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***Impacts of Three Strikes and Truth in Sentencing on
The Volume and Composition of
Correctional Populations***

Department of Justice
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Abstract

Three Strikes and You're Out ("Three Strikes") and *Truth in Sentencing* ("TIS") have garnered a great deal of political and public support throughout the United States in recent years. Three Strikes policies mandate long sentences for certain habitual offenders, usually 25 years to life in prison for third-time violent offenders. TIS requires violent offenders to serve at least 85 percent of their sentences before being considered for release.

This study seeks to provide an objective, thorough, and methodologically rigorous analysis to the literature about these recent sentencing policies. While other studies focus on the impacts of these two policies on rates of crime, this paper examines their effects on several aspects of the correctional system, including the rate of prison incarceration, the likelihood of receiving a prison sentence for a felony, and the estimated time served by prison inmates, as well as the flow of admissions and releases to and from prison. Given limits on prison capacities, policies that send more inmates to prison or require longer terms may require the displacement of other inmates to alternative forms of supervision. Therefore, impacts on the volume of the parole population and flow of inmates into and out of the parole system will also be analyzed. The impacts of Three Strikes and Truth in Sentencing on the proportion of older inmates in prison, and rates of death among inmates will be tested. The analysis also explores whether these policies are associated with changes in the proportions of inmates entering prison whose offenses were violent, non-violent, or drug-related. These effects are estimated nationwide, and specifically in the states of California and Washington.

The model in this paper entails pooled time-series analysis of a dataset that includes state-level data for all 50 states over 12 years (1986-1997). The model is designed to determine the extent to which policy interventions change the trends in the dependent variables described above. Effects are measured while several factors are controlled, including pre-existing trends in the states, national trends, and demographic and economic factors that have been linked to crime and incarceration.

The analysis finds that "Three Strikes and You're Out" policies have had very limited impacts on any of the dependent variables nationally or in California. In Washington, there appeared to be some reductions in the growth of parole entries and exits associated with Three Strikes, but closer examination revealed that the onset of these declines preceded the passage of Three Strikes in Washington. The lack of impacts of "Three Strikes" nationally can be attributed in large part to the fact that the law is very rarely used in the majority of states that have a law by that name. By August 1998, two-thirds of states with Three Strikes laws had only used it a dozen or fewer times. Washington's use of Three Strikes was higher than average, but still moderate (about 120 offenders in the first 5 years), and apparently not frequent enough to have an impact on the correctional system.

In California, only one of the variables that was tested seemed to be affected by the combination of Three Strikes and Truth in Sentencing.¹ The observed effect was an increase in

¹ Three Strikes and TIS were implemented concurrently in California; therefore the impacts of the two laws cannot be examined separately at this level of analysis.

the proportion of prison inmates over the age of 50. The lack of more influence of Three Strikes (or TIS) in California is somewhat surprising. California's use of "Three Strikes and You're Out" is several orders of magnitude greater than in any other state (over 40,000 defendants were sentenced under the law in the first 5 years). The lack of an effect may be due in part to relatively steep recent declines in crime rates in California (which may or may not be related to these policies), adaptation to the law by prosecutors, judges, and other participants in the criminal justice system, or the longer-term nature of most of the expected impacts of the law. Because many of the repeat offenders sentenced under Three Strikes would also have been sentenced to prison terms even in the absence of the law, a few more years may need to pass before the impacts of the longer mandatory sentences can be fully observed.

Truth in Sentencing laws have also had limited national impacts on the volume and composition of correctional populations. Two of the three statistically significant impacts were not in the expected direction. The third effect, slower growth in property offenders entering prison, was in the expected direction, but very small. Like the effects of Three Strikes laws, the impacts of Truth in Sentencing may also be less apparent in the short-term than in the long run. TIS laws do not affect the number of offenders receiving prison sentences, but they postpone release dates by extending the proportion of time that must be served for already-imposed sentences. Thus, the law's impacts will only begin to be noticeable towards the middle or end of existing sentences. Since the law is aimed primarily at convicted violent offenders, who would normally receive relatively long sentences, this additional time spent in prison may not yet have begun for most TIS inmates. Another reason for a lack of impacts may be a limitation of the law itself. While it requires that a fixed percentage of sentences be spent in prison, the law does not prevent judges or sentencing commissions from reducing "base" sentences so that the actual time served remains essentially unchanged.

Washington's TIS law appears to be associated with more change than the other policies chosen for examination in this study. Significant effects included more growth in the state's incarceration rate and time served by prison inmates, as well as declining trends in the rates of total prison admissions, new court commitments to prison, and total and conditional releases from prison. Prisoners appear to be spending more time behind bars, and fewer inmates are passing through the system with short stays. In addition, the trend in the proportion of drug offenders among new prison admissions has also slowed with TIS in Washington. Because TIS was adopted relatively early in Washington (1990), some longer-term effects may already have emerged in that state over the seven years in which the law had been in place. These effects may foreshadow longer-term changes that may eventually surface in other jurisdictions that have passed similar laws.

In summary, both Three Strikes and Truth in Sentencing have had few observable short-term impacts on the volume or composition of correctional populations, but there appears to be evidence of a longer-term effect of Truth in Sentencing in a state that passed the law earlier than most other states did. Whether these impacts are unique to the state of Washington is unclear. Over time, continued examination of the questions explored here may shed more light on the effects of these two popular sentencing policies.

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Introduction and Background

The American prison population has been growing at a rapid rate throughout the last two decades. Following a period of relative stability from the 1920s through the 1970s, the U.S. prison population has more than quadrupled, from 278,141 to 1,244,554, between 1977 and 1997 (Blumstein and Beck, 1999; Bureau of Justice Statistics, *Prisoners in 1998*). Part of the growth in the incarceration rate has been necessary to keep pace with rising crime rates. Violent crime rates grew 28 percent between 1977 and 1997, peaking at 758 offenses per 100,000 residents in 1991 and 1992. However, even though crime rates have apparently stabilized, and even dropped, since the early 1990's, incarceration has continued to grow. This may be partly due to several changes in sentencing policy that have gained popularity in recent years. These changes include the imposition of mandatory prison sentences for selected crimes (including drug offenses), the lengthening of sentences for certain offenses, and limitations on the release of prisoners before their sentences are complete.

Three Strikes and You're Out ("Three Strikes") and *Truth in Sentencing* ("TIS") are two sentencing policies which have garnered a great deal of political and public support nationwide in recent years. Three Strikes laws mandate long sentences for certain habitual offenders, usually 25 years to life in prison for third-time violent offenders. TIS requires violent offenders to serve at least 85 percent of their sentences before being considered for release.

This study seeks to add an objective, thorough, and methodologically rigorous analysis to the literature about these recent sentencing policies. This project examines the effects of these two policies on the rate of prison incarceration in the U.S., the likelihood of receiving a prison sentence for a felony, and the estimated time served by prison inmates, as well as the flow of admissions and releases to and from prison. Given limits on prison capacities, policies that send

more inmates to prison or require longer terms may require the displacement of other inmates to alternative forms of supervision. Therefore, impacts on the volume of the parole population and flow of inmates into and out of the parole system will also be analyzed. The impacts of Three Strikes and Truth in Sentencing on the proportion of older inmates in prison, and rates of death among inmates will be tested. The analysis also examines whether these policies are associated with changes in the proportions of inmates entering prison whose offenses were violent, non-violent, or drug-related.

This paper will start with a discussion of the background, content, and purpose of both sentencing policies. Some information about current trends in incarceration and sentencing will also be provided to put the policies in context. Then, the expected effects of Three Strikes and Truth in Sentencing will be described. The methodology will be presented generally, followed by a detailed explanation of the data, variables, and model specification, and a presentation and discussion of the findings of the analysis. The last section of the paper will summarize the findings and discuss their implications.

