentencing framework. These laws were passed between 1990 and 1994⁴³, and the states continued to practice this form of truth in sentencing through the end of the 1990s.
2. *Less than 85 percent with no parole.* Two states, Alaska and Delaware, had TIS requirements of less than 85 percent within a determinate framework before the passage of the Crime Act, and retained this same structure through the rest of the 1990s. 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. Delaware has also attempted to implement correctional programs that could lead to an increase in the good time credits received by offenders; however, resource constraints have precluded the state from implementing these programs.⁴⁴ Were the programs implemented, they could conceivably result in a reduction in the average percent of sentence served by violent offenders.
3. *85 percent with parole release.* One state, Missouri, requires “dangerous felons” to serve 85 percent of the maximum term before they are eligible for parole release. This law was passed shortly before the Crime Act, in August 1994, and remains the current practice.
4. *Alternate percentage requirements with parole release.* Ten states—Arkansas, Colorado, Massachusetts, Maryland, Michigan, Nebraska, New Hampshire, Nevada, Pennsylvania, and Texas—have had other TIS requirements since before the Crime Act was passed, and have retained these structures since the passage of the Crime Act. In these states, service of some

⁴³ U.S. General Accounting Office. 1998. *Truth in Sentencing: Availability of Federal Grants Influenced Laws in Some States*. Washington, D.C.: U.S. General Accounting Office. February. GAO/GGD-98-42.

See also: National Institute of Corrections. 1995. *State Legislative Actions on Truth in Sentencing: A Review of Law and Legislation in the Context of the Violent Crime Control and Law Enforcement Act of 1994*. Washington, D.C.: U.S. Department of Justice, May 26. NCJ 157895.

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, in March 1994. The remaining states with TIS laws passed in 1994 were enacted within two months of the September 13, 1994 passage of the Crime Act: California (September 1994), Oregon (November 1994), and Virginia (September 1994). 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.

⁴⁴ The Honorable Richard Gebelein, Superior Court of Delaware, and John O’Connell, Delaware Statistical Center. Interview with the authors, February 26, 1999.

other percentage of either the minimum or maximum term is required. In New Hampshire, for example, offenders have been required since 1982 to serve 100 percent of their minimum sentences before becoming eligible for parole release.

5. *No truth-in-sentencing laws.* Nine states—Alabama, Hawaii, New Mexico, Rhode Island, South Dakota, Utah, Vermont, West Virginia, and Wyoming—had no truth-in-sentencing laws before the Crime Act was passed and continue to have no truth-in-sentencing laws. In these states, 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.

Thus, in these thirty states, truth-in-sentencing practices after the passage of the 1994 Crime Act represent a continuation of the states' existing practices. The federal truth-in-sentencing grant program did not directly influence these states' truth-in-sentencing policies.

The remaining twenty-one states made 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; states generally increased the percentage of sentence that violent offenders had to serve, and in some cases also eliminated parole release for violent offenders. The types of changes that states made can be grouped into three categories according to the degree of change that they represent. In the first group, increase to the percent of sentence served added to the truth-in-sentencing laws that existed before the federal grant program. In the second group, as in the first, increase to the percent of sentence served added to truth-in-sentencing laws that existed prior to the federal grant program, but these states also eliminated parole release for violent offenders. Finally, the third group had no truth in sentencing before the federal program but implemented truth in sentencing afterwards.

1. *Increase to the percent of sentence served.* Seven states—Connecticut, Florida, Illinois, Kansas, Kentucky, Louisiana and Maine—made incremental changes to their truth-in-sentencing laws. These states already had some form of truth in sentencing in place before the 1994 Crime Act, but they increased the percentage of sentence to be served by violent offenders. No other features of the sentencing structure were changed. 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. Thus, in these seven states, the percentage of sentence to be served is the only aspect of punishment that was changed through TIS legislation. The truth-in-sentencing reforms implemented in these states after the passage of the 1994 Crime Act represent incremental changes from the previous practice.
2. *Increase to the percent of sentence served and elimination of parole release.* Five jurisdictions—the District of Columbia,⁴⁵ Mississippi, New York, Tennessee, and Wisconsin—made more pronounced changes to their sentencing structure. Like the preceding group, these states also had some form of truth in sentencing in place before the 1994 Crime Act. But in addition to increasing the percentage of sentence served requirements, they also altered their release mechanisms by eliminating parole for violent offenders. In Mississippi, for example, offenders used to be eligible for parole once they completed 25 percent of their sentences. The new law, which was passed in 1995, abolished parole and increased the percentage requirement was increased to 85 percent. In this group, the amount of change in sentencing structure—before and after the implementation of the 1994 Crime Act—was greater than in the previous group. Though some form of truth in

⁴⁵ 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.

sentencing existed before, it had been within an indeterminate sentencing framework, and the percentage requirements were usually less than the 85 percent standard. Truth-in-sentencing reforms following the Crime Act not only increased the percentage requirement, but also increased determinacy by eliminating parole release for offenders.

In the District of Columbia, a different process occurred. The National Capital Revitalization Act of 1997 was responsible for the District adopting truth in sentencing. This Act provided, among other things, that the federal Bureau of Prisons would house and pay for the cost of incarcerating offenders convicted and sentenced in the local District of Columbia Superior Court, provided that the District sentenced certain classes of felony offenders according to an 85 percent determinate sentencing rule.⁴⁶

3. *Introduction of statutory truth-in-sentencing provisions.* 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 its first truth-in-sentencing law between 1995 and 1999. Most incorporated an “85 percent rule” into their new truth-in-sentencing laws, 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 states undertook comprehensive sentencing reform that coincided with the federal TIS reforms. Ohio, for example, began a reform effort as early as 1991, when the General Assembly instructed the Ohio Criminal Sentencing Commission to develop a sentencing plan that considered several goals of sentencing. Most of the main components of Ohio’s sentencing reform, including the 97 percent TIS requirement, were laid out in a 1993 plan for felony sentencing.⁴⁷ Subsequent legislation passed in 1995 and established truth in sentencing in Ohio from July 1, 1996 onward. Despite the correlation between the implementation of truth in sentencing in Ohio in 1996 and the federal Crime Act in 1994, Ohio’s reform efforts started well before the federal law. It is therefore difficult to attribute the change in Ohio’s statutes to the federal initiatives.

Although the changes in truth in sentencing in these three groups of states occurred after the 1994 Crime Act, the association in time is but a necessary condition for attributing to the federal legislation influence on the change. The next section addresses this issue.

Federal influence on state legislative changes

To what extent did the federal grant program influence changes in state truth-in-sentencing laws? A survey by the National Institute of Corrections found that a good deal of state legislative sentencing reform activity in 1995 coincided with the federal TIS program. Twenty-nine states, including those with existing TIS provisions, were considering new TIS bills. Officials in about 60 percent of these states said the federal grant program was a factor in the development of this legislation; this included some states where the federal program was described as the main impetus.⁴⁸ However, subsequent research has shown that the federal grant program was not a major influence in most of the states that

⁴⁶ 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.: The Urban Institute.

⁴⁷ David Diroll, Executive Director, Ohio Criminal Sentencing Commission. Interview with the authors, June 7, 1999. Also, Ohio Criminal Sentencing Commission. 1993. *A Plan for Felony Sentencing in Ohio.*

⁴⁸ National Institute of Corrections. 1995. *State Legislative Actions on Truth in Sentencing: A Review of Law and Legislation in the Context of the Violent Crime Control and Law Enforcement Act of 1994.* Washington, D.C.: U.S. Department of Justice. May 26, page 3.

successfully passed TIS legislation. According to a General Accounting Office (GAO) survey, only four of the 27 states that received TIS grants in 1997 reported that the federal program was a key factor in the enactment of the state TIS law.⁴⁹ The Justice Department similarly found that the federal grant program was a major factor in only three of 18 grant-recipient states that it studied.⁵⁰

The previous analysis (table 2.1) shows that thirty states did not make major changes to their TIS laws following the passage of the 1994 Crime Act. Since truth-in-sentencing laws in these states predated the Crime Act in these states, we can conclude that the availability of grant funding did not directly influence these states' TIS laws.

Twenty-one states, though, did change their TIS laws following the passage of the 1994 Crime Act. Most of the states that made changes (16 of 21) subsequently applied and qualified for federal truth-in-sentencing grants. However, these numbers by themselves do not necessarily mean that the federal grant was a motivating factor. Rather, the federal TIS program may have coincided with but did not influence changes in the states. Ohio and New York, two federal grant-recipient states, illustrate the range of state experiences with regard to federal influence. Ohio reports that the federal grant program had no influence on its decision to enact TIS; truth in sentencing was part of a larger reform process that began in 1990, with the major components of the new system being laid out by 1993, well before the federal law was finalized.⁵¹ By contrast, New York specifically changed its laws in order to qualify for federal grant funds; according to its 1996 application for TIS funds, "in response to the enactment of the federal Violent Crime Control and Law Enforcement Act of 1994, New York enacted truth-in-sentencing legislation, entitled the *Sentencing Reform Act of 1995*."⁵²

The New York and Ohio comparison points to another issue, however, which is whether federal influence on the states might differ according to the type of legislative changes they implemented. For example, Ohio represents a state that made major law changes that coincided with the federal reforms, but Ohio's reform process was started before the federal program. New York, on the other hand, made smaller changes to its laws, but it made them in order to qualify for federal grant funds.

Table 2.2 relates the three major types of changes in truth-in-sentencing laws with the reported extent of federal influence on those changes. The data in table 2.2 are from two reports. First, they summarize a U.S. General Accounting Office survey⁵³ conducted in 1997 to determine the extent to which federal TIS grants influenced the enactment of state truth-in-sentencing laws. GAO staff asked officials in the 27 states that received TIS grants in 1997 whether the availability of TIS grants was a factor in the state's decision to enact truth-in-sentencing legislation, and if it was a factor, the extent to which it was a "partial factor" or a "key factor." Second, between 1997 and 1999, the Department of Justice's Office of Inspector General (OIG) conducted on-site investigations in 25 states for the purpose of evaluating the states' implementation and compliance with VOI/TIS grant program

⁴⁹ U.S. General Accounting Office. 1998. *Truth in Sentencing: Availability of Federal Grants Influenced Laws in Some States*. Washington, D.C.: U.S. General Accounting Office. February. GAO/GGD-98-42.

Of the 27 grant-recipient states surveyed, the influence of federal grants was described as "not a factor" in 12 states, "a partial factor" in 11 states, and "a key factor" in 4 states.

⁵⁰ U.S. Department of Justice, Office of the Inspector General, Inspections Division. 1999. *The Violent Offender Incarceration and Truth-in-Sentencing Incentive Grant Program: Summary of Inspection Findings and Recommendations, May 4, 1997 - March 31, 1999*. Washington, D.C.: U.S. Department of Justice. September. Findings from this report corroborate the GAO's findings on federal influence. Of the 18 grant-recipient states visited, OIG found the federal grant program to be a major factor for 3 states, a partial factor for 7 states, and not influential in 8 states.

⁵¹ David Diroll, Ohio Criminal Sentencing Commission. Interview with the authors, June 7, 1999.

⁵² NY State 1996 VOI/TIS Grant Application, page 4.

⁵³ U.S. General Accounting Office. 1998. *Truth in Sentencing: Availability of Federal Grants Influenced Laws in Some States*. Washington, D.C.: U.S. General Accounting Office. February. GAO/GGD-98-42.

requirements.⁵⁴ Eighteen of the 25 states in the OIG evaluation received TIS grants in addition to VOI grants. Through interviews with state officials and reviews of state legislative histories, OIG investigations determined whether federal TIS grants were “not an influence,” “a partial influence,” or a “key influence” in the states’ decisions to enact truth in sentencing. In the states that appeared in both the GAO survey and OIG investigations, the results were generally consistent.

Table 2.2. Influence of federal TIS grants on states that changed their TIS laws following the passage of the 1994 Crime Act

States that received federal TIS grants at any time during 1996-99 are marked in bold.

Type of legislative change following the 1994 Crime Act	State	Influence of federal TIS grants on state laws
Increased percent requirement of existing TIS laws without changing release practice	Connecticut	Partial factor
	Florida	Partial factor
	Illinois*	n/a
	Kansas	Key factor
	Kentucky	n/a
	Louisiana	Key factor
	Maine	Key factor
Increased percent requirement of existing TIS laws and eliminated parole release	District of Columbia	Partial factor
	Mississippi	Partial factor
	New York	Key factor
	Tennessee	Partial factor
	Wisconsin	Partial factor
Enacted statutory truth-in-sentencing requirements for the first time	Idaho	Decided to forgo 85% law
	Indiana	Decided to forgo 85% law
	Iowa	Partial factor
	Montana**	Not a factor
	New Jersey	Partial factor
	North Dakota	Partial factor
	Ohio	Not a factor
	Oklahoma	Key factor
	South Carolina	Partial factor

Sources: U.S. General Accounting Office. 1998. Department of Justice’s Office of the Inspector General (OIG) investigations.

Notes: States marked with “n/a” were not surveyed.

* Illinois qualified for TIS funding in 1996 only.

** Though Montana was not included in either the GAO or OIG surveys, officials reported that “public sentiment and victim issues” were the factors motivating the state’s 1995 truth-in-sentencing law.⁵⁵ This law does not qualify for federal TIS grants, as it has only a 25 percent requirement.

Taken together, the results of the two reviews lead to several conclusions. First, among the states that increased their percentage requirements, but did not change their release structures, the TIS grant was a key factor in 3 of the 7 states, and a partial factor in all of the others, except for two states that were not surveyed. In these states, the initial sentencing reform that introduced TIS preceded the federal Crime Act provisions, but the states subsequently adjusted their requirements to comply with the “85 percent rule.” For example, Kansas passed a major sentencing reform package in 1993 that included sentencing guidelines and an 80 percent truth-in-sentencing requirement. In 1995, Kansas increased the

⁵⁴ U.S. Department of Justice, Office of the Inspector General, Inspections Division. 1999. *The Violent Offender Incarceration and Truth-in-Sentencing Incentive Grant Program: Summary of Inspection Findings and Recommendations, May 4, 1997 - March 31, 1999*. Washington, D.C.: U.S. Department of Justice. September.

⁵⁵ National Institute of Corrections. 1995. *State Legislative Actions on Truth in Sentencing: A Review of Law and Legislation in the Context of the Violent Crime Control and Law Enforcement Act of 1994*. Washington, D.C.: U.S. Department of Justice, May 26. NCJ 157895. Page 19.

TIS requirement to 85 percent in order to align itself with the federal grant requirements.⁵⁶ In this group of states, as in Kansas, 85 percent truth in sentencing does not represent a significant departure from the pre-Crime Act sentencing system. Rather, most of these states were able to qualify for federal grant funding by making a modest change to their existing TIS requirements.

Conversely, in Illinois, the federal program was explicitly not an influence on its decision to change its percentage requirements, and officials report that the federal TIS grant program requirements also did not cause the state to change other elements of its truth-in-sentencing provisions. Specifically, in 1995, Illinois changed its truth-in-sentencing laws so that offenders convicted of violent crimes involving great bodily harm would have to serve 85 percent of their imposed sentences. This law was consistent with the federal TIS eligibility requirements of the 1994 Crime Act, but Illinois did not qualify under the provisions of the 1996 amendments because of its definition of violent crimes was deemed as inconsistent with the definition of Part 1 violent crimes. An Illinois official reported that changing the Illinois law to meet the 1996 federal grant requirements—which would have narrowed the range of violent offenses covered by Illinois truth-in-sentencing laws—would not have been cost effective for the state.⁵⁷ Illinois did not apply for grants in subsequent years.

Second, among the states that increased the percentage requirement and eliminated parole, TIS was a key factor in 1 of the 5 states and a partial factor in the rest. For example, officials in Mississippi reported that while the state's "get-tough" initiatives were the overriding factor in implementing truth in sentencing, the federal grant was a "25 percent consideration."⁵⁸ In Wisconsin, the state had not changed its truth-in-sentencing laws by the time of the GAO survey in 1997, but it was in the process of considering a truth-in-sentencing bill. A state official reported that the federal grant was a factor in the debate, but that legislators were weighing whether federal TIS grant program funding was important enough to warrant changing the states current laws.

Third, among the states that experienced the greatest amount of change by implementing their first truth-in-sentencing laws after the federal grant program, the federal program was reported as "not a factor" in 4 of the 9 states. (Indiana, Idaho, and Montana passed laws with percentage requirements lower than the 85 percent federal grant requirements, and Ohio laws coincided with federal actions but were reportedly not influenced by them.) One state, Oklahoma, said that the federal program was a key influence in its sentencing reforms. State officials reported that prior to the federal program, the state had begun to develop truth-in-sentencing proposals, and had considered implementing a 75 percent rule; however, as a result of the federal requirements, the state decided on an 85 percent rule.⁵⁹ Finally, the remaining 4 (of 9) states reported that the federal TIS program was a partial consideration in implementing their laws.

In Ohio, the sentencing reform process that led to its truth-in-sentencing reforms began in 1991, with its new law taking effect in 1996. These laws required that most offenders would serve 100 percent of the determinate sentence imposed, a percentage that (obviously) exceeds the 85 percent rule. In addition to a more severe percentage requirement, Ohio's truth in sentencing also limited earned credit in prison to one day per month served, which could be earned by meaningful participation in school, work, or treatment programs—provided that they were available. That Ohio's

⁵⁶ U.S. General Accounting Office. 1998. *Truth in Sentencing: Availability of Federal Grants Influenced Laws in Some States*. Washington, D.C.: U.S. General Accounting Office. February. GAO/GGD-98-42. Page 6.

⁵⁷ U.S. General Accounting Office. 1998. *Truth in Sentencing: Availability of Federal Grants Influenced Laws in Some States*. Washington, D.C.: U.S. General Accounting Office. February. GAO/GGD-98-42. Page 9, Figure 2. Also, David Boots, Manager of the Planning and Research Unit in the Illinois Department of Correction. Telephone interview with the authors, December 12, 1998.

⁵⁸ U.S. General Accounting Office. 1998. *Truth in Sentencing: Availability of Federal Grants Influenced Laws in Some States*. Washington, D.C.: U.S. General Accounting Office. February. GAO/GGD-98-42. Pages 7-8.

⁵⁹ U.S. General Accounting Office. 1998. *Truth in Sentencing: Availability of Federal Grants Influenced Laws in Some States*. Washington, D.C.: U.S. General Accounting Office. February. GAO/GGD-98-42. Page 8.

truth in sentencing is stricter than the federal provisions is consistent with the reported lack of federal grant-program influence.

In sum, in 5 of the 21 states that changed their sentencing structures and implemented truth in sentencing, the federal grant program was reported or determined to be a key factor in the form of truth in sentencing that was implemented. In 10 of 21 states, the federal program was determined to be a partial factor, and in 4 of 21, it was reportedly not a factor at all. Thus, in 15 of 21 states, the federal program played a role in the states adopting new truth-in-sentencing laws. In these 15 states that reported that the federal program was at least a partial factor in their decisions to change their truth-in-sentencing laws, only one—Wisconsin—did not receive a federal TIS grant. And of the other 14 that did receive federal grants, only one—Ohio—reported that the federal program was not a factor in its truth-in-sentencing reforms. These associations between the reported role of the federal program in influencing sentencing law changes and the receipt of federal funding suggest that states could make comparatively minor modifications to their existing sentencing laws to bring them in line with the federal grant program opportunities, and thereby take advantage of federal funding while implementing sentencing reforms.

On the other hand, there were 30 states (from table 2.1) that did not change their sentencing laws after the federal grant program was implemented. These could not have been strongly influenced by the federal program. Of these 30 states, 21 were potentially eligible for federal TIS grant monies without having to make any changes in law, and 12 of these 21 received federal TIS grants. The 13th state in table 2.1 that received a TIS grant was Utah. None of these 13 (of 22 “potentially TIS eligible” states) made any changes in sentencing laws in obtaining the grants.

These two findings—that states that report that the federal grant program was at least a partial factor in influencing the changes to their sentencing laws and that almost half of the states that did not change their sentencing laws took advantage of the grant program—suggest that the grant program had two roles in the implementation of truth in sentencing among the states. First, it contributed to incremental changes in sentencing laws in some states, largely by leading to laws that increased the percentage of sentence served. Second, it provided rewards for states whose TIS practices were already consistent with the federal grant criteria.

CONCLUSIONS ABOUT THE FEDERAL GRANT PROGRAM ROLE IN INFLUENCING TRUTH IN SENTENCING IN THE STATES

The previous section concluded that the federal TIS grant program both led to incremental changes in sentencing laws (in some states) and provided rewards to states that already had truth-in-sentencing laws that were consistent with the federal grant eligibility criteria. Alternatively, some state and federal program officials argue that the main influences of the federal TIS program were political or symbolic, in that the program allowed states to have the symbolic value of “being tough on crime,” or being “federally compliant.”⁶⁰ For example, an official with the Office of Justice Programs, U.S. Department of Justice (DOJ), recalled that during 1995-96, DOJ was surprised by the states’ level of interest in the truth-in-sentencing grant program, considering the small amounts of the grants in relation to the costs of incarcerating violent offenders.⁶¹

⁶⁰ Patricia O’Hagan, Office of Policy and Management, State of Connecticut. Telephone interview with the authors. October 5, 1999. When asked about Connecticut’s motivation in moving to an 85 percent truth in sentencing law, Ms. O’Hagan responded that Connecticut liked to be “ahead of the curve” on national reforms, and she implied that the state government might be viewed negatively if it did not seek federal funds to help with its perceived crime problem.

⁶¹ Marlene Beckman, Office of Justice Programs, U.S. Department of Justice. Interview with the authors, November 12, 1999.

The interpretation of the main influences of the federal TIS program as political or symbolic is supported by at least one fact: the small amounts of the grants. Even before the first grants were awarded, the Department of Justice estimated that a typical grant award would only build 50 prison beds.⁶² The average annual TIS grant award was \$7,885,875—or about one percent of the average annual correctional expenditures.⁶³

Yet, if the federal program provided political or symbolic influences, then perhaps the number of grantees should have been larger, and many new states should have enrolled in the program over the years. As the 13 of 21 eligible “no change” states indicate, participation in the federal TIS grant program did not require that a state necessarily make major changes to its sentencing structure to participate in the program. Hence, “symbolic” or “political” benefits could have been gained relatively simply—if that, indeed, was an objective of a state.

Alternatively, non-participation in the federal TIS grant program could also be interpreted as a “symbolic” issue for the states. The TIS grant program, like many federal programs, raises important issues related to federalism. Many state legislators spoke out against the federal influence on states in adopting truth-in-sentencing reforms. For example, in a meeting of the National Council of State Legislatures in 1994, several state legislators raised concerns about undue federal influence on the states, about the potential drain on state budgets of practicing truth in sentencing that met the 85 percent rule, and about the fact that federal 85 percent rule was disingenuous. To quote one state legislator, “We’ve had 100 percent truth in sentencing since 1982. We don’t need Congress telling us what we have to do in this area if we’re going to be eligible for their money.”⁶⁴ Even federal legislators raised concerns about the federal role in influencing states, as crime and criminal justice responses were viewed as largely local issues, and the “federalization” of the criminal justice process was a major concern.

Additionally, participation in the federal grant program was very stable. This also seems to run counter to the “symbolic” or “political” explanations. Most of the 29-grantee states qualified in 1996, with only four states joining in later years. Moreover, of the 29 that participated, 13 were states that did not make any changes to their truth-in-sentencing laws (the “rewarded” states). Of all the states that eventually qualified for TIS grants between 1996 and 1999, only 4 did not qualify at the start of the program. As the operational provisions of the federal program were established in 1996, states either responded to the program and stayed in it, or they did not respond to the program and did not join it. The four later joiners are the exceptions.

Further, the federal TIS grant eligibility requirements did not extend the sentencing reforms going on in the states. Rather, the original eligibility requirements in the 1994 Crime Act were loosened by the 1996 amendments so that more states could potentially qualify for TIS grants. This broadening of standards appears to lessen the symbolic effect of getting tough on crime.

Third, 34 states and the District of Columbia already had some form of truth in sentencing before 1995, at the time of the passage of the 1994 Crime Act. Between 1995 and 1999, only nine additional states adopted truth-in-sentencing policies for the first time so that, by the end of 1999, 42 states and the District of Columbia had some form of truth-in-sentencing policy in place. Among the states that had TIS laws prior to the 1994 Crime Act, ten—Florida, Illinois, Kansas, Maine, the District of

⁶² Marlene Beckman, Office of Justice Programs, U.S. Department of Justice. Interview with the authors, November 12, 1999.

⁶³ Average grant awards during 1996-98 were computed from state-specific grant amounts posted on the Corrections Program Office web site (<http://www.ojp.usdoj.gov/cpo/voitis.htm>). Average annual prison expenditures for TIS states were computed from Table 1 of Bureau of Justice Statistics. 1999. *State Prison Expenditures, 1996*. Washington D.C.: U.S. Department of Justice. August. NCJ 172211.

⁶⁴ Donna Sytek, Chairman of the Corrections and Criminal Justice Committee, New Hampshire House of Representatives as quoted in “States Wary of Anticrime Bill—Legislators Balk at Measure’s Costs, Requirements.” *The Washington Post*. July 29, 1994. This article was entered into the Congressional Record during the debates on the Crime Act: *Congressional Record*. 103rd Congress, August 23, 1994. Page s12297.

