

116166

IMPACT OF TRUTH IN SENTENCING

ON JAIL

AND PRISON POPULATIONS

FEBRUARY 1989

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STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
STATISTICAL ANALYSIS CENTER  
60 THE PLAZA  
DOVER, DELAWARE 19901

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## EXECUTIVE SUMMARY

The passage of the Truth In Sentencing legislation would significantly change the sentencing and release processes in Delaware. The changes outlined by Truth in Sentencing are procedurally compatible with the five tier Sentencing Accountability (SENTAC) sentencing and offender movement statutes. In fact, Truth in Sentencing follows the lead of SENTAC by adopting the 25 percent of the legal maximum as the assumption for sentencing. Furthermore, it defines and provides authority for offender movement by allowing the Department of Corrections, in the last six months of a sentence, to move offenders from Level V full incarceration to Level V quasi incarceration (inmate work release or supervised custody)

Truth in Sentencing is designed to establish sentencing equity by equalizing the percentage of actual time served. Currently, serious offenders such as homicide and sex offenders serve about 30 to 33 percent of their sentences while theft and traffic offenders in jail serve 73 to 78 percent of their sentences. Under Truth in Sentencing, homicide and sex offenders would serve 62 to 65 percent of their sentence.

In many cases, Truth in Sentencing would give the appearance of shorter sentences. For instance, for sex offenses the pre Truth in Sentencing sentence averaged 16.6 years, while under Truth in Sentencing the court sentence would be about 10 years. Actual time served, however, would increase significantly under Truth in Sentencing for sex offenders, increasing from an average of 5.5 years to 6.6 years.

By limiting good time credits to 90 days per year and by restructuring the parole process so that parole would become a rare event, Truth in Sentencing can be defined as a determinate sentencing process. Offenders and the public will know at the time of sentencing what the actual time to be served will be.

Serious offenders under Truth in Sentencing would serve longer sentences. Besides sex offenses, actual time served for homicide would increase from about 7.9 to 10.5 years. Robbery would increase from about 2 to almost 2.5 years, and drug offenses would increase from 1.8 to 2.6 years.

The trade-off, however, comes in shorter actual time served for most burglary and theft offenses. In general, burglary offenses would be reduced from about 1 year to 6 months and theft offenses would be reduced from about 10 months to 3 months.

IF the 25 percent of the maximum was enacted as the presumptive sentencing practice -- and a stable conviction and prison admission environment prevailed -- no growth would be expected in the jail and prison populations. Most RISKS, however, are on the high side and, sentencing deviations higher than the 25 percent presumptive sentence would cause a commensurate increase in the jail and prison populations.

SUMMARY COMPARISON:  
PRE SENTAC, SENTAC, TRUTH IN SENTENCING

The table on the facing page shows the comparisons of the prison and jail populations under different sentencing systems. The first column shows the different prison populations, the second column shows the jail population (level V sentence equal to or less than one year), the third column shows the total incarcerated population (i.e. prison plus jail), and the fourth column shows the difference between total incarcerated populations under the various sentencing systems compared to the 1987 baseline.

The row entitled SENTAC ASSUMPTIONS shows the impact on the incarcerated populations if the presumptive sentencing pattern of 25 percent of the maximum sentence was used for 80 percent of the sentences and 10 percent were sentenced above and below the presumptive sentence. If SENTAC was implemented close to this sentencing pattern -- all things remaining equal -- the total incarcerated population could be expected to decrease by 360. Almost all of the reduction due to SENTAC would be realized in the prison setting.

The TRUTH IN SENTENCING is simulated for each of the major changes called for in the legislation.

First, "What if, only the shorter sentences relating to Truth in Sentencing were implemented and the current good time and parole practices remained in place?". The result: the incarcerated population would be 937 less than the 1987 level of 2,598. The increase in the number of sentences less than one year would actually cause the jail population to increase, while the prison population would show a significant decrease.

Second, "What if, the shorter Truth in Sentencing sentences were combined with the significantly reduced use of parole, but the current good time procedures remained in place?". The result: due to longer time served because of the reduced use of parole, the incarcerated population would be 518 less than the 1987 baseline. The total increase would be felt in the prison population.

Third, "What if, the shorter Truth in Sentencing sentences were combined with the reduced use of parole and limitation of good/merit time to 90 days a year?". The result: these changes would produce an incarcerated population 51 less than the 1987 baseline.

The bottom row entitled TRUTH IN SENTENCING ALTERNATIVES shows what would happen to the incarcerated population if judges granted sentences as close as they could to the current sentencing practices after the implementation of proposed reduced maximums. For this assumption, many of Truth in Sentencing sentences would be grouped near the new maximums rather than around 25 percent presumptive level. Under this scenario, more offenders would receive longer sentences and the population would be 816 greater than the 1987 baseline.

TRUTH IN SENTENCING ANALYSIS  
POPULATION IMPACT  
BASELINE 1987, SENTAC, TRUTH IN SENTENCING ASSUMPTIONS

	PRISON POPULATION	JAIL POPULATION	TOTAL INCARCERATED	DIFFERENCE FROM 1987 BASELINE
BASELINE 1987 EST.	2262	336	2598	0
SENTAC ASSUMPTIONS	1906	332	2238	-360
TRUTH SENT. ASSUMPTIONS				
NEW SENTENCES	1219	443	1662	-936
NEW SENTENCES AND NO PAROLE	1637	443	2080	-518
NEW SENTENCES AND NO PAROLE AND 90 DAYS GT	2104	443	2547	- 51
TRUTH SENT. ALT. ASSUMPTIONS	3078	336	3414	816

## TIME SERVED INEQUITY

In this section the current relationships between sentenced time and actual time served are reviewed from three perspectives. The first perspective examines the percentage of time served by type of offense. The second perspective examines the proportion of time served by the method of release from prison; that is, good time, merit/good time, and parole. The third perspective provides a description of the release process for good time and merit time programs.