Background on “Three Strikes and You’re Out”

Kimber Reynolds was an “All-American girl,” a bright, beautiful, athletic, and well-liked, 18-year-old college student. One evening in June 1992, as she was entering her car outside a restaurant during a visit to her hometown of Fresno, California, she was accosted by two young men intent on stealing her purse. She resisted, and during the struggle she was shot point-blank in the head by one of the men. The attackers fled, leaving her purse behind. Kimber died 26 hours later. The young man who shot her was found afterwards by police acting on an informant’s tip, and he was killed in the shootout that took place as they attempted to arrest him.

It later was disclosed that this man, Joe Davis, had been jailed numerous times for drug and gun charges, and had recently been released from a prison term for auto theft. Davis's accomplice, David Walker, 27, had a long rap sheet for drug and theft charges. He pleaded guilty to robbery and accessory to murder, and received a sentence of nine years in prison (Skelton, 1993).

In his grief and anger, Kimber Reynolds's father, Mike Reynolds, launched an effort to put a voter initiative on the 1994 ballot in California. His proposed initiative, named "Three Strikes and You're Out" after a similar law which had passed in Washington State the previous year, would require that second-time felons receive twice the normal sentence for their crimes, and that third-time felons be sent to prison for life, with limits on time off for good behavior.² Reynolds originally attempted to get the Three Strikes law passed through the California legislature. The measure was defeated in the Assembly Public Safety Committee, but Reynolds, undaunted, proceeded to file a petition to add the measure to the November 1994 ballot as a voter initiative. At first, public interest was lukewarm.

A dramatic event soon changed the course of events significantly for Mike Reynolds and other proponents of his ballot initiative. In October 1993, twelve-year-old Polly Klaas was abducted at knifepoint from her suburban Petaluma, California home during a slumber party. Her strangled body was eventually found at an abandoned lumber mill (Anderson, 1994). She had been murdered by Richard Allen Davis, a repeat offender with an eleven-page long rap sheet, listing seventeen prior arrests, including three for kidnapping and sexual abuse (Franklin,

² The movement to pass the Washington State "Three Strikes" ballot initiative had been spearheaded by David LaCourse, a policy analyst and advocate who had been motivated to seek the passage of a habitual-criminal law after he was attacked by two strangers and left with his cheekbone broken in several places. Although his assailants were not caught, he was angry to learn that if they had been caught, they would have been charged with second-degree assault, and a third-time offender convicted with that charge would have normally received a sentence of about 18 months (Lewis, 1993).

1994). Davis was remorseless and repulsive to the public in his attitude and behavior.³ At the time that he murdered Polly Klaas, he had recently been freed from prison after being released for good behavior halfway through a sixteen-year sentence for kidnapping. The events of this case and Davis's name and face were highly publicized by the media in California. This event drew the public's attention to the issues of repeat offenders and early releases from prison. The petition in support of Mike Reynolds's Three Strikes initiative, which had until then collected only 20,000 signatures, soon had well over the 385,000 signatures required to put it on the November 1994 ballot. The initiative also attracted the support of powerful interest groups and political candidates.⁴

The Three Strikes ballot initiative was passed with 71.9 percent of the popular vote in the 1994 California election. Shortly after the ballot measure was passed, the legislature also passed a version of the law.

The concept of Three Strikes fit closely with dominant values and the prevailing political climate of the day. Crime was a hot political issue in California and the rest of the U.S., and fear of crime had been rising, although actual crime rates had recently started on a downturn. The law was quick to catch on in other states. From the time that the first such law was passed in Washington State in 1993 to the present, Three Strikes and You're Out has been implemented in at least twenty-four states and for federal offenses.⁵

³ Davis so irritated California Governor Pete Wilson, for example, that Wilson told a reporter, "when I think of that son of a bitch, you cannot help but be angered. Did you see the picture of him on the front page of the [San Francisco] Chronicle? Smirking? Jesus, boy. I wanted to just belt him right across the mouth" (December 13, 1993 *Los Angeles Times* article by George Skelton, quoted in Vitiello, 1997b, p. 1645).

⁴ The highly influential National Rifle Association offered political and financial support for Three Strikes, as did the 24,000-member California Correction Peace Officers Association, another politically powerful group. Three Strikes also had the support of the California Gun Owners Association, the Republican Party, and the campaign committees of Governor Pete Wilson and senate candidate Michael Huffington. (Vitiello, 1997b)

⁵ Counts of the number of states with Three Strikes and TIS sometimes differ from one study to another because there is a degree of subjectivity involved in categorizing laws as "Three Strikes" or "truth in sentencing."

Although they share a common name, Three Strikes laws are quite diverse. The number of offenses which trigger the Three Strikes mechanism, the types of crimes counted as strikes, and the sentences mandated upon conviction vary widely, and these variations between states in Three Strikes legislation result in dramatic differences in the laws' consequences. Table 1 below summarizes the Three Strikes laws in the states, including the eligible offenses and corresponding sentences.

Table 1: "Three Strikes" and Similar Habitual Offender Enactments Vary Widely By State⁶

| STATE/LAW (YEAR PASSED) | NATURE OF THE LAW /SENTENCE | CRIMES/OFFENDERS APPLICABLE |
|---|--|---|
| ARKANSAS S 123 (1995) | "Three strikes"-type measure requiring habitual offenders convicted of two violent crimes serve mandatory sentences or life; three-time habitual offenders convicted of certain violent crimes serve mandatory sentence or life. | Two strike applies to serious felonies involving violence: first- or second-degree murder, some acts of kidnapping, aggravated robbery, rape, some terrorist acts, causing catastrophe. Three strike applies to broader list including those named above and first-degree battery, unlawful discharge of a firearm from a vehicle, some criminal use of prohibited weapons, a felony attempt or conspiracy, first-degree sexual abuse. |
| CALIFORNIA A 971 (1994) and Proposition 184 (ballot initiative) (1994) | Mandatory life sentence for third felony if there have been two prior "serious" or violent felonies, with offenders spending a minimum of 25 years imprisoned. The prison sentence also is doubled for any felony if there has been one prior serious or violent felony. | "Violent felonies" include murder, mayhem, many sex crimes, any felony in which great bodily injury is inflicted. In addition, some 25 "serious felonies" include those above plus some assaults, robbery, kidnapping, some attempted felonies, felonies in which defendant used deadly weapon, some drug sales to minors. |
| COLORADO S 196 (1994) | Life sentence for third felony if there have been two prior violent felonies. No parole eligibility until a minimum of 40 years has been served. | Applies to any Class One or Class Two or Class Three crime that is violent. Included is the possession, threat of use, or use of a deadly weapon when committing a crime against the elderly or handicapped persons. Also included are murder, first or second degree assault, kidnapping, sexual assault, robbery, first degree arson, first or second degree burglary, escape, criminal extortion, or any sexual offense in which bodily injury was caused. |
| CONNECTI- CUT H 5385 (1994) | Increases maximum sentence court may impose under "persistent dangerous felony offender" law from 25 to 40 years with one previous violent felony conviction; and from 25 years to life for two previous. Life sentence is 60 years, determinate. | Manslaughter, arson, kidnapping, first degree assault, many sexual assaults including aggravated and with a firearm, first or second degree robbery. |

⁶ Source: National Conference of State Legislatures, "Three Strikes" Legislation Update, December 1997.

