



## Truth in Sentencing and State Sentencing Practices

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Starting in the late 1980's, States enacted various reforms to increase punishments for violent offenders and ensure greater certainty in sentencing, including mandatory minimum sentences and truth in sentencing (TIS).

TIS refers to practices designed to reduce the apparent disparity between court-imposed sentences and the time offenders actually serve in prison.

Federal legislation passed in 1994 as part of the Violent Crime Control and Law Enforcement Act ("the Crime Act") and

amended in 1996 aimed to promote reform by providing States with grants to expand their prison capacity if they imposed TIS requirements on violent offenders. The Federal TIS Incentive Grant Program was based on a so-called 85-percent rule, meaning that States were to have or pass laws requiring serious violent offenders to serve at least 85 percent of their imposed sentences in prison.<sup>1</sup> Several grant eligibility criteria were established, allowing States with diverse sentencing structures to qualify, including those with determinate or indeterminate sentencing and those with parole release.

An Urban Institute study sponsored by NIJ examined the effects of this Federal TIS legislation on State TIS reforms and of selected State TIS policies on prison populations. The study focused on two questions:

- Did States incorporate TIS into their laws and, if so, to what extent did the Federal

TIS Incentive Grant Program influence reforms?

Although many States had enacted TIS laws, the study concluded there was limited Federal influence on State TIS policies. State reforms typically pre-dated the Federal legislation or were incremental adjustments to existing practices.

- Did State TIS practices lead to changes in prison populations?

The study found that State TIS practices generally increased the expected length of time to be served, but these increases were rarely the main contributor to increases in prison populations. Changes in crime rates, arrests, and prison admissions were often more influential.

### Effects of the Federal TIS Incentive Grant Program on State Reforms

The Federal TIS Incentive Grant Program was implemented during a time when many States were already reforming their sentencing structures, approaches, and practices. State TIS reforms varied widely—for example, the percentage of sentence to be served differed and could be applied to either the minimum or maximum term—and many pre-dated the enactment of the Federal grant program. By the end of the 1990's, regardless of whether they received Federal TIS grants, most States (41, plus the District of Columbia) had implemented some form of TIS activity: 28 States and the District of Columbia had met the eligibility criteria for Federal funding and received grants, while 13 States that had a form of TIS activity did not receive Federal TIS grants. Having systematically reviewed all 50 States' sentencing reform activities before and after the enactment of the Federal TIS Incentive Grant Program in 1994, the researchers concluded that the Federal program, at best, modestly influenced State TIS reforms.

Overall, Federal TIS grants were associated with relatively few State TIS reforms. There was relatively little reform activity after the 1994 enactment of the Federal TIS

grant program, as many States had already adopted some form of TIS by that time. A comparison of States' TIS provisions before and after 1994 found that:

- Most States (30) made no further changes to their TIS laws (including nine States that remained without any TIS laws).
- Seven States made slight changes to the percentage of sentence to be served by violent offenders (for example, from 75 to 85 percent).
- Four States and the District of Columbia increased the percentage of sentence to be served and eliminated parole release for violent offenders.
- Nine States that had no TIS laws before 1994 passed sentencing reforms that included TIS provisions.

Of the 21 States that enacted reforms after 1994, some pursued Federal TIS grant funding and some did not. Analysis of the reform process and reports from State officials revealed that Federal TIS grant funding was a consideration in some but not all of the States that made incremental changes to increase the severity of existing TIS requirements. However, Federal TIS grant funding was rarely the impetus behind major reforms. In the nine States that introduced TIS provisions, the reform process typically began before 1994 and, in all but one, State officials cited it as a minor consideration relative to other goals.

The analysis of reforms in just those jurisdictions that received Federal TIS grants (28 States and the District of Columbia) revealed a similar pattern of limited Federal influence. Nearly half of the States (13) were funded on the basis of preexisting TIS practices. Although Federal TIS grant funding was often cited as influential in the nine States that made incremental changes to their existing TIS laws, among the seven jurisdictions (six States and the District of Columbia) that undertook major reforms, it was reported as a significant consideration in the reform process by only one State.

## ABOUT THE STUDY—LEGISLATIVE EFFECTS

The effects of the Federal TIS Incentive Grant Program on State laws were evaluated through an analysis of the Federal legislation along with a systematic examination of the timing and nature of relevant State legislation. Interviews with State and Federal officials were also conducted, and the existing literature was reviewed.

Furthermore, among States that received Federal TIS funding, the average annual grant award of \$7.9 million was relatively modest, equivalent to an average of 1 percent of the States' annual corrections expenditures.

### Effects of State TIS Practices on Prison Populations

The study also examined the effects of the various TIS reforms implemented in the States during the early- to mid-1990's on their prison populations. A quantitative analysis of population, crime, arrest, and corrections data from seven States focused on whether State TIS reforms led to changes in punishments for violent offenders and, subsequently, to increases in prison populations.