Columbia, Mississippi, New York, Tennessee, Connecticut, and Louisiana—enacted reforms that resulted in federal grant eligibility. Of these, six states—Florida, Illinois, Kansas, Maine, Connecticut, and Louisiana—made relatively minor changes to their sentencing systems by increasing their TIS percentage requirements. The federal TIS grant program may have motivated these states to change.

Thus, the federal TIS grant program was associated with a small volume of sentencing reform activity; the timing of its implementation coincided with the reforms going on in the states; and its grant eligibility criteria allowed it to reward the states that had adopted truth in sentencing before the beginning of the grant program.

CHAPTER 3.

Analysis of the Influences of Changes in Sentencing Practices on Prison Admissions and Prison Populations

INTRODUCTION AND SUMMARY OF FINDINGS

Truth-in-sentencing laws were targeted primarily at increasing the severity of sentencing for violent offenders by either increasing the proportion of violent offenders sentenced to prison, increasing the length of their punishment, or both. Additionally, these laws were designed to reduce the apparent disparity between the sentence imposed and time served.

The previous chapters reviewed the implementation of truth in sentencing across the states and discussed the influence of the federal truth-in-sentencing statutes and grant program on the states' adoption of truth in sentencing. Chapter 1 described the varieties of forms of truth in sentencing in the states, and described how the evolution of the federal TIS grant criteria reflected the sentencing reforms ongoing in the states. Chapter 2 argued that the federal TIS program had comparatively minor influence on the adoption of truth-in-sentencing reforms in the states.

This chapter focuses on the truth-in-sentencing reforms adopted in several states, and it aims to analyze the effect of these reforms on sentencing decisions (the decision to imprison and sentences to be served in prison) and the subsequent effect of these sentencing decisions on changes in prison admissions and the prison populations expected from those sentencing decisions. Because sentencing outcomes are influenced by factors external to the sentencing system, such as changes in offending and arrests, the analysis of the effects of sentencing reforms on sentencing outcomes takes the changes in these external factors into account. Chapter 3 finds that, in general, sentencing reforms adopted in the states whose data were analyzed led to changes in prison admissions and expected prison populations that were consistent with the reforms, but that changes in pre-sentencing factors also had comparatively large influences on prison populations, and in some states, the changes in prison populations due to changes in pre-sentencing factors exceeded the influence of truth-in-sentencing reforms.

Overview of chapter 3

In general, this chapter aims to assess the effects of sentencing outcomes across several states that had different sentencing structures, that implemented various forms of truth in sentencing, and that implemented these reforms at different points in time and therefore had more or less experience in sentencing offenders according to their truth-in-sentencing reforms. This cross-state, case-study approach to analyzing the changes in sentencing outcomes does not permit this study to make general statements about the effects of truth in sentencing or to draw conclusions about the total impact of truth in sentencing on sentencing outcomes. Rather, the approach uses the states as “types” and aims to determine if there is a consistent effect of truth in sentencing across these types of states. States are analyzed not for the purpose of statistical generalizability but for “analytical generalizability.”⁶⁵

⁶⁵ This is Robert Yin's concept, from his work on case-study methodologies. See Robert K. Yin. 1994. *Case Study Research: Design and Methods*. Thousand Oaks, CA: Sage Publications.

In the analysis, changes in sentencing outcomes are examined at two points in time, one representing the sentencing outcomes and influence of sentencing decisions during a pre-reform period, and the other (with one exception) representing the effects of sentencing decisions on outcomes after the reforms were implemented. By controlling for changes in offending and arrests that affect changes in the flow of offenders into the courts, the analysis is used to identify the variables that are most important in determining outcomes.

Five sentencing outcomes related to truth in sentencing are examined, but the analysis of the impacts of truth-in-sentencing reforms are limited to the analysis of two outcomes: changes in the number of prison admissions and changes in the size of the expected prison population. These two outcomes reflect two of the central tenets of truth in sentencing, which are to increase the volume of violent offenders sentenced to prison and to punish them more severely. A third key outcome—the percent of sentence served—is analyzed only briefly, as insufficient time has passed to allow a sufficient number of the serious violent offenders sentenced under truth in sentencing to leave prison. Data on the percent of sentence served under truth in sentencing are not available and won't become available for some years. Hence, the analysis of the percent of sentence served is limited to comparisons of pre-reform percentages with the theoretical or expected percentage to be served, as required under the truth-in-sentencing laws in the states.

Another key aspect of truth in sentencing was the severity with which violent offenders are punished, as measured by the length of time that they serve or can expect to serve in prison. Estimates of this quantity are derived and used in the analysis to determine first if violent offenders can expect to serve longer terms and second to determine the effects of sentence length decisions on expected prison populations. Expected length of stay is perhaps more important than the percent of sentence served in understanding the impacts of truth in sentencing, because it is quite possible to increase the percent of sentence served, yet decrease the actual amount of time spent in prison by decreasing the sentences that are imposed. Hence, this analysis devotes more attention to expected length of stay. The final measure is the prison admission rate, as measured by the ratio of the number of prison admissions to the number of arrests. This gives an indication of the likelihood of prison.

The cross-state analysis concludes, perhaps not unexpectedly, that the effects of truth-in-sentencing reforms on the number of violent offenders admitted into prison and the expected number of violent offenders in prison (controlling for levels of offending and arrests) vary considerably across the states. There are effects of the sentencing reforms on these two prison outcomes, but the effects are neither consistent within states between the two outcomes nor are the effects consistent across states with similar sentencing structures or across states with different sentencing structures.

Some of this variation is to be expected. For example, the variation in the effect of sentencing reforms on the number of prison admissions can be explained in part by the absence of truth-in-sentencing provisions requiring an increase in the use of prison for violent offenders. Washington State provides an example of this. Or, in other states whose truth-in-sentencing laws also did not focus on prison admissions of violent offenders directly, other aspects of their sentencing structure may have done so. For example, Pennsylvania's sentencing guidelines, which were implemented prior to its truth-in-sentencing reforms, were designed to increase punishments for serious violent offenders, and they apparently continued to have this effect while it practiced its form of truth in sentencing. Alternatively, both Washington and Pennsylvania's truth-in-sentencing reforms did not much change their pre-existing sentencing practices. Therefore, the absence of an effect of these reforms on violent offender admissions may also contribute to the explanation of the observed outcomes. Similarly, the variation in outcomes across the states in the changes in the expected number of prisoners also can be attributed to reasons like these that apply to the changes in admissions.

Another explanation for the relative absence of strong effects of truth in sentencing across states may arise from the selection of states used in the analysis. Only 2 of the states—Ohio and New Jersey—made major changes in their sentencing structure, and in Ohio—which provided data for

several years after the implementation of their reforms—there are substantial effects of sentencing reforms on the change in the expected number of prisoners. Yet, even in Ohio, it is not possible to attribute all of the change in prisoners to truth in sentencing alone, as Ohio’s sentencing reforms also addressed felony levels, increased punishments for violent offenders, and eliminated parole decision making. Ohio’s experience illustrates the difficulty of attributing changes to a specific reform when other reforms are also implemented. And, the results from the other states that did not change their sentencing structure when they implemented truth in sentencing suggest that the change in prison outcomes in Ohio may be due more to other sentencing reforms rather than to truth in sentencing.

In addition to these general patterns of variability, the cross-state analysis leads to some important conclusions. First, the magnitude of the effects of sentencing reforms, including truth in sentencing, appears to be a function of the extent of the reforms. In the states that made larger changes to their sentencing systems, whether truth in sentencing was a part of the reform (e.g., Ohio) or truth in sentencing did not affect the reforms (e.g., Pennsylvania), the impacts of the sentencing reforms on the expected number of violent offense prisoners was larger than in the states that made comparatively smaller reforms. But in the 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. Conversely, in the states that made no changes to their sentencing systems during our study period (Utah, and New Jersey because of data limitations), there were much smaller effects to no effects on changes in expected violent offense prisoners of sentencing decisions.

Second, in the states that made moderate to intermediate changes to their sentencing structures (Georgia, Washington, and Illinois), there were effects of changes in sentencing practices on prison outcomes, but the effects varied. In Georgia and Washington, whose truth-in-sentencing provisions involved increasing the percent of sentence to be served by violent offenders, the data fit a pattern in which judges increased the use of prison for violent offenders more than they increased the expected length of stay for violent offenders. This model of truth in sentencing allows judges to broaden the range of violent offenses imprisoned more than they increase the expected length of stay for violent offenses. In both of these states, expected length of stay increased, but it did not increase as much as the prison admission rate did. In Illinois, conversely, the influence of expected length of stay on the expected number of violent offense prisoners was larger than the prison admission rate. Thus, these three states illustrate two different practical applications of increasing the percent of sentenced served by violent offenders. The first model is one in which expected length of stay increases moderately along with the increase in the percent served, but the use of imprisonment for violent offenses increases much more. In the second model, increases in expected length of stay coincide with increases in the prison admission rate.

A third consideration is that truth in sentencing was generally implemented during a time when violent offending was decreasing. This decrease contributed negatively to changes in the expected number of prisoners. To the extent that truth in sentencing is used to facilitate rational allocation of prison space, the experience in these states during 1991 to 1996 show that there was generally a movement towards more severe punishments for violence and less severe punishments for non-violence (at least in relative terms). However, the decline in violent offending contributed large amounts to changes in the expected number of prisoners. Were the sentencing practices of 1996 to persist during a time when the number of violent offenses increases, the impacts on prison populations and corrections management could be dramatic. The absence of a “release valve,” such as parole decision-making, could compound problems of increasing prison populations that could result if the violent crime rate increases. In this sense, truth in sentencing could create additional capacity constraints and prison management issues.

The next sections of this chapter describe the cross-state, case study approach taken in to analyze the effects of truth-in-sentencing reforms. It then describes in more detail the outcomes that were analyzed, the hypotheses that directed the analysis, the models and methods used to analyze the data, and the data sources. Following these sections, the chapter summarizes reports the results of the brief analysis changes in the percent of sentence served, and then it summarizes the state-specific hypotheses and findings. After that appears a long section in which a brief analysis of sentencing outcomes and impacts of reforms are described for each state.

APPROACH TO THE ANALYSIS

A cross-state, case study approach was taken to analyze the impacts of truth in sentencing on prison outcomes. Changes in prison outcomes prior to and after reforms were analyzed separately in seven states: Georgia, Illinois, New Jersey, Ohio, Pennsylvania, Utah, and Washington. These states had various forms of truth in sentencing that were implemented in different sentencing structures. To compare outcomes across different states, the data were analyzed using a flow model of the criminal justice process that moved from the general population to prison through several stages of the process including offending, arrests, imprisonment decisions, and sentence to be served decisions. The flow models were used to analyze changes in prison outcomes in each state. This was done by using decomposition methods that accounted for the amount of change in an outcome that was determined by each of the separate stages in the criminal justice process.

Each of the states implemented a form of truth in sentencing. Three generalized forms were observed: (1) determinate 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.

In addition to the form of truth in sentencing, this analysis focuses attention on the changes and degree of change in sentencing structure that occurred as states implemented truth in sentencing. In implementing it, two of these states made relatively large changes to their sentencing structure (Ohio and New Jersey), but within this category of “large change” states, the forms of truth in sentencing varied. Two states made modest changes to their sentencing structure (Georgia and Illinois). Two others made minor or no changes to their sentencing structure while continuing to implement their form of truth-in-sentencing grants (Washington and Pennsylvania), although one of these states (Washington) has determinate sentencing with no parole, while the other has indeterminate sentencing with parole. One state (Utah) made no changes and also had no statutory truth-in-sentencing provisions, yet implemented a form of truth in sentencing through its sentencing practices.

State selection criteria

States were selected for several reasons. First, they represent various types of sentencing structures and sentencing reforms. Table 3.1 summarizes the sentencing structures and extent of change to these structures that occurred as truth in sentencing was implemented.

Table 3.1 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 (Georgia, Ohio, and New Jersey) adopted determinate sentencing. Ohio and New Jersey made major changes in sentencing, with truth in sentencing as part of the reform package, while Georgia made more moderate changes. The other two indeterminate states (Pennsylvania and Utah) retained their indeterminate sentencing structures, which already included some form of truth in sentencing. However, while

Pennsylvania amended its sentencing guidelines, Utah made no major changes during the study period. Thus, the variation in sentencing structure and reforms allows for comparisons with different degrees of change and across structures.

Table 3.1. 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 in 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 in 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%.

Second, states were selected with reference to other studies of truth-in-sentencing reforms and sentencing guidelines that were undertaken at the time this study was conducted. For example, the RAND Corporation and Abt Associates had studies under way in states such as California, New York, Texas, North Carolina, Florida, and Minnesota. To avoid duplication with these efforts, the states considered in these other studies were not selected.

Third, states were also selected based on data availability. Throughout this project, repeated efforts were made to obtain data directly from states. State corrections officials, although willing to share data, reported repeatedly that they did not have the staff resources available to prepare data extracts. Two states eventually provided data: Ohio and Washington. The Ohio data were used in the analysis. The Washington data arrived after the analysis of the *National Corrections Reporting Program* data that were used in the analysis was nearing completion.

The Bureau of Justice Statistics' *National Corrections Reporting Program* data were used in the analysis of the other six states sentencing and prison outcomes. This source is described below.

Sentencing outcomes analyzed

As the objective of this analysis is to examine the influences of truth-in-sentencing reforms on changes in prison admissions and prison populations, five measures were used in this process; they were:

- The number of prison admissions,
- The prison admission rate (defined as the ratio of the number of admissions to the number of arrests, and also referred to as the “use of prison”),
- The percent of sentence served,
- The expected length of stay (or the amount of time that offenders admitted into prison can expect to serve prior to release), and
- The expected number of prisoners (or the “stable prison population” that is expected from current admissions and their current expected length of stay).

The five measures were defined and used in the analysis as follows:

1. *The number of prison admissions.* This equals the offense-specific number of “new court commitments” into state prisons. A new court commitment occurs when an offender is convicted and sentenced on a new offense. The NCRP data on commitments are limited to those whose sentence imposed was equal to or greater than one year. This convention was adopted by the Bureau of Justice Statistics to provide comparability across states in measuring felony commitments. As truth in sentencing aims to increase the severity of punishment of, primarily, violent offenders, the number of prison admissions is to measure the extent of the increase in prison commitments for violent offenders. The number of prison admissions is also one of the two variables in the decomposition analysis of changes in sentencing outcomes. In the decomposition analysis, the factors influencing the changes in the number of admissions are analyzed, and the effects of sentencing decisions (the prison admission rate) are compared to the effects of factors external to sentencing (changes in population, offending, and arrests) on the change in the number of admissions.
2. *The prison admission rate.* The prison admission rate is defined as the offense-specific number of prison admissions divided by the offense-specific number of arrests. This measure is also referred to as the “use” of imprisonment, the imprisonment rate, or the probability of imprisonment given arrest. It measures, relative to arrests, the severity of punishment for specific classes of offenses. Changes in the prison admission rate are analyzed in relation to hypotheses about these changes, and the prison admission rate appears in both decomposition analyses: changes in the number of admissions and changes in the expected number of prisoners. The use of the prison admission rate in the decomposition analysis is to provide a measure of the severity of punishment and of judicial decisions.
3. *Percent of sentence served.* This is defined for each prisoner as the ratio of time served to sentence imposed; the average of the individual percent served is then taken and analyzed.

In actuality, it is not possible to measure the percent of sentence served under truth in sentencing, as insufficient time has passed since states implemented truth in sentencing to allow for most all of the violent offenders sentenced under truth in prison to serve their full sentences. For example, if truth-in-sentencing reforms were implemented, say, in 1996, and if the average imposed sentence for violent offenders was 5 years (60 months), then if these violent offenders actually served the anticipated 85 percent, their average time served would be 4 and ¼ years (or about 51 months). This means that many, if not most, of those admitted in 1996 would not be released from prison several years after 1996, and hence beyond the period covered by available data. Hence, it is not possible to test hypotheses about the actual percent of sentence served by violent offenders sentenced under truth-in-sentencing practices until more time has passed. Consequently, the analysis of percent of sentence served is limited to comparisons of pre-reform percentages with the expected truth-in-sentencing percentages.

4. *Expected length of stay.* The expected length of stay is a measure of the average amount of time that offenders admitting into prison in a given year can expect to serve before their release. A measure of the length of stay that offenders admitted into prison is required for the analysis of changes due to truth-in-sentencing. By measuring this quantity, it is possible to compare expected punishments for cohorts of offenders entering prison at different times. Additionally, expected length of stay provides a measure of the severity of punishment at a particular point in time. As described elsewhere in more detail,⁶⁶ data on time served by offenders released from prison will include many offenders sentenced to prison in many different years. If used to assess the effects of sentencing reforms implemented at a particular point in time, data on time served by offenders released in the year(s) following the implementation of the reforms will include many offenders not sentenced according to the reforms.

In order to measure length of stay for cohorts sentenced and committed into prison prior to the truth-in-sentencing reforms and compare this with length of stay for the offenders sentenced under the reforms, it is necessary to develop estimates of expected length of stay for each group of entering prisoners. As described in Chapter 4, several different methods were used to estimate length of stay. For example, for determinate sentencing states that implemented an 85 percent rule, expected length of stay for offenders sentenced after the truth-in-sentencing reforms was estimated by the expectation that offenders would serve 85 percent of their imposed sentences. For others, the relevant expected percentages of sentences were used. For offenders admitted into prison prior to the truth-in-sentencing reforms, expected length of stay was estimated, in general, as follows. Regression models of time served by offenders released from prison over several years were run on the length of sentence imposed, type of crime, method of release, and demographic factors. The estimated relationship between sentence imposed and time served was then applied to the sentences imposed on entering cohorts of prisoners.⁶⁷

Changes in expected length of stay were analyzed to describe the impacts of sentencing decisions that resulted from truth in sentencing. Additionally, expected length of stay was used in the decomposition analysis of the fourth measure—changes in the expected number of prisoners. In this analysis, expected length of stay was used as one of the two measures of sentencing decisions; the other measure was the prison admission rate.

⁶⁶ See William J. Sabol and John McGready. 1999. "Time Served in Prison by Federal Offenders." *Bureau of Justice Statistics Special Report*. Washington, D.C.: U.S. Department of Justice. NCJ 171682.

In that report, Sabol and McGready analyze the differences in time served when measured for offenders released from prison as compared to offenders entering prison.

⁶⁷ Later in this chapter are details of the estimations for each state. There was significant variation across states in the regression models, as the models for each state attempted to take into consideration other relevant factors associated with sentencing and release decisions.

5. *The expected number of prisoners.* This quantity measures the number of prisoners that would be expected from the current prison admissions cohorts and their expected length of stay. 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. The assumption behind its use was to compare expected populations that would be generated from the sentencing decisions that occurred at two points in time.

The expected number of prisoners is defined as the offense-specific number of admissions times the average expected length of stay. When 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 expected number of prisoners was used primarily in a decomposition analysis to assess the impacts of the two sentencing decisions—use and length—that are associated with the two sentencing regimes being compared.

Hypotheses about the impacts of changes in sentencing structure on prison admissions and expected prisoners.

The analysis examines several hypotheses or expectations about changes in the punishment of violent offenders that are related to the degree and timing of the states’ changes in sentencing structure. For example, in states such as Washington, which had implemented determinate and guideline-based structured sentencing in 1984 and which modified its sentencing structure in the early 1990s to accommodate truth in sentencing, sentencing outcomes for violent offenders are hypothesized to change modestly or not at all, as the truth-in-sentencing reforms implemented there did not result in a major departure from existing sentencing laws and practice. The hypotheses for each state are summarized below and elaborated upon in the discussion of each state’s sentencing outcomes.

The truth-in-sentencing reforms that were implemented in these states occurred at the same time that violent crime was on the decline nationally, as well as in most states and municipalities. The decline in violent crime can affect the volume and composition of offenders subject to sentencing reforms. The changes in crime and the law enforcement response to crime (as in the number of arrests) can also affect the composition of offenders appearing in and sentenced in felony courts. If the composition of offenders changes, the sentencing outcome can be affected independently of sentencing decisions. Essentially, this is an aggregation issue. If the proportion of more serious violent offenders sentenced decreases relative to the proportion of less serious ones, then the overall average sentence imposed on violent offenders can decrease even if the average sentences imposed on each specific category of violent offenders increases. To control for this possibility, analysis of sentencing outcomes is done for specific offense categories within the broader category of Part 1 violent offenses.

As changes in offending and the law enforcement response to offending can affect the composition of cases arriving in the courts, it is necessary to control for the effects of these factors on sentencing outcomes. The hypotheses developed about sentencing outcomes in the states are based on the relative effects of sentencing decisions associated with reforms and of changes crimes and arrests. For example, in a state such as Washington, in which the implementation of truth in sentencing involved modest to no changes in sentencing structure, an hypothesis about sentencing outcomes such as the number of prison admissions states that the effects on the total number of violent offenders admitted into prison (controlling for the numbers in each specific violent offense category) of changes in the “use of imprisonment” (the prison admission rate) are smaller than the effects of changes in offending and arrests. This hypothesis suggests that the factors leading to compositional changes in

offenders sentenced, rather than changes in the manner of handling specific offense groups, will have a larger impact on the number of violent offenders admitted into prison.

Taking these matters into account, table 3.2 summarizes the hypotheses used in the analysis of each states' outcomes; it also summarizes the findings for these hypotheses.

Table 3.2. Summary of hypotheses about the effects of sentencing reforms on prison admissions and the expected number of prisoners

State	Speculations about changes	Results
Georgia	<ul style="list-style-type: none"> ▪ The influence of sentencing decisions (reforms) on admissions and expected prisoners will be less than the effects of pre-sentencing factors. ▪ Changes in sentencing structure will have larger effects on violence than drug and property. 	<ul style="list-style-type: none"> ▪ For admissions and expected prisoners, the influence of sentencing decisions exceeded the influence of pre-sentencing factors for violent and property but not for drugs. ▪ Effects of sentencing decisions on drug offenders exceeded the effects on violent offenders.
Washington	<ul style="list-style-type: none"> ▪ Influence of reforms on expected prisoners will be greater than their influence on prison admissions. ▪ Influence of pre-sentencing factors will exceed the influence of sentencing reforms. ▪ The change in expected violent prisoners will exceed the changes for other offenses. 	<ul style="list-style-type: none"> ▪ Influence of reforms on expected prisoners exceeded their influence on admissions. ▪ Influence of pre-sentencing factors exceeded the influence of reforms on admissions and expected prisoners for violent offenses but not for drug offenses. ▪ Changes in expected violent prisoners exceeded changes for others, through the influence of reforms.
Illinois	<ul style="list-style-type: none"> ▪ Influence of pre-sentencing factors will exceed the influence of reforms on changes in admissions and expected prisoners. 	<ul style="list-style-type: none"> ▪ Influence of reforms exceeded the influence of pre-sentencing factors on changes in admissions and changes in expected prisoners.
Ohio	<ul style="list-style-type: none"> ▪ Influence of reforms will have a greater effect on changes in admissions and expected prisoners than the influence of pre-sentencing factors. ▪ Changes in admissions and expected prisoners for violent offenses will exceed those for property offenses. 	<ul style="list-style-type: none"> ▪ Influence of reforms exceeded the influence of pre-sentencing factors on changes in expected prisoners, but for changes in admissions, the relative magnitudes of effects were reversed. ▪ Changes for violence exceeded changes for property, but changes for drugs exceeded changes for violence.
New Jersey	<ul style="list-style-type: none"> ▪ Anticipation effects: Influence of prison admission rate and expected length of stay (parole release restricted) will increase over time, in anticipation of reforms. ▪ Larger anticipatory effects for violence than other offense groups. 	<ul style="list-style-type: none"> ▪ No anticipatory effects: Changes in pre-sentencing factors had larger influences on sentencing outcomes than did changes in sentencing decisions. ▪ Unequal effects across offense groups.
Pennsylvania	<ul style="list-style-type: none"> ▪ Changes in sentencing decisions will have a larger influence on changes in admissions and expected prisoners than the influence of pre-sentencing factors. ▪ Changes in admissions and expected prisoners for violent offenses will exceed those of drug and property. 	<ul style="list-style-type: none"> ▪ For admissions of violent and drug offenders, effects of sentencing decisions exceeded the effects of external factors; for expected prisoners, the same held. ▪ For admissions and expected prisoners, changes for violent offenders exceeded changes for drugs.
Utah	<ul style="list-style-type: none"> ▪ Changes in pre-sentencing factors will have a larger influence on admissions and expected prisoners than the influence of sentencing decisions. ▪ Influence of changes in sentencing decisions will be roughly equivalent across offense groups. 	<ul style="list-style-type: none"> ▪ Changes in sentencing outcomes about equally influenced by changes in sentencing decisions and changes in pre-sentencing factors. ▪ Changes in outcomes for drug offenders exceeded changes for violent offenders.