## CURRENT RELEASE PROCESSES -- Percentage of Time Served

Current release processes are disproportional when sentenced time is compared to actual time served. The difference is most striking when the percentage of time served for less serious offenses served in jail, 72 percent, is compared to the percentage of time served in prison, 41 percent. The table on the facing page shows the comparison by crime type for time sentenced and time served for pre SENTAC sentences which are currently being phased out and for the sentencing under SENTAC which is being phased in. The difference between time served for less serious and more serious crimes is apparent under both sentencing processes. Also, within the prison category, there is also more than a 10 percentage point difference between the percentage of time served for a serious crime such as sex offenses that serve 33 percent of the sentenced time and less serious crimes like theft and traffic offenses that serve 50 to 52 percent of the sentenced time.



PERCENTAGE OF TIME SERVED  
FOR  
PRE SENTAC AND SENTAC

PRISON

CRIME TYPE	PRE SENTAC			SENTAC		
	SENTENCE	SERVE	PERCENT SERVED	SENTENCE	SERVE	PERCENT SERVED
TOTAL	6.0 YRS	2.5	41%	4.8 YRS	1.9	40%
ACTS DEATH	29.1	8.8	30%	26.0	7.9	30%
SEX	11.3	3.7	33%	16.6	5.5	33%
MISC	9.2	3.8	42%	3.1	1.3	42%
ROBBERY	8.0	3.6	45%	4.7	2.1	45%
BURGLARY	5.0	2.4	48%	2.3	1.1	49%
FORGERY	4.0	1.8	46%	1.8	.8	45%
ASSAULT	3.8	1.7	44%	3.6	1.6	45%
DRUGS	3.4	1.8	53%	3.6	1.8	50%
WEAPONS	3.1	1.5	48%	3.1	1.5	48%
PROB/PAR	3.0	1.3	42%	3.0	1.3	42%
THEFT	2.2	1.1	50%	1.8	.9	50%
TRAFFIC	1.7	.9	52%	1.7	.9	52%

JAIL

TOTAL	80 DAYS	57	72%	79 DAYS	57	72%
ACTS DEATH	--	--	--	--	--	--
SEX	149	118	79%	149	118	79%
MISC.	73	43	60%	73	43	60%
ROBBERY	96	79	83%	--	--	--
BURGLARY	87	58	67%	87	58	67%
FORGERY	118	79	67%	118	79	67%
ASSAULT	106	73	69%	106	72	69%
DRUGS	109	81	74%	109	81	74%
WEAPONS	158	106	67%	158	106	67%
PROB/PAR	112	80	71%	112	80	71%
THEFT	96	70	73%	96	70	73%
TRAFFIC	72	56	78%	72	56	78%

## CURRENT RELEASE PROCESSES -- Method of Release

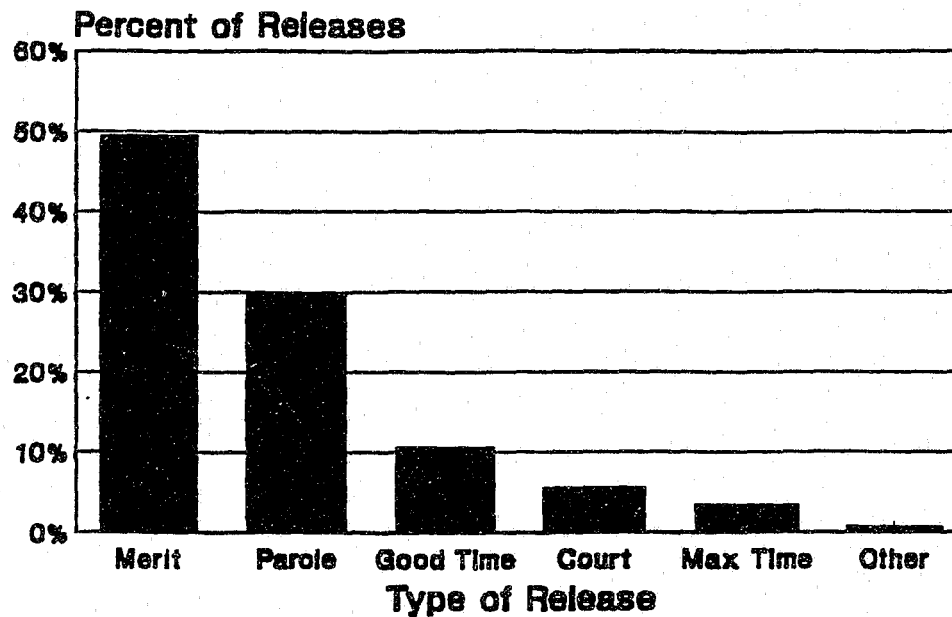
Significant sentencing inequity is apparent when the sentence, time served, the type of release are compared.

On the facing page, the METHOD OF RELEASE graph shows the percentage of releases over the three years (1985-1987) for the different types of release processes. Almost 50 percent of the persons released from prison have participated in the merit/good time programs. Through extra work and program participation, offenders can earn additional time off their sentences. About 30 percent of the prison releasees are released through parole and about 10 percent are released by earning only good time credits. Small percentages of offenders are released under special court rulings, appeals, pardons, and by "maxing-out".