| STATE/LAW (YEAR PASSED) | NATURE OF THE LAW /SENTENCE | CRIMES/OFFENDERS APPLICABLE |
|--|--|---|
| FLORIDA S 168 (1995) | <p>“Officer Evelyn Gort and All Fallen Officers Career Criminal Act” provides three strikes-type penalties and includes 85% requirement for some. “Habitual felony offenders” have had 2 or more felonies and get terms from life to not exceeding 10 years; “habitual violent felony offenders” have had 1 or more previous violent crime convictions and get from life, with no release eligibility for 10 years, to 10-year sentences with no release eligibility for 5 years; “violent career criminals” have been convicted as an adult 3 or more times for violent crimes and get from life, with no release eligibility, to mandatory minimum of 10 years. “Violent career criminal,” established in a separate proceeding, “gain time” limited to require 85% of sentence served. Courts must give written reasons for not imposing statutory sentences, addressing protection of the public. Law also provides guidance for career criminal apprehension and prosecution.</p> | <p>“Habitual felony offender” has previously been convicted of 2 or more felonies. “Habitual violent felony offender” has had 1 or more previous felony convictions for any of a dozen crimes including arson, robbery, aggravated child abuse, aggravated assault, murder, aggravated stalking. “Violent career criminal” has been convicted as an adult 3 or more times of forcible felony, aggravated stalking, aggravated child abuse, indecent conduct, felony involving firearm, and has been incarcerated in state or federal prison. Convictions include those within 5 years of new felony or within 5 years of release from prison or parole.</p> |
| GEORGIA S 441 (1994) | <p>“Sentence Reform Act of 1994” provides mandatory life without parole for second “serious violent felony” conviction. Fourth conviction on any felony requires maximum sentence to be served before eligible for parole.</p> | <p>“Serious violent felonies” under “two strikes” are murder or felony murder, armed robbery, kidnapping, rape, aggravated child molestation, aggravated sodomy, aggravated sexual battery.</p> |
| INDIANA H 1063 (1994) | <p>“Three strikes” law, providing mandatory life without parole if in separate charge state proves two prior unrelated felony convictions. Court also has discretion (absent separate habitual charge) to sentence to life without parole if found subject to provisions.</p> | <p>Many serious felonies, including murder, battery, rape, sexual battery with a deadly weapon, child molesting, arson, robbery, burglary resulting in serious bodily injury or with deadly weapon, dealing drugs.</p> |

| STATE/LAW (YEAR PASSED) | NATURE OF THE LAW /SENTENCE | CRIMES/OFFENDERS APPLICABLE |
|---|--|--|
| KANSAS H 2788 (1994) | Doubled sentences on sentencing guidelines grid for second and third "person felonies," at judge's discretion. | "Person felonies" include many serious, violent crimes including various classifications of murder, sex crimes, battery, assault. |
| LOUISIANA H 18 (1994) | "Three strikes" law strengthened existing Multiple Offender law, adding felony offenses for which third felony offense results in life without parole. | All felonies that are crimes of violence, regardless of the term of imprisonment, and Dangerous Substances violations punishable by imprisonment for more than five years, as well as any other crime punishable by imprisonment for more than 12 years. |
| LOUISIANA H 2337 (1995 amendment) | With regard to sentences for second and subsequent offenses, extends the period of time elapsing from prior convictions for purposes of sentencing habitual offenders to 10 years. | |
| LOUISIANA H 2410 (1995 amendment) | Three strikes-type provision requires offender convicted of third felony be sentenced to life under certain circumstances or to life without parole for third or fourth felony conviction under certain circumstances. | Life sentence applies to third felony or adjudication of delinquent for felony-grade violation of violent crime or controlled substances laws. If the third felony or either of the 2 prior felonies is a crime of violence, a controlled substances offense punishable by imprisonment more than 5 years or any other crime punishable by imprisonment for more than 12 years, the offender gets life without parole. "Crime of violence" is any 1 of 30 violent offenses, ranging from first-degree murder to purse snatching. |
| MARYLAND H 1112 (1994) | Mandatory life sentence without parole for fourth conviction of crime of violence, for which offender has served three separate prison terms. Third crime of violence after two such convictions and at least one prison term results in mandatory 25 years. Second crime of violence following prison term results in mandatory 10 year sentence. Person sentenced under provisions who is 65 years old and served 15 years may petition for and be granted parole. | More than 20 "crimes of violence," including murder, rape, robbery, robbery with a deadly weapon, carjacking or armed carjacking, first and second degree sex offenses, arson, burglary, kidnapping, manslaughter, mayhem, maiming, use of handgun in commission of felony, attempt to commit any of the aforesaid, assault with intent to commit murder, rape, robbery, sexual offenses. |

| STATE/LAW (YEAR PASSED) | NATURE OF THE LAW /SENTENCE | CRIMES/OFFENDERS APPLICABLE |
|--|---|---|
| MONTANA S 66 (1995) | Three strikes-type law, that people convicted of 2 specified violent offenses and 3 of other specified violent offenses (death penalty excepted) must be sentenced to life without possibility of parole or sentence credits, served in a prison, not a work release center, boot camp or nonsecure facility. | Two strike applies to second conviction for deliberate homicide, aggravated kidnapping, certain sex crimes including sexual abuse of a child, ritual abuse of a minor. Three strike life without parole applies to mitigated deliberate homicide, aggravated assault, kidnapping, robbery, arson or to a conviction for any of the second list of offenses with 2 previous convictions for any of the first list of offenses. Previous offenses apply if less than 5 years has elapsed since previous offense or release from prison. |
| NEVADA A 317 (1995) | Three strikes-type measure, requiring habitually violent felon with 2 previous violent felonies be sentenced to life without possibility of parole, life with possibility of parole after minimum of 10 years served or to 25-year term with parole eligibility after 10 years. | Applies to many violent felonies, including indicates that there are other felonies not listed, murder, robbery, kidnapping, aiding or abetting kidnapping, battery, abuse of children, arson, home invasion, others. |
| NEW JERSEY A 318 (1995) | "Persistent Offenders Accountability Act" is three strikes-type of law, that people convicted of the third of certain offenses shall be sentenced to life imprisonment without possibility of parole. Other extended terms-- 30 years to life, 20 years to life, 5 to 10 years, and 3 to 5 years-- apply to conviction of other specified offenses. | Third strike life without parole applies to criminal homicide, robbery, carjacking. Extended term 30 years to life for third conviction with 1 or more prior first-degree or aggravated crime convictions; terms of 20 years to life if 2 or more previous convictions for crimes just named or second-degree crime; term of 10 to 20 years for third conviction for second-degree crime; and 5 to 10 years or 3 to 5 years for third of combinations of lesser crimes. |
| NEW MEXICO S 73 AND 742, Chapter 24 (1994) | Mandatory life imprisonment, in addition to other term imposed, for third violent felony conviction. Parole eligibility after 30 years of the life term served. | Violent crimes including first and second degree murder; and several crimes resulting in great bodily harm, including shooting from a motor vehicle, kidnapping, criminal sexual penetration and robbery. |
| NORTH CAROLINA H 39, Part 6 Chapter 22, Extra Session (1994) | Life without parole required upon third violent felony conviction and finding, under separate indictment, that offender is "violent habitual felon." Separate law (SB 2, also of Extra Session of 1994) provides for review after 25 years served of life without parole sentence. | Effective May 1, 1994, applies to 40 "violent felonies" enumerated in statute. After October 1, 1994, when structured sentencing takes effect, provisions will apply to 47 Class A, B, B1, B2, C, D and E felonies. |

| STATE/LAW (YEAR PASSED) | NATURE OF THE LAW /SENTENCE | CRIMES/OFFENDERS APPLICABLE |
|---|--|--|
| NORTH DAKOTA H 1218 (1995) | Provides extended sentences for certain special, dangerous and habitual offenders. If conviction offense is a Class A felony, court may impose up to life imprisonment; Class B felony, maximum 20 years; Class C felony, up to 10 years. | Habitual offenders have been previously convicted of 2 felonies as adults; or convicted of offenses that seriously endanger the life of another person and the offender has previously been convicted of a similar offense; or the offender is especially dangerous because he used a firearm, dangerous weapon or destructive device in the commission of the offense or during flight. |
| PENNSYL- VANIA H 93 (1995) | Two and three strike-type habitual offender measure, providing that second or subsequent offenders convicted of first-degree felony may be sentenced to fixed term of not more than 20 years; second degree will serve fixed term of not more than 10 years; and third degree not more than 7 years, also fixed. Violent offenders who have one previous violent crime conviction and upon finding offender is a "high-risk dangerous offender," must serve at least 10-year fixed sentence; and a third violent offense results in serving a 25-year fixed sentence. Requires mandatory 5-year sentence enhancement during which offender not eligible for parole, probation, work release or furlough, for violent crime involving use of a firearm, or for violent offenses committed on public transportation. | "High-risk, violent, dangerous offenders" who serve minimum 10- or 25-year sentences are those with convictions for murder; voluntary manslaughter; rape; involuntary deviate sexual intercourse; robbery; arson; kidnapping, aggravated assault in which the offender intentionally, knowingly or recklessly causes serious bodily injury; some burglary offenses; conspiracy or attempt to commit those offenses. Two strike and three strike violent offender provisions apply to convictions within 7 years of the instance of the offense, not counting time in prison, other detention or probation or parole. |