Flow models and decomposition methods

Decomposition methods were used to analyze changes in prison admissions and in the expected number of prisoners. Offense-specific disaggregated flow models were developed to represent the flow of offenders from the general population into prison through several stages of a generalized criminal justice process. These stages included 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 prison population as measured by the number of prisoners that would be expected from current sentencing decisions. Separate offense-specific disaggregated flow models were developed for 1991 and 1996 for each state except Ohio. For Ohio, the periods compared were 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 violent crimes exclusive on non-Part 1 violent crimes and 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. The details about the decomposition methods and flow models are provided in Chapter 4: Methodology. Here they are summarized:

The decomposition analysis begins with developing a flow model that measures movements through the criminal justice process from the general population to prison. This can be described as in the flow diagram below.

Population → Offending → Arrest → Decision to imprison → Length of stay → Expected prisoners

The first three stages, population, offending, and arrests, constitute the “pre-sentencing” decisions or stages of the process. The decision to imprison, or the prison admission rate, and the length of stay are the measures of the sentencing process that are hypothesized to be affected by sentencing reforms.

The flows between stages of the process can be used to compute transition rates, so that:

- Offending rate (o) = number of offenses divided by population (pop);⁶⁸
- Arrest rate (a) = number of arrests divided by offenses;
- Prison admission rate (pa) = number of prison admissions (C) divided by arrests;
- Length of stay (los) = expected number of months of prison to be served by offenders entering prison; and
- Expected prisoners (EP) = the expected number of prisoners from the current prison decisions.

Using these rates, equations can be developed for the number of admissions and the expected number of prisoners, so that:

$$C = \text{pop} * o * a * pa$$

where the number of admissions is the product of the population times the offense rate times the arrest rate times the prison admission rate, and

$$EP = \text{pop} * o * a * pa * los$$

where the expected number of prisoners is the product of the population times the offense rate times the arrest rate times the prison admission rate times expected length of stay.

These equations are developed separately by offense and for each time period. The difference in either admissions or expected prisoners between two time periods (denoted by 1 and 2 in the equations below) is calculated as:

$$C_2 - C_1 = \text{pop}_2 * o_2 * a_2 * pa_2 - \text{pop}_1 * o_1 * a_1 * pa_1$$

⁶⁸ UCR offense data are not available for non-Part 1 violent offenses, for drug offenses, and for other offenses.

To examine the effects of any single factor on changes in admissions, this equation can be rearranged, so that

$$C_2 - C_1 = \begin{array}{l} \text{pop}_2 * o_2 * a_2 * [pa_2 - pa_1] + \\ \text{pop}_2 * o_2 * [a_2 - a_1] * pa_1 + \\ \text{pop}_2 * [o_2 - o_1] * a_1 * pa_1 + \\ [\text{pop}_2 - \text{pop}_1] * o_1 * a_1 * pa_1 \end{array}$$

The first row gives the influence of the change of the prison admission rate on the change in the number of admissions. The second row gives the influence of the change in arrests, and so on. Note that the decomposition can be done with respect to changes from the first or second period. The results reported later in this chapter show the influences based on change from the 1991 base. A separate analysis was done based on change from 1996. Although the absolute magnitudes changed, the direction of effects and the relative magnitudes remained the same, and there were no changes in conclusions based on the base year used in the decompositions.

Data

Four main data sources were used in the analysis. For all states except Ohio, data on prison admissions, releases, sentences, and time served were obtained from the Bureau of Justice Statistics *National Corrections Reporting Program* (NCRP). The NCRP data contain information on prisoner flows, but they do not contain information on prisoner stocks. The Ohio Department of Rehabilitation and Corrections provided data files with offender movements for the years 1990 through 1998; the Department also provided data on prisoners stocks for 1999. Offense and arrest data were obtained from the FBI's Uniform Crime Reports. Finally, population data were obtained from the *Statistical Abstract of the United States*.

The NCRP data has some advantages and disadvantages. Among its advantages were its availability,⁶⁹ the Bureau of Justice Statistics' application of a common coding format to each individual state's data, and the readily available documentation. Additionally, as BJS had previously developed methods to classify NCRP offense codes into UCR crime categories, these methods were available for use in creating offense categories. Among the disadvantages of the NCRP data were: the absence of data about prisoner stocks, which could have been used to improve estimates of length of stay; the loss of specific information about offenses in each state, which could have been used to identify offenders sentenced under truth in sentencing in states that had recently implemented their reforms; information about prior commitments of persons, which could be used to approximate criminal history; and more up to date data. For example, Ohio provided the project with data through 1998; at the time that it provided these data, the NCRP data were available only through 1996.

Attempts were made to obtain prisoner stock data from the statistical reports of the various state departments of corrections. While many of these reports were available online, they suffered from a common problem: the offense classifications in the state reports were not comparable to the FBI's UCR offense categories, which were used in the analysis. Hence, prisoner stock data were not available for the study.

⁶⁹ The project staff contacted and worked with the corrections departments in five states in an attempt to obtain data extracts directly from these departments. These state-specific data sources were viewed as superior to the NCRP because they contained more information about offenses, criminal history, and offenders sentencing under truth in sentencing versus other provisions. Project staff spent more than one and half years of calendar time attempting to get these state data. Repeated calls and letters were generally met with receptive responses. However, in the departments that were unable to provide data, the main reason given was that the research department did not have the staff available to prepare the data extracts. Eventually, Ohio and Washington provided data to the project. Ohio provided their data in time for its use in the study. The Washington State data arrived after the analysis of the NCRP data was completed.

ANALYSIS OF PERCENT OF SENTENCE SERVED

One of the aims of truth in sentencing is to reduce the disparity between sentences imposed and time served. This is measured by the percent of sentence served. States that implement truth in sentencing can achieve this objective by increasing the amount of time served relative to sentences imposed, by decreasing sentences imposed relative to time served, or by changing both outcomes to achieve the goal. As discussed previously, at this time it is not possible to compare the percent of sentence that offenders have served under truth in sentencing because insufficient time has passed. However, to show the degree to which states have to alter either their sentences imposed or time served, table 3.3 shows estimates of the percent of sentence served prior to implementation of truth in sentencing in the seven states analyzed and compares these measures with the expected percent of sentence to be served. These data are for violent offenders.

Table 3.3. Estimated percent of sentence served prior to reforms and expected percent to be served under reforms

State	Percent of sentence served by offenders released from prison during 1993	Estimated percent for offenders entering prison during 1991	Expected percent under truth in sentencing
Georgia	42%	51%	100%
Washington	76%	76%	85%
Illinois	44%	43%	85%
Ohio	26%	83%*	97%
New Jersey	39%	37%	85%
Pennsylvania	46%	108%*	100%*
Utah	36%	32%	Indeterminate

Notes: Percentages are based on the maximum sentence, except for those marked with an asterisk (*), which are based on the minimum sentence.
Sources: The data in column 1 are derived from table 8, page 9 of Paula M. Ditton and Doris James Wilson. 1999. *Truth in Sentencing in State Prisons*. Bureau of Justice Statistics Special Report. U.S. Department of Justice: Washington, DC. NCJ 170032. Column 2 is based on Urban Institute analysis of the NCRP data. Column 3 is based on the analysis of state TIS laws presented in chapter 2 of this report.

The BJS data are based on offenders released from prison. The entry cohort estimates are based on the models used to estimate expected length of stay in this report. Also, the BJS data for Ohio and Pennsylvania are based on maximum sentences imposed, while the Ohio and Pennsylvania data are based on the minimum terms imposed under indeterminate sentencing. In Pennsylvania, for example, minimums are about ½ of the maximum.

Further, the BJS data are based on offenders exiting prison during 1993, while the entry cohorts are based on offenders committed during 1991. The sentences imposed on those leaving during 1993 were imposed in several years. If the distribution of sentences imposed on those who left prison in 1993 differ from those who entered, say in 1993, then the reported percent of sentence served may differ, if the relationship between sentence imposed and time served is not constant.

These data show that with the exceptions of Washington and Pennsylvania and perhaps Ohio, states that had a comparatively large gap to close in order to meet their percent of sentence served objectives. In Pennsylvania, truth in sentencing is relative to the minimum imposed term, as offenders must serve that amount before becoming eligible for parole release. The truth-in-sentencing percent was observed for entering cohorts in Pennsylvania in 1991, and Pennsylvania's truth-in-sentencing statute dates back to 1911, with the 100 percent of minimum requirement. This implies (as the data on Pennsylvania in the next section show) that major changes in sentencing outcomes are not expected due to truth in sentencing, but they are expected as a result of changes in the Pennsylvania sentencing guidelines.

As Ohio made major reforms, including increasing sentences lengths for serious violent offenders, it is difficult to assess how much sentences or time served need to change in order to bring the percent of sentence served in line with the theoretical percentage. In the other states, the gap between pre-reform and the truth-in-sentencing percentages is large. This leads to expectations about changes in sentences or time served under truth in sentencing.

STATE-SPECIFIC RESULTS

The rest of this chapter reports on the results of the analysis of changes in sentencing outcomes. In what follows, separate descriptions of the changes in each of the seven states used in the analysis are provided. The state-specific write-ups follow a common outline, whose elements include:

- *Overview of the truth-in-sentencing reforms implemented in each state.* These summary paragraphs provide information about the extent of the change in sentencing structure that resulted from the implementation of truth in sentencing.
- *Hypotheses about effects of sentencing reforms on sentencing outcomes.* This section develops hypotheses and expectations about changes in sentencing outcomes as they relate to the form of sentencing reforms.
- *Changes in punishment.* This section summarizes the changes in each of the four sentencing measures—(1) the number of admissions; (2) the prison admission rate; (3) expected length of stay; and (4) the expected number of prisoners.
- *Prison admissions—Decomposition results.* This section summarizes the results of the decomposition analysis of changes in the offense-specific number of prison admissions. It analyzes the effects of sentencing reforms and the effects of the external factors—populations, offenses, and arrests—on changes in the number of admissions. It compares outcomes across offenses.
- *Expected number of prisoners—Decomposition results.* This section summarizes the results of the decomposition analysis of changes in the offense-specific expected number of prisoners. It analyzes the extent to which sentencing reforms and changes in population, offenses, and arrests affected the change in the expected number of prisoners. It compares outcomes across offenses.
- *Conclusions about changes in admissions and expected prisoners.* This section summarizes the results in relation to the hypotheses stated at the outset of each state's write-up. It draws conclusions about the extent to which the changes support the hypotheses.
- *Two data tables.* Following the write-ups are two tables that present the data used in the analysis. The first table provides summary data on sentencing outcomes; the second table provides the decomposition analysis. Each table includes several panels, as follows:
 - *Summary of changes in sentencing outcomes.* This table has three panels that contain data on:
 - Prison admissions,
 - Prison admissions rate, and
 - Expected length of stay and expected number of prisoners.
 - *Decomposition results.* This table contains two panels, which contain data on:
 - Decomposition of changes in the number of prison admissions, and
 - Decomposition of changes in the expected number of prisoners.

Before turning to the state-specific write-ups and summary of findings, the following section summarizes the results and conclusions of this cross-state comparison.

CONCLUSIONS FROM THE COMPARISONS OF THE INFLUENCES OF SENTENCING REFORMS ON PRISON POPULATIONS IN THE SEVEN STATES

As indicated, the analysis of prison population outcomes—the number of prison admissions and the expected number of prisoners—was undertaken separately in the seven states—Georgia, Washington, Illinois, Ohio, New Jersey, Pennsylvania, and Utah. This sections summarizes some of the key findings from this analysis, and it attempts to draw conclusions about the impacts of truth-in-sentencing reforms on prison populations.

Georgia

The truth-in-sentencing reforms in Georgia were limited to an increase in the percent of sentence to be served by serious violent offenders to 100 percent of the determinate sentence and to the elimination of a parole release decision for these offenders. Georgia therefore represents a shift from a degree of indeterminate sentencing to determinate sentencing for serious violent offenders. Georgia's truth-in-sentencing reforms were expected, therefore, to influence the expected number of violent offense prisoners through increases in length of stay, but not necessarily to influence the number of violent offenders admitted into prison, controlling for changes in the levels of violent offenses and arrests.

Admissions of violent offenders decreased between 1991 and 1996 (by 15 percent, from 2,315 to 1,966), or after Georgia implemented its truth-in-sentencing reforms. The year 1996 gives the outcomes for the first full year of implementation of truth in sentencing, so the outcome should be viewed as a short-run outcome. While the number of admissions of violent offenders decreased, the prison admission rate increased. Thus, the decrease in the number of violent offenders admitted into Georgia's prisons was due to a decrease in the number of violent offenses and a decrease in the number of arrests for violent offenses. The use of prison (the prison admission rate) increased, but the increase in the use of prison for violent offenders was not large enough to offset the decreases caused by the changes in offenses and arrests. Hence, changes in pre-sentencing factors were responsible for more of the change in the number of violent offense admissions than were changes in the prison admission rate.

The expected number of violent offense prisoners also decreased between 1991 and 1996, but again, the decrease in this number arose from large changes in the number of violent offenses and arrests for violent offenses. The prison admission rate and the expected length of stay contributed to increases in the expected number of violent offense prisoners, but, as with the change in the number of violent offense admissions, the changes in these two factors did not offset the decreases caused by the decline in crimes and arrests.

The change in the prison admission rate led to larger changes in the expected number of violent offense prisoners. This result is somewhat surprising, as the truth-in-sentencing reforms in Georgia were limited to increasing the percent of sentence served. This suggests that sentence lengths may have decreased somewhat, as the percent served increased; therefore, length of stay for violent offenses did not increase appreciably.

To the extent that these patterns in the data hold, and as mentioned, these results represent outcomes for the first full year of truth in sentencing in Georgia, they suggest that Georgia's truth-in-sentencing reforms were associated with two types of effects: The use of prison for violence increased, and while the severity of punishment (expected length of stay) increased, it did not increase as much as the use of prison. Hence, truth in sentencing had a larger effect on sending violent offenders in Georgia into prison than it did on changing the length of time that they could expect to serve.

Additionally, the emphasis on violent offenders also resulted in mixed changes in punishment for drug and property offenders. The use of prison for these offenses decreased, but their expected lengths of stay increased slightly. The net effect was a larger reduction in the expected number of property offense prisoners caused by the reduction in the use of prison for these offense and changes in arrests.

Similarly, for drug offenders, the net reduction in expected prisoners was also caused primarily by a decrease in the use of prison.

Georgia's truth-in-sentencing reforms, to sum, were associated with increased punishments for violence, but the increases were larger for the use of prison than in length of stay. This finding is somewhat surprising, given Georgia's increase in the percent of sentence to be served by violent offenders.

Washington

Washington also increased the percent of sentence to be served by violent offenders, as under truth in sentencing, they are expected to serve 85 percent of their imposed sentences, while other offenses are expected to serve 67 percent.

Prison admissions for violent offenses increased in Washington between 1991 and 1996, but the changes in admissions were influenced more by changes in pre-sentencing factors (especially decreases in the number of reported violent offenses) than by increases in the prison admission rate. Admissions for drug offenses increased, but largely through the effect of arrests, as the prison admission rate for drugs decreased.

The increase in the expected number of violent offense prisoners (from 4,453 to 6,047) was associated with increases in both the prison admission rate and length of stay. However, the effect of the change in the prison admission rate was larger than the effect of the change in length of stay (803 vs. 541 expected violent offense prisoners). This is somewhat surprising, as the truth-in-sentencing reforms were directed primarily towards increasing the percent of sentence served, and therefore length of stay, but changes in the prison admission rate led to more prisoners than changes in length of stay.

Additionally, changes in the pre-sentence factors had a larger combined influence on the change in the expected number of violent prisoners; this combined effect was more than twice that the effect of sentencing decisions. Given the comparatively small changes to Washington's sentencing system, this result is not too surprising. Declines in the number of violent offenses had the single largest effect on the change in expected violent prisoners.

While Washington also observed increases in the expected number of drug and property offense prisoners, their increases were smaller than the increases for violent offenders. However, for property offenders, increases in the prison admission rate and length of stay contributed positively to the expected number of prisoners, while for drugs, these two sentencing factors contributed negatively towards the number of drug offense prisoners.

Thus, Washington's truth-in-sentencing reforms were associated with increases in punishments for violent offenders, but the increases arose more from changes in the prison admission rate than changes in expected length of stay. This suggests that sentencing lengths may have decreased slightly to offset the percentage requirements. It also suggests that the increased percentage requirements for violent offenders were associated with increases in the use of prison for violent crime.

Illinois

The Illinois truth-in-sentencing reforms also increased percentage requirements for violent offenders. These reforms were associated with a decrease in the number of violent offense admissions but with an increase in the expected number of violent offense prisoners.

The change in expected length of stay was positively associated with increases in the expected number of violent offense prisoners. However, changes in arrests had a larger effect on changes in expected violent offense prisoners than did changes in length of stay (5,532 vs. 1,846 expected prisoners). Moreover, changes in the prison admission rate were negative, and large, on the expected number of violent offense prisoners.

Thus, Illinois' reforms led to increases in expected length of stay for violent offenders, but while length of stay increased, it was not associated with an increase in the prison admission rate. Moreover, changes in offenses and arrests had much larger effects on changes in the expected number of prisoners.

Ohio

The state of Ohio undertook massive sentencing reforms. It eliminated indeterminate sentencing and parole release, and it replaced them with a determinate sentencing system in which offenders served their entire sentences less one day good time per month. Judicial releases were the only exception to the full-term requirement. Also, Ohio changed the severity levels for its felonies, increasing them for serious violent offenses and also increasing the penalties for many of these offenses.

By 1998 (two years after their implementation) Ohio's reforms had large effects on the changes in both the number of prison admissions for violent offenses and the expected number of violent offense prisoners. The changes in the prison admission rate had large effects on both of these outcomes, and its effects on the expected number of violent prisoners was larger than the increase in length of stay for violent offenders.

Ohio's major sentencing reforms had larger effects than the changes in pre-sentencing factors, though these also had large effects on the expected number of prisoners. Decreases in offenses and arrests led collectively to 25,830 fewer expected violent offense prisoners; but this decline was offset by the increase of 25,256 from changes in the prison admission rate, and the increase of 7,860 from increases in length of stay.

Thus, Ohio's sentencing reforms, in which truth-in-sentencing was a comparatively small but important part, had effects on the prison populations that were large and in the expected directions. Additionally, the increase in the expected number of violent offense prisoners was associated with a decrease in the expected number of property offense prisoners. This outcome was consistent with one of the goals of Ohio's reforms—to increase the severity of punishment for violence, while diverting non-violent offenders from prison and decreasing their punishments. But, this outcome was obtained by a decrease in the number of arrests for property offenses, rather than decreases in the prison admission rate or length of stay, both of which increased following the reforms. However, the exact influence of Ohio's reforms on property offenses is difficult to determine, as it is not known how the distribution of property offenses corresponded to the changes in the felony offense severity for property offenses, as this latter factor was an important aspect of the reforms.

New Jersey

New Jersey's reforms were also substantial. However, as New Jersey's reforms went into effect in 1997, one year beyond the data used in the analysis, it was not possible to determine the effect of its reforms on prison populations. The New Jersey case was used to examine hypotheses about anticipations related to sentencing reforms. However, as the New Jersey reforms were associated with the percent of sentence to be served, and as offenders sentenced in 1996 were subject to the pre-reform laws, there were no anticipation effects observed.

Pennsylvania

Pennsylvania claimed that it has had truth in sentencing since it 1911, when it developed the indeterminate sentencing with parole release structure that is currently has. It therefore did not increase its percentage of sentence to be served requirements in implementing truth in sentencing, as offenders are required to serve the minimum imposed sentence prior to parole release, as they also were required prior to Pennsylvania receiving its federal TIS grant.

However, Pennsylvania did undertake sentencing reform during the early 1990s, as it modified its sentencing guidelines to increase punishments for violent offenders, and, using a capacity constraint approach to prison management, it decreased the severity of punishments for non-violent offenders, relative to violent offenders, by increasing the use of intermediate sanctions for non-violence.

The prison outcomes for Pennsylvania are consistent with its reforms. The number of violent offense admissions increased 1991 and 1996 (by 4 percent, from 1,789 to 1,912), and the increase in the prison admission rate contributed a positive 216 to this increase. The increase due to the prison

admission rate was offset by the decrease in the number of violent offenses (-106). Additionally, prison use for property and drug offenders decreased, which was consistent with Pennsylvania's increased severity for violent offenses and its prison management philosophy. And, the decrease in the number of property and drug admissions occurred largely through decreases in the use of prison for these offenses.

Similarly, the increase in the expected number of violent offense prisoners occurred as a result of increases in the prison admission rate and in expected length of stay. This outcome also is consistent with Pennsylvania's reforms. And the sentencing reforms had a larger influence on the expected number of violent offense prisoners than did the changes in pre-sentencing factors. For property and drug offenses, expected prisoners decreased, but the sentencing decisions worked in opposite directions, as changes in the prison admission rate led to a decrease in the expected number of these prisoners (-456 property and -859 drug), but the increases in length of stay for these offenders added to the expected number of prisoners (598 for property and 256 for drugs), thereby partially offsetting the reductions associated with the use of prison.

The Pennsylvania experience with truth in sentencing is one in which the state made no changes to its law to implement it, as it argued that it had truth in sentencing since shortly after the turn of the century (the "semantic argument" at the end of chapter 2). However, the changes to its sentencing guidelines in 1994 that led to increased severity for violent offenders were associated with increased prison outcomes for violent offenders, and these outcomes were associated with changes in the prison admission rate and changes in expected length of stay. Thus, Pennsylvania planned to increase punishment for violence, and it appeared to achieve that goal, even taking into consideration the decreases in the number of violent offenses and arrests for violent offenses. Pennsylvania's case suggests that changes in sentencing structure can have large effects on prison outcomes in the expected directions.

Utah

Utah, like Pennsylvania, has remained an indeterminate sentencing state both before and after the federal TIS grant program. Like Pennsylvania, Utah did not change sentencing structure to receive its grant; hence, its truth-in-sentencing practices were similar to its pre-grant practices.

Outcomes for Utah are reflected in this relative lack of change. Changes in admissions and expected prisoners for violent offenses were determined more by changes in pre-sentencing factors than by changes in the application of existing laws. The prison admission rate increased somewhat during the 1991 to 1996 period, but the increase was not large enough to offset the effects of pre-sentencing factors.

Comparing across the states: Some conclusions

These seven states illustrate several different models of sentencing reform and truth in sentencing. They 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 sentencing 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 for this analysis.

This variety of experiences allows for a comparison 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 effect of sentencing reforms on prison outcomes was 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 prison admissions and expected prisoners were 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; increases in the number of violent offenders (especially the expected prisoner population) were 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. Increases in both violent offender admissions and expected prisoners arose primarily from changes in pre-sentencing factors, although increases 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, its decreases in prison admissions and expected prisoners 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, changes in sentencing practices following the implementation of truth in sentencing were associated with changes in violent offender admissions and expected number of violent prisoners. But, focusing on the change in the expected number of prisoners, the effect of the changes in the prison admission rate and changes in length of stay varied among the states. Hence, there was no uniform pattern of effects of these 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, increases in the prison admission rate contributed more to the growth of the expected number of prisoners than did increases in expected length of stay. In Georgia, increases in the prison admission rate had a much greater effect on the expected number of violent offense prisoners than did the modest increases in length of stay. Thus, in Washington and Georgia, increases in prisoners' expected length of stay did not contribute as much to population growth as was expected. However, in Illinois, increases in expected length of stay contributed significantly to growth in 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, but increases in the prison admission rate had a greater impact on the expected number of violent offenders. 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. The influence of this change in offending, along with changes in arrests and population – the pre-sentencing factors – generally constrained the growth of the expected violent offender population. The influence of changes in offending and arrests on prison outcomes is 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. In each, the decrease in the number of violent offenses between 1991 and 1996 dampened the growth of 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.

The states described above do not allow for parole release for violent offenders. Hence, if violent crime rates were to increase under truth in sentencing, and if sentencing decisions reflect the 1996 decisions, changes in offending could 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.

STATE-SPECIFIC RESULTS

The next section of this chapter provides the results of the analysis of prison outcomes for each of the seven states, in the following order: Georgia, Washington, Illinois, Ohio, New Jersey, Pennsylvania, and Utah.

GEORGIA

Georgia implemented truth in sentencing in March 1994, before the passage of the 1994 Crime Act and its 1996 amendments. Georgia's truth-in-sentencing provisions apply to selected serious violent offenses. Before truth in sentencing, offenders were given indeterminate sentences, and their release was governed by parole guidelines. Under truth in sentencing, however, serious violent offenders are no longer eligible for parole; indeterminate sentencing for these offenses was eliminated and replaced with determinate sentencing and a requirement that 100 percent of the sentence be served. Prior to the implementation of truth in sentencing, many classes of violent offenders released from prison served between 50 and 75 percent of their imposed sentences, while other offense groups such as property and drug offenders served about half or less of their imposed sentences.⁷⁰

Hypotheses about effects of sentencing reforms on sentencing outcomes

The major changes in Georgia's sentencing reform were the increase in the percent of sentence served and the application of truth in sentencing to most felonies, rather than only to violent offenders. The reforms focused on length of stay rather than admissions into prison. These changes lead to

expectations that the effects of sentencing reforms will be observed more in changes in the expected number of prisoners rather than in changes in the number of prison admissions. Moreover, due to the application of truth in sentencing to violent offense felonies, it is expected that the effects of sentencing reforms will be greater for them than for other offenses such as property and drug. Finally, as the changes in sentencing reforms occurred with an existing system, and the changes were not radical departures from existing practices, it is also hypothesized that changes in the factors that generate the volume and composition of cases coming into the courts for sentencing will have larger effects on the volume of prison admissions than will the changes in sentencing reforms. In summary form, the hypotheses are:

- H-1. The effects of changes in sentencing on changes in the number of prison admissions will be smaller than the effects of changes in factors external to sentencing, such as population, offenses, and arrests.
- H-2. The effects of changes in sentencing on changes in the expected number of prisoners will exceed the effects of changes in population, offenses, and arrests.
- H-3. The effects of changes in sentencing reforms will differ across major offense groups; specifically, there will larger effects for violent offense than for property, and drug offenses for both the number of prison admissions and changes in the expected prison population.