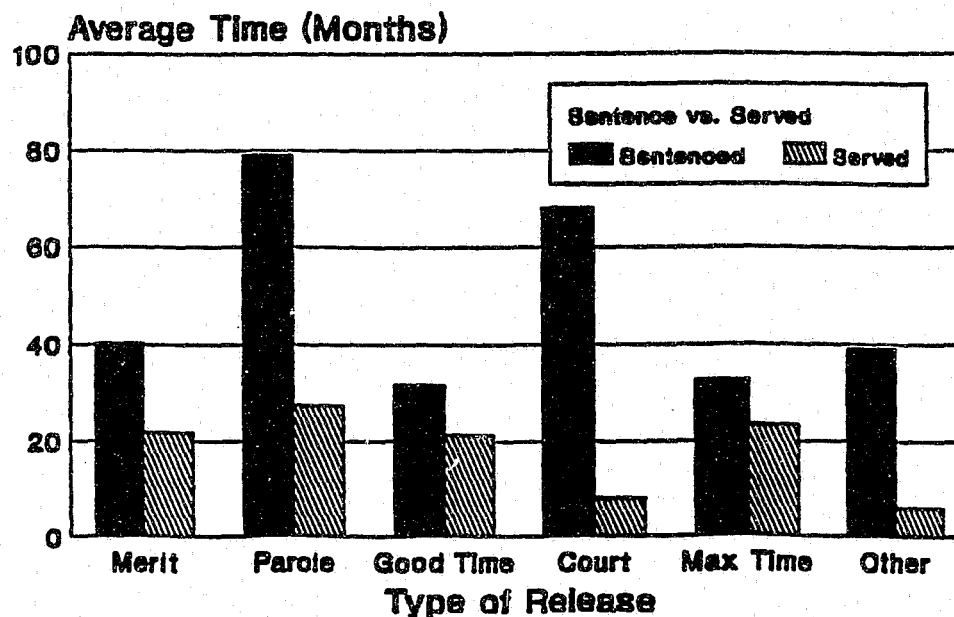
The ORIGINAL SENTENCE AND TIME SERVED graph is aligned directly below the Method of Release graph so that release processes are positioned the same in each graph. This graph shows the average sentence at admission (solid columns) compared to the actual time served (hash marked columns). For example, the graph at the top of the page shows that nearly 50 percent of all prison releases are earned under the merit process. The graph at the bottom of the page shows that this group of releases have an average original sentence of 40 months and serve on average 22 months.

Current release processes are disproportionate when sentenced time is compared to time served. This is most evident when the three most frequently used types of release -- merit, parole, and good time are examined. The longer the sentence the smaller the percentage of time served. Parolees are sentenced to an average of 79.2 months and serve 27.3 months (34 percent). Merit releasees are sentenced to an average of 40.2 months and serve 21.8 months (54 percent). And, good time releasees are sentenced to an average of 31.6 months and serve 21.2 months (67 percent).

## Method of Release Prison Releases 1985 - 1987



## Original Sentence and Time Served Prison Releases 1985 - 1987



## CURRENT RELEASE PROCESSES -- Time Served Patterns

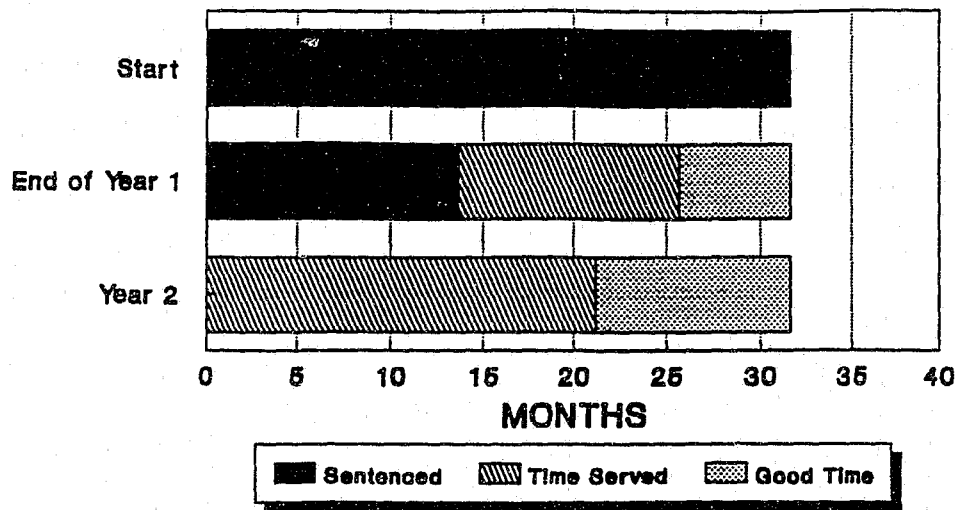
On the facing page, two graphs show examples for the pattern of serving time for offenders who are released under the good time only and the merit time processes. These examples are representative of the "average" situation and may not fit individual cases.

The top graph shows the process of serving a sentence for the good time release offender. The solid bar entitled START shows the full amount of sentenced time for an average good time releasee. In this case, 31.6 months. As shown in the row entitled END OF YEAR 1, the "good time only" offender will have served one year and will have earned good time of almost 6 months -- for a total of about 1.5 years credited against the original sentence. Inside of YEAR 2, the average good time release offender will complete the remaining 13.7 months left on his sentence by serving just over 9 months and by earning additional good time of 4.5 months. For the average 31.6 month "good time only" sentence, the offender will actually serve 21.2 months.

The bottom graph shows the process of serving a sentence for the average "merit time release" offender. A merit time offender is credited with good time credits like those above plus extra earned time for participating in work and special programs. The solid bar entitled START shows the full amount of sentenced time for an average merit time releasee. In this case, 40.1 months. As shown in the row entitled at the END OF YEAR 1, the "merit time" offender will have served one year and will have earned a combination of good and merit time of just over 10 months -- for a total of about 22 months to be credited against the original sentence. Inside of YEAR 2, the average merit time offender will complete the remaining 20 months of the 40.1 month sentence by serving about 10 months and by earning an additional good and merit time of about 8 months. For the average 40.1 month "merit time" sentence, the offender will actually serve 21.8 months.