On the question of whether punishments for serious violent offenders increased, the study found that the probability of a prison admission given arrest for serious violent offenses did not necessarily increase. The use of imprisonment increased in four States, but decreased in the other three. However, the severity of punishment—as measured by the expected length of stay<sup>2</sup>—for those serious violent offenders who were sent to prison increased in all five States that implemented reforms during the study period. Conversely, in the two States that did not implement TIS reforms during the study period, serious violent offenders' expected length of stay decreased by 2 months.

Prison admissions and expected prison populations (the prison population expected from prison admissions and expected length of stay) increased in most of the States studied. Expected prison populations, for example, increased in six of the seven

States. Some of these changes were influenced by the States' TIS reforms, but the study found that sentencing decisions (i.e., the decision to imprison and expected length of stay) were only one factor affecting prison populations: changes in a State's population, crime rates, and arrests were also important. Although States that implemented reforms during the study period could expect longer lengths of stay to contribute to increases in expected prison populations, this change was rarely the main factor behind higher prison populations. In three States, increases in arrests contributed the most to growth in expected prison populations. In another three States, greater prison populations were largely due to increases in their prison admission rates. Only one State's prison population increase arose primarily from increased expected length of stay.

The study also examined whether States' TIS reforms influenced changes in the concentration of serious violent offenders in prison. Although the number of serious violent offenders admitted to prison increased in four of the seven States studied, their share of total admissions rose in only three States. Property and drug offense admissions outpaced a rise in violent admissions in the remaining States. Taking into account the expected length of stay for these offenses, which often increased as well, serious violent offenders' share of the expected prison population increased in only two States, stayed about the same in three States, and decreased in the remaining two States.

The study concluded that State TIS reforms did not uniformly account for changes in prison populations. An analysis of the empirical changes in prison populations relative to the patterns of sentencing reform led to several conclusions about the preliminary effects of TIS in the seven States studied:

- When implemented as part of a larger reform, TIS was associated with large changes in prison admissions and expected populations. However, the changes were more appropriately associated with broader sentencing reforms than with TIS in particular. Although TIS contributed to increases in the expected

length of stay, prison population changes were driven by differentials in the probability of prison admission for violent and nonviolent offenses.

- Violent prison admissions were sometimes outpaced by admissions for property and drug offenses. Only two of the States studied could expect violent offenders to comprise a greater share of their prison populations in the postreform period. In these two, sentencing reforms other than TIS emphasized incarceration for violent offenses while simultaneously encouraging alternate sanctions for other offenses.
- In States that made moderate or incremental reforms to their TIS provisions, sentencing decisions influenced prison populations, but their effects varied. In two States, increases in the prison admission rate had a greater effect on prison population than did changes in the expected length of stay. The reverse was true in another State, where changes in expected length of stay contributed more to prison population growth than did changes in prison admissions.
- In States where TIS did not represent a change from previous practice, changes in the volume and composition of prison populations were more strongly influenced by presentencing factors (such as crime and arrest rates) than by sentencing decisions.

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### ABOUT THE STUDY—POPULATION EFFECTS

The effects of State TIS policies on prison populations were examined through a quantitative analysis of State populations, crimes, arrests, prison admissions, and sentence lengths in seven States: Georgia, Illinois, New Jersey, Ohio, Pennsylvania, Utah, and Washington.

The study used a comparative case study methodology to analyze changes in three outcomes: prison admissions, expected length of stay, and the resulting expected prison populations. Outcomes from a prereform period (1990 or 1991) were compared to outcomes in the postreform period (1996 or 1998). Statistical decomposition methods were used to determine the extent to which differences in expected prison populations were influenced by sentencing reforms. State outcomes were compared to identify possible commonalities in patterns of change.

The seven States were chosen to reflect different models of sentencing and degrees of sentencing reform. Because truth in sentencing is practiced within the context of other sentencing policies, both determinate and indeterminate sentencing States were selected, as were States with and without sentencing guidelines. Two States—New Jersey and Utah—did not implement changes to their TIS practices during the study period, but the rest made changes ranging from incremental adjustments to comprehensive overhauls of the sentencing system.

Although the observations from these seven States are informative, it should be noted that they were chosen to illustrate different approaches to sentencing and are not nationally representative. Further, because the analysis was based on a limited postreform time frame, these findings should be considered preliminary and updated with more recent data to give a fuller picture of the effects of truth in sentencing.

### Notes

1. Serious violent offenses were defined as Federal Bureau of Investigation Part 1 violent offenses: murder, rape, robbery, and aggravated assault.
2. The study used the concept of expected length of stay, based on modeled estimates of time to be served under a given sentencing regime, because the actual time served by prisoners admitted in a given year cannot be known until they are all released.