Changes in punishment

Prison admissions in Georgia decreased by 2,966 (22.6 percent) from 13,228 to 10,242 between 1991 and 1996. Admissions of violent offenders decreased by 349 (15.1 percent) or from 2,315 to 1,966. Overall, the ratio of prison admissions to arrests remained

⁷⁰ See table 8, p. 9 in Paula M. Ditton and Doris James Wilson. 1999. *Truth in Sentencing in State Prisons*. Bureau of Justice Statistics Special Report. Washington D.C.: U.S. Department of Justice. NCJ 170032. Estimates of the percent of sentence served used in this analysis are consistent with the data in Ditton and Wilson; however, where Ditton and Wilson show the average percent of sentence served for all violent offenders released from prison (in several years), in the data used in this report, the percent of sentence served by violent offenders exiting prison varies among specific offense classes within the broader category of Part 1 violent offenses. For example, murder and rape offenders released in 1991 served an estimated 75 percent of their imposed sentence; robbery offenders served an estimated 54 percent; and aggravate assault offenders served about 40 percent.

relatively constant at about 4 percent, but for violent offenders, the probability of prison admission given arrest increased from 14.8 percent to 20 percent. The expected length of stay for violent offenders increased slightly from 48.6 months to 51.1 months, but the expected number of violent offense prisoners decreased from 9,383 to 8,373.⁷¹

Prison admissions: Decomposition results

About 40 percent of the 2,966 decrease in the number of prison admissions was due to the decrease in the number of property offenders; about a third arose from the decrease in the number of drug offenders, and about 11 percent was due to the decrease in the number of violent offenders admitted into prison.

The decomposition analysis indicates that for all prison admissions, changes in the number of arrests and the prison admission rate (probability of prison admission given arrest) were responsible for the decline in the number of prison admissions. The slight increase in offense would have led to an increase in prison admissions (all else being equal) were it not for the decrease in admissions attributed to arrests and the prison admission rate.

For violent offenses, changes in the number of offenses and arrests contributed negative amounts to the number of violent offenders admitted into prison (-391 and -1,383, respectively), and the number of violent offenders admitted into prison in 1996 would have been even fewer than the 1,966 were it not for the increase in the prison admission rate. The increase in the probability of imprisonment given arrest contributed a positive 1,230 to the number of violent offenders admitted into prison, an amount that almost offset the negative contribution of arrests and offenses. Within the violent offense category, the patterns observed for all Part 1 violent offenses was also observed except for “other violent offenses” (mostly less

serious assaults), as declines in offenses and arrests offset the increase in prison admissions associated with the increase in the probability of admission given arrest.

For drug offenses, the decrease in the prison admission rate contributed a -1,467 to the number of drug offenders admitted into prison; this more than offset the positive contribution of the number of drug arrests (172) to the number of drug admissions. Similarly, the decrease in the probability of prison given arrest for property offenders also contributed a negative amount (-733) to the number of property offenders admitted into prison. The decreases in the prison admission rate for drug and property offenses resulted in a decrease in the number of prison admissions for these offenses.

These results suggest that violent offenders moved through the criminal justice process in a different manner from drug and property offenders. Violent offenses declined, leading to an expectation of a decrease in the number of violent offenders admitted into prison. Arrests for violent offenses also declined, and the decrease was largest for robbery and assault offenses; this decrease in arrests of violent offenses also led to the expectation of a smaller number of violent offender prison admissions. However, the increase in the prison admission rate for violent offenders almost offset the combined negative contributions of offending and arrests.

Expected number of prisoners: Decomposition results

The expected number of prisoners decreased by 3,540 from 25,502 to 21,962. About 28 percent of the overall decrease in the expected number of prisoners was due to the 1,010 decrease in the expected number of violent offenders; about 38 percent was due to the decrease in the expected number of property offenders, and about 25 percent due to a decrease in the expected number of drug offenders.

The decomposition analysis shows that decreases in arrests were responsible for the largest amount of the decrease in the total

⁷¹ The data tables used in the analysis of sentencing outcomes can be found in tables 3.4A and 3.4B, which appear at the end of this description of results.

number of prison admissions. Arrests contributed a -7,774 to the number of prison admissions. This was offset by increases in offenses (83), increases in the prison admission rate (253), and increases in expected length of stay (1,717). The 2,180 prison admissions attributed to population increase suggest that the other factors in the decomposition had relatively smaller overall changes than the change in population.

For violent offenders, decreases in offending and arrests contributed large negative amounts to the expected number of violent offenders. The decrease in violent offenses would have yielded 1,892 fewer violent prisoners, and the decrease in arrests for violent offenses would have yielded 6,238 fewer prisoners. However, these decreases were offset largely by increases in the prison admission rate and expected length of stay for violent offenders. The increase in the prison admission rate contributed 5,665 to the expected number of violent offenders, and the increase in expected length of stay contributed an addition 624. This overall pattern—a negative contribution of offenses and arrests to the expected number of violent prisoners—held for all Part 1 offenses, but it did not hold for other violent offenses.

For drug offenses, the change in the prison admission rate led to 1,968 fewer expected drug prisoners. Increases in drug arrests and in the expected length of stay for drug offenders contributed to increases in the expected number of drug offenders (231 and 386, respectively).

Increases in the expected prison population in Georgia derived primarily from the increase in the prison admission rate and expected length of stay for violent offenses. The increase in the prison admission rate for violent offenses contributed the largest positive amount to the expected number of prisoners.

Conclusions about changes in admissions and expected prisoners

Between 1991 and 1996, violent offenders sentenced in Georgia experienced increases in their prison admission rate and expected length

of stay. These changes are associated with the sentencing law changes implemented in Georgia in 1994. The increases in the prison admission rate and in the expected length of stay almost offset the decreases in the number of violent offenders admitted into prison and in the expected number of violent offenders in prison that would have been expected as a result of decreases in the number of violent offenses and decreases in the number of arrests for violent offenses. For other offenses, notably drug and property offenses, decreases in the prison admission rate contributed to decreases in both the number of these offenders admitted into prison and the expected number of these prisoners. However, both drug and property offenders also experienced an increase in their expected lengths of stay; hence, the expected number of drug and property offenders prisoners increased slightly above the numbers expected by decreases in offenses and arrests.

In Georgia, the increase in admission of violent offenders and increase in the expected number of violent offenders was associated with sentencing stages of the criminal justice process, as the prison admission rate contributed positively to the number of prison admissions, and the prison admission rate and expected length of stay contributed positively to the expected number of violent offense prisoners. Conversely, reported offending and arrests for violent offenses both contributed negatively to the number of violent offenders admitted into prison and the expected number of violent offenders in prison.

Table 3.4A. Georgia prison admissions data

Prison admissions, 1991 and 1996

Offense category	1991		1996		Difference '96-'91		Percent change '91 to '96
	Number	% distrib.	Number	% distrib.	Number	% distrib.	
Violent	3,083	23.3%	2,791	27.3%	-292	3.9%	-9.5 %
Part 1 Crimes	2,315	17.5%	1,966	19.2%	-349	1.7%	-15.1 %
Murder*	214	1.6%	155	1.5%	-59	-0.1%	-27.6 %
Rape	158	1.2%	124	1.2%	-34	0.0%	-21.5 %
Robbery	1,068	8.1%	891	8.7%	-177	0.6%	-16.6 %
Agg Aslt	875	6.6%	796	7.8%	-79	1.2%	-9.0 %
Other Violent	768	5.8%	825	8.1%	57	2.2%	7.4 %
Property	4,429	33.5%	3,244	31.7%	-1,185	-1.8%	-26.8 %
Drug	3,943	29.8%	2,940	28.7%	-1,003	-1.1%	-25.4 %
Other	1,773	13.4%	1,267	12.4%	-506	-1.0%	-28.5 %
TOTAL	13,228	100.0%	10,242	100.0%	-2,986	0.0%	-22.6 %

*"Murder" refers to "murder/non-negligent manslaughter."

Source: Urban Institute analysis of the Bureau of Justice Statistics' *National Corrections Reporting Program* data, 1991 and 1996.

Prison admissions to arrest ratio:

Probability of imprisonment given arrest, 1991 and 1996

Offense category	1991		Difference '96-'91
	1991	1996	
Violent	14.6%	8.1%	-6.5%
Part 1 Crimes	14.8%	20.0%	5.3%
Murder*	39.1%	63.0%	23.9%
Rape	17.6%	31.4%	13.8%
Robbery	28.6%	47.5%	18.9%
Agg Aslt	8.3%	10.9%	2.6%
Other Violent	14.1%	3.3%	-10.7%
Property	10.4%	8.7%	-1.7%
Drug	19.1%	12.0%	-7.1%
Other	0.9%	0.8%	-0.1%
TOTAL	4.7%	4.1%	-0.6%

*"Murder" refers to "murder/non-negligent manslaughter."

Source: Urban Institute analysis of the Bureau of Justice Statistics' *National Corrections Reporting Program* data, 1991 and 1996, and the *Uniform Crime Reports* for data on arrests.

Estimated expected length of stay, in months, and expected number of prisoners, based on offenders entering prison in 1991 and 1996

Offense category	Expected length of stay (months)				Expected number of prisoners		
	1991	1996	Difference		1991	1996	Change
			'96-'91	% change			
Violent	47.4	48.9	1.5	3.3%	12,167	11,374	-793
Part 1 Crimes	48.6	51.1	2.5	5.1%	9,383	8,373	-1,010
Murder*	68.7	72.2	3.5	5.0%	1,226	932	-293
Rape	78.2	76.0	-2.2	-2.8%	1,030	785	-244
Robbery	49.7	54.6	5.0	10.0%	4,420	4,056	-365
Agg Aslt	37.1	39.2	2.1	5.5%	2,707	2,600	-108
Other Violent	43.5	43.7	0.2	0.4%	2,784	3,001	217
Property	17.1	18.2	1.2	6.8%	6,295	4,926	-1,369
Drug	14.9	16.1	1.2	7.9%	4,904	3,944	-960
Other	14.5	16.3	1.8	12.5%	2,137	1,718	-419
TOTAL	21.6	24.6	3.0	13.8%	25,502	21,962	-3,540

*"Murder" refers to "murder/non-negligent manslaughter."

Source: Urban Institute analysis of the Bureau of Justice Statistics' *National Corrections Reporting Program* data, 1991 and 1996.

Table 3.4B. Georgia decomposition data

Decomposition of change in number of prison admissions, 1991-1996:
Estimated amount of change in admissions due to changes in each component

Offense category	Change in admissions	Amount of change in admissions due to change in			
		Population	Offenses	Arrests	Prison admission rate
Violent	-292	277	170	-1,383	644
Part 1 Crimes	-349	195	-391	-1,383	1,230
Murder*	-59	15	-69	-136	131
Rape	-34	12	-36	-134	124
Robbery	-177	88	-246	-727	707
Agg Aslt	-79	79	-41	-386	269
Other Violent	57	82	n/a	561	-586
Property	-1,185	322	-43	-730	-733
Drug	-1,003	292	n/a	172	-1,467
Other	-506	126	n/a	-486	-146
TOTAL	-2,986	1,017	-434	-1,866	-1,702

*"Murder" refers to "murder/non-negligent manslaughter."

Source: Urban Institute analysis of the Bureau of Justice Statistics' *National Corrections Reporting Program* data (for prison admissions); the *Uniform Crime Reports* (for offense and arrest data); and the *Statistical Abstract of the U.S.* (for state population data).

Decomposition of the change in the expected number of prisoners, 1991-1996:
Estimated amount of change in expected prison population due to changes in each component

Offense category	Change in expected # of prisoners	Amount of change in expected number of prisoners due to:				
		Population	Offenses	Arrests	Prison admission rate	Expected length of stay
Violent	-793	1,129	149	-6,238	3,532	634
Part 1 Crimes	-1,010	831	-1,892	-6,238	5,665	624
Murder*	-293	93	-417	-817	786	62
Rape	-244	78	-226	-851	783	-29
Robbery	-365	403	-1,118	-3,308	3,218	441
Agg Aslt	-108	258	-132	-1,262	878	150
Other Violent	217	298	n/a	2,042	-2,132	10
Property	-1,369	489	-66	-1,109	-1,113	431
Drug	-960	392	n/a	231	-1,968	386
Other	-419	171	n/a	-658	-198	267
TOTAL	-3,540	2,180	-1,958	-5,733	253	1,717

*"Murder" refers to "murder/non-negligent manslaughter."

Source: Urban Institute analysis of the Bureau of Justice Statistics' *National Corrections Reporting Program* data (for prison admissions); the *Uniform Crime Reports* (for offense and arrest data); and the *Statistical Abstract of the U.S.* (for state population data).

WASHINGTON

Washington State adopted its truth-in-sentencing provisions in the early 1990s. These provisions are similar to the 85 percent rule within the federal justice system, in that they focus on serious violent offenders, while, for less serious offenders, good time reductions of up to one-third of the sentence could be obtained. Washington's truth-in-sentencing reforms can be viewed as an extension its guideline-based, determinate sentencing structure. The implementation of truth in sentencing in Washington was a relatively minor change to its existing sentencing structure. Violent offenders released in the early 1990s served about 75 percent of their imposed term,⁷² but the releases in the early 1990s were comprised largely of offenders who were sentenced to prison prior to the adoption of the 85 percent rule. Hence, even with the adoption of the 85 percent rule, violent offenders sentenced under the Washington truth-in-sentencing provisions could expect to serve a percent of sentence imposed that was not dramatically longer than those sentenced under the pre-TIS sentencing provisions.

Washington State has had a long history with both determinate sentencing and truth in sentencing. Determinate sentencing was implemented in 1984 as part of a comprehensive sentencing reform, and in 1990, the state was among the first to enact a truth-in-sentencing law that closely resembles the "85 percent rule" within the federal TIS grant program. Ever since the federal TIS grant program was launched in 1996, Washington State has been funded under the first eligibility criterion for determinate sentencing states, which requires that part 1

violent offenders "serve not less than 85 percent of the sentence imposed."⁷³

Given the long period of time that both determinacy and truth in sentencing have been in effect, Washington provides a unique example of a state in which the impacts of a fully implemented, 85 percent, determinate truth-in-sentencing law can be evaluated. Combining a review of Washington's sentencing reform history with a quantitative analysis of corrections data from the early to mid-1990s, we are able to learn more about the process by which truth in sentencing has affected the use of prison for violent offenders.

Reform history

Washington has one of the longest experiences with determinate sentencing of all the states in the nation. Historically an indeterminate sentencing state, Washington enacted a comprehensive Sentencing Reform Act in 1981. This legislation, effective in 1984, abolished parole release and established a system of sentencing guidelines for all felony offenses, making Washington one of the first states to establish a system of determinate sentencing. Under this regime, offenders are sentenced to a fixed term of imprisonment in accordance with a sentencing guidelines grid. Sentence severity is based primarily on the seriousness of the current offense and the offender's criminal history. One of the goals of the sentencing guidelines was to reserve prison space for violent and serious property offenders; therefore, the guidelines matrix was structured so that more serious offenders (i.e., those convicted of serious crimes and those with extensive criminal histories) would be sent to prison, while less serious and nonviolent offenders would be diverted to other punishments such as jail or probation.⁷⁴

⁷² See table 8, p. 9 in Paula M. Ditton and Doris James Wilson. 1999. *Truth in Sentencing in State Prisons*. Bureau of Justice Statistics Special Report. Washington D.C.: U.S. Department of Justice. NCJ 170032.

⁷³ Department of Justice Appropriations Act, PL 104-134 § 21010 (a) (1) (A).

⁷⁴ Bernard Dean, Washington State Department of Corrections. Telephone interview with the authors, April 28, 1999.

Parole was eliminated as part of the sentencing reform, meaning that offenders must serve the entirety of their imposed terms in prison, less time off for good behavior while incarcerated.

The offender population initially decreased after the sentencing guidelines took effect in 1984, but then began to increase as sentence lengths increased. Since 1988, the offender population has grown at a faster rate than the state population. Much of the growth has been attributed to the incremental adoption of new and more punitive sentencing laws, including truth in sentencing, since the implementation of the original Sentencing Reform Act.⁷⁵ The following represent some of the more influential reforms in Washington's recent history:

- Washington, like all other states, has enacted a variety of mandatory minimum laws during the 1980s and 1990s that have served to increase time offenders spend in prison. For offenses that carry mandatory minimums, including selected violent offenses and sentence enhancements for use of a weapon during the commission of a crime, these terms must be served in full. Good time credits can be applied only to the portion of the sentence above and beyond the mandatory minimum period.⁷⁶
- The sentencing guidelines have been legislatively amended many times since their initial implementation in 1984. While the fundamental structure remains the same—the severity of punishment under the guidelines system is determined by the seriousness of the current offense and the extent of the offender's criminal history—the methods for determining offense seriousness and criminal history scores have been changed over time. Several offenses have been upgraded to higher seriousness levels on the guidelines

matrix. This had the effect of increasing penalties across the board for certain classes of offenses and thus has contributed to prison population growth.⁷⁷ Similarly, on the criminal history side of the guidelines matrix, the criminal history scoring rules have been amended many times. Depending on the nature of the current offense or past offenses, prior offenses can be double or triple-scored, thus leading to a higher criminal history score, and longer sentences for a particular offense.⁷⁸

- Truth-in-sentencing legislation was passed in 1990. Washington's TIS law limits the accrual of “good time” credits for all offenders. Serious violent offenders may only receive good time up to 15 percent of the sentence imposed, resulting in 85 percent of the sentence that must be served in prison.⁷⁹ The requirements for other offenses are less stringent; good time is capped at one-third of the sentence, so that offenders must serve 67 percent of the imposed term in prison.
- A “three-strikes” law for habitual offenders was enacted by means of a voter referendum, Ballot Initiative 593. Effective December 1993, offenders convicted of certain serious violent, property and weapons offenses for a third time must be sentenced to life in prison without

⁷⁷ Bernard Dean, Washington State Department of Corrections. Telephone interview with the authors, April 28, 1999.

⁷⁸ State of Washington Sentencing Guidelines Commission. “Sentencing Reform Act: Historical Background.” Accessed at the Commission’s homepage at <http://www.sgc.wa.gov/historical>, on December 27, 2000.

⁷⁹ Washington’s 85 percent rule applies to most of the part 1 violent crimes, except robbery. Washington therefore qualified for TIS funding under the Corrections Program Office’s “alternative definition” criteria.

⁷⁵ Washington State Department of Corrections home page at <http://www.wa.gov/doc>, accessed on December 27, 2000.

⁷⁶ 1996 Washington VOI/TIS grant application.

parole.⁸⁰ The list of “striking” offenses was subsequently expanded by the state legislature in 1997.⁸¹

While the original sentencing guidelines and TIS laws were concerned, respectively, with reserving prison space for violent offenders and incarcerating them for longer periods of time, the incremental changes made to the guidelines structure over time may have subverted those aims. Under the original guidelines and TIS, one would expect to observe higher prison admission rates and lengthier punishments for violent offenders. In the quantitative analysis, the data on Washington are examined to determine if it has maintained its initial focus on incarcerating violent offenders.

Despite the incremental changes to sentencing structure, Washington is in a unique position by virtue of its long history of determinate sentencing. Since the initial reform took place in 1984—more than sixteen years ago—Washington’s corrections system is now almost wholly determinate. All offenders sentenced after 1984 have been subject to determinate sentencing, and the number of offenders still in custody that were sentenced under the old law (pre-1984) has dwindled over time. As a result, by 1997, only about 700 offenders in a system with an inmate population of over 14,000 could be released on parole.⁸²

⁸⁰ Clark, John, James Austin and D. Alan Henry. 1997. *“Three Strikes and You’re Out”: A Review of State Legislation*. Washington, D.C.: National Institute of Justice, September. NCJ 165369.

⁸¹ State of Washington Sentencing Guidelines Commission. “The Sentencing Reform Act at Century’s End: An Assessment of Adult Felony Practices in the State of Washington.” Accessed at the Commission’s homepage at <http://www.sgc.wa.gov/>, on December 27, 2000.

⁸² Source of the 700 inmates still eligible for parole is the “Parole Board Survey 1999” conducted and published by the Association of Paroling Authorities International (APAI), accessed on their web site, <http://www.apaintl.org/Pub-ParoleBoardSurvey1999.html>, on December 27, 2000.

Hypotheses about effects of sentencing reforms on sentencing outcomes

Given the comparative similarity between Washington’s pre-TIS and TIS provisions, and given that their TIS provisions focused on length of stay, rather than prison admissions, expectations about the effects of these sentencing reforms are also focused on changes in the expected number of prisoners and not prison admissions. Changes in admissions would be affected by changes in Washington’s sentencing guidelines, but as these did not change, it is hypothesized that prison admissions would be affected more by changes in external factors (population, offenses, and arrests) than by sentencing factors. However, as the truth-in-sentencing reforms emphasized serious violent offenders, it is also expected that changes in the expected number of prisoners would be affected by these TIS provisions; hence, changes in the expected number of violent offense prisoners should be greater than changes in prisoners in other offense groups, and the change in the expected number of violent offense prisoners should be affected more by sentence length changes than by changes in the prison admission rate or by changes in the external, pre-sentencing factors. In summary form:

- H-1. The changes in sentencing will have larger effects on changes in the expected number of prisoners as compared to changes in the number of prison admissions.
- H-2. Across offense groups, changes due to population, offending and arrests will have larger effects on changes in the number of admissions than the effects of changes in sentencing.
- H-3. The effects of changes in sentencing on the expected number of prisoners will be larger for violent offenders as compared to property and drug offenders.

Source of the inmate population of 14,000 is the Washington State Department of Corrections web site, <http://www.wa.gov/doc>, accessed on December 27, 2000.

Changes in punishment

The number of prison admissions increased by 1,366 from 4,089 to 5,455. Admissions of violent offenders increased by 190, from 1,070 to 1,260, and this increase accounted for 13 percent of the overall increase in admissions. Admissions of drug offenders increased by 513, accounting for 37 percent of the increase in admissions. The prison admission rate increased slightly, from 2.0 percent to 2.6 percent. For violent offenders, the prison admission rate increased by about 2-percentage points, from 17.4 percent to 19.2 percent, but for drug offenders, the prison admission rate decreased by 4-percentage points, from 17.8 percent to 13.9 percent. The expected length of stay for all admissions remained constant at about 31 to 32 months; however, the expected length of stay for violent offenders increased by 7.7 months from 49.9 months to 57.6 months, while the expected length of stay for drug offenders remained at about 23 and one-half months. The expected number of prisoners increased by 3,726 from 10,581 to 14,307. There were increases in the expected number of prisoners across all offense categories.⁸³

Prison admissions: Decomposition results

The increase in prison admissions in Washington was associated with increases in the number of arrests and in the prison admission rate. Conversely, decreases in the number of offenses had a negative effect on the number of prison admissions, as (all else being equal), the total number of admissions would have been 276 fewer due to the decrease in reported offenses.

For prison admissions for violent offenses, changes in offending also had a negative effect on admissions. Admissions of violent offenders, which increased by 190, would have decreased by 241 if the change in reported offenses that occurred were not offset

by increases in the number of arrests for violent offenses and by increases in the prison admission rate. The decomposition analysis indicates that changes in arrests and in the prison admission rate had large and positive effects on the number of violent offenders admitted into prison. Combined, changes in arrests and in the prison admission rate were associated with an additional 314 admissions (144 for arrest and 170 for the prison admission rate) above the 1991 level.

For drug offenses, changes in arrests were associated with an increase in the number of prison admissions (656). However, the decrease in the prison admission rate partially offset the effect of arrests on the number of drug offenders admitted into prison, as 334 fewer drug offenders were admitted into prison as a result of the decrease in the prison admission rate than would have been admitted if the prison admission rate remained at the 1991 level.

These results suggest that violent and drug offenders in Washington were processed differently during this period. For both groups of offenders, the increase in the number of arrests exerted upward pressures on the number of prison admissions, and for violent offenders this effect offset the downward pressures arising from the decline in reported violent crimes). However, at the sentencing stage, the prison admission rate for violent offenders increased, while the rate for drug offenders decreased.

Expected number of prisoners: Decomposition results

The expected number of prisoners increased from 10,581 to 14,307, or by 3,726. About 43 percent of the increase in the expected number of prisoners was associated with the increase in the expected number of violent offense prisoners, whose number increased by 1,595.⁸⁴ The expected number of

⁸³ The data tables used in the analysis of Washington's sentencing outcomes can be found in tables 3.5A and 3.5B, which appear at the end of this description of results.

⁸⁴ A sensitivity analysis based on an alternative method for estimating the expected length of stay produced a finding in which the expected number of prisoners increased by 5,137, and more than half

drug offenders in prison increased by 981, which accounted for 26.3 percent of the increase in the expected number of prisoners.