## Good Time Release

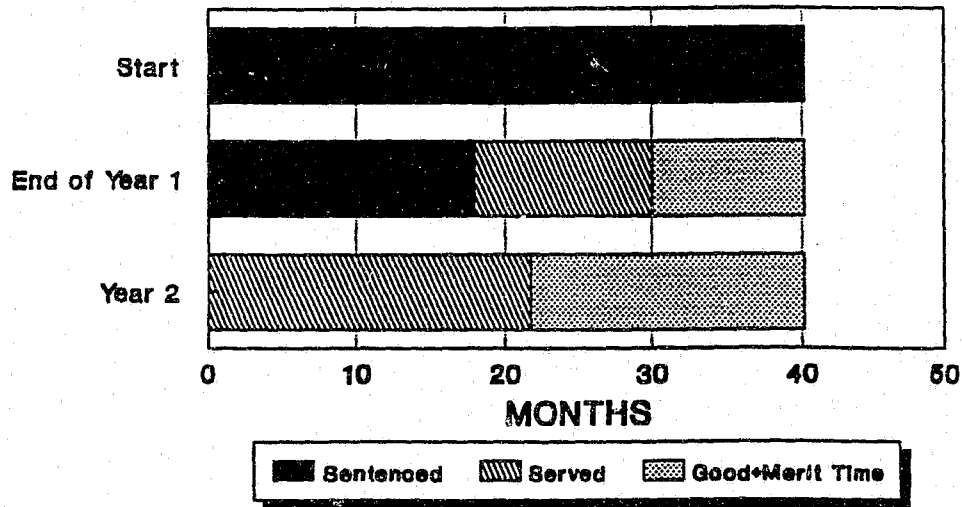
### Average Pattern 1985 - 1987



Time Sentenced: 31.8 Months  
 Time Served: 21.2 Months  
 Good Time: 10.4 Months

## Merit Time Release

### Average Pattern For 1985 -1987



Time Sentenced: 40.14 Months  
 Time Served: 21.8 Months  
 Good + Merit Time: 18.24 Months

## CHANGING SENTENCING STRUCTURES

Including Truth and Sentencing, there would be three different sentencing structures operative at the same time in Delaware. The Pre SENTAC sentencing structure is phasing out as the SENTAC sentencing structure is phasing in. As Truth in Sentencing phased in offenders sentenced both under Pre SENTAC and SENTAC would be phasing out.

The facing page shows an example of the changing structure for Pre SENTAC, SENTAC, and Truth in Sentencing. The crime used to illustrate the changing sentencing structures is Burglary 2nd degree.

The first column shows the Pre SENTAC sentencing practice used until October 1987. The sentencing range for Burglary 2nd degree offender in the Pre SENTAC period was 2 to 20 years. This range is delineated by lower and upper set of brackets (\*\*\*\*). Below the column "Years" the scale from 0 to 20 years is listed. Below the column "Frequency" the number of persons sentenced between 0 to 20 years is listed at the different points on the scale. For example, 6 offenders were sentenced for 10 years, 30 offenders for 2 years, and 47 for 0 years. To be sentenced to 0 years means that offenders were convicted but had their total incarcerated time suspended and were placed on probation. In total, there were 147 Burglary 2nd convictions. Ninety-seven (48 percent) were incarcerated -- 8 to jail with sentences less than 1 year and 89 to prison with a sentence greater than 1 year. The mean sentence was 3.1 years.

The middle column shows the Burglary 2nd degree presumptive sentencing structure for SENTAC. The range remains the same as the Pre SENTAC sentencing structure, 2 to 20 years. If judges follow the presumptive sentencing assumption for Burglary 2nd, that is, 25 percent of the maximum, the presumptive and most likely sentence would be 5 years -- almost 2 years greater than under the Pre SENTAC sentencing structure. Burglary 2nd degree is one of the very few crimes that have a higher presumptive sentence than the Pre SENTAC sentencing pattern.

The right hand column shows what the sentencing pattern would appear with Truth in Sentencing. The sentencing range is reduced from 2-20 to 0-8 years. Using the presumptive of sentencing at 25 percent of maximum the mean sentenced would be 2.35 years. The Truth in Sentencing sentence would be 9 months less than Pre SENTAC mean and about 2 years and 8 months less than SENTAC mean. For most crimes, the sentencing range is reduced under Truth in Sentencing. Other examples include: Unlawful Sexual Intercourse 3rd from 3-30 to 2-20, Robbery 2nd from 0-10 to 0-5, and Assault 2nd from 2-20 to 0-5.

# BURGLARY 2ND DEGREE

## PRESENTAC 1986

Years:Frequency

20\*\*\*\*\*  
19 +  
18 +  
17 +  
16 +  
15 +  
14 +  
13 +  
\*\*\*\*\* 12 +  
Range 11 +  
2-20 10 + 6  
Years 9 +  
\*\*\*\*\* 8 + 2  
7 +  
6 +  
5 + 13  
4 + 8  
Mean 3 + 18  
3.1 Yrs 2\*\*\*\*\*30  
1 + 12  
<1 + 8  
0 + 47

Presumptive  
5 Yrs

## 1987-1988 SENTAC EST

Years:Frequency

20\*\*\*\*\*2  
19 +  
18 + 2  
17 +  
16 + 1  
15 +  
14 + 1  
13 +  
12 + 1  
11 +  
10 + 1  
9 +  
8 + 1  
7 +  
6 + 1  
5 + 78  
4 + 1  
3 + 1  
2\*\*\*\*\*1  
1 + 1  
<1 + 5  
0 + 47

Presumptive  
25% Of Max

10% Above/10% Below

No. Imprisoned 89  
No. Jailed 8  
No. Incarcerated 97  
No. Probation 47

No. Imprisoned 92  
No. Jailed 5  
No. Incarcerated 97  
No. Probation 47

## 1988 PROPOSED TRUTH IN SENTENCING

Years:Frequency

20  
19 +  
18 +  
17 +  
16 +  
15 +  
14 +  
13 +  
12 +  
11 +  
10 +  
9 +  
\*\*\*\*\* 8\*\*\*\*\* 2  
7 + 2  
6 + 2  
5 + 1  
4 + 1  
Mean 2.35 Yrs 3 + 1  
Presumptive 2 + 78  
2 Yrs 1 + 1  
<1 + 9  
0\*\*\*\*\*47