| STATE/LAW (YEAR PASSED) | NATURE OF THE LAW /SENTENCE | CRIMES/OFFENDERS APPLICABLE |
|--|---|---|
| SOUTH CAROLINA H 3096 (1995) | Has "two strikes" and "truth" features. Creates, defines "no parole offense." Requires that 80% of sentence must be served before eligibility for work release and 85% for early release, discharge or community supervision. "No parole offenders," must serve up to 2 years community supervision following prison term. People with one or more prior, serious offense convictions must be sentenced to life without possibility of parole. | "No parole offenses" are Class A, B or C felonies including many serious, violent crimes punishable by 20 years or more in prison. Life without parole sentence applies to "most serious offenses," including many serious violent felonies, drug trafficking, some bribery, embezzlement, certain accessory and attempt offense. |
| TENNESSEE H 2759 (1994) | Life sentence without parole if one is found to be a repeat violent offender. A violent offender is one who is convicted of a Class A felony or Class B felony after July 1, 1994 with at least two prior Class A or B felony convictions where prior periods of incarceration have been served. A violent offender is also defined as one who is convicted of a Class A felony after July 1, 1994 with at least one prior Class A felony conviction in which a period of incarceration was served. | Many Class B felonies including murder, aggravated kidnapping, aggravated robbery, aggravated rape, aggravated arson, aggravated sexual battery, aggravated burglary, rape of a child, aggravated child abuse, and aggravated sexual exploitation of a minor, or any attempt to commit said felonies. Class A felonies include murder, or any of the Class B felonies that result in serious bodily harm. |
| TENNESSEE H 1778 (1995 amendment) | Expands list of violent felonies which if committed by persons with a prior conviction for certain violent felonies, will be sentenced to life without possibility of parole. | Includes many violent felonies. |

| STATE/LAW (YEAR PASSED) | NATURE OF THE LAW /SENTENCE | CRIMES/OFFENDERS APPLICABLE |
|---|--|---|
| UTAH H 46 (1995) | With some three strikes features, measure provides enhanced penalties for offenders court determines to be habitually violent. Second- or third-degree felony treated as first degree; penalty for first degree remains with no probation eligibility. Board of Parole is to consider it an aggravating factor that the convicted person is a habitual violent offender. | "Habitual violent offender" is person convicted of a violent felony who has at least 2 prior convictions for any felony over the previous 10 years and has been incarcerated, on probation or parole, or the subject of an unexecuted felony arrest warrant. Many violent crimes apply, including criminal homicide, aggravated assault, aggravated kidnapping, rapes and other sexual assault crimes, sexual exploitation of a minor, aggravated burglary, others. |
| VERMONT S 51 (1995) | Three strikes-type law provides that fourth felony conviction may result in imprisonment up to and including life. Third felony crime of violence shall have sentence from imprisonment up to and including life, with no probation eligibility or suspended sentence, early release or until expiration of minimum sentence. | About a dozen crimes apply under the violent career criminal provisions, including arson causing death, assault and robbery with a dangerous weapon or causing bodily injury, aggravated assault, murder, manslaughter, several sexual assault crimes, first-degree aggravated domestic assault. |
| VIRGINIA H 273 (1994) | "Three strikes" law, providing mandatory life without parole for offender convicted of third felony involving designated acts of violence. Those sentenced under this law who reach 65 years of age and have served five years may petition parole board for conditional release. | "Acts of violence" include first and second degree murder, mob-related felonies, kidnapping or abduction, robbery and carjacking, sexual assault felonies, conspiracy to commit any of the above. |
| VIRGINIA S 940 (1995 amendment) | Amends three strikes law to require that three felony sex offenses are ineligible for the old-age release possibility for life imprisonment. Second time sex offenders subject to new penalty: Class 2 felony for certain sex crimes. | Felony sex offenses include rape, sexual battery, aggravated sexual battery, forcible sodomy, attempts. |
| WASHINGTON Initiative 593 (1993) | Provides life imprisonment without possibility of parole for "persistent offenders" convicted of third "serious felony." | More than 20 serious felonies, including any Class A felony and any felony with a deadly weapon; many crimes against children. |

| STATE/LAW (YEAR PASSED) | NATURE OF THE LAW /SENTENCE | CRIMES/OFFENDERS APPLICABLE |
|--|---|---|
| WISCONSIN 1993 S 781, Act 289 (1994) | "Persistent repeater" who has had two previous, separate "serious felony" convictions, receives mandatory life sentence without parole. | "Serious felonies" include murder, manslaughter, battery and aggravated battery, mayhem, vehicle theft, robbery, and many crimes against children including sexual assault, physical abuse, sexual exploitation, abduction. |

The broadest Three Strikes law, by far, is in California. California's list of offenses eligible to count as strikes includes 21 "violent" felonies and 25 "serious" felonies (with some overlap between these two lists). If an offender already has one strike and then commits *any* of the state's 500 felonies, the sentence is automatically doubled. With two strikes, any additional felony conviction sends the offender to prison for 25 years to life. The law requires a state prison sentence in all cases, restricts prison custody ("good time") credits from 50% of the sentence to 20%, and prohibits plea bargaining.

By August 1998, California had sentenced had 40,511 offenders under the two- and three-strike provisions of its law, 36,043 of whom were sentenced under the "two strikes" component [Campaign for an Effective Crime Policy (CECP), 1998]. Together, second- and third-strike inmates made up about one quarter of California's inmate population at the end of 1997 (CECP, 1998). As of late August 1998, Washington, the first state to pass Three Strikes, had sentenced a total of approximately 121 third-strike offenders, and three second-strike offenders, under its much more restrictive law, which went into effect a year earlier than California's (CECP, 1998).⁷

⁷ By October 1999, the number of offenders sentenced in California under two- and three-strikes had grown to nearly 50,000 (California Legislative Analyst's Office 1999). In Washington, the number of Three Strikes offenders was 145 by October 1999 (Washington Sentencing Guidelines Commission, Persistent Offender Sentence Report, 10/99).

Most states have relatively narrow laws and have not sentenced many prisoners under Three Strikes. The laws of most states limit strikes-eligible offenses to a small number of violent felonies, and require three strikes to trigger a mandatory sentence such as life without parole, or 25 years to life. In some states, the law can be triggered by more or fewer strikes. Maryland's law, for example, mandates life without parole when an offender accrues four strikes from a short list of violent felonies, and furthermore requires that separate prison terms were served for the first three offenses. Georgia's law actually stipulates mandatory life without parole after the *second* violent felony conviction from a list of specified offenses. However, the number of offenses covered by Georgia's law is far fewer than those covered by California's (Clark, Austin, and Henry, 1997). By the middle of 1998, three states which had implemented Three Strikes in 1994 or 1995 had not sentenced *any* offenders under the law. Twelve other states had a dozen or fewer Three Strikes convictions, and the federal system had sentenced only 35 offenders under "Three Strikes" (Campaign for an Effective Crime Policy, 1998). The number of habitual offender convictions in each state and the federal system is summarized in Table 2 below. State-to-state disparities clearly exist in the application of Three Strikes.