The overall increase in the expected number of prisoners in Washington arose from the following processes: decreases in reported offenses resulted in 976 fewer prisoners; this downward effect was offset by increases in arising from arrests (which contributed an additional 1,807 prisoners), the prison admission rate (contributing 1,151 prisoners), and in the expected length of stay (contributing 413 prisoners).

The expected number of violent offense prisoners resulted from a similar process: Decreases in reported violent crimes led to 938 fewer violent offense prisoners, while increases in arrests contributed 626 violent offense prisoners; increases in the prison admission rate contributed an additional 803, and increases in expected length of stay contributed an additional 541 violent offense prisoners. In Washington, both the law enforcement and judicial responses to violent crimes were consistent, as both contributed positively to the increase in the expected number of violent offense prisoners.

By comparison, for drug offenses, the law enforcement response (arrests) contributed an additional 1,280 to the expected number of drug prisoners. However, this was partially offset by a decrease of 651 drug prisoners arising from the prison admission rate, and a small decrease of 20 prisoners arising from the comparatively small decrease in the expected length of stay for drug prisoners.

Conclusions about changes in admissions and expected prisoners

Between 1991 and 1996, as the number of reported violent offenses decreased, violent offenders sentenced in Washington experienced increases in the law enforcement response (increased arrests), and increases in the severity of their sentencing, as both their prison admission rate and their expected length

of stay increased. The number of admissions of violent offenders increased as a result of increased law enforcement (arrest) and increased severity of punishment (prison admission rate). Similarly, the expected number of violent offenders in prison also increased, and did so as a result of the increase in arrests, the prison admission rate, and the expected length of stay. These changes were associated with the implementation of Washington's truth-in-sentencing laws in 1990; these laws were implemented prior to the implementation of the federal TIS efforts.

Decreases in reported violent offenses would have led to decreases in the number of violent offenders admitted into prison and the expected number of violent offense prisoners. However, increases in arrests, the prison admissions, and expected length of stay more than offset the decreases in admissions and expected prisoners resulting from the decrease in offending. Thus the law enforcement and sentencing stages of the criminal justice process in Washington both contributed positively to the increase in the violent offenders admitted into prison and in the expected number of violent offenders in prison.

For drug offenders, by contrast, the increase in the law enforcement response (increased arrests) was offset by decreases in the prison admission rate (primarily) and small decreases in the length of stay for drug offenders. The Washington experience is suggestive of more selective use of prison for violent offenders, as even though there were increases in the number of drug and property offenders admitted into prison and expected to be in prison, the increases for these crimes were smaller than those for violent offenders, and the sentencing stage of the criminal justice process played a large role in reducing the number of drug offenders admitted into and expected to be in prison.

(59 percent) of this increase was due to the increase in the expected number of violent offense prisoners.

Table 3.5A. Washington prison admissions data

Prison admissions, 1991 and 1996

Offense category	1991		1996		Difference '96-'91		Percent change '91 to '96
	Number	% distrib.	Number	% distrib.	Number	% distrib.	
Violent	1,471	36.0%	1,823	33.4%	352	-2.6%	23.9 %
Part 1 Crimes	1,070	26.2%	1,260	23.1%	190	-3.1%	17.8 %
Murder*	118	2.9%	171	3.1%	53	0.2%	44.9 %
Rape	330	8.1%	355	6.5%	25	-1.6%	7.6 %
Robbery	334	8.2%	364	6.7%	30	-1.5%	9.0 %
Agg Aslt	288	7.0%	370	6.8%	82	-0.3%	28.5 %
Other Violent	401	9.8%	563	10.3%	162	0.5%	40.4 %
Property	917	22.4%	1,151	21.1%	234	-1.3%	25.5 %
Drug	1,536	37.6%	2,049	37.6%	513	0.0%	33.4 %
Other	165	4.0%	432	7.9%	267	3.9%	161.8 %
TOTAL	4,089	100.0%	5,455	100.0%	1,366	0.0%	33.4 %

**"Murder" refers to "murder/non-negligent manslaughter."

Source: Urban Institute analysis of the Bureau of Justice Statistics' *National Corrections Reporting Program* data, 1991 and 1996.

Prison admissions to arrest ratio:

Probability of imprisonment given arrest, 1991 and 1996

Offense category	1991		Difference '96-'91
	1991	1996	'96-'91
Violent	4.1%	4.5%	0.4%
Part 1 Crimes	17.4%	19.2%	1.9%
Murder*	113.5%	108.9%	-4.5%
Rape	38.6%	54.5%	16.0%
Robbery	30.0%	29.1%	-0.9%
Agg Aslt	7.0%	8.2%	1.2%
Other Violent	1.4%	1.6%	0.3%
Property	2.3%	2.8%	0.5%
Drug	17.8%	13.9%	-3.9%
Other	0.1%	0.4%	0.2%
TOTAL	2.0%	2.6%	0.6%

**"Murder" refers to "murder/non-negligent manslaughter."

Source: Urban Institute analysis of the Bureau of Justice Statistics' *National Corrections Reporting Program* data, 1991 and 1996, and the *Uniform Crime Reports* for data on arrests.

Estimated expected length of stay, in months, and expected number of prisoners, based on offenders entering prison in 1991 and 1996

Offense category	Expected length of stay (months)				Expected number of prisoners		
	1991	1996	Difference		1991	1996	Change
			'96-'91	% change			
Violent	46.0	50.2	4.2	9.1%	5,641	7,628	1,988
Part 1 Crimes	49.9	57.6	7.7	15.3%	4,453	6,047	1,595
Murder	117.9	121.9	4.0	3.4%	1,159	1,737	578
Rape	58.5	62.4	3.9	6.7%	1,608	1,846	238
Robbery	36.9	38.0	1.1	2.9%	1,028	1,153	125
Agg Aslt	27.4	42.5	15.1	55.3%	657	1,311	654
Other Violent	35.6	33.7	-1.9	-5.2%	1,188	1,581	393
Property	20.9	21.4	0.5	2.4%	1,599	2,056	457
Drug	23.6	23.4	-0.2	-0.7%	3,018	4,000	981
Other	23.5	17.3	-6.2	-26.3%	323	623	300
TOTAL	31.3	31.7	0.4	1.2%	10,581	14,307	3,726

**"Murder" refers to "murder/non-negligent manslaughter."

Source: Urban Institute analysis of the Bureau of Justice Statistics' *National Corrections Reporting Program* data, 1991 and 1996.

Table 3.5B. Washington decomposition data

Decomposition of change in number of prison admissions, 1991-1996:
Estimated amount of change in admissions due to changes in each component

Offense category	Amount of change in admissions due to change in				
	Change in admissions	Population	Offenses	Arrests	Prison admission rate
Violent	352	170	-218	144	257
Part 1 Crimes	190	117	-241	144	170
Murder*	53	16	14	28	-5
Rape	25	33	-121	-24	137
Robbery	30	34	-73	80	-10
Agg Aslt	82	34	-60	59	49
Other Violent	162	52	n/a	23	86
Property	234	107	-58	-3	187
Drug	513	191	n/a	656	-334
Other	267	40	n/a	-66	293
TOTAL	1,366	508	-299	754	403

*"Murder" refers to "murder/non-negligent manslaughter."

Source: Urban Institute analysis of the Bureau of Justice Statistics' *National Corrections Reporting Program* data (for prison admissions); the *Uniform Crime Reports* (for offense and arrest data); and the *Statistical Abstract of the U.S.* (for state population data).

Decomposition of the change in the expected number of prisoners, 1991-1996:
Estimated amount of change in expected prison population due to changes in each component

Offense category	Amount of change in expected number of prisoners due to:					Expected length of stay
	Change in expected # of prisoners	Population	Offenses	Arrests	Prison admission rate	
Violent	1,988	710	-873	626	1,045	479
Part 1 Crimes	1,595	563	-938	626	803	541
Murder*	578	162	138	287	-48	40
Rape	238	172	-629	-124	711	108
Robbery	125	107	-233	253	-33	30
Agg Aslt	654	122	-214	210	172	363
Other Violent	393	147	n/a	65	242	-62
Property	457	191	-103	-5	335	39
Drug	981	372	n/a	1,280	-651	-20
Other	300	58	n/a	-95	422	-85
TOTAL	3,726	1,332	-1,041	1,872	1,151	413

*"Murder" refers to "murder/non-negligent manslaughter."

Source: Urban Institute analysis of the Bureau of Justice Statistics' *National Corrections Reporting Program* data (for prison admissions); the *Uniform Crime Reports* (for offense and arrest data); and the *Statistical Abstract of the U.S.* (for state population data).

ILLINOIS

Illinois implemented truth-in-sentencing provisions shortly after the passage of the Crime Act, in 1995. The TIS law enacted in Illinois require offenders convicted of certain serious violent offenses to serve 85 percent of their imposed sentences. Illinois' TIS provisions represent an incremental change from past practice; Illinois has had a history of determinate sentencing, with good time credits limited to 50 percent of the sentence since 1978. Overall, changes arising from the Illinois truth-in-sentencing provisions were limited to sentence length and did not apply to prison admissions.

Hypotheses about effects of sentencing reforms on sentencing outcomes

As the major change in Illinois was related to the percent of sentence served, expectations about the effects of truth in sentencing on sentencing outcomes are limited to changes in the expected number of prisoners. Changes in this quantity are expected to be affected more by changes in expected length of stay than by changes in prison admissions. And, as prison admissions were comparatively unaffected by truth in sentencing, changes prison admissions are expected to be affected more by changes in factors external to sentencing (population, offending, and arrests) than by changes in the decision to imprison. Further, as Illinois implemented truth in sentencing in 1994, and the data used in the analysis are through 1996, the effects of changes in sentencing on prison outcomes may be less than the extent of changes after TIS is fully applied to all eligible offenders. In summary form:

- H-1. Changes in sentencing will have a smaller effect on changes in the number of prison admissions as compared to the effect of changes in population, offending and arrests.
- H-2. Changes in sentencing will have a larger effect on changes in the expected number of prisoners

(through their effects on expected length of stay) than on the number of prison admissions.

- H-3. Given the relatively short time to observe the effects of the implementation of truth in sentencing, changes in pre-sentencing factors will have larger effects on prison admissions and expected prisoners than the effects of sentencing changes.

Changes in punishment

Prison admissions in Illinois increased by 3,556 from 14,626 to 18,182. However, the number of violent offenders admitted into prison decreased by 291 from 4,022 to 3,731, while the number of drug offenders increased by 2,882 from 4,068 to 6,950. The prison admission rate in Illinois increased from 5 percent to 6 percent, but the rate decreased for both violent and drug offenders. The prison admission rate for violent offenders decreased from 35.9 percent to 29.4 percent, and for drug offenders, it decreased from 35.5 percent to 13.1 percent. The large decrease in the prison admission rate for drug offenders was due to the very large increase in the number of drug arrests, which increased from about 12,000 in 1991 to over 52,000 in 1996. Property offenders, which comprised about one-third of prison admissions in 1996, witnessed an increase in their prison admission rate from 9.1 percent to 11.7 percent. The expected number of prisoners also increased from 1991 to 1996, by 6,781 prisoners, from 37,120 to 43,901. The expected number of violent offenders increased, as did the expected number of drug offenders. The increase in the expected number of drug prisoners (4,421) accounted for 65 percent of the increase in the overall expected number of prisoners.⁸⁵

⁸⁵ The data tables used in the analysis of Illinois' sentencing outcomes can be found in tables 3.6A and 3.6B, which appear at the end of this description of results.

Prison admissions: Decomposition results

The number of violent offenders admitted into prison in Illinois decreased by 291; this decrease accounted for –8 percent of the increase in prison admissions of 3,556. The number of drug offenders admitted into prison increased by 2,882, which accounted for 81 percent of the increase in prison admissions.

Increases in arrests accounted for most of the increase in prison admissions. Arrests contributed 4,639 admissions to the overall increase in prison admissions. This increase due to arrests offset the decrease in admissions due to offenses (-1,567).

For violent offenders, the decline in violent crime exerted downward pressure on the number of violent offenders admitted into prison. Reported violent crimes resulted in 1,008 fewer admissions of violent offenders (than would have been expected if violent crimes did not decline). This decrease due to reported offenses was partially offset by increases in arrests for violent offenses, as arrests contributed 973 admissions of violent offenders. The prison admission rate depressed the number of violent offenders admitted into prison, as the prison admission contributed a negative 352 violent offense admissions.

The arrest and prison admission rates operated on drug offenders in the same way that they operated on violent offenders. Drug arrests contributed an additional 5,267 drug offender admissions; however, the prison admission rate contributed a negative 2,563 drug admissions. Thus, violent and drug offenders in Illinois experienced similar criminal justice processes, as the law enforcement response (arrests) contributed very sizable increases to the number of admissions, but the prison admission rate contributed sizeable but smaller decreases to the prison admission rate. For violent offenders, the reported number of violent offenses also contributed to a decrease in the number of admissions.

Expected number of prisoners: Decomposition results

The expected number of prisoners increased by 6,781. The majority of this increase came from the increase in the expected number of drug offense prisoners, which increased by 4,421 and which accounted for 65 percent of the overall increase in the expected number of prisoners. The expected number of violent offense prisoners increased by 775, largely though the contribution of murderers.

The change of 775 in the expected number of violent offenders arose from alternating effects of criminal justice processing. First, the decline in reported violent offenses contributed a negative 4,921 to the expected number of violent offense prisoners. This was more than offset by the positive contribution of arrests, which contributed 5,832 to the expected number of violent offense prisoners. However, the prison admission rate, which decreased between 1991 and 1996, also contributed a negative 3,084 to the expected number of violent offense prisoners, but the expected length of stay for violent offenders, which increased from 52.5 to 59 months, contributed a positive 1,846 to the number. Within Part 1 violent offenses, this alternative pattern was observed for murder and robbery but not for rape and aggravated assault. In general, the bulk of the increase in the expected number of violent offense prisoners arose from the increase in the expected number of murderers, which increased by 1,051.

The expected number of drug offenders in prison also resulted from alternating positive and negative effects of criminal justice system processing. Drug arrests contributed an additional 9,023 to the expected number of drug prisoners, but the prison admission rate for drug offenders decreased the expected number of drug prisoners by 4,391, and the slight decrease in expected length of stay also contributed a negative 516 to the number of drug prisoners.

Conclusions about changes in admissions and expected prisoners

Illinois implemented minor changes to its TIS laws in the mid-1990s; these changes increased the percent of sentence imposed that violent offenders had to serve before release to 85 percent. Associated with these changes was a decrease in the number of violent offenders admitted into prison but an increase in the expected number of violent offense prisoners. The decline in reported violent offenses and the decrease in the prison admission rate for violent offenders led to decreases in the number of violent offender admitted into prison, while arrests for violent offenses contributed positively to the number of violent offenders admitted into prison. The expected number of violent offenders in prison increased, however, and the increase arose from an increase in expected length of stay that helped to offset the decrease in the expected number of violent offense prisoners that stemmed by the decline in the prison admission rate. The response to sentencing violent crimes was mixed, as the prison admission rate decreased, but the expected length of stay increased.

The number of drug offenders admitted into prison and the expected number of drug offenders in prison both increased, and in each case, the increases for drug offenders exceeded those for violent offenders. Increases in drug arrests (from about 12,000 in 1991 to 53,000 in 1996) accounted for the majority of the increase in the number of drug offenders admitted into prison and the expected number of drug prisoners. While an increase in arrests also contributed positive amounts to the number of violent offenders admitted into prison and to the expected number of violent offense prisoners, the law enforcement response to drug offending was much greater than the response to violent offending, as measured by the increase in comparisons of increases in arrests. (Violent offense arrests increased from about 11,000 in 1991 to about 13,000 in 1996, as compared to the 12,000 to 53,000 increase for drug crimes.)

Table 3.6A. Illinois prison admissions data

Prison admissions, 1991 and 1996

Offense category	1991		1996		Difference '96-'91		Percent change '91 to '96
	Number	% distrib.	Number	% distrib.	Number	% distrib.	
Violent	4,345	29.7%	3,995	22.0%	-350	-7.7%	-8.1 %
Part 1 Crimes	4,022	27.5%	3,731	20.5%	-291	-7.0%	-7.2 %
Murder*	590	4.0%	594	3.3%	4	-0.8%	0.7 %
Rape	758	5.2%	692	3.8%	-66	-1.4%	-8.7 %
Robbery	1,629	11.1%	1,416	7.8%	-213	-3.3%	-13.1 %
Agg Aslt	1,045	7.1%	1,029	5.7%	-16	-1.5%	-1.5 %
Other Violent	323	2.2%	264	1.5%	-59	-0.8%	-18.3 %
Property	5,282	36.1%	5,470	30.1%	188	-6.0%	3.6 %
Drug	4,068	27.8%	6,950	38.2%	2,882	10.4%	70.8 %
Other	931	6.4%	1,767	9.7%	836	3.4%	89.8 %
TOTAL	14,626	100.0%	18,182	100.0%	3,556	0.0%	24.3 %

*"Murder" refers to "murder/non-negligent manslaughter."

Source: Urban Institute analysis of the Bureau of Justice Statistics' *National Corrections Reporting Program* data, 1991 and 1996.

Prison admissions to arrest ratio:

Probability of imprisonment given arrest, 1991 and 1996

Offense category	1991		Difference '96-'91
	1991	1996	
Violent	29.8%	6.6%	-23.2%
Part 1 Crimes	35.9%	29.4%	-6.5%
Murder*	192.2%	77.4%	-114.7%
Rape	71.8%	151.4%	79.6%
Robbery	83.7%	43.2%	-40.5%
Agg Aslt	13.2%	12.6%	-0.7%
Other Violent	9.5%	0.5%	-9.0%
Property	9.1%	11.7%	2.7%
Drug	35.5%	13.1%	-22.4%
Other	0.4%	1.2%	0.8%
TOTAL	5.0%	6.0%	1.0%

*"Murder" refers to "murder/non-negligent manslaughter."

Source: Urban Institute analysis of the Bureau of Justice Statistics' *National Corrections Reporting Program* data, 1991 and 1996, and the *Uniform Crime Reports* for data on arrests.

Estimated expected length of stay, in months, and expected number of prisoners based on offenders entering prison in 1991 and 1996

Offense category	Expected length of stay (months)				Expected number of prisoners		
	1991	1996	Difference		1991	1996	Change
			'96-'91	% change			
Violent	51.7	58.1	6.3	12.3%	18,733	19,338	606
Part 1 Crimes	52.5	59.0	6.6	12.5%	17,580	18,354	775
Murder*	112.7	133.1	20.5	18.2%	5,540	6,591	1,051
Rape	52.3	54.5	2.3	4.3%	3,303	3,145	-157
Robbery	39.4	42.9	3.5	8.8%	5,347	5,058	-289
Agg Aslt	38.9	41.5	2.6	6.6%	3,390	3,560	170
Other Violent	42.8	44.7	1.9	4.4%	1,153	984	-169
Property	22.4	22.7	0.3	1.5%	9,866	10,370	504
Drug	22.1	20.6	-1.5	-6.9%	7,485	11,907	4,421
Other	13.4	15.5	2.2	16.3%	1,036	2,286	1,250
TOTAL	30.4	29.0	-1.5	-4.8%	37,120	43,901	6,781

*"Murder" refers to "murder/non-negligent manslaughter."

Source: Urban Institute analysis of the Bureau of Justice Statistics' *National Corrections Reporting Program* data, 1991 and 1996.

Table 3.6B. Illinois decomposition data

Decomposition of change in number of prison admissions, 1991-1996:
Estimated amount of change in admissions due to changes in each component

Offense category	Amount of change in admissions due to change in				
	Change in admissions	Population	Offenses	Arrests	Prison admission rate
Violent	-350	103	-769	973	-657
Part 1 Crimes	-291	96	-1,008	973	-352
Murder*	4	15	-76	417	-352
Rape	-66	18	-114	-811	841
Robbery	-213	36	-872	1,412	-789
Agg Aslt	-16	26	55	-45	-52
Other Violent	-59	7	n/a	239	-304
Property	188	140	-798	-703	1,548
Drug	2,882	178	n/a	5,267	-2,563
Other	836	45	n/a	-899	1,689
TOTAL	3,556	467	-1,806	4,877	18

**"Murder" refers to "murder/non-negligent manslaughter."

Source: Urban Institute analysis of the Bureau of Justice Statistics' *National Corrections Reporting Program* data (for prison admissions); the *Uniform Crime Reports* (for offense and arrest data); and the *Statistical Abstract of the U.S.* (for state population data).

Decomposition of the change in the expected number of prisoners, 1991-1996:
Estimated amount of change in expected prison population due to changes in each component

Offense category	Amount of change in expected number of prisoners due to:					
	Change in expected # of prisoners	Population	Offenses	Arrests	Prison admission rate	Expected length of stay
Violent	606	496	-3,401	5,832	-4,219	1,897
Part 1 Crimes	775	471	-4,291	5,832	-3,084	1,846
Murder*	1,051	169	-846	4,629	-3,908	1,007
Rape	-157	81	-519	-3,685	3,823	143
Robbery	-289	130	-3,116	5,043	-2,817	472
Agg Aslt	170	91	190	-155	-182	225
Other Violent	-169	25	n/a	890	-1,135	51
Property	504	266	-1,513	-1,332	2,935	147
Drug	4,421	306	n/a	9,023	-4,391	-516
Other	1,250	59	n/a	-1,163	2,186	169
TOTAL	6,781	1,127	-5,804	13,250	-3,489	1,697

**"Murder" refers to "murder/non-negligent manslaughter."

Source: Urban Institute analysis of the Bureau of Justice Statistics' *National Corrections Reporting Program* data (for prison admissions); the *Uniform Crime Reports* (for offense and arrest data); and the *Statistical Abstract of the U.S.* (for state population data).

OHIO

Ohio experienced a major change in sentencing policy as it implemented its truth-in-sentencing system in 1996. It replaced its indeterminate and parole release system with a determinate sentencing system that required offenders to serve almost all of their imposed sentence (an estimated 97 percent of their imposed sentence). Parole was replaced with “post-release control” but not all offenders would receive this type of supervision. Parole release decisions were eliminated under Ohio’s truth-in-sentencing system. Ohio’s truth-in-sentencing provisions applied to all felonies, and in form, are similar to the federal criminal sentencing system. However, Ohio officials reported that they looked at the federal sentencing guidelines and they rejected the detailed, accounting, and mechanistic approach to scoring offense severity and criminal history as a model for their state reform. Rather, the state wanted to retain more judicial discretion and control over the length of time served. Also, as part of its sentencing reform, Ohio reclassified the severity of felonies. In general, serious violent offenses were graded relatively more severely than nonviolent offenses such as property crimes. The grading of felony severity levels was an attempt to introduce proportionality in sentencing between the offenses.

Hypotheses about effects of sentencing reforms on sentencing outcomes

Ohio represents a state that underwent a major change in sentencing structure. In addition to the truth-in-sentencing reforms, Ohio also reformed its criminal code, and part of these reforms included grading the severity of felony offenses, which increased the severity of violent offenses. The Ohio changes and reforms lead to expectations that its sentencing outcomes—prison admissions and expected number of prisoners—would be greatly affected by its truth in sentencing and changes in felony offense classifications. These in turn would lead to an increase in the

effects of sentencing decisions on prison outcomes independently of the effects of offending and arrests. Thus, in Ohio it is expected that the prison admission rate and expected length of stay will exert large and positive effects on the sentencing of violent offenders. Moreover, it is also expected that the sentencing reforms will increase the emphasis of population of violent offenders in comparison to other categories of offenses. In short:

- H-1. The changes in sentencing will have larger effects on changes in both prison admissions and expected number of prisoners than will the factors external to the sentencing system, such as population, offenses, and arrests.
- H-2. Changes in felony severity levels will result in larger effects of sentencing reforms for violent offenses as compared to property offenses. (No hypotheses are given for drug offenses, as the data do not contain sufficient information about the type and quantity of drugs to measure the felony offense severity for drug offenses.)

Changes in punishment

The Ohio data cover the 1990 to 1998 period.⁸⁶ The Ohio truth-in-sentencing reforms were implemented in 1996; hence, the Ohio data permit analysis of changes between 1990 and 1996 (the first reform year) and through 1998. By 1998, the vast majority of offenders

⁸⁶ The Ohio Department of Rehabilitation and Correction provided data on prison admissions and releases for the 1990 to 1998 period, and stock populations for 1998. A debt of gratitude is given to Dr. Steve Van Dine and his staff for providing these data.

sentenced in Ohio were sentencing under its TIS provisions.⁸⁷

Prison admissions increased by 5 percent (857) during the 1990 to 1998 period from 17,415 to 18,272. The number of violent offenders admitted increased by 788, which was a 21 percent increase in violent offender admissions. Admissions of property offenders decreased by 25 percent, from 5087 to 3,793. Drug admissions increased by 6 percent from 5,269 to 5,599. The large decrease in property offense admissions is consistent with the reordering of punishment priorities reflected in changes in Ohio felony law.