Presumptive  
25% Of Max

10% Above/10% Below

No. Imprisoned 89  
No. Jailed 8  
No. Incarcerated 97  
No. Probation 47

## COMPARISON OF TIME SENTENCED AND TIME SERVED

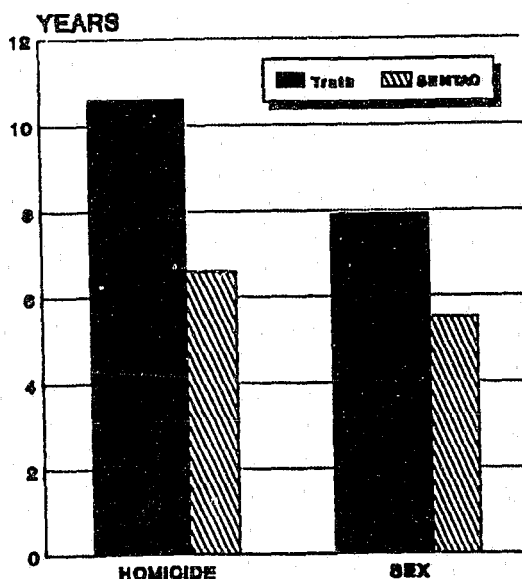
The facing page displays the comparisons of Pre SENTAC, SENTAC, and Truth in Sentencing for time sentenced and for time served. Also provided are rankings of crime by the amount of time sentenced and served. Sentences longer than one year are treated as admissions to prison, and sentences shorter than one year are treated as admissions to jail.

The Truth in Sentencing process would provide a greater proportionality for court sentencing and actual time served. Compared to Pre SENTAC and SENTAC where 41 percent of the sentenced time is actually served in prison and 72 percent of the sentenced time is actually served in jail; the percentage of time served in prison and jail with Truth in Sentencing would be much closer--68 percent for offenders sent to prison and 71 percent for offenders sent to jail.

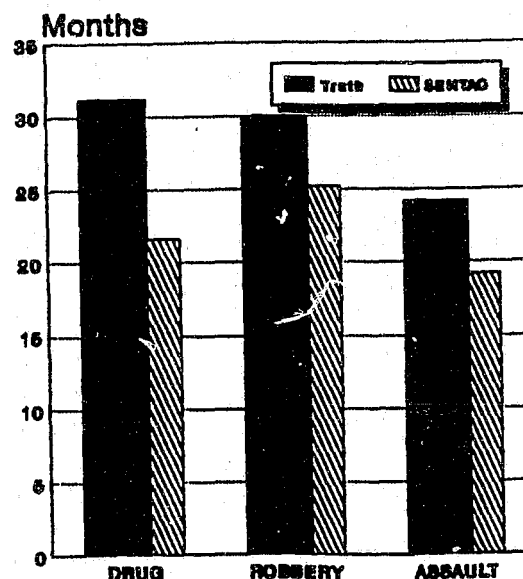
For both SENTAC and Truth in Sentencing, the ranking for crime based on the amount of time served changes. Most notably drug (8th to 4th) and assault offenses achieve a higher rank.

Whereas the time served rankings are similar for SENTAC and Truth in Sentencing, the actual time served for serious crime for Truth in Sentencing would be longer. For instance, drug offenders would serve an additional ten months, and sex offenders time served would increase from an average of 5.5 years to 6.6 years. The next section shows how sentences for burglary and theft would be "on the whole" shorter under Truth in Sentencing.

**TRUTH IN SENT. vs SENTAC  
TIME SERVED**



**TRUTH IN SENT. vs SENTAC  
TIME SERVED**





COMPARISON OF SENTENCED TIME SERVED  
FOR DIFFERENT SENTENCING ASSUMPTIONS

PRISON	ESTIMATED 1987 BASELINE				SENTAC ASSUMPTIONS				TRUTH ASSUMPTIONS						
Crime Category	Sentenced		Served		Percent Served	Sentenced		Served		Percent Served	Sentenced		Served		Percent Served
Total	6.0 Yrs		2.5 Yrs		41.0	4.8 Yrs		1.9 Yrs		39.9	4.8 Yrs		3.3 Yrs		68.3
	Rank		Rank			Rank		Rank			Rank		Rank		
Acts Causing Death	29.1	1	8.8	1	30.3	26.0	1	7.9	1	30.3	17.1	1	10.6	1	62.1
Sex Offenses	11.3	2	3.7	3	33.0	16.6	2	5.5	2	33.2	10.1	2	6.6	2	65.2
Miscellaneous	9.2	3	3.8	2	41.5	3.1	6	1.3	7	41.7	6.2	3	4.4	3	71.0
Robbery	8.0	4	3.6	4	45.3	4.7	3	2.1	3	45.4	3.3	5	2.5	5	74.7
Burglary	5.0	5	2.4	5	48.0	2.3	9	1.1	9	48.6	2.4	9	1.8	8	74.0
Forgery/Fraud	4.0	6	1.8	6	46.0	1.8	10	0.8	12	44.9	1.7	10	1.2	10	71.2
Assault	3.8	7	1.7	8	43.9	3.6	4	1.6	5	44.7	3.1	6	2.3	6	73.3
Drugs	3.4	8	1.8	6	52.7	3.6	4	1.8	4	49.8	3.6	4	2.6	4	71.3
Weapons	3.1	9	1.5	9	48.1	3.1	6	1.5	6	48.1	2.9	8	1.8	8	62.4
Probation/Parole	3.0	10	1.3	10	41.7	3.0	8	1.3	7	41.7	3.0	7	2.1	7	69.9
Theft	2.2	11	1.1	11	50.0	1.8	10	0.9	10	49.5	1.6	12	1.2	10	71.8
Traffic	1.7	12	0.9	12	52.0	1.7	12	0.9	10	52.0	1.7	10	1.1	12	65.2