Table 2: Number of “Three-Strikes”/Habitual Offender Convictions by State as of August, 1998 (Source: Campaign for an Effective Crime Policy, 1998)

| State ⁸ | # of Convictions | State | # of Convictions | State | # of Convictions |
|--------------------|------------------|---------|------------------|-------|----------------------|
| MT | 0 | WI | 3 | IN | 38 |
| UT | 0 | VT | 4 | FL | 116 |
| VA | 0 | MD | 5 ⁹ | WA | 121 |
| AK ¹⁰ | 1 | NC | 5 | NV | 304 ¹¹ |
| CT | 1 | TN | 5 | SC | 825 ¹² |
| NM | 1 | NJ | 6 | GA | 942 ¹³ |
| CO | 2 | AR | 12 | CA | 40,511 ¹⁴ |
| PA | 3 ¹⁵ | Federal | 35 | | |

Another factor that affects the impact of the implementation of a Three Strikes law is the extent to which the new law differs from preexisting or concurrently-existing sentencing legislation. Many states already had habitual-offender statutes before Three Strikes was introduced, and in some states, the severity of Three Strikes is not substantially greater than that of other existing laws. Indiana, for example, already had a law requiring enhanced sentencing for a third felony conviction; the new Three Strikes law required that the mandatory sentence be life without parole. Louisiana’s preexisting law required a sentence of life without parole for the third conviction from a specified list of violent and drug felonies, or for a fourth felony conviction if at least two of the prior convictions were on the specified list. The new law was

⁸ Data not provided by Louisiana authorities.

⁹ Maryland’s law is a four-strikes law, requiring separate prison terms served for the first three crimes.

¹⁰ Alaska is considered a Three Strikes state in the study that serves as the source for this table, but other studies cited in this report, including the report by the National Conference of State Legislatures which is used to categorize Three Strikes states in the subsequent analyses in this paper, do not consider Alaska a Three Strikes state.

¹¹ Nevada has two categories of habitual offender statutes, “greater” and “lesser,” which provide sentences of no parole, life with parole possible after 25 years served, or 25 years in prison with parole possible after 10 years. By August 1998, 164 inmates had been sentenced to the “greater” category and 140 to the “lesser” category.

¹² By October 1997, South Carolina had sentenced 13 inmates under “two strikes” and one inmate under “three strikes” to life without parole. There were also 811 inmates sentenced to 20 or more years without parole under a new policy that was part of the state’s 1995 Crime Bill.

¹³ Georgia’s mandatory minimums law, implemented in 1994, includes “One-Strike” and “Two-Strike” provisions for a list of crimes known as the “seven deadly sins.” By March 31, 1998, there were 57 inmates serving life without parole for a second strike, and 885 inmates serving 20 years or more for a first strike (Center for an Effective Crime Policy, 1998).

¹⁴ By July 30, 1998, California had convicted 36,043 offenders under the two-strikes provision of its law, and 4,468 under the three-strikes provision.

actually almost exactly the same, except that the four-strike provision would be invoked if any *one* of the prior convictions was on the list of specified offenses. California actually already had a law which required a sentence of life without parole for 20 years for a third violent felony conviction if separate sentences were served for the first two offenses, but the 1994 law greatly expanded the extent of repeat offender legislation by increasing the number of eligible offenses and decreasing the number of strikes necessary to trigger the law (Clark, Austin, and Henry, 1997).

Background on “Truth in Sentencing”

Truth in Sentencing, another popular sentencing policy, requires that certain sentenced offenders (usually violent offenders) spend a fixed percentage of their sentences – usually 85 percent, but sometimes as much as 100 percent, and occasionally less than 85 percent – behind bars. These policies are intended to limit the common practice of releasing prisoners as a result of “good time” credits long before their sentences are complete, or freeing them on parole or other types of discretionary release. In the past, these practices have greatly reduced time served by prisoners. For example, violent offenders released from prison in 1994 had served an average of only 46 percent of their sentences, up slightly from 44 percent and 42 percent in 1993 and 1992, respectively (U.S. Dept. of Justice, Bureau of Justice Statistics, *Sourcebook of Criminal Justice Statistics* 1996).

The process of TIS’s passage was not as dramatic or exciting as that for Three Strikes. It began in 1992 with two reports authored by then-Attorney General William P. Barr. Barr set

¹⁵ Pennsylvania data were only available through 1996.

forth a series of policy proposals in a report entitled *Combating Violent Crime: 24 Recommendations to Strengthen Criminal Justice*. Barr outlined four objectives:

- (1) providing more resources for law enforcement,
- (2) reforming the state and federal criminal justice systems,
- (3) focusing resources on high-impact operations targeting the most hard-core offenders,
and
- (4) coordinating law enforcement and social programs to reinforce each other.

The policy proposals were clearly set forth and highlighted some alarming statistics from the Bureau of Justice Statistics, including the facts that the average criminal offender was serving only 37 percent of his sentence, and that 30 percent of murders in the US were committed by people on bail, probation, or parole (Barr, 1992b). After noting that the federal system already had a requirement since 1984 that federal prisoners serve at least 85 percent of their sentences, Barr recommended that this system be implemented at the state level as well.¹⁶ A second report, entitled *The Case for More Incarceration*, was released by Barr on October 28, 1992. This report made three basic points: “First, prisons work. Second, we need more of them. Third, inadequate prison space *costs* money” (Barr, 1992c). The Barr reports had both substantive and symbolic impact. Despite subsequent criticisms of them regarding their empirical findings, the statistics and anecdotes contained therein were nonetheless frequently cited in Congressional proceedings regarding the 1994 Crime Bill.

The policy proposals drafted by Barr in support of Truth in Sentencing surfaced at a time when the political environment and level of problem awareness were highly favorable to the passage of such a measure. In 1993, George Allen had been elected governor of Virginia in a

¹⁶ Less than 10 percent of all prisoners in the U.S. are housed in federal prisons, while the rest are in state-operated facilities.

landslide, with crime as one of the central issues of his campaign. Specifically, he had promised to abolish parole if elected. Following his successful campaign, Allen appointed former US Attorneys General Richard Cullen and William Barr to head a Commission on Parole Abolition and Sentencing Reform, which created a plan which proposed to require violent offenders to serve at least 85 percent of their sentences, double the average time served by violent offenders, increase the time served by repeat offenders by 300 to 700 percent, and limit good-time credits. The price tag for this plan was hefty - \$850 million, a \$200 million increase over preexisting expenditures. However, the plan garnered a great deal of attention in the media and in the 103rd Congress.¹⁷ This plan and the 85 percent benchmark from the preexisting 1984 federal statute provided a framework for legislation to apply to the states.

Interest groups also played a role in creating pressure on the 103rd Congress to pass TIS. One major advocate was the Safe Streets Alliance, a Washington, D.C. lobbying organization whose primary objective is to promote TIS laws nationwide. This organization was involved in the Polly Klaas murder trial, which had also played a role in Three Strikes passage, as described above.

By 1994, Truth in Sentencing, in the form of a requirement that violent offenders serve 85 percent of their sentences, had been passed in Virginia and Washington, and included in the Violent Offender Incarceration and Truth in Sentencing section of the Violent Crime Control and Law Enforcement Act of 1994 (generally known as the 1994 Crime Bill).

¹⁷ Information in this paragraph and the next was obtained from *Politics and Precedence: The Legislative History of Violent Offender Incarceration and Truth in Sentencing in the 1994 Crime Bill and 1995 Amendments*, an unpublished report drafted by Albert Yoon and Peter Greenwood of the RAND Corporation.

TIS laws requiring sentenced offenders to serve 85 percent or more of their sentences are currently in place in 27 states (General Accounting Office, 1998)¹⁸, and several other states have TIS laws in place with lower requirements for percentages of time served (National Conference of State Legislatures, 1997). These laws are listed and described in Table 3.