Overall, the prison admission rate increased from 4.5 percent to 6.1 percent. For Part 1 violent offenses, the rate increased from 25.7 percent to 38.2 percent. This change was due in part to a decrease in the number of arrests for violent offenses. The decline in violent offense arrests (from 14,400 to about 12,000) followed the decline in reported violent crimes (from 51,000 to 41,000). The prison admission rates for property and drug offenses also increased, but these increases were not as large as the increase for violent offenses. The prison admission rate for property offenses increased from 9.7 percent to 10.6 percent, for drug offenses it increased from 22.4 percent to 26.2 percent.

Expected length of stay for all Part 1 violent offenders increased by about 10 months, from 46 to 55.6 months. For robbery and aggravated assault, expected length of stay actually declined slightly, by 2 and 6 months respectively. Both property and drug offenders witnessed increases in expected length of stay. For property offenses, the increase was from 21.2 to 24.5 months, while for drug offenses, the increase was from 13.9 to 15.4 months.

The expected number of prisoners increased by 7,231 from 34,108 to 41,339.⁸⁸

⁸⁷ The data tables used in the analysis of Ohio's sentencing outcomes can be found in tables 3.7A and 3.7B, which appear at the end of this description of results.

⁸⁸ Note that the expected number of prisoners in 1998 is less than the actual prison population (of 49,126). This arises from the methodology used to

The expected number of violent offense prisoners increased by 5,030, which accounted for about 70 percent of the increase in the expected number of prisoners. Property offenders witnessed a decrease of 1,251 in their expected number of prisoners, and the expected number of drug offenders increased by 1,100.

The changes in prison admissions and expected number of prisoners are consistent with the hypothesized effects of the sentencing reforms in Ohio, which increased the severity of sentencing for violent offenders.

Prison admissions: Decomposition results

The number of prison admissions increased by 857. Violent offender admissions increased by 788, and drug offender admissions increased by 330. Offsetting these increases was a decrease in the number of property offense admissions; these declined by 1,294. Changes in the prison admission rate contributed an increase of 3,785 to the number of violent offender admissions. The magnitude of this effect was larger than the combined effects of changes in population, offenses, and arrests. Offenses and arrests contributed negative amounts to the change in violent offender admissions; offenses decreased admissions by 1,435 and arrests decreased them by 1,708. Population added 146 to the number of violent offender admissions. Hence, changes in sentencing decisions that were associated with the implementation of truth in sentencing in Ohio contributed more to the change in violent offender admissions than did pre-sentencing factors. This is consistent with the hypothesis about the impacts of truth-in-sentencing reforms on the severity of punishment for violent offenders in Ohio.

Changes in population, offending, and arrests had a combined impact on the change in property offender admissions that was larger (in absolute value) than the impact of the

calculate expected length of stay (based on current admissions and current expected length of stay). By contrast, the standing population includes offenders sentenced in prior years who are still in prison.

change in the property offender prison admission rate. Arrests alone contributed a negative 1,939 to the number of property offender admissions, while the change in the prison admission rate contributed a positive 488. As the Ohio sentencing reforms reduced the relative felony severity ranking of property offenses (relative to violent offenses), this larger effect of factors external to sentencing decisions on property offender admissions is also somewhat consistent with the hypothesized effects.

Changes in the number of drug offenders admitted into prison were about equally determined by changes in the prison admission rate and changes in population and arrests. The prison admission rate contributed a positive 891 to the number of drug offenders admitted into prison, while population and arrests contributed a combined (in absolute value) 932 to the number of admissions, and drug arrests alone contributed a negative 742 to the number of drug admissions. This result is not necessarily consistent with the hypothesized effect, as an increase in the severity of punishment for drug offenders was not necessarily expected under the Ohio sentencing reforms. Nevertheless, taking this result in combination with the result for violent offenders, the net effect of the sentencing reforms on prison admissions was an increase in the severity of punishment—measured by prison admissions—for violent and drug offenders, along with a decrease in the severity of punishment for property offenders.⁸⁹

⁸⁹ A separate analysis of changes in prison admissions between 1990 and 1996, which represents the period prior to the implementation of Ohio's truth in sentencing reforms, found that changes in population, offenses, and arrests contributed more to the changes in violent, property, and drug prison admissions than did changes in the prison admission rate. As large changes in the prison admission rate did not occur until after the truth in sentencing reforms were implemented, this result on the 1990 to 1996 period is not completely unexpected.

Expected number of prisoners: Decomposition results

The expected number of prisoners increased by 10,181 between 1990 and 1998. The expected number of violent offense prisoners increased by 8,020, which accounted for almost 80 percent of the increase in the expected number of prisoners. The expected number of property offense prisoners decreased by 1,255, while the expected number of drug offense prisoners increased by 1,118.

Changes in sentencing decisions—prison admission rate and expected length of stay—contributed more to the increase in the expected number of violent offense prisoners than did the changes in population, offenses, and arrests. Combined, the prison admission rate and expected length of stay for violent offenders contributed 33,116 violent offender prisoners, and the prison admission rate contributed 25,256 of these. Hence, changes in the use of prison contribute more to the increase in violent offense prisoners than did changes in length of stay. The combined effect (in absolute value) of changes in population, offenses, and arrests on the expected number of violent offense prisoners was 26,564 prisoners. This amount is less than the effects of sentencing decisions. The effects of offenses and arrests on changes in violent prisoners were negative and large (7,061 and 18,769, respectively), while the effect of population was small and positive (734). These results for changes in the expected number of violent offense prisoners are consistent with hypothesized effects, as the largest effects on expected violent prisoners were those associated with changes in sentencing reforms.

The change in the number of property offense prisoners was determined largely by decreases in arrests, which led to a decrease of 3,957 prisoners. This effect alone was larger than the combined positive effects of the prison admission rate and expected length of stay. Hence, the change in the expected number of property offense prisoners were determined less by sentencing decisions than

the behavior of law enforcement in responding to offenses.

For drug offenders, the change in the expected number of prisoners was determined largely by sentencing decisions, as the prison admission rate contributed 1,146 and expected length of stay contributed 694 to this quantity. Drug arrests contributed a negative 954 to the change in the expected number of drug offense prisoners. The drug sentencing outcomes indicate an increase in the severity of punishment. This increase was not as large as the increase for violent offenses. As there were no hypothesized effects about drug offenders, these results point out the increase in sentencing severity for drug offenders under Ohio's truth-in-sentencing practices.⁹⁰

Conclusions

Ohio's sentencing reforms were associated with large increases in the severity of punishment for violent offenders and large (but smaller) increases in the severity of punishment for drug offenders. The effects of sentencing reform on violent offense sentencing were hypothesized and were consistent with the sentencing reform changes, as among the sentencing reforms implemented in Ohio was an increase in the felony severity level for serious violent offenses and a relative decrease in the severity level for property offenses. The observed increases in severity for drug offenses could arise from both changes in felony severity and from the criminal history of drug offenders.

Ohio represents a state that implemented truth in sentencing and as a result of these

sentencing reforms made the punishment of violent offenses a priority. The increase in punishment for violent offenses was associated with decreases in punishment for property offenses (considered generally to be less serious felonies under Ohio law). Ohio's punishment practices also increased the severity of punishment for drug offenders. This increase was not hypothesized, as Ohio's truth-in-sentencing reforms did not specifically address drug offending.

⁹⁰ As was done with changes in prison admissions, a separate decomposition analysis was performed on the changes in the expected number of prisoners between 1990 and 1996. And, as occurred with the changes in the number of prison admissions, changes in population, offenses, and arrests had much larger effects on the changes in the expected numbers of violent, property, and drug offense prisoners than did changes in sentencing practices. As with the analysis admissions during the 1990 to 1996 period, the impact of Ohio's truth in sentencing reforms were not obvious in the initial year of implementation of these reforms.

Table 3.7A. Ohio prison admissions data

Prison admissions, 1990 and 1998

Offense category	1990		1998		Difference '98-'90		Percent change '90 to '98
	Number	% distrib.	Number	% distrib.	Number	% distrib.	
Violent	3,733	21.4%	4,872	26.7%	1,139	5.2%	30.5 %
Part 1 Crimes	3,720	21.4%	4,508	24.7%	788	3.3%	21.2 %
Murder*	487	2.8%	358	2.0%	-129	-0.8%	-26.5 %
Rape	1,017	5.8%	915	5.0%	-102	-0.8%	-10.0 %
Robbery	1,164	6.7%	1,443	7.9%	279	1.2%	24.0 %
Agg Aslt	1,052	6.0%	1,792	9.8%	740	3.8%	70.3 %
Other Violent	13	0.1%	364	2.0%	351	1.9%	2700.0 %
Property	5,087	29.2%	3,793	20.8%	-1,294	-8.5%	-25.4 %
Drug	5,269	30.3%	5,599	30.6%	330	0.4%	6.3 %
Other	3,326	19.1%	4,008	21.9%	682	2.8%	20.5 %
TOTAL	17,415	100.0%	18,272	100.0%	857	0.0%	4.9 %

*"Murder" refers to "murder/non-negligent manslaughter."

Source: Urban Institute analysis of Ohio Department of Rehabilitation and Correction data, 1990 -

Prison admissions to arrest ratio:

Probability of imprisonment given arrest, 1990 and 1998

Offense category	1990		Difference '98-'90
	1990	1998	
Violent	8.6%	13.8%	5.2%
Part 1 Crimes	25.7%	38.2%	12.5%
Murder*	82.0%	192.5%	110.5%
Rape	71.5%	116.7%	45.2%
Robbery	26.1%	68.8%	42.7%
Agg Aslt	13.2%	20.5%	7.3%
Other Violent	0.0%	1.6%	1.6%
Property	9.7%	10.6%	0.9%
Drug	22.4%	26.2%	3.8%
Other	1.1%	1.9%	0.8%
TOTAL	4.5%	6.1%	1.6%

*"Murder" refers to "murder/non-negligent manslaughter."

Source: Urban Institute analysis of Ohio Department of Rehabilitation and Correction data, 1990 - and the *Uniform Crime Reports* for data on arrests.

Estimated expected length of stay, in months, and expected number of prisoners based on offenders entering prison in 1990 and 1998

Offense category	Expected length of stay (months)				Expected number of prisoners		
	1990	1998	Difference		1990	1998	Change
			'98-'90	% change			
Violent	45.8	52.5	6.7	14.5%	14,744	20,164	5,419
Part 1 Crimes	45.9	55.6	9.7	21.2%	14,718	19,748	5,030
Murder*	70.0	103.6	33.6	48.1%	2,840	3,091	251
Rape	39.9	77.4	37.5	93.9%	3,383	5,902	2,519
Robbery	56.4	54.3	-2.1	-3.7%	5,469	6,530	1,061
Agg Aslt	34.5	28.3	-6.2	-18.0%	3,026	4,226	1,200
Other Violent	24.4	13.7	-10.7	-43.7%	26	416	389
Property	21.2	24.5	3.3	15.5%	8,996	7,744	-1,251
Drug	13.9	15.4	1.5	11.1%	6,086	7,185	1,100
Other	15.5	18.7	3.3	21.0%	4,282	6,246	1,964
TOTAL	22.8	27.7	4.9	21.3%	34,108	41,339	7,231

*"Murder" refers to "murder/non-negligent manslaughter."

Source: Urban Institute analysis of Ohio Department of Rehabilitation and Correction data, 1990 -

Table 3.7B. Ohio decomposition data

**Decomposition of change in number of prison admissions, 1990-1998:
Estimated amount of change in admissions due to changes in each component**

Offense category	Amount of change in admissions due to change in				
	Change in admissions	Population	Offenses	Arrests	Prison admission rate
Violent	1,139	157	-1,529	-1,708	4,218
Part 1 Crimes	788	146	-1,435	-1,708	3,785
Murder*	-129	12	-159	-638	656
Rape	-102	30	-67	-707	643
Robbery	279	47	-501	-1,165	1,899
Agg Aslt	740	58	-708	803	587
Other Violent	351	12	n/a	-94	433
Property	-1,294	122	35	-1,939	488
Drug	330	181	n/a	-742	891
Other	682	129	n/a	-1,399	1,951
TOTAL	857	590	-1,400	-5,880	7,548

***Murder* refers to "murder/non-negligent manslaughter."

Source: Urban Institute analysis of the Bureau of Justice Statistics' *National Corrections Reporting Program* data (for prison admissions); the *Uniform Crime Reports* (for offense and arrest data); and the *Statistical Abstract of the U.S.* (for state population data).

**Decomposition of the change in the expected number of prisoners, 1990-1998:
Estimated amount of change in expected prison population due to changes in each component**

Offense category	Amount of change in expected number of prisoners due to:					
	Change in expected # of prisoners	Population	Offenses	Arrests	Prison admission rate	Expected length of stay
Violent	8,410	747	-7,168	-18,769	25,751	7,849
Part 1 Crimes	8,020	734	-7,061	-18,769	25,256	7,860
Murder*	3,247	196	-2,692	-10,829	11,136	5,436
Rape	2,515	191	-433	-4,557	4,143	3,173
Robbery	1,062	211	-2,268	-5,274	8,593	-201
Agg Aslt	1,195	136	-1,668	1,891	1,384	-548
Other Violent	390	13	n/a	-107	496	-11
Property	-1,255	250	71	-3,957	995	1,386
Drug	1,118	233	n/a	-954	1,146	694
Other	1,907	202	n/a	-2,178	3,039	845
TOTAL	10,181	1,432	-6,990	-25,965	30,931	10,773

***Murder* refers to "murder/non-negligent manslaughter."

Source: Urban Institute analysis of the Bureau of Justice Statistics' *National Corrections Reporting Program* data (for prison admissions); the *Uniform Crime Reports* (for offense and arrest data); and the *Statistical Abstract of the U.S.* (for state population data).

NEW JERSEY

New Jersey implemented its first truth-in-sentencing provisions in 1997, well after the enactment of the 1994 Crime Act. Under truth in sentencing, violent offenders must serve 85 percent of the maximum term of their sentences before becoming eligible for parole release. Although the state retained parole decisions, the adoption of truth in sentencing marks a departure from prior sentencing laws in New Jersey. The New Jersey reforms occurred outside of the time period covered by NCRP data (1991-1996) when our analysis was conducted. However New Jersey is included in the analysis to see if there are any “anticipatory” effects of truth in sentencing on sentencing outcomes.

Hypotheses about effects of sentencing reforms on sentencing outcomes

New Jersey’s truth-in-sentencing reforms resulted in relatively large changes to its sentencing structure. These changes lead to expectations of large effects of sentencing reforms on sentencing outcomes. However, as New Jersey implemented TIS in 1997, the 1991 to 1996 period covered by the data do not incorporate sentencing outcomes under New Jersey’s truth-in-sentencing provisions. Hence, it is not possible to measure the impacts of truth in sentencing on sentencing outcomes with these data.

However, an hypothesis to be investigated by this analysis is that in preparation for implementation of TIS, New Jersey’s sentencing practices will have changed in anticipation of the TIS provisions. Anticipation of truth in sentencing for violent offenders would result in changes in sentencing outcomes that reflect an allocation of prison resources away from less serious offenses, such as drug and property offenses, and towards violent offenses. Thus, if the anticipation hypothesis is correct, changes in the prison admission rate, expected length of stay, and expected number of prisoners would favor increased severity of sentencing for

violent offenders and relatively smaller increases (or decreases) in severity of sentencing for drug and property offenders. These increases should occur independently of the law enforcement response to violent and drug crimes. The alternative hypothesis is that there is no anticipation of truth in sentencing, and changes in sentencing outcomes between 1991 and 1996, or prior to the implementation of truth in sentencing in New Jersey, will not exhibit a relatively greater emphasis on violent offenses, other than as reflected by changes in the law enforcement response to violent and drug crimes. In sum:

H-1. Changes in sentencing decisions will reflect or anticipate the truth-in-sentencing reforms; consequently, changes in the number of prison admissions and the expected number of prisoners will be affected more by the (anticipatory) changes in sentencing practices than by changes in the factors external to sentencing. These anticipatory effects include increases in the prison admission rate for violence, and expected length of stay—through the restriction of parole release applied to offenders about to be released, as the new laws are about to go into effect.

H-2. The effects of (the anticipatory) changes in the prison admission rate will be larger for violence than for other offenses.

Changes in punishment

The number of prison admissions in New Jersey increased by 14.2 percent, or by 1,215, from 8,584 to 9,799 offenders. The number of violent offenders admitted into prison decreased by 6 percent, or 150 admissions, while the number of drug admissions increased by 6.5 percent, or 278 admissions. The prison admission rate remained constant at about 2.5 percent of arrests. The prison admission rate for violent offenders also remained roughly

constant (10.9 percent in 1991 compared to 10.5 percent in 1996), and for drug offenders, the prison admission rate decreased by 3 percent, from 11.2 percent to 8.1 percent. The decrease in the prison admission rate for drug offenders, as compared to the roughly constant prison admission rate for violent offenders is consistent with the anticipation hypothesis. However, the prison admission rate for property offenders actually increased over this period, from 2.6 percent to 3.8 percent. This increase in the prison admission rate for property offenders is not consistent with the anticipation hypothesis.⁹¹

The expected length of stay for offenders admitted in 1996 decreased by 1.5 months to 22.7 months from the 1991 level of 24.1 months. For all Part 1 violent offenders, expected length of stay decreased by about 2 months from 42.3 months to 40.5 months. However, for murder, there was an increase of about 5 months in the expected length of stay from 83 months to 87.5 months. For drug offenders, expected length of stay remained constant at 17.5 months, and for property offenders, it decreased by one month. The expected number of prisoners increased by 1,308 but there was a decrease in the expected number of violent offense prisoners that was combined with an increase in the expected number of drug and property offense prisoners.

The changes in punishment do not provide strong support for the anticipation hypothesis. Rather, they provide general support for the alternative hypothesis. The role of offending and the law enforcement response are examined in the decompositions.

Prison admissions: Decomposition results

Prison admissions increased by 1,215 overall, while the number of violent offenders admitted into prison decreased by 150. The decline in violent offenses and the prison admission rate contributed to the decrease in the number of violent offenders admitted into

prison. Changes in violent offenses led to a decrease in prison admissions by 411. This was more than nine times the decrease in the number of prison admissions associated with the changes in the prison admission rate, which resulted in a decrease of 43 violent offense admissions. Changes in arrests led to an increase of 245 admissions of violent offenders.

Changes in violent offending led to a larger decrease in admissions of violent offenders than did changes in the prison admission rate, and changes in arrests led to larger increases than the absolute value of the decrease associated with the prison admission rate, the change in the number of violent offenders admitted into prison was largely unaffected by this sentencing decision (the prison admission rate). This null result supports the alternative hypothesis rather than the anticipation of truth-in-sentencing hypothesis.

For drug offenders, the number of admissions increased by 278. Increases in arrests contributed 1,322 to this number of admissions, but the increase in drug admissions due to arrests was partially offset by a decrease of 1,175 admissions associated with the decrease in the prison admission rate. The decline in the number of drug admissions associated with the prison admission rate supports the anticipation of truth-in-sentencing hypothesis, to the extent that the decline in the use of prison for drug offenders is viewed in terms of allocating scarce prison space for more serious offenders. However, the decrease in the prison admission rate for drug offenders is also consistent with other hypotheses about the declining use of prison for drug offenders.

For property offenders, the number of admissions increased by 484. Changes in the number of offenses led to a decrease of 501 admissions, but this was more than offset by changes in arrests and the prison admission rate, which contributed 277 and 652 admissions of property offenders, respectively. The contribution of the prison admission rate to the number of property offenders admitted

⁹¹ The data tables used in the analysis of New Jersey sentencing outcomes can be found in tables 3.8A and 3.8B, which appear at the end of this description of results.

into prison runs counter to expectations stemming from the anticipation hypothesis.

**Expected number of prisoners:
Decomposition results**

The expected number of violent offense prisoners decreased by 850 between 1991 and 1996. The main factors contributing to this decrease were: the changes in violent offenses (which led to a decrease of 1,454 in the number of expected violent offense prisoners), the prison admission rate (which was associated with a decrease of 436 prisoners), and the expected length of stay for violent offenders (which was associated with a decrease of 151 prisoners). Changes in arrests led to an increase of 989 in the expected number of violent offense prisoners.

The offending and arrest rate stages of the criminal justice process made larger contributions to the expected number of violent offense prisoners in New Jersey. This result is not consistent with the anticipation hypothesis, which would predict larger increases in the expected number of violent offense prisoners stemming from sentencing changes than from offending and the law enforcement response, and it would not predict that sentencing decisions resulted in a decrease in the expected number of violent offense prisoners.

**Conclusions about changes in admissions
and expected prisoners**

The changes in the prison admission rate and in the expected length of stay led to decreases in the number of violent offenders admitted into prison and in the expected number of violent offense prisoners. This result alone runs counter to the anticipation hypothesis. Additionally, changes in the number of admissions and expected number of prisoners attributable to sentencing decisions—the prison admission rate and the expected length of stay—were smaller in magnitude than the changes associated with offending rates and arrest rates. Hence, processes leading to crime changes and the law enforcement response to violent crimes were

more responsible for the changes to violent admissions and expected prisoners than were sentencing decisions.

Table 3.8A. New Jersey prison admissions data

Prison admissions, 1991 and 1996

Offense category	1991		1996		Difference '96-'91		Percent change '91 to '96
	Number	% distrib.	Number	% distrib.	Number	% distrib.	
Violent	2,359	27.5%	2,259	23.1%	-100	-4.4%	-4.2 %
Part 1 Crimes	2,249	26.2%	2,099	21.4%	-150	-4.8%	-6.7 %
Murder*	227	2.6%	202	2.1%	-25	-0.6%	-11.0 %
Rape	382	4.5%	313	3.2%	-69	-1.3%	-18.1 %
Robbery	1,022	11.9%	874	8.9%	-148	-3.0%	-14.5 %
Agg Aslt	618	7.2%	710	7.2%	92	0.0%	14.9 %
Other Violent	110	1.3%	160	1.6%	50	0.4%	45.5 %
Property	1,485	17.3%	1,969	20.1%	484	2.8%	32.6 %
Drug	4,291	50.0%	4,569	46.6%	278	-3.4%	6.5 %
Other	449	5.2%	1,002	10.2%	553	5.0%	123.2 %
TOTAL	8,584	100.0%	9,799	100.0%	1,215	0.0%	14.2 %

*"Murder" refers to "murder/non-negligent manslaughter."

Source: Urban Institute analysis of the Bureau of Justice Statistics' *National Corrections Reporting Program* data, 1991 and 1996.

Prison admissions to arrest ratio:

Probability of imprisonment given arrest, 1991 and 1996

Offense category	1991		Difference '96-'91
	1991	1996	
Violent	3.4%	2.9%	-0.5%
Part 1 Crimes	10.9%	10.5%	-0.5%
Murder*	72.8%	57.9%	-14.9%
Rape	33.3%	34.4%	1.1%
Robbery	17.2%	15.5%	-1.8%
Agg Aslt	4.7%	5.4%	0.7%
Other Violent	0.2%	0.3%	0.1%
Property	2.6%	3.8%	1.2%
Drug	11.2%	8.1%	-3.1%
Other	0.2%	0.5%	0.2%
TOTAL	2.4%	2.5%	0.0%

*"Murder" refers to "murder/non-negligent manslaughter."

Source: Urban Institute analysis of the Bureau of Justice Statistics' *National Corrections Reporting Program* data, 1991 and 1996, and the *Uniform Crime Reports* for data on arrests.

Estimated expected length of stay, in months, and expected number of prisoners, based on offenders entering prison in 1991 and 1996

Offense category	Expected length of stay (months)				Expected number of prisoners		
	1991	1996	Difference		1991	1996	Change
			'96-'91	% change			
Violent	42.0	39.7	-2.3	-5.4%	8,248	7,467	-780
Part 1 Crimes	42.3	40.5	-1.8	-4.3%	7,933	7,083	-850
Murder*	83.0	87.5	4.5	5.4%	1,570	1,472	-97
Rape	42.5	39.0	-3.6	-8.4%	1,354	1,016	-338
Robbery	39.9	40.8	0.9	2.2%	3,397	2,971	-427
Agg Aslt	31.3	27.4	-3.8	-12.3%	1,612	1,624	12
Other Violent	34.3	28.8	-5.5	-16.0%	315	384	70
Property	18.5	17.4	-1.1	-6.1%	2,296	2,858	562
Drug	17.6	17.5	-0.1	-0.4%	6,283	6,666	383
Other	19.5	22.4	3.0	15.2%	728	1,871	1,143
TOTAL	24.1	22.7	-1.5	-6.1%	17,555	18,862	1,308

*"Murder" refers to "murder/non-negligent manslaughter."

Source: Urban Institute analysis of the Bureau of Justice Statistics' *National Corrections Reporting Program* data, 1991 and 1996.

Table 3.8B. New Jersey decomposition data

Decomposition of change in number of prison admissions, 1991-1996:
Estimated amount of change in admissions due to changes in each component

Offense category	Change in admissions	Amount of change in admissions due to change in				Prison admission rate
		Population	Offenses	Arrests		
Violent	-100	64	-392	245		-17
Part 1 Crimes	-150	60	-411	245		-43
Murder*	-25	6	-46	62		-46
Rape	-69	9	-54	-36		12
Robbery	-148	25	-206	138		-105
Agg Aslt	92	20	-105	81		95
Other Violent	50	5	n/a	19		26
Property	484	56	-501	277		652
Drug	278	130	n/a	1,322		-1,175
Other	553	29	n/a	78		447
TOTAL	1,215	280	-912	1,941		-93

*"Murder" refers to "murder/non-negligent manslaughter."