JAIL	ESTIMATED 1987 BASELINE			Percent Served	SENTAC ASSUMPTIONS			Percent Served	TRUTH ASSUMPTIONS	Percent Served
	Sentenced	Served	Rank		Sentenced	Served	Rank		Sentenced	Served
Total	80.0 Days	57.3 Days		71.6	79.4 Days	56.9 Days		71.7	94.7 Days	66.8 Days
Acts Causing Death	none	none		n/a	none	none		n/a	none	none
Sex Offenses	149.0	118.2		79.3	149.0	118.2		79.3	149.0	118.2
Miscellaneous	72.6	43.2		59.5	72.5	43.2		59.6	83.0	49.5
Robbery	95.7	79.0		82.5	none	none		n/a	95.7	79.0
Burglary	86.6	58.2		67.2	86.6	58.1		67.1	210.7	141.4
Forgery/Fraud	117.7	79.1		67.2	117.7	79.1		67.2	137.5	92.4
Assault	105.7	72.6		68.7	105.7	72.6		68.7	105.7	72.6
Drugs	109.2	81.2		74.4	109.2	81.2		74.4	109.2	81.2
Weapons	158.0	105.6		66.8	158.0	105.6		66.8	162.9	108.8
Probation/Parole	112.3	80.1		71.3	112.3	80.1		71.3	112.3	80.1
Theft	95.6	69.8		73.0	95.6	69.8		73.0	123.3	90.1
Traffic	71.5	55.6		77.8	71.5	55.6		77.8	71.5	55.6

## TRUTH IN SENTENCING'S IMPACT ON JAIL AND PRISON POPULATIONS

Information is provided on the facing page that shows the changing size and composition of prison and jail populations under the difference sentencing scenarios.

As noted in the previous section, COMPARISON OF TIME SENTENCED AND TIME SERVED, the time served for serious offenses under Truth in Sentencing is greater than either Pre SENTAC or SENTAC. The question then has to be -- If the time served under Truth in Sentencing is greater, why isn't the estimated population proportionately higher?

The main reason that longer prison sentences under Truth in Sentencing would not cause the prison population to increase proportionately is that many sentences that heretofore had been prison sentences would become shorter jail terms. Notably 91 burglars and 109 thieves would serve approximately one-half the time they served under Pre SENTAC practices.

The number of admissions to prison would decrease by 281 compared to the Pre SENTAC admissions. Pre SENTAC prison admissions were 921. Truth in Sentencing prison admissions would be 640. Offenders not going to prison under Truth in Sentencing would go to jail. Therefore, jail admissions would increase by 281.

The trade-offs between changed admission and length of stay patterns would result in a decreased prison population. The decrease in admission combined with the increases in time served would result in a decrease of 158 offenders being in prison compared to the Pre SENTAC population. For jail, the increase in admissions combined with a 10 day increase in the average time served would result in an increase of 107 more offenders being in jail compared to the Pre SENTAC population. The combined impact of changing admission and time served patterns under Truth in Sentencing would be a decrease in the total incarcerated population of 51 or 2 percent less than the 1987 baseline.

The size of the population for the prison and jail would not only change with Truth in Sentencing, but so would the composition of that population. For instance, sex, assault, and drug offenders would make up a much larger portion of the prison population by serving much longer sentences. It is estimated that these three crime groups make up 45 percent of the prison population under SENTAC; while under Truth in Sentencing these same violent offenses would make up 55 percent of the prison population. On the other hand, burglars and thieves would make up a much smaller portion of the prison population because many of them would be serving shorter sentences in jail.

COMPARISON OF TIME SERVED, ADMISSIONS, AND POPULATION  
FOR DIFFERENT SENTENCING ASSUMPTIONS

PRISON	ESTIMATED 1987 BASELINE			SENTAC ASSUMPTIONS			TRUTH ASSUMPTIONS		
	Time Served	Admissions	Population	Time Served	Admissions	Population	Time Served	Admissions	Population
Crime Category									
Total	2.5 Yrs	921	2262	1.9 Yrs	995	1907	3.3 Yrs	640	2104
Acts Causing Death	8.8	29	256	7.9	29	229	10.6	29	308
Sex Offenses	3.7	90	336	5.5	90	496	6.6	90	593
Miscellaneous	3.8	89	340	1.3	96	124	4.4	30	132
Robbery	3.6	79	286	2.1	85	181	2.5	81	202
Burglary	2.4	127	305	1.1	142	159	1.8	36	63
Forgery/Fraud	1.8	40	74	0.8	47	38	1.2	5	6
Assault	1.7	108	180	1.6	122	197	2.3	122	276
Drugs	1.8	109	195	1.8	109	195	2.6	109	278
Weapons	1.5	19	28	1.5	20	28	1.8	16	29
Probation/Parole	1.3	85	106	1.3	85	106	2.1	85	175
Theft	1.1	124	137	0.9	148	137	1.2	15	18
Traffic	0.9	22	19	0.9	22	19	1.1	22	24

JAIL	ESTIMATED 1987 BASELINE			SENTAC ASSUMPTIONS			TRUTH ASSUMPTIONS		
	Time Served	Admissions	Population	Time Served	Admissions	Population	Time Served	Admissions	Population
Crime Category									
Total	57.3 Days	2140	336	56.9 Days	2066	322	66.8 Days	2421	443
Acts Causing Death	none	0	0	none	0	0	none	0	0
Sex Offenses	118.2	6	2	118.2	6	2	118.2	6	2
Miscellaneous	43.2	509	60	43.2	502	59	49.5	568	77
Robbery	79.0	6	1	none	0	0	none	0	0
Burglary	58.2	39	6	58.1	24	4	141.4	130	50
Forgery/Fraud	79.1	63	14	79.1	56	12	92.4	98	25
Assault	72.6	103	21	72.6	89	18	72.6	89	18
Drugs	81.2	33	7	81.2	33	7	81.2	33	7
Weapons	105.6	7	2	105.6	6	2	108.8	10	3
Probation/Parole	80.1	86	19	80.1	86	19	80.1	86	19
Theft	69.8	195	37	69.8	171	33	90.1	304	75
Traffic	55.6	1093	166	55.6	1093	166	55.6	1093	166

PRESUMPTIVE SENTENCING --  
THE RISK TO TRUTH IN SENTENCING'S ASSUMPTIONS

Truth in Sentencing assumptions to this point are based on the concept that the presumptive sentence is 25 percent of the maximum sentence. This includes the allowance for 10 percent of the sentences being above the presumptive sentence and 10 percent being below the 25 percent point.