Table 3: Truth in Sentencing Laws in the States, 1993-1997¹⁹

| STATE | DESCRIPTION OF TRUTH IN SENTENCING LAW |
|--|---|
| Alaska H 38 (1996) | Eliminates good time for offenders serving mandatory 99-year sentences and provides that those offenders may apply just once for modification or reduction of sentence, after serving one-half of the mandatory or 30 years. Also adds, for purposes of considering prior convictions in imposing "three strikes" sentences, convictions in another jurisdiction for offenses having similar elements to applicable serious felonies. |
| Alaska S 67 (1997) | Truth in Sentencing Act requires the court to state and include in the sentencing report information on the minimum term that the defendant is expected to actually serve prior to release or parole. |
| Arizona (1993) | Requires inmates to serve 85 percent of their sentence, with 15 percent reduction possible through good behavior credits. Despite the lack of discretionary parole-release decision, offenders sentenced to prison are supervised upon release for a period of 15 percent of the sentence imposed. |
| Arkansas S 820 (1995) | Offenders convicted of first-degree murder, kidnapping, aggravated robbery, rape and causing a catastrophe must serve 70% of sentence. |
| California (1994) | Requires offenders in prison for violent felonies to serve 85 percent of the sentence imposed. Limits worktime credits to 15 percent of the sentence. |

¹⁸ The states which had implemented Truth in Sentencing by 1997, requiring violent offenders to serve at least 85% of their sentences, were Arizona, California, Connecticut, Delaware, Florida, Georgia, Iowa, Kansas, Louisiana, Maine, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Utah, Virginia, and Washington (U.S. GAO, 1998). In addition, at least four more states have *de facto* Truth in Sentencing laws; that is, while there is no law that violent offenders must serve at least 85 percent of their sentences, these additional states do so in practice.

¹⁹ Sources: *National Conference Of State Legislatures, "1993 - 1997 State Laws Related To 'Truth In Sentencing'"* (1997), General Accounting Office, *Truth in Sentencing: Availability of Federal Grants Influenced Laws in Some States* (1998), state applications to Corrections Program Office for funding through Violent Offender Incarceration / Truth-in-Sentencing Incentive Grants. For states marked with asterisks (*), source of law's description is application for Violent Offender Incarceration / Truth-in-Sentencing incentive grants submitted to the Corrections Program Office (Department of Justice) for FY 1996 (unpublished).

| STATE | DESCRIPTION OF TRUTH IN SENTENCING LAW |
|---|--|
| Connecticut S 927 (1995) | Requires certain offenders serve at least 85% of the sentence imposed and directs the parole board to adopt guidelines and procedures for classifying people as violent offenders not limited to the elements of the offense or offenses for which they are convicted. Applies to offenders eligible for parole who used, attempted or threatened use of force against another person. (Previous law makes a capital felony, murder, or any offense committed with a firearm at or near school ineligible for parole.) |
| Delaware H 507 (1996) | Applies minimum sentence to habitual criminals convicted of a fourth felony, when the fourth conviction is for any one of more than 50 designated "violent felonies." |
| Delaware S 131 (1997) | Authorizes sentencing courts to require that a specified portion of a prison term be served without any form of early release, good time, furlough, work release, supervised custody or any other reduction of sentence. |
| Florida H 1371 (1997) | The Prison Release Reoffender Punishment Act requires mandatory minimum sentences and that 100 percent of the court-imposed sentence be served for offenders who commit a qualifying offense within five years of release from prison. Offenses include weapon use in a criminal offense and various crimes against children. |
| Florida H 687 (1995) | "Stop Turning Out Prisoners Act" requires offenders to serve a minimum of 85% of the sentence imposed, with gain time limited accordingly. State prisoners sentenced to life imprisonment, including for capital felonies, will be incarcerated for the rest of their natural lives. All prison sentence offenses are affected. |
| Florida S 156 (1996) | Establishes eight-year revision cycle for crime and other public safety statutes and guiding principles for justice information technology. Redefines habitual and violent felony offenders to include felonies committed while serving prison sentence and limits gain time for such offenders to ensure 85 percent of sentence served. Also limits gain time for felonies involving weapon or firearm; and includes drug, sex offender, juvenile provisions. |
| Florida S 168 (1995) | "Officer Evelyn Gort and All Fallen Officers Career Criminal Act" provides three strikes-type penalties and includes 85% requirement for some. "Habitual felony offenders" have had 2 or more felonies and get terms from life to not exceeding 10 years; "habitual violent felony offenders" have had 1 or more previous violent crime convictions and get from life, with no release eligibility for 10 years, to 10-year sentences with no release eligibility for 5 years; "violent career criminals" have been convicted as an adult 3 or more times for violent crimes and get from life, with no release eligibility, to mandatory minimum of 10 years. "Violent career criminal," established in a separate proceeding, "gain time" limited to require 85% of sentence served. Courts must give written reasons for not imposing statutory sentences, addressing protection of the public. |
| Georgia (1994)* | GA criminal code section 17-10-6. Requires that any offender convicted of murder, rape, armed robbery, kidnapping, aggravated sodomy, aggravated sexual battery, or aggravated child molestation is required to serve 100 percent of the court-imposed sentence. Offenders convicted of voluntary manslaughter, attempted rape, or aggravated battery are required to serve 50 percent of their sentences for a first offense, and 75 percent for a second offense before parole consideration. |

| STATE | DESCRIPTION OF TRUTH IN SENTENCING LAW |
|----------------------------|---|
| Illinois S 187 (1995) | Limits good conduct credits to require offenders serve at least 85% of sentence imposed. Also creates Illinois Truth-in-Sentencing Commission, charged with facilitating and monitoring implementation of 85% of sentence measure. 85% applies broadly to serious, violent crimes. Offenders imprisoned for first-degree murder receive no good conduct credit and will serve 100% of sentence. |
| Iowa H 2316 (1996) | Requires persons to serve twice the maximum term for a "sexually predatory" serious or aggravated misdemeanor offense when they have one prior such conviction, and a mandatory ten year sentence and serve at least 85 percent of the sentence if they have two or more prior such convictions. Requires twice the maximum term or 25 years, whichever is greater, with sentence reductions limited so that no less than 85 percent of the sentence is served, for conviction of a "sexually predatory" felony. Also requires up to two years of community supervision (parole or work release) for sexually predatory offenders, as defined in the act to broadly include sexually violent or abusive crimes. |
| Iowa S 2114 (1996) | Requires that persons imprisoned for forcible felonies serve 100 percent of the maximum sentence term, without eligibility for parole or work release. Also directs legislative council to establish sentencing task force. |
| Kansas* (1993, 1995) | K.S.A. 21-4706 (a) requires that "for crimes committed on or after July 1, 1993, the sentences of imprisonment shall represent the time a person shall actually serve, subject to a reduction of up to 15% of the primary sentence for good time as authorized by the law." (Provision became effective April 20, 1995.) The preexisting Sentencing Guidelines Act, which went into effect July 1 1993, limited good time credits to 20 percent. However, certain crimes, including first degree murder, second degree murder, and treason, are considered "off-grid" crimes which are not subject to sentencing guidelines but carry a sentence of life imprisonment without eligibility for good time. Kansas does not have a statutory definition that equates a certain number of years with a life sentence. Offenders sentenced to life are eligible for parole consideration after serving a mandatory minimum of 25 or 40 years (determined at sentencing) for first degree murder, 15 years for felony murder, or 10 years for second degree murder. |
| Louisiana H 146 (1995) | Requires certain offenders serve at least 85% of the sentence imposed before being eligible for parole. Life sentences must be commuted to fixed term of years to be eligible for parole consideration. |
| Louisiana H 1915 (1997) | Changes computation of good time for prisoners. Sets rate of 30 days for every 30 days good behavior and self improvement for some prisoners; for others convicted of a crime of violence the rate is three days for every 17 days good behavior. |
| Louisiana S 1418 (1995) | Provides set sentences that must be served, without benefit of probation, parole or suspension of sentence and with good conduct limitations. Rape, 25 years; sexual battery, 10 years; aggravated sexual battery, 15 years. |