Source: Urban Institute analysis of the Bureau of Justice Statistics' *National Corrections Reporting Program* data (for prison admissions); the *Uniform Crime Reports* (for offense and arrest data); and the *Statistical Abstract of the U.S.* (for state population data).

Decomposition of the change in the expected number of prisoners, 1991-1996:
Estimated amount of change in expected prison population due to changes in each component

Offense category	Change in expected # of prisoners	Amount of change in expected number of prisoners due to:				Expected length of stay
		Population	Offenses	Arrests	Prison admission rate	
Violent	-780	213	-1,407	989	-373	-201
Part 1 Crimes	-850	202	-1,454	989	-436	-151
Murder*	-97	42	-338	452	-338	85
Rape	-338	29	-175	-118	40	-114
Robbery	-427	85	-701	468	-355	76
Agg Aslt	12	46	-240	186	218	-198
Other Violent	70	11	n/a	46	63	-50
Property	562	82	-727	402	946	-140
Drug	383	190	n/a	1,929	-1,714	-23
Other	1,143	53	n/a	145	834	110
TOTAL	1,308	538	-2,180	3,511	-307	-254

*"Murder" refers to "murder/non-negligent manslaughter."

Source: Urban Institute analysis of the Bureau of Justice Statistics' *National Corrections Reporting Program* data (for prison admissions); the *Uniform Crime Reports* (for offense and arrest data); and the *Statistical Abstract of the U.S.* (for state population data).

PENNSYLVANIA

Pennsylvania's sentencing framework dates back to 1911. It is an indeterminate system under which judges set a minimum term for offenders to serve and the maximum sentence is generally set by statute. Offenders are eligible for parole consideration upon completion of the minimum term. Pennsylvania illustrates a model of truth in sentencing under an indeterminate sentencing framework.

While this indeterminate sentencing structure carries through to today, Pennsylvania undertook a significant reform in the early 1980s. Pennsylvania adopted a sentencing guidelines system to guide judges in the imposition of the minimum term. Based on the seriousness of the current offense and on offenders' prior records, the guidelines establish a presumptive range for the minimum sentence. The goals of sentencing guidelines at this time were to reduce sentencing disparities and reduce perceived leniency, the latter being the primary issue. They were not enacted to deal with prison overcrowding, as the state had excess capacity at the time.⁹²

However the guidelines underwent a comprehensive revision in 1994, following incremental changes to the guidelines throughout the 1980s and early 1990s, and escalating problems with prison overcrowding. The revised guidelines, effective in August 1994, represent a major policy shift, as they are "premised on the 'capacity constraint' notion," that guidelines sentencing should be in line with current and projected correctional resources. The 1994 guidelines emphasize increased punishment for violent offenders, while diverting nonviolent offenders to alternative sanctions. Specific objectives were to increase the use of prison for violent crimes

while reducing prison use for property and drug offenses, to incorporate intermediate sanctions into the guidelines structure, and increase state funding of county-run intermediate sanctions programs.⁹³

Pennsylvania did not make any further changes to its sentencing structure for the sake of truth in sentencing. Pennsylvania applied for and received federal truth-in-sentencing funds without changing its existing sentencing policies, qualifying under the provision for indeterminate states with sentencing and release guidelines. In its initial application for federal TIS funds, Pennsylvania states that it "has long established sentencing and parole policies which embrace the principle of truth in sentencing."⁹⁴ Its line of reasoning is that offenders are required to serve at least 100 percent of the judicially imposed minimum term before they are eligible for parole release; no good time or other release mechanisms can reduce service of that minimum term. Furthermore, Pennsylvania argued that the parole board considers judicial departures from the sentencing guidelines when making its release decisions. Therefore, Pennsylvania's sentencing policies, though indeterminate, represent a certain dimension of truth in sentencing.

Because Pennsylvania's truth-in-sentencing grant acknowledges its pre-existing practices, Pennsylvania's reforms of interest are the changes to its sentencing guidelines rather than the implementation of TIS. As far as the state was concerned, it had been implementing truth in sentencing for some time; the federal grant acknowledged its past practices rather than affirmed a change in sentencing.

⁹² John Kramer and Cynthia Kempinen. 1997. "Pennsylvania's Sentencing Guidelines—The Process of Assessment and Revision." In *Sentencing Reform in Overcrowded Times*, edited by Michael Tonry and Kathleen Hatlestad (62-69). New York: Oxford University Press.

⁹³ John Kramer and Cynthia Kempinen. 1997. "Pennsylvania's Sentencing Guidelines—The Process of Assessment and Revision." In *Sentencing Reform in Overcrowded Times*, edited by Michael Tonry and Kathleen Hatlestad (62-69). New York: Oxford University Press.

⁹⁴ Pennsylvania's VOI/TIS application for 1996.

Hypotheses about effects of sentencing reforms on sentencing outcomes

As Pennsylvania changed its sentencing guidelines (to increase the sentencing of violent of offenders) but did not change its percentage requirements to implement truth in sentencing, changes in sentencing decisions are expected to have large influences on sentencing outcomes. But changes in the prison admission rate and expected length of stay are expected to have relatively large impacts on the expected number of prisoners. In sum:

- H-1. Changes in sentencing decisions—the prison admission rate and expected length of stay—will have larger influences on changes in the number of admissions and the expected number of prisoners than will changes in the volume and composition of offenders entering the courts (that is, in the pre-sentencing factors).
- H-2. Given Pennsylvania’s re-emphasis on violent offenders, changes in sentencing associated with the modifications to the sentencing guidelines will increase the punishments for violent offenders relative to those for non-violent offenders, and the impacts of sentencing decisions on outcomes for violent offenders will exceed the impacts of pre-sentencing factors.

Changes in punishment

The number of prison admissions in Pennsylvania decreased by 4 percent between 1991 and 1996, from 5,624 to 5,404. Admissions of violent offenders increased by 7 percent, from 1,789 to 1,912, while admissions for property and drug offenders decreased by 21.3 percent and 8.1 percent, respectively. The prison admission rate remained relatively constant at an overall average of 1.7 percent (1.6 percent in 1996). For violent offenders, the admission rate increased slightly (from 9.3 percent to 9.7 percent), and for property offenders a similarly small decrease occurred

(2.3 percent to 2.0 percent). But for drug offenders, the prison admission rate decreased from 8.3 percent to 6.8 percent.⁹⁵

Overall, expected length of stay by 7 months, from 36.6 months to 44.4 months. For violent, property, and drug offenders, expected length of stay also increased. Part 1 violent offenders observed an increase 4.4 months (from 63.2 months to 67.7 months). Within this broad category, though, expected length of stay for murder increased by 17 months (from 84 to 101 months), and it also increased for the other violent offenses.

Property and drug offenders experienced smaller increases in expected length of stay. For property offenses, it increased 5 months (27.8 to 33.2 months) and for drug offenses it increased by only 1.6 months (28.1 to 29.7 months).

The expected number of prisoners increased by 2,045 from 18,424 to 20,470. Increases were observed for Part 1 violent, property, and drug offenders. The increase for part 1 violent offenders of 1,954 accounted for 95 percent of the overall increase in the expected number of prisoners. The expected number of property and drug offenders declined slightly (by 182 and 120, respectively).

Pennsylvania did not change its sentencing structure to implement truth in sentencing. However, it did reform its sentencing guidelines during this period. The reforms focused on increasing punishments for violent offenders. The results of the decomposition analysis speak to this issue.

Prison admissions: Decomposition results

The total number of prison admissions decreased by 220 offenders between 1991 and 1996. Admissions of violent offenders increased by 123, while admissions of property and drug offenders decreased by 283 and 152, respectively.

⁹⁵ The data tables used in the analysis of Pennsylvania sentencing outcomes can be found in tables 3.9A and 3.9B, which appear at the end of this description of results.

For Part 1 violent offenders, changes in population, offenses, and arrests contributed a negative 123 admissions. This amount was smaller (in absolute value) than the 216 increase in admissions associated with changes in the prison admission rate. Similarly, for property offenders, changes in the prison admission rate contributed a larger amount to the change in prison admissions than did the changes due to population, offending and arrests (in comparing absolute values of the contributions). For drug offenders, changes in population and arrests contributed a positive 196 to the number of drug admissions, while the prison admission rate for drug offenders contributed a negative 347.

These results are consistent with the hypothesis about Pennsylvania's admissions outcomes. For violent offenders, the prison admission sentencing decision had a larger and positive effect on the number of violent offenders admitted into prison than did the combined effects of law enforcement, offending, and population changes. Moreover, as the positive contribution of changes in prison admission to the change in violent offender admissions suggests, violent offenders faced an increase in sentencing severity, both in comparison to 1991, as well as in relation to property and drug offenders. Thus, Pennsylvania increased the severity of sentencing for violent offenders during this period following the adoption of its form of truth in sentencing, and it also decreased the severity of sentencing of property and drug offenders. This type of outcome is consistent with the general emphasis of truth in sentencing of more certain punishment for violent offenders, but the Pennsylvania reforms were to its sentencing guidelines and not in its application of truth in sentencing. These changes in sentencing severity—the change in the prison admission rate having a larger impact on the number of admissions than the offending and arrest rates, and the increase in severity for violent relative to drug and property offenders—were therefore as expected.

Expected number of prisoners: Decomposition results

The total expected number of prisoners increased by 2,045. The expected number of violent offense prisoners increased by 1,954, accounting for more than 95 percent of the overall increase in the expected number of prisoners. Decreases were observed for property and drug offenders, and drug offenders experienced the largest absolute and relative decreases in the expected number of prisoners.

As happened in the analysis of prison admissions, the sentencing stages of the criminal justice process in Pennsylvania had larger impacts on the expected number of prisoners than did the law enforcement and offending stages. For Part 1 violent offenders, the combined effects on changes in the expected number of prisoners of changes in the prison admission rate and expected length of stay were larger (in absolute value) than the effects of changes in population, offending, and arrests. The prison admission rate accounted for 1,291 and expected length of stay accounted for 1,414 to the change in the expected number of violent offense prisoners. These two factors also worked in the same direction, as each contributed large, positive numbers to the expected number of violent offense prisoners.

For property and drug offenders, changes in prison admissions rates led to decreases in the expected number of each offense's prisoners, while changes in expected length of stay contributed positive amounts to the change in expected prisoners. These sentencing change factors contributed more to the change in expected prisoners than did the pre-sentencing factors.

The large contributions of the prison admission rate and expected length of stay to the expected number of violent offense prisoners is consistent with the hypothesized effects for Pennsylvania. Given the changes to Pennsylvania's guidelines, it was hypothesized that sentencing factors would exert larger influences on the expected number of prisoners than the pre-sentencing factors.

As with prison admissions, there also was relatively greater severity of punishment for violent offenders as compared to drug and property offenders. The increase in the expected number of violent offense prisoners was larger than either of these other two categories (a positive 1,954 as compared to a negative 185 for property and a negative 120 for drugs). The effect of the prison admission rate and length of stay on the expected number of violent offense prisoners was large, positive, and about equal. By comparison, for property and drug offenders the prison admission rate contributed to decreases and expected length of stay contributed to increases the expected number of prisoners for these two offenses.

Conclusions about changes in admissions and expected prisoners

Pennsylvania made changes to its sentencing guidelines but it did not change its sentencing practices to implement its truth-in-sentencing practices. During the 1991 to 1996 period, Pennsylvania's sentencing outcomes—prison admissions and expected number of prisoners—increased the severity of sentencing for violent offenders, reflected both in the increased use of prison and in increases in expected length of stay. This increased severity accounted for more of the changes in admissions of violent offenders than did changes in offending and arrests; it also accounted for more of the increase in the expected number of violent offense prisoners than did offending and arrests. The prison admissions rate and expected length of stay led to roughly equivalent increases in the expected number of violent offense prisoners.

Table 3.9A. Pennsylvania prison admissions data

Prison admissions, 1991 and 1996

Offense category	1991		1996		Difference '96-'91		Percent change '91 to '96
	Number	% distrib.	Number	% distrib.	Number	% distrib.	
Violent	2,022	36.0%	2,138	39.6%	116	3.6%	5.7 %
Part 1 Crimes	1,789	31.8%	1,912	35.4%	123	3.6%	6.9 %
Murder*	311	5.5%	270	5.0%	-41	-0.5%	-13.2 %
Rape	361	6.4%	392	7.3%	31	0.8%	8.6 %
Robbery	683	12.1%	765	14.2%	82	2.0%	12.0 %
Agg Aslt	434	7.7%	485	9.0%	51	1.3%	11.8 %
Other Violent	233	4.1%	226	4.2%	-7	0.0%	-3.0 %
Property	1,329	23.6%	1,046	19.4%	-283	-4.3%	-21.3 %
Drug	1,879	33.4%	1,727	32.0%	-152	-1.5%	-8.1 %
Other	394	7.0%	493	9.1%	99	2.1%	25.1 %
TOTAL	5,624	100.0%	5,404	100.0%	-220	0.0%	-3.9 %

*"Murder" refers to "murder/non-negligent manslaughter."

Source: Urban Institute analysis of the Bureau of Justice Statistics' *National Corrections Reporting Program* data, 1991 and 1996.

Prison admissions to arrest ratio:

Probability of imprisonment given arrest, 1991 and 1996

Offense category	1991		Difference '96-'91
	1991	1996	
Violent	4.7%	3.6%	-1.1%
Part 1 Crimes	9.3%	9.7%	0.4%
Murder*	46.8%	52.8%	6.0%
Rape	29.4%	35.8%	6.4%
Robbery	10.2%	11.4%	1.2%
Agg Aslt	4.1%	4.2%	0.1%
Other Violent	1.0%	0.6%	-0.4%
Property	2.3%	2.0%	-0.3%
Drug	8.3%	6.8%	-1.5%
Other	0.2%	0.2%	0.0%
TOTAL	1.7%	1.6%	-0.2%

*"Murder" refers to "murder/non-negligent manslaughter."

Source: Urban Institute analysis of the Bureau of Justice Statistics' *National Corrections Reporting Program* data, 1991 and 1996, and the *Uniform Crime Reports* for data on arrests.

Estimated expected length of stay, in months, and expected number of prisoners, based on offenders entering prison in 1991 and 1996

Offense category	Expected length of stay (months)				Expected number of prisoners		
	1991	1996	Difference		1991	1996	Change
			'96-'91	% change			
Violent	60.2	63.3	3.0	5.0%	10,150	12,101	1,951
Part 1 Crimes	63.2	67.7	4.4	7.0%	9,429	11,382	1,954
Murder*	84.0	101.2	17.2	20.5%	2,177	2,277	100
Rape	79.5	88.8	9.3	11.7%	2,392	2,901	509
Robbery	51.8	57.7	5.9	11.3%	2,948	3,675	728
Agg Aslt	52.9	62.6	9.7	18.4%	1,912	2,530	617
Other Violent	37.2	38.2	1.0	2.7%	721	719	-3
Property	27.8	33.2	5.4	19.5%	3,079	2,897	-182
Drug	28.1	29.7	1.6	5.8%	4,395	4,275	-120
Other	24.4	29.1	4.8	19.5%	801	1,197	396
TOTAL	36.6	44.4	7.8	21.2%	18,424	20,470	2,045

*"Murder" refers to "murder/non-negligent manslaughter."

Source: Urban Institute analysis of the Bureau of Justice Statistics' *National Corrections Reporting Program* data, 1991 and 1996.

Table 3.9B. Pennsylvania decomposition data

Decomposition of change in number of prison admissions, 1991-1996:
Estimated amount of change in admissions due to changes in each component

Offense category	Amount of change in admissions due to change in				Prison admission rate
	Change in admissions	Population	Offenses	Arrests	
Violent	116	17	-16	-2	118
Part 1 Crimes	123	15	-106	-2	216
Murder*	-41	2	-30	-53	40
Rape	31	3	-53	3	78
Robbery	82	6	27	-34	83
Agg Aslt	51	4	-49	81	16
Other Violent	-7	2	n/a	90	-98
Property	-283	8	-52	-74	-165
Drug	-152	14	n/a	182	-347
Other	99	4	n/a	17	78
TOTAL	-220	43	-158	212	-317

*"Murder" refers to "murder/non-negligent manslaughter."

Source: Urban Institute analysis of the Bureau of Justice Statistics' *National Corrections Reporting Program* data (for prison admissions); the *Uniform Crime Reports* (for offense and arrest data); and the *Statistical Abstract of the U.S.* (for state population data).

Decomposition of the change in the expected number of prisoners, 1991-1996:
Estimated amount of change in expected prison population due to changes in each component

Offense category	Amount of change in expected number of prisoners due to:				Prison admission rate	Expected length of stay
	Change in expected # of prisoners	Population	Offenses	Arrests		
Violent	1,956	95	-491	-161	1,078	1,434
Part 1 Crimes	1,958	90	-776	-161	1,391	1,414
Murder*	100	18	-257	-443	336	446
Rape	509	23	-391	21	576	279
Robbery	731	29	130	-162	397	336
Agg Aslt	618	20	-258	423	82	352
Other Violent	-2	6	n/a	285	-313	20
Property	-185	23	-144	-206	-456	598
Drug	-120	34	n/a	450	-859	256
Other	395	9	n/a	42	189	155
TOTAL	2,045	161	-920	410	-48	2,442

*"Murder" refers to "murder/non-negligent manslaughter."

Source: Urban Institute analysis of the Bureau of Justice Statistics' *National Corrections Reporting Program* data (for prison admissions); the *Uniform Crime Reports* (for offense and arrest data); and the *Statistical Abstract of the U.S.* (for state population data).

UTAH

Utah has an indeterminate sentencing system with parole release. Utah qualified for its federal TIS grant based on the 1996 amendments to the Crime Act, which permitted indeterminate sentencing states to receive grants if offenders served 85 percent of their sentences in accordance with the state's sentencing and release guidelines. Utah has no statute requiring truth in sentencing, but since 1985 has implemented a system of sentencing guidelines. Sentencing policies regulate the minimum percent of the imposed sentence that must be served before offenders could become eligible for parole release. Utah did not change its sentencing and release practices during the study period.

Hypotheses about effects of sentencing reforms on sentencing outcomes

Utah is similar to Pennsylvania, in that both states have indeterminate and parole release systems. However, Pennsylvania required violent offenders to serve the minimum term before becoming eligible for release, while Utah required that a portion of the minimum term be served before parole eligibility was available. Because Utah did not change its sentencing practices during the study period (unlike Pennsylvania, which revised its sentencing guidelines), it is hypothesized that offending and the law enforcement response (arrests) would have larger effects on changes in prison admissions and in the expected prison population than would sentencing and release decisions such as the prison admission rate and expected length of stay. Hence, it is expected that prison admission rates and expected length of stay remain relatively constant throughout the study period and that there is not an increase in the severity of punishment for violent offenders. In sum:

- H-1. Changes in sentencing outcomes will be influenced more by changes in the pre-sentencing factors than by changes in sentencing decisions

(which are hypothesized to be relatively constant).

- H-2. Changes in sentencing outcomes across offense groups—violence, property, and drugs—are hypothesized to be comparatively equal.

Changes in punishment

The number of prison admissions in Utah almost doubled between 1991 and 1996, as Utah had 637 admissions in 1991 and 1,258 in 1996. Admissions of violent offenders increased by 67 percent, from 114 to 191, while admissions of drug offenders more than tripled, from 92 to 310. Admissions of property offenders increased by 40 percent from 330 to 463. Accompanying the increase in the number of admissions were increases in the prison admission rate. Overall, the rate increased from 0.6 percent to 1 percent. For violent offenders, the prison admission rate increased from 5 percent to 8.5 percent. This 3.6 percent percentage point increase was larger than the increase for property offenders (from 1.4 percent to 2.2 percent) and the increase for drug offenders (from 2.8 percent to 3.6 percent).⁹⁶

Overall, expected length of stay decreased by 5 months, from 25 to 20.3 months. For violent offenders, expected length of stay decreased by 2 months (from 36.7 to 34.6 months). The decreases for property and drug offenders were similarly small; for property offenders expected length of stay decreased from 19.1 to 17.3 months, while for drug offenders it decreased from 13.4 to 12.4 months. The expected number of prisoners increased by 783 from 1,314 to 2,096. Increases in the expected number of prisoners occurred for violent, property, and drug offenders. The expected number of violent

⁹⁶ The data tables used in the analysis of Utah sentencing outcomes can be found in tables 3.10A and 3.10B, which appear at the end of this write up of results.

offenders increased by 203 (from 349 to 551); for property offenders, the increase was 143 prisoners (from 535 to 668); and for drug offenders, the increase was 314 offenders (from 103 to 416).

Prison admissions: Decomposition results

The number of violent offenders admitted into prison increased by 77 admissions, from 114 to 191. Changes in sentencing decisions (the prison admission rate) accounted for an increase of 85 admissions of violent offenders. The magnitude of this effect was about equal to the combined effects of changes in population, offending, and arrests, although the directions of the effects of these three factors were both positive and negative. Changes in population and offending rates exerted positive effects on the number of violent offenders admitted into prison (accounted for an additional 40 admissions), while changes in arrests for violent offenses contributed a negative 47 to the number of admissions.

For property and drug offenders, the effects of changes in offending and law enforcement were about equal to or slightly greater than the effects of changes in the prison admission rate on the change in the number of property and drug admissions. Combined, population, offending, and arrests accounted for more than 200 admissions (in absolute value), but the directions of effects were both positive and negative. Population and offender contributed positive 53 and 24 to the number of property offense admissions, while arrests contributed a negative 131. The prison admission rate for property offenders also contributed a positive 187 to the number of admissions, but this magnitude was slightly less than the combined effects of the criminal justice system factors that preceded the sentencing decision. For drug offenders, the effects of population and arrests were larger than the effects of the prison admission rate. Arrests of drug offenders contributed a positive 237 admissions, while population changes contributed an additional 46. By comparison, the prison admission rate for drug offenders contributed only 27 admissions.

The effects of sentencing decisions and the pre-sentencing factors on changes in the number of admissions operated in the hypothesized directions. That is, the increase in admissions that occurred in Utah is explained primarily by factors outside of the sentencing decision—the changes in population, offending, and arrests. While changes in prison admissions contributed additional positive amounts to the number of violent, property, and drug offenders, the magnitude of the effects of changes in the prison admissions rate were equaled or exceeded by the magnitude of the effects of these other variables. This result is consistent with the hypothesis that absent changes in sentencing policies, sentencing practices are likely to remain relatively constant and the major forces affecting sentencing outcome such as prison admissions are those related to offending and arrests.

Expected number of prisoners: Decomposition results

The expected number of prisoners increased by 783. This quantity increased for violent, property, and drug offenders. The largest increase in the expected number prisoners came in the drug offense category, as drug offenders increased by 314, followed by violent offenders (an increase of 203), and property offenders (increase of 143).

The change in the expected number of violent offense prisoners was about equally determined by sentencing and release decisions (the prison admission rate and expected length of stay) and the pre-sentencing factors (population, offending, and arrests). Of the two sentencing factors, changes in the prison admission rate had a positive and much larger effect (in absolute value) on the expected number of prisoners than did expected length of stay (227 as compared to -2). However, the combined effects of population, offense, and arrest changes (236 expected prisoners in absolute value) were slightly greater than the combined effects of sentencing and release decisions. Additionally, the effects of population, offending, and arrests were in

opposing directions, as population and offending exerted positive effects on the expected number of violent offense prisoners, while changes in arrests led to a decrease of 129 prisoners.

For property offenses, the changes in the expected number of prisoners was also about equally determined by the sentencing and release factors as compared to the population, offending, and arrest factors; however, the combined magnitude of effects of the sentencing and release factors was slightly larger than the combined effects of the other factors. As occurred with the expected number of violent offense prisoners, the prison admission rate for property offenders exerted a large positive effect (269 prisoners) and expected length of stay exerted a smaller negative effect (negative 49 prisoners). And, the effects of population, offending, and arrests were also in opposing directions. Population and offending contributed a total of 112 prisoners, while arrests contributed a negative 189 to the expected number of property offense prisoners.

For drug offenders, the effect on the change in the expected number of prisoners of changes in population and arrests greatly exceeded the effect of the prison admissions rate and length of stay. Arrests alone contributed a positive 245 prisoners, while population added 48 more. The effect of the prison admission on the expected number of drug offense prisoners was about one-ninth that of the effect of arrests (28 prisoners), and the expected length of stay contributed a negative 8 prisoners.

The results of the decomposition analysis generally support the hypothesized effects. For violent offenders, changes in factors external to sentencing (population, offending, and arrests) contributed slightly more to the expected number of violent offense prisoners than did changes in the prison admission and expected length of stay (in absolute value). Similarly, for drug offenders, changes in arrests accounted for the majority (78 percent) of the change in the expected number of drug offense prisoners, and population contributed

more than did the prison admission rate (48 vs. 28). Only for property offenses did the sentencing and release factors contribute more to the expected number of prisoners than did population, offending, and arrests, but the difference was negligible. These findings are consistent with the hypothesis that absent changes in sentencing policy, sentencing practices will tend to remain constant and therefore changes in sentencing outcomes will be affected largely by changes in the composition of cases arriving to the courts rather than sentencing decisions.