This section examines the impact of Truth in Sentencing from the perspective of a difference sentencing assumption. Because sentencing ranges would be significantly reduced under Truth in Sentencing a worst case scenario is developed. What happens if, judges sentenced as close as they could to their prior sentencing behavior under Truth in Sentencing instead of at 25 percent of the new maximums? What would the sentencing patterns look like? What would be the impact on prison and jail populations?

Assuming that judges changed their sentencing practices to only minimally meet Truth in Sentencing, the distribution of sentences would show sentences less than the maximum to be the same and old sentences higher than the new lower maximums to be bunched around the new maximums.

The result would be more sentences greater than one year that would shift 281 offenders from shorter jail terms to longer prison terms. The prison population, therefore, because of these additional admissions would be 974 higher than under the 25 percent presumptive assumption.

The jail sentences and admissions under the alternative Truth in Sentencing assumption would decrease. Therefore, the jail population would be 336; that is, 107 less than under the presumptive 25 percent assumption.

The population for combined prison and jails for the alternative Truth in Sentencing assumption would be 3,414 which is 867 more than the 25 percent presumptive assumption and 816 more than the 1987 baseline.

See the facing page for a comparison of the 25 percent sentencing assumption and the alternative assumption for Truth in Sentencing.

COMPARISON OF TRUTH IN SENTENCING ASSUMPTIONS  
25 PERCENT OF THE MAXIMUMS  
-- VERSUS --  
CLOSE AS POSSIBLE TO PRE SENTAC (TRUTH ALTERNATE)

PRISON	TRUTH ASSUMPTIONS			TRUTH ALTERNATE ASSUMPTIONS		
Crime Category	Time Served	Admissions	Population	Time Served	Admissions	Population
Total	3.3 Yrs	640	2104	3.3 Yrs	921	3078
Acts Causing Death	10.6	29	308	14.1	29	410
Sex Offenses	6.6	90	593	12.1	90	1092
Miscellaneous	4.4	30	132	1.9	89	170
Robbery	2.5	81	202	3.2	79	252
Burglary	1.8	36	63	2.0	127	249
Forgery/Fraud	1.2	5	6	1.0	40	41
Assault	2.3	122	276	2.6	108	285
Drugs	2.6	109	278	1.8	109	196
Weapons	1.8	16	29	2.8	19	53
Probation/Parole	2.1	85	175	2.1	85	175
Theft	1.2	15	18	1.1	124	133
Traffic	1.1	22	24	1.1	22	24

JAIL	TRUTH ASSUMPTIONS			TRUTH ALTERNATE ASSUMPTIONS		
Crime Category	Time Served	Admissions	Population	Time Served	Admissions	Population
Total	66.8 Days	2421	443	57.3	2140	336
Acts Causing Death	none	0	0	none	0	0
Sex Offenses	118.2	6	2	118.2	6	2
Miscellaneous	49.5	568	77	43.2	509	60
Robbery	none	0	0	79.0	6	1
Burglary	141.4	130	50	58.2	39	6
Forgery/Fraud	92.4	98	25	79.1	63	14
Assault	72.6	89	18	72.6	103	21
Drugs	81.2	33	7	81.2	33	7
Weapons	108.8	10	3	150.6	7	2
Probation/Parole	80.1	86	19	80.1	86	19
Theft	90.1	304	75	69.8	195	37
Traffic	55.6	1093	166	55.6	1093	166

## TECHNICAL NOTES

"All things held constant" is a very important term in this comparative analysis of different Delaware sentencing scenarios. This means that it is assumed that the admission patterns are equal through time at 1987 frequencies -- that is, 3,061 prison and jail admissions. This also means that judicial decision to incarcerate (JDI) will remain the same as observed in 1987. For instance, known records indicated 97 out of 144 (67 percent) of the convictions for Burglary 2nd degree went to jail or prison.

The advantage of the "all things held constant" approach is that even though it is complex, it actually simplifies the analysis and allows very descriptive comparisons that appear under the different sentencing processes.

The disadvantage of the "all things held constant" analysis is changes in the JDI and changing conviction patterns cannot be examined. Therefore, it is impossible to forecast an actual prison population. The results of this analysis does not illuminate the issue of the currently increasing prison population. Therefore, we have no way of determining whether a higher JDI or increased arrests for sex, murder, drug crimes, and increased lengths of stay are causing increasing prison population.

Another technical issue relates to how the twelve crime categories that are used in this analysis are configured. The facing page shows a condensed listing of crimes that are included in each of the twelve separate crime categories.

# EXAMPLES OF TITLES AND SECTIONS USED IN PRISON CRIME TYPES

## CRIME TYPE = DEATH

11 0630 VEHICULAR HOMICIDE  
11 0631 CRIMINALLY NEGLIGENT HOMICIDE  
11 0632 MANSLAUGHTER  
11 0635 MURDER, 2ND DEGREE  
11 0636 MURDER, 1ST DEGREE

## CRIME TYPE = SEX

11 0761 SEXUAL ASSAULT  
11 0762 SEXUAL MISCONDUCT  
11 0763 RAPE 2ND  
11 0764 RAPE 1ST DEGREE  
11 0765 SODOMY 2ND DEGREE  
11 0766 SODOMY 1ST DEGREE  
11 0767 UNLAW SEXUAL CONTACT 3RD DEG  
11 0768 UNLAW SEXUAL CONTACT 2ND DEG  
11 0769 UNLAW SEXUAL CONTACT 1ST DEG  
11 0770 UNLAW SEXUAL PENETRATION 3RD  
11 0772 UNLAW SEXUAL PENETRATION 1ST  
11 0773 UNLAW SEXUAL INTERCOURSE 3RD  
11 0774 UNLAW SEXUAL INTERCOURSE 2ND  
11 0775 UNLAW SEXUAL INTERCOURSE 1ST