| STATE | DESCRIPTION OF TRUTH IN SENTENCING LAW |
|---|--|
| Maine S 201 (1995) | Reduces statutory meritorious good time to ensure that the term of imprisonment imposed closely approximates that which will be served. Applies to all crimes and prisoners. |
| Michigan SB 40, § 33b (1994) | A person convicted and sentenced for the commission of any of the Part I violent offenses ²⁰ is not eligible for parole until the person has served "the minimum term imposed by the court less an allowance for disciplinary credits." These minimums, according to the state's application for federal VOI/TIS grants, "exceed the 85% threshold identified in the Federal Crime Bill." |
| Minnesota* (1992) | Under statute 244.101, all felons sentenced to prison are required to serve the full term set by the court at sentencing. For crimes committed on or after August 1, 1993, all "good time" was abolished. The amount of time the offender serve may be extended for violations of disciplinary rules or conditions of supervised release. |
| Mississippi S 2175 (1995) | Earned-time credits are limited to require that inmates serve at least 85% of prison term. Having served 85% and once released, inmates are placed under earned-release supervision until expiration of the full term. Inmates serving life sentences, except those imprisoned for life for capital murder, may petition for conditional release after age 65 and at least 15 years served. The law also establishes a reconstituted state parole board, and on July 1, 2000, transfers those duties, responsibilities to the Department of Corrections, eliminating the parole board, as such. All prison inmates affected. |
| Missouri (1994) | Requires certain categories of repeat or dangerous felony offenders to serve 50 percent, 80 percent, or 85 percent of a sentence. Retains parole release after those minimum sentences are served. |
| Montana H 356 (1995) | Simplifies and calls for phasing out all good time by 1997, pending recommendations of a sentencing commission, established in the legislation. Meanwhile, actual time served not substantially affected. Applies to all prison inmates. |
| New Jersey S 855 (1997) | Requires a fixed, minimum term of 85 percent of sentence for first and second-degree violent crimes, plus a three to five year period of parole supervision. Violent crimes include those causing death, serious bodily injury, or use or threatened immediate use of a deadly weapon. Also includes any aggravated sexual assault or such assault using or threatening physical force. |

²⁰ Part I violent offenses, as defined by the FBI, are murder, rape, robbery, aggravated assault, burglary, larceny-theft, and motor vehicle theft.

| STATE | DESCRIPTION OF TRUTH IN SENTENCING LAW |
|-------------------------------|---|
| New York S 5281 (1995) | Sentencing Reform Act includes truth, 85%-type provisions and habitual offender measures. Also changes previous law for second felony offenders. Establishes determinate sentences under which offenders are not eligible for discretionary release and may not be paroled prior to serving six-sevenths of the set term. Determinate sentences are imposed on violent felony offenders with a prior felony conviction. Also creates commission to study the effects of the Sentencing Reform Act. The six-sevenths of sentence determinate sentences apply to Class B violent felony offenders who must serve 8 to 25 years; Class C violent felony offenders who are to serve 5 to 15 years; Class D violent felony offenders who must serve 3 to 7 years; and Class E violent felony offenses, which carry set sentences of 2 to 4 years. The parole sentence provisions for second nonviolent felony offenders applies to specified offenses including, but not limited to, criminal mischief, grand larceny, forgery, some controlled substance felony offenses. |
| North Carolina* (1993) | Per N.C. General Statutes, Criminal Procedures Act § 15A-1340.13 (c) and (d), all felony offenders are required to serve 100 percent of the court's minimum sentence, which is determined by the state's sentencing guidelines. Maximum term is also set at the time of sentencing. Good time credits cannot reduce the minimum term. |
| North Dakota H 1089 (1997) | Requires that violent offenders sentenced to life imprisonment with possibility of parole will serve a term computed as life expectancy based on a recognized mortality table, without parole eligibility until that requirement is met. |
| North Dakota H 1218 (1995) | Requires imprisoned, violent offenders must serve 85% of sentence. Violent offenders include those convicted of murder, manslaughter, aggravated assault, kidnapping, gross sexual imposition, robbery, burglary or attempts to commit the offenses. |
| Ohio S 2 (1995) | Establishes new framework for felony sentencing, sets principles to guide courts in imposing sentences and specifies presumptions for imposing prison terms for certain felonies. Some mandatory minimum sentences required under law, including for repeat violent offenders on whom the court must impose a prison term from the range authorized for the offense, which cannot be reduced by judicial release, earned credit or any other provision for release. Reclassifies drug trafficking and possession offenses. Specifies financial sanctions, residential and nonresidential prison alternatives. Sets sentencing procedure and sentence appeals. Establishes sentence of life imprisonment without parole as additional alternative to the death penalty in applicable cases. |
| Oklahoma H 1213 (1997) | Truth in Sentencing act requires that 85 percent of the sentence be served by serious, violent offenders. Non-violent offenders are required to serve 75 percent of sentence, some in community corrections, which is expanded locally under the act. Establishes sentencing commission to review impact of legislation, and so establishes planning process for future prison bed needs, including selection process for private prisons. |
| Oregon H 3439 (1995) | Creates mandatory minimum sentences for some crimes. Extends to 25 years the period of time that a person sentenced to life imprisonment for aggravated murder must serve before parole board considers rehabilitation, release. Includes many violent crimes, including murder, attempt or conspiracy to commit murder, manslaughter, assault, kidnapping, rape, sodomy, unlawful sexual penetration, others. |

| STATE | DESCRIPTION OF TRUTH IN SENTENCING LAW |
|---------------------------------|---|
| Pennsylvania* (1911) | Part 1 offenders are required to serve 100 percent of their minimum sentences as established under the state's guidelines or mandatory sentences. Pennsylvania has no good time provisions. The PA Board of Probation and Parole, which has authority over all parole decisions, has no authority to release an offender prior to completion of the minimum sentence (releases can be made before completion of the maximum sentence). A life prisoner can only be paroled with a commutation from the Governor. |
| South Carolina H 3096 (1995) | Creates "no parole offenses." Requires that 80% of sentence must be served before eligibility for work release and 85% for early release, discharge or community supervision. "No parole offenders," must serve up to 2 years community supervision following prison term. "No parole offenses" are Class A, B or C felonies including many serious, violent crimes punishable by 20 years or more in prison. Life without parole sentence applies to "most serious offenses," including many serious violent felonies, drug trafficking, some bribery, embezzlement, certain accessory and attempt offenses. |
| South Dakota S 273 (1996) | Eliminates good time and establishes minimum sentence that must be served before parole eligibility for each felony class. Number of felony convictions is a factor in sentence length. Less serious offenses and offenders may serve 25% of sentence before parole eligibility; more serious and frequent offenders will serve 75 and 100% of sentence. Requires DOC to keep conduct record of each inmate which can be used in considering parole release, but without sentence credits related to conduct. |
| Tennessee H 1762 (1995) | Eliminates release eligibility for persons convicted of certain crimes and limits sentence credits to require at least 85% of sentence is served. Applies to 11 violent, often aggravated, crimes including murder, rape, rape of a child, kidnapping, robbery, sexual battery, arson, child abuse. |
| Texas (1993) | Aggravated offenders must serve 50 percent of their sentences or 30 years, whichever is less. |
| Utah* (1985) ²¹ | Sentences are imposed within a statutorily defined range and "the sentence and judgment of imprisonment shall be for an indeterminate term of not less than the minimum and not to exceed the maximum term provided by law for the particular crime" (Utah Code Ann. § 77-18-5). The same ranges are used by the Utah Board of Pardons and Parole (Utah Code Ann. § 77-27-9). |
| Washington (1990) | No more than 15 percent earned early release time can be earned by offenders sentenced for the following offenses: Murder 1 or 2, Homicide by Abuse, Rape 1 or 2, Rape of a Child 1 or 2, Child Molestation 1, Kidnapping 1, Assault 1, Assault of a Child 1, and any non-sex offense with a finding of sexual motivation. For offenses committed on or after December 2, 1993, the following mandatory sentences must be served before the remainder of the sentence becomes eligible for a maximum of 15 percent early release time: Murder 1, 20 years; Rape 1, 5 years; Assault 1, 5 years. |

²¹ Utah was listed as a TIS state in the 1998 General Accounting Office (GAO) report, but not in the 1997 National Conference of State Legislatures (NCSL) report. Utah is an indeterminate sentencing state (its sentencing guidelines have voluntarily been adopted by the Utah Board of District Court Judges, the Utah Judicial Council, and the Utah Board of Pardons and Parole, but they are not in statute. The state applied and qualified for federal VOI/TIS funding by demonstrating that its Part I offenders were serving not less than 85% of their prison terms.

| STATE | DESCRIPTION OF TRUTH IN SENTENCING LAW |
|------------------------------------|--|
| Virginia (1994 special session) | Abolished parole and good conduct allowance for anyone convicted of a felony. Permits the court to add a post-release supervision term to the imposed prison sentence. |

A trend toward passage of Truth in Sentencing laws began around 1994.²² In that year, the federal government first offered substantial material incentives to states to encourage them to pass Truth in Sentencing laws. Under Title II, Subtitle A of the Violent Crime Control and Law Enforcement Act of 1994, as amended (“the Crime Act”), funding was authorized by Congress to be used in an effort to increase prison and jail capacity to insure the incapacitation of violent offenders for a substantial proportion of their sentences. The Crime Act included authorizations of about \$10 billion from the federal budget to the states for each of two programs, Violent Offender Incarceration and Truth in Sentencing, from 1995 through 2000. The intent of the TIS appropriation was to encourage states to require violent offenders to serve 85% or more of their sentences.²³

Table 5 displays the findings of a 1998 report by the U.S. General Accounting Office (GAO) that these grants were a key factor in the implementation of TIS legislation in four states, and a partial factor in the adoption of TIS in eleven more states (U.S. GAO, 1998).

²² Some states, such as Pennsylvania, Georgia, and Washington, already had TIS-type laws on their books.

²³ In order to receive TIS money, a state is required to demonstrate that it implemented or enacted a TIS law requiring violent criminals to serve at least 85% of their sentences, or that as a result of TIS laws, prisoners sentenced for Part I violent crimes serve an average of 85% or more of their sentences, or (in indeterminate sentencing states) at least 85% of the term established under sentencing guidelines or at least 85% of the maximum allowed under sentence imposed by court. Eligibility requirements for various levels of VOI funding include demonstration of increases in sentence length and average sentences served by criminals, decreases in violent crime rates, and other indications of increasing toughness with violent criminals (Office of Justice Programs, Corrections Program Office, 1995, 1996). All of the states qualified for some funds, and about half of the states were able to meet all levels of these requirements.

Table 5: Influence of Federal TIS Grants on State Laws²⁴

| State | Year passed | Date effective | Grants not a factor | Grants a partial factor | Grants a key factor |
|----------------|-------------|----------------|---------------------|-------------------------|---------------------|
| Arizona | 1993 | 1/1/94 | • | | |
| California | 1994 | 9/21/94 | • | | |
| Connecticut | 1995 | 7/1/96 | | • | |
| Delaware | 1989 | 6/30/90 | • | | |
| Florida | 1995 | 10/1/95 | | • | |
| Georgia | 1994 | 1/1/95 | • | | |
| Iowa | 1996 | 7/1/96 | | • | |
| Kansas | 1992 | 7/1/93 | | • | |
| Louisiana | 1996 | 1/1/97 | | | • |
| Maine | 1995 | 10/1/95 | | | • |
| Michigan | 1994 | 6/27/94 | • | | |
| Minnesota | 1992 | 8/1/93 | • | | |
| Mississippi | 1995 | 7/1/95 | | • | |
| Missouri | 1994 | 8/28/94 | | • | |
| New Jersey | 1997 | 6/9/97 | | • | |
| New York | 1995 | 10/1/95 | | | • |
| North Carolina | 1993 | 10/1/94 | • | | |
| North Dakota | 1995 | 8/1/95 | | • | |
| Ohio | 1995 | 7/1/96 | • | | |
| Oklahoma | 1997 | 7/1/98 | | | • |
| Oregon | 1995 | 4/1/95 | • | | |
| Pennsylvania | 1911 | 1911 | • | | |
| South Dakota | 1995 | 1/1/96 | | • | |
| Tennessee | 1995 | 7/1/95 | | • | |
| Utah | 1985 | 12/1/85 | • | | |
| Virginia | 1994 | 1/1/95 | | • | |
| Washington | 1990 | 7/1/90 | • | | |

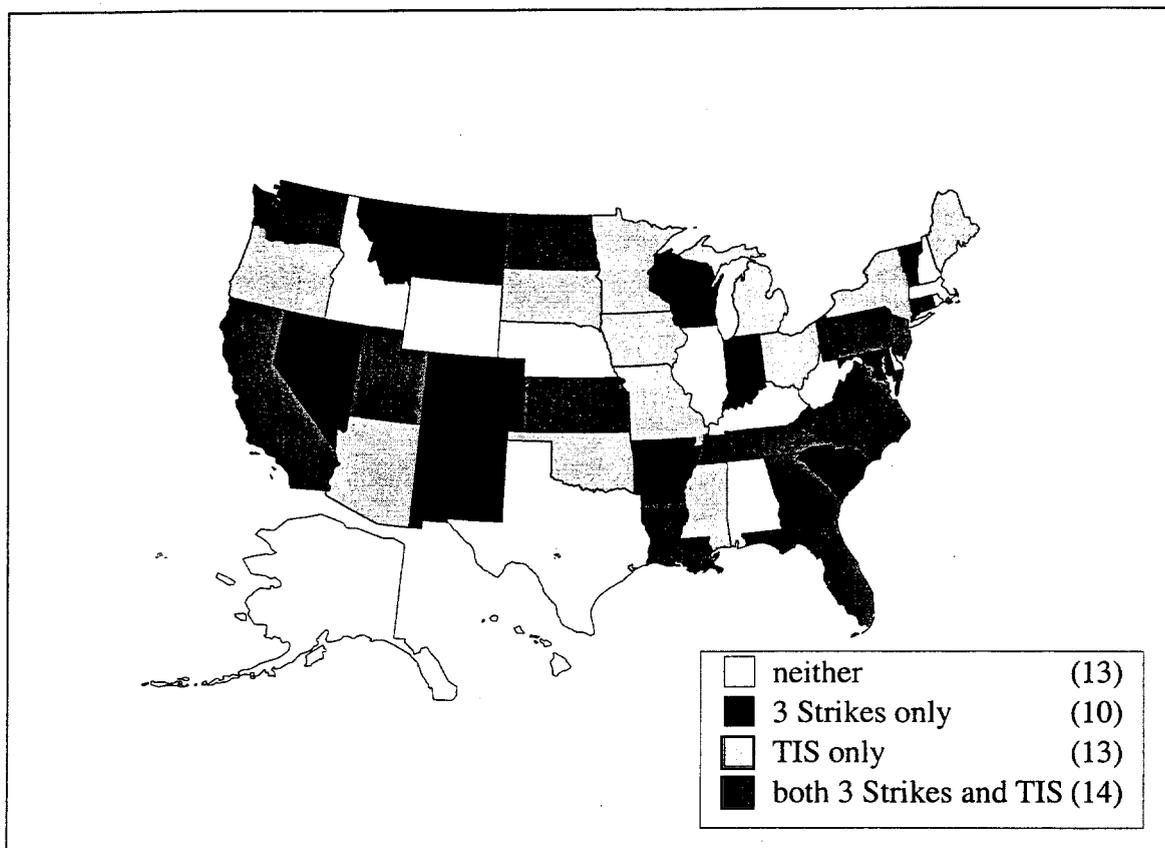
Given the enormous amount of money involved in the TIS grants, the potential changes in prison and jail populations, and the delays in court case processing that may ensue from the policy's implementation, it is important to use available data and methods to examine the consequences of TIS on the criminal justice system. Where possible, it is also informative to compare the effects of Three Strikes and TIS, two sentencing policies with similar objectives, but

²⁴ Source: *Truth in Sentencing: Availability of Federal Grants Influenced Laws in Some States*, GAO Report (1998).

whose passage, implementation, and approaches to the problem of violent crime have significant differences.

Figure 1 below summarizes the presence of Three Strikes and TIS laws in the states as of 1997.

Figure 1: Which States Have Three Strikes and TIS?²⁵