Conclusions about changes in admissions and expected prisoners

Utah did not enact sentencing reforms during the 1991 to 1996 period; its truth-in-sentencing practices were essentially the same as its practices prior to its receipt of its federal TIS grant. The observed changes in sentencing outcomes—admissions and expected number of prisoners—were determined at least equally if not more by factors prior to the sentencing decision (changes in population, offenses, and arrests) than by sentencing and release practices. These findings are consistent with the hypothesis of a stable sentencing system that responds to the cases brought before it. Absent changes in policy, the changes in practices were small compared to changes in offending and arrests, and these latter factors were largely responsible for the observed changes in sentencing outcomes.

Table 3.10A. Utah prison admissions data

Prison admissions, 1991 and 1996

Offense category	1991		1996		Difference '96-'91		Percent change '91 to '96
	Number	% distrib.	Number	% distrib	Number	% distrib	
Violent	197	30.9%	271	21.5%	74	-9.4%	37.6 %
Part 1 Crimes	114	17.9%	191	15.2%	77	-2.7%	67.5 %
Murder*	13	2.0%	17	1.4%	4	-0.7%	30.8 %
Rape	34	5.3%	43	3.4%	9	-1.9%	26.5 %
Robbery	34	5.3%	50	4.0%	16	-1.4%	47.1 %
Agg Aslt	33	5.2%	81	6.4%	48	1.3%	145.5 %
Other Violent	83	13.0%	80	6.4%	-3	-6.7%	-3.6 %
Property	330	51.8%	463	36.8%	133	-15.0%	40.3 %
Drug	92	14.4%	402	32.0%	310	17.5%	337.0 %
Other	18	2.8%	122	9.7%	104	6.9%	577.8 %
TOTAL	637	100.0%	1,258	100.0%	621	0.0%	97.5 %

*"Murder" refers to "murder/non-negligent manslaughter."

Source: Urban Institute analysis of the Bureau of Justice Statistics' *National Corrections Reporting Program* data, 1991 and 1996.

Prison admissions to arrest ratio:

Probability of imprisonment given arrest, 1991 and 1996

Offense category	1991		Difference '96-'91
	1991	1996	
Violent	1.7%	2.0%	0.3%
Part 1 Crimes	4.9%	8.5%	3.6%
Murder*	35.1%	25.8%	-9.4%
Rape	16.2%	27.9%	11.7%
Robbery	9.8%	12.4%	2.6%
Agg Aslt	1.9%	5.0%	3.1%
Other Violent	0.9%	0.7%	-0.2%
Property	1.4%	2.2%	0.8%
Drug	2.8%	3.6%	0.8%
Other	0.0%	0.2%	0.1%
TOTAL	0.6%	1.0%	0.4%

*"Murder" refers to "murder/non-negligent manslaughter."

Source: Urban Institute analysis of the Bureau of Justice Statistics' *National Corrections Reporting Program* data, 1991 and 1996, and the *Uniform Crime Reports* for data on arrests.

Estimated expected length of stay, in months, and expected number of prisoners,
based on offenders entering prison in 1991 and 1996

Offense category	Expected length of stay (months)				Expected number of prisoners		
	1991	1996	Difference		1991	1996	Change
			'96-'91	% change			
Violent	40.3	37.3	-3.0	-7.4%	661	842	181
Part 1 Crimes	36.7	34.6	-2.1	-5.6%	349	551	203
Murder*	45.5	45.9	0.4	1.0%	49	65	16
Rape	44.4	42.8	-1.6	-3.6%	126	153	28
Robbery	37.2	34.8	-2.4	-6.5%	105	145	40
Agg Aslt	24.8	27.9	3.1	12.3%	68	188	120
Other Violent	45.2	43.6	-1.6	-3.6%	313	291	-22
Property	19.1	17.3	-1.8	-9.4%	525	668	143
Drug	13.4	12.4	-1.0	-7.3%	103	416	314
Other	16.1	16.7	0.6	3.5%	24	170	146
TOTAL	25.0	20.3	-4.8	-19.1%	1,314	2,096	783

*"Murder" refers to "murder/non-negligent manslaughter."

Source: Urban Institute analysis of the Bureau of Justice Statistics' *National Corrections Reporting Program* data, 1991 and 1996.

Table 3.10B. Utah decomposition data

**Decomposition of change in number of prison admissions, 1991-1996:
Estimated amount of change in admissions due to changes in each component**

Offense category	Amount of change in admissions due to change in				
	Change in admissions	Population	Offenses	Arrests	Prison admission rate
Violent	74	31	24	-47	66
Part 1 Crimes	77	22	18	-47	85
Murder*	4	2	1	5	-3
Rape	9	5	-4	-17	25
Robbery	16	6	9	-8	9
Agg Aslt	48	9	12	-27	54
Other Violent	-3	9	n/a	6	-18
Property	133	53	24	-131	187
Drug	310	46	n/a	237	27
Other	104	14	n/a	6	84
TOTAL	621	145	42	70	364

***Murder* refers to "murder/non-negligent manslaughter."

Source: Urban Institute analysis of the Bureau of Justice Statistics' *National Corrections Reporting Program* data (for prison admissions); the *Uniform Crime Reports* (for offense and arrest data); and the *Statistical Abstract of the U.S.* (for state population data).

**Decomposition of the change in the expected number of prisoners, 1991-1996:
Estimated amount of change in expected prison population due to changes in each component**

Offense category	Amount of change in expected number of prisoners due to:					
	Change in expected # of prisoners	Population	Offenses	Arrests	Prison admission rate	Expected length of stay
Violent	181	97	66	-129	160	-14
Part 1 Crimes	203	63	44	-129	227	-2
Murder*	16	7	4	17	-13	0
Rape	28	18	-12	-61	88	-5
Robbery	40	17	26	-22	27	-7
Agg Aslt	120	22	27	-63	126	8
Other Violent	-22	33	n/a	23	-67	-11
Property	143	77	35	-189	269	-49
Drug	314	48	n/a	245	28	-8
Other	146	20	n/a	8	117	1
TOTAL	783	241	78	-43	575	-69

***Murder* refers to "murder/non-negligent manslaughter."

Source: Urban Institute analysis of the Bureau of Justice Statistics' *National Corrections Reporting Program* data (for prison admissions); the *Uniform Crime Reports* (for offense and arrest data); and the *Statistical Abstract of the U.S.* (for state population data).

CHAPTER 4.

Methodology

This chapter describes the research methods, models, and data analytic techniques used in this report to compile, process, and analyze data on legislative processes, sentencing policies and practices (particularly truth-in-sentencing practices) as they relate to sentencing outcomes. A brief summary of the methodologies used in each chapter follows.

ANALYSIS OF 1994 AND 1996 FEDERAL TRUTH-IN-SENTENCING LEGISLATION IN CHAPTER 1

The text contained within the 1994 Crime Act and 1996 Amendment were analyzed to identify and compare eligibility criteria. No systematic efforts were made to discern legislative intent from the debates or legislative histories except for statements that are contained within the text of the law.

The interpretation of the 1994 and 1996 federal TIS laws was supplemented through interviews with Corrections Program Office personnel and Office of Justice Programs counsel, as well as reference to other relevant documentation and published commentaries.

Information on grant qualification criteria was obtained from a review of Corrections Program Office documents (including grant solicitations and materials posted on their internet web site) and review of state grant applications for VOI/TIS funding.

MATRIX OF CHANGES IN STATE SENTENCING STRUCTURES IN CHAPTER 2

The purpose of this analysis is to characterize the extent to which states incorporated truth in sentencing into their sentencing statutes and to determine the association between the timing of their changes in TIS standards in relation to the timing of the federal TIS laws. For the purpose of this analysis, “truth in sentencing” refers to a legal requirement for offenders to serve a specified percentage of their court-imposed sentences in prison. The frame of reference used in the analysis is state sentencing law as it applies to serious violent offenders; this is because the federal TIS grant initiative focuses on part 1 violent offenders. All fifty states and the District of Columbia were included in this analysis.

Information from a variety of published and unpublished sources was used to characterize each state’s sentencing laws with regard to truth in sentencing before and after the initial passage of the Crime Act in September 1994. (Data were collected primarily from published reports, but supplemented with interviews with federal and state officials, a review of state applications for VOI/TIS funding, and information presented on state sentencing commission or department of corrections web sites.) This analysis, however, did not include an in-depth legal analysis of each state’s sentencing statutes. January 1, 1995 was chosen as the cut-off date for this “pre/post” analysis of state legislative changes before and after the passage of the federal grant initiative. The published reports that were consulted include:

Bureau of Justice Assistance. 1995. *National Assessment of Structured Sentencing*. Washington, D.C.: U.S. Department of Justice. NCJ 153853.

- Bureau of Justice Assistance. 1998. *1996 National Survey of State Sentencing Structures*. Washington, D.C.: U.S. Department of Justice. September. NCJ 165369.
- Clark, John, James Austin, and D. Alan Henry. 1997. *"Three Strikes and You're Out": A Review of State Legislation*. National Institute of Justice Research in Brief. Washington, D.C.: U.S. Department of Justice. September. NCJ 165369.
- Ditton, Paula M. and Doris James Wilson. 1999. *Truth in Sentencing in State Prisons*. BJS Special Report. Washington, D.C.: U.S. Department of Justice. January. NCJ 170032.
- General Accounting Office. 1998. *Truth in Sentencing: Availability of Federal Grants Influenced Laws in Some States*. Washington, D.C.: U.S. General Accounting Office. February. GAO/GGD-98-42
- Kauder, Neal B., Brian J. Ostrom, Meredith Peterson, and David Rottman. 1997. *Sentencing Commission Profiles*. National Center for State Courts. December.
- National Association of Sentencing Commissions. *Sentencing Commission News*. Issues 1 through 9, accessed through the web site of the United States Sentencing Commission, <http://www.ussc.gov/states> on September 10, 1999.
- National Institute of Corrections. 1995. *State Legislative Actions on Truth in Sentencing: A Review of Law and Legislation in the Context of the Violent Crime Control and Law Enforcement Act of 1994*. Washington, D.C.: U.S. Department of Justice. May 26. NCJ 157895.
- National Institute of Corrections. 1995. *Truth in Sentencing Law and Indeterminate Sentencing in Eighteen States: A Review in the Context of 1995 Congressional Discussions*. Washington, D.C.: U.S. Department of Justice. December.
- Ostrom, Brian J., Neal B. Kauder, David Rottman, Meredith Peterson. 1998. *Sentencing Digest: Examining Current Sentencing Issues and Policies*. National Center for State Courts.

State sentencing laws were categorized along two dimensions: determinacy and truth in sentencing. Attempts were made to distinguish between determinate and indeterminate sentencing structures because of the expectation that the implementation of truth in sentencing would be fundamentally different across the two types of sentencing regimes. A review of the literature on sentencing structures showed that there is great variation in how "determinacy" and "indeterminacy" are implemented in the states, but there were also a few commonalities. The following working definitions of determinacy and indeterminacy were used:

- Under determinate sentencing, offenders are generally sentenced to a fixed term of imprisonment (e.g., 10 years).
- Under indeterminate sentencing, offenders generally receive a sentence range (e.g., 2 to 6 years). Depending on the state, the upper end of the range is either specified by the sentencing judge or specified in statute.

Sentencing structure definitions were based on how sentences are imposed in each state. Release procedures were not used as a criterion in classifying states as determinate or indeterminate, because there are both determinate and indeterminate systems that used some form of discretionary (e.g., parole) release decisions. Moreover, the role of post-release supervision was excluded from the analysis. The working definitions of determinacy and indeterminacy used in the report are consistent with the literature⁹⁷ and with the language in the 1996 amendments to the Crime Act.

To create table 2.1, states were grouped according to the nature of their TIS laws. The language of the federal TIS incentive grant program calls for violent offenders to serve 85 percent of their

⁹⁷ See, for example, Bureau of Justice Assistance. 1998. *1996 National Survey of State Sentencing Structures*. Washington, D.C.: U.S. Department of Justice. NCJ 153853.

sentences. However, some states with other requirements also consider themselves to have truth in sentencing. Examples include states with requirements to serve 100 percent of the minimum sentence, or requirements to serve 50 percent of the determinate sentence. Because of the diversity of sentencing structures among the states, we divided state TIS laws into five categories. These divisions represent varying degrees of truth in sentencing:

1. Offenders serve 85 percent or more of the determinate sentence imposed.
2. Offenders serve a specific percentage (less than 85 percent) of the determinate sentence imposed.
3. Offenders serve 85 percent or more of the maximum term of the indeterminate sentence imposed.
4. Offenders serve some other specific percentage of the indeterminate sentence imposed. This could be a specific percentage of the minimum term, or some other percentage (less than 85 percent) of the maximum term imposed.
5. The law does not specify a percentage of the sentence to be served.

It is worth repeating that the frame of reference is state sentencing law as it applies to serious violent offenders. The classifications are based on how each state's TIS law addresses the sentencing of serious violent offenders; they are not based on current practices or on a state's federal grant status. For example, if a state generally practices indeterminate sentencing, but imposes determinate sentences on violent offenders, it is classified as a determinate sentencing state because this best describes how violent offenders are sentenced.

ESTIMATION OF EXPECTED LENGTH OF STAY IN CHAPTER 3

The quantity "expected length of stay" is used to measure the outcome of sentencing decisions and in the analysis of the influence of changes in sentencing reforms on prison outcomes. Expected length of stay is an estimate of the length of time that offenders entering prison during a given year on a new court commitment can expect to serve prior to their release from prison on a "valid" release such as parole, mandatory release, or expiration of sentence. Expected length of stay is used to estimate the length of stay associated with sentences imposed at a point in time. To get the actual length of stay for offenders entering prison at a point in time would require tracking offenders over several years; this is particularly true for serious violent offenders. Comparing data on persons exiting prison with persons admitted into prison, say, under a determinate sentencing system, would present problems if (a) the volume of prison admissions were changing, or (b) sentence lengths and time served were changing. Hence, expected length of stay is the key quantity to estimate and compare. Estimates of expected length of stay were developed for each year, 1991 and 1996 (or in the case of Ohio, 1990, 1996, and 1998).

General method for estimating expected length of stay

In general, data on offenders exiting prison was used to model the relationship between sentences imposed and length of stay in one of two situations: (1) for all pre-truth-in-sentencing estimates of expected length of stay, this method was used; and (2) for offenders subject to truth-in-sentencing laws, expected length of stay estimates were developed based on knowledge of state's TIS requirements. For example, in Ohio it was estimated that offenders would serve 97 percent of their imposed sentences under the new sentencing reforms and TIS laws; hence, expected length of stay for new law offenders was estimated as the product of sentence imposed times 97 percent.

To estimate pre-TIS expected length of stay, regression models of time served on the length of sentence imposed were developed. These models included observations for the entire pre-truth-in-sentencing period. Additional variables, such as offender demographic characteristics, offense type, and release type, were included in the regression models. The key relationship estimated was that between the actual time served by persons leaving prison and their imposed sentence lengths.

After these regressions were estimated, expected length of stay was predicted for all persons admitted into prison during 1991. This was done for each prison commitment separately, using the regression coefficients from the models that estimated time served. Results of these estimations were then aggregated to the offense categories shown in the report.

Data sources

The Bureau of Justice Statistics *National Corrections Reporting Program (NCRP)* data was the base source of information for six of the seven states: Georgia, Washington, Illinois, New Jersey, Pennsylvania, and Utah. The Ohio Department of Rehabilitation and Correction provided data to the project. The NCRP data for the years 1990 through 1996 on offenders admitted into and released from prison were used. The NCRP data do not include prisoner stock information.

Exclusions and the creation of state-specific analysis datasets

Several exclusions were made in the process of estimating expected length of stay. These were:

- As the outcome of interest was expected length of stay for new court commitments, all NCRP admissions and releases denoted as other than a new court commitment were excluded.
- Releases denoted as transfers were excluded from the analysis, since a transfer does not constitute the end of prison term service.
- Admissions and releases with a maximum sentence of less than 12 months were excluded; this is the same as the Bureau of Justice Statistics exclusion used to measure commitments for felony offenses.
- Offenders with a maximum sentence of life in prison (with or without parole) or death were included in the regressions but they were excluded from calculations of the percentage of sentence to be served.
- As the outcome of interest is time to first release from prison, records that were re-admissions to prison for the same commitment were excluded.

State-specific regression models

Expected length of stay is determined within the context of a state's sentencing and release practices. We therefore estimated regressions of expected length of stay separately for each state included in this analysis. We used state-specific measures so, inevitably, the exact model specifications vary across states. For example, the “sentence imposed” may refer to the minimum term in some states, but the maximum term in others. Similarly, time served in prison may or may not include jail time served while the case was pending a court decision. The general form of the models used is as follows:

$$\text{Time served} = \text{Sentence imposed} + \text{Demographics} + \text{Offense} + \text{Release Type} + \text{error}$$

To understand the factors affecting time served by specific offense groups, and to improve the quality of the estimates, four models for each state were developed:

Model 1—This included the data on all offenders. Dummy variables were used to measure the broad offense categories of violent, property, drug, and other. These parameters were then applied to the individual level data to estimate time served for offenders admitted into prison. Individual estimated time served from the regressions was aggregated to the offense categories.

Model 2—This model was run on the data for violent offenders only. Detailed offenses within this broad category were measured by dummy variables for the UCR part 1 violent offenses—homicide, rape, robbery, and aggravated assault—as well as a dummy variable for other violent offenses. The aggregation of predicted expected length of stay was done as in model 1.

Model 3—This was run separately for property offenders only. Specific offenses are measured by dummy variables for the UCR part 1 property offenses—burglary, larceny, motor vehicle theft, and arson—as well as a variable for other property offenses. Larceny and motor vehicle theft were combined in some states to compensate for low frequencies in the state data.

Model 4—This was a drug offense only model. Specific types of drug offenses were measured by dummy variables for drug trafficking, drug possession, and other drug offenses. Note that drug possession and other drug offenses were combined in states to compensate for low frequencies in the state data.

Estimating expected length of stay in the admission cohort

In general, time served was estimated for pre-TIS cases using the regression equation based on persons leaving prison during the pre-TIS period. For post-TIS cases, expected time served was estimated using the percentage of sentence imposed required by the TIS statute. The pre TIS regression models include terms for the type of release from prison. This is because release type was a significant predictor of the actual time served by offenders in the release cohort. Of course, type of release is unknown for cases in the admission cohort. To account for the effect of release type on time served, we generated regression estimates of time served for each of three possible release scenarios—release to criminal justice supervision (e.g., parole or probation), release at the end of the stated term, and other release (e.g., sentence commutation or death). Using data from the release cohort's experience, we estimated the proportion of the entering cohort that would be released in each of these possible ways. Estimated time served for the admission cohort is a weighted sum of the regression estimates under each of the three release scenarios.

Table 4.1 provides summary notes on each state-level model specification. Ohio is not shown in table 4.1 because it provided its own data. The key specification issues for Ohio included: Sentence imposed was the minimum term; time served = $R - A + \text{jail credit}$; admissions prior to 1996; separate drug models.

Other factors, such changes in sentencing guidelines that led to shifts in the sentence imposed were included where appropriate in a state's model.

The full regression results are available upon request from the authors.

Table 4.1. Summary of state-specific model specifications of time served for NCPR data states

State	Sentence imposed = minimum or maximum term	Time served	Cases modeled (this generally represents the pre-TIS period)	Combined larceny & motor vehicle theft?	Combined drug possession & other drug charge?	Any other variables added to model?
Georgia	Maximum	R - A plus jail credits	Admitted to prison = 1994	No MVTs reported	No	No
Illinois	Maximum	R - A plus jail credits	Admitted to prison = 1995	No	No	No
New Jersey	Maximum	R - A only	Admitted to prison = 1996	No MVTs reported	No	No
Pennsylvania	Minimum	R - A plus prison credits	Admitted to prison = 1996	Small number of MVTs reported	No	Dummy variable for 1994 sentencing guidelines
Utah	Maximum	R - A only	Admitted to prison = 1996	No	No	No
Washington	Maximum	R - A plus jail credits	Admitted to prison = 1996	No	Small number of other drugs reported	No

DECOMPOSITION OF CHANGES IN ADMISSIONS AND EXPECTED PRISON POPULATION IN CHAPTER 3

The decomposition methods were used to analyze the amount of change in prison admissions and expected prisoners that obtained from changes in several factors. Data, and their sources, used in the analysis included:

- State population—*Statistical Abstract of the U.S.*, various years;
- Offenses reported to the police and arrests by the police—Uniform Crime Reports. FBI *Crime in the United States* reports for 1991 and 1996.
- Prison admissions and sentences imposed—*National Corrections Reporting Program* data files for 1991 and 1996 for all states except Ohio. The Ohio Department of Rehabilitation and Correction provided data on prison admissions and releases into Ohio state prisons.
- Estimated time served and expected prison population—Estimated through analysis of the NCPR data in 1991 and 1996 and Ohio data for 1990 through 1996.

As described in Chapter 3, the decomposition analysis relies upon the mathematical identity in the flow model that describes the relationship between the population, offending, arrests, prison admissions, expected length of stay, and the expected prison population. The two outcomes analyzed by the decomposition methods were (1) changes in the number of prison admissions and (2) changes in the expected number of prisoners. The equations defining each of these outcomes are shown below. The decomposition of the changes in the number of prison admissions is also illustrated; the same approach was taken to the decomposition of the changes in the expected number of prisoners.

Flow models for prison admissions and expected prisoners

The analysis begins with the development of a simplified flow model of the criminal justice process, shown below. This begins with the population and ends with the prison population (expected

number of prisoners). Flows are disaggregated by offense group. Separate models are done in each time period (1991 and 1996 for all states but Ohio; and 1990, 1996, and 1998 for Ohio).

Population → Offending → Arrests → Prison admission → Length of stay → Expected number of prisoners

These terms are defined as follows:

P = Number of persons in the population

O = Number of reported offenses in the FBI's Uniform crime reports

A = Number of arrests

C = Number of prison admissions (commitments)

LOS = Expected length of stay for offenders entering prison

EP = Expected number of prisoners

From these, equations for the offense-specific number of prison admissions and offense-specific expected number of prisoners in each period can be derived by first creating transition rates between stages of the criminal justice process. These transition rates are defined as:

$o = O/P$ = the rate of offending within the population

$a = A/O$ = the rate of arrest, given offending

$pa = C/A$ = the rate of prison admission, given arrest

$los = LOS$ = estimated length of stay

Using these transition rates, the equations for the offenses-specific number of prison admissions (C) and the offense-specific expected number of prisoners (EP) in a time period is defined as:

$$C_{i,t} = P_{i,t} * o_{i,t} * a_{i,t} * pa_{i,t}$$

and

$$EP_{i,t} = P_{i,t} * o_{i,t} * a_{i,t} * pa_{i,t} * los_{i,t}$$

where the “i” refers to the offense group, and the “t” refers to the time period. Specific offenses analyzed include murder and non-negligent manslaughter, rape, robbery, aggravated assault, other violent offenses, Part 1 property offenses, drug offenses, and other offenses. The number of offenses are not available for “other violent,” drug, and other offenses. Hence, the offense term drops out the equation for these offense groups.

Each of these equations is an identity; that is, the result of the equation obtains by definition. (In the expected number of prisoners equation, for example, expected prisoners is defined as the number of commitments times length of stay.)

To obtain totals, such as the total number of Part 1 violent offenses, all violent offense, and the total number of commitments (expected prisoners), the offense-specific equations are first developed, and then the offense-specific outcomes are summed to generate the respective totals. This essentially weights the transition rates by the offense-specific distributions.

Decomposing outcomes between two periods

To decompose the changes in commitments and expected prisoners into the amounts attributed to changes in each of the factors, the following methods are employed, using the change in the number of prison admissions as an example:

$$C_{i,t+n} - C_{i,t} = (P_{i,t+n} * o_{i,t+n} * a_{i,t+n} * pa_{i,t+n}) - (P_{i,t} * o_{i,t} * a_{i,t} * pa_{i,t})$$

The difference in the number of admissions can be decomposed into its component parts as follows:

$$\begin{aligned} C_{i,t+n} - C_{i,t} = & P_{i,t+n} * o_{i,t+n} * a_{i,t+n} * [pa_{i,t+n} - pa_{i,t}] + \\ & P_{i,t+n} * o_{i,t+n} * [a_{i,t+n} - a_{i,t}] * pa_{i,t} + \\ & P_{i,t+n} * [o_{i,t+n} - o_{i,t}] * a_{i,t} * pa_{i,t} + \\ & [P_{i,t+n} - P_{i,t}] * o_{i,t} * a_{i,t} * pa_{i,t} \end{aligned}$$

The first term on the right-hand side represents the amount of change in admissions due to changes in the prison admission rate. The second row represents the amount due to changes in arrests. The third, the amount due to changes in offenses, and the fourth, the amount due to changes in population.

The decomposition can be done “the other way,” that is, where the differences are done as, for example, $o_{i,t} - o_{i,t+n}$. Given differences in the number of each factor between the periods, differencing the outcomes this way could make a difference in the influence of a factor. In the analysis, decompositions were done both ways and the results were compared. The analysis in Chapter 3 reports the decompositions done in the way shown above. However, there were no differences in results based on the decomposition done the other way.

The results of the offense-specific decompositions are then aggregated across the specific offenses to various levels to give the results for Part 1 violent offenses, all violent offenses, and the totals.