## CRIME TYPE = MISCELLANEOUS

? ? TITLE / SECTION NOT STATED  
04 0904 ALCOHOL, VARIOUS  
04 0901 KEEP/SELL ALCOHOLIC LIQUOR  
11 0501 CRIMINAL SOLICIT, THIRD  
11 0503 CRIMINAL SOLICIT, FIRST  
11 0511 CONSPIRACY, THIRD DEGREE  
11 0512 CONSPIRACY, SECOND DEGREE  
11 0513 CONSPIRACY, FIRST DEGREE  
11 0531 ATTEMPT A CRIME  
11 0781 UNLAWFUL IMPRISONMENT, 2ND  
11 0782 UNLAWFUL IMPRISONMENT, 1ST  
11 0783 KIDNAPPING  
11 0785 INTERFERENCE WITH CUSTODY  
11 0786 KIDNAPPING DEFINITIONS  
11 0801 ARSON 3RD DEGREE  
11 0802 ARSON 2ND DEGREE  
11 0803 ARSON 1ST DEGREE  
11 0804 RECKLESS BURNING OR EXPLODING  
11 0811 CRIMINAL MISCHIEF  
11 0922 IMPROPER LABEL RECORDED SOUND  
11 0924 CIVIL LITIGATION  
11 1102 ENDANGERING WELFARE OF CHILD  
11 1211 OFFICIAL MISCONDUCT  
11 1221 PERJURY 3RD DEGREE  
11 1222 PERJURY 2ND DEGREE  
11 1223 PERJURY 1ST DEGREE  
11 1244 HINDERING PROSECUTION  
11 1245 FALSELY REPORTING AN INCIDENT

## CRIME TYPE = MISCELLANEOUS CONTINUED

11 1251 ESCAPE 3RD DEGREE  
11 1252 ESCAPE 2ND DEGREE  
11 1253 ESCAPE AFTER CONVICTION  
11 1254 ASSAULT IN A DET FACILITY  
11 1256 PROMOTING PRISON CONTRABAND  
11 1257 RESISTING ARREST  
11 1259 SEX RELATIONS IN DETENT FACIL  
11 1263 TAMPERING WITH A WITNESS  
11 1269 TAMPER WITH PHYSICAL EVIDENCE  
11 1271 CRIMINAL CONTEMPT  
11 1301 DISORDERLY CONDUCT  
11 1302 RIOT  
11 1342 PROSTITUTION  
11 1351 PROMOTING PROSTITUTION, 3RD  
11 1352 PROMOTING PROSTITUTION, 2ND  
11 4214 HABITUAL CRIMINAL  
11 5704 CAPIAS  
30 1233 FAIL TO FILE RETURN

## CRIME TYPE = ROBBERY

11 0832 ROBBERY 1ST DEGREE  
11 0831 ROBBERY 2ND DEGREE

## CRIME TYPE = BURGLARY

11 0820 TRESPASSING TO PEER OR PEEP  
11 0821 CRIMINAL TRESPASS 3RD DEGREE  
11 0822 CRIMINAL TRESPASS 2ND DEGREE  
11 0823 CRIMINAL TRESPASS 1ST DEGREE  
11 0824 BURGLARY 3RD DEGREE  
11 0825 BURGLARY 2ND DEGREE  
11 0826 BURGLARY 1ST DEGREE  
11 0828 POSSESSION OF BURGLAR'S TOOLS

## CRIME TYPE = FORGERY/FRAUD

11 0861 FORGERY  
11 0900 ISSUING A BAD CHECK  
11 0903 UNLAWFUL USE CREDIT CARD  
11 0907 CRIMINAL IMPERSONATION

## CRIME TYPE = ASSAULT

11 0601 OFFENSIVE TOUCHING  
11 0602 MENACING  
11 0603 RECKLESS ENDANGERING, 2ND DEG  
11 0604 RECKLESS ENDANGERING, 1ST DEG  
11 0611 ASSAULT, 3RD DEG  
11 0612 ASSAULT, 2ND DEG  
11 0613 ASSAULT, 1ST DEG  
11 0621 TERRORISTIC THREATENING  
11 0628 VEHICULAR ASSAULT, 2ND DEGREE  
11 0629 VEHICULAR ASSAULT, 1ST DEGREE

## CRIME TYPE = DRUGS

16 4751 DEL/POSS OF N SCH I OR II  
16 4752 MANUF, DEL, POSS W/I MANUF ANY  
16 4753 TRAFFICK/USE/POSS  
16 4754 DRUGS, SCH I-V NN, VARIOUS  
16 4755 DRUG, VARIOUS  
16 4756 PROSCRIPTION DRUGS, VARIOUS  
16 4757 HYPO NEEDLE SYRINGE, VARIOUS  
16 4761 DEL NN SCH I/II/III/IV OR V  
16 4771 POSSESSION OF DRUG PARAPHE

## CRIME TYPE = WEAPONS

11 1442 CARRY CONCEALED DEADLY WEAPON  
11 1443 CARRY CONCEALED DANGEROUS INS  
11 1444 POSSESS DESTRUCTIVE WEAPON  
11 1447 POSSESS DEADLY WEAPON D/C FEL  
11 1448 POSS/PURCH DEAD WEAP PRO PER

## CRIME TYPE = PROBATION/PAROLE

11 4352 VIOLATION OF PAROLE  
11 4334 VIOLATION OF PROBATION

## CRIME TYPE = THEFT

11 0840 SHOPLIFTING  
11 0841 THEFT  
11 0843 THEFT BY FALSE PRETENSE  
11 0844 THEFT BY FALSE PROMISE  
11 0845 THEFT, VARIOUS  
11 0851 RECEIVING STOLEN PROPERTY  
11 0853 UNAUTHORIZED USE OF A VEHICLE

## CRIME TYPE = TRAFFIC

21 2101 OPERATE UNREGISTERED VEHICLE  
21 2756 DRIV WHILE LIC SUSP/REVOKED  
21 2810 DRIVE AFTER JUDGEMENT PROHIB  
21 4175 RECKLESS DRIVING  
21 4176 OPER MV CARELESSLY  
21 4177 OPER OF VEH UNDER INFLUENCE  
21 4201 INFO TO DR INVOLVED IN ACCID  
21 6816 OPERATE OHV UNDER INFL

NOTE: This is an abbreviated listing. Titles and Sections that were not actually encountered and are unlikely to be encountered in prison crime types are not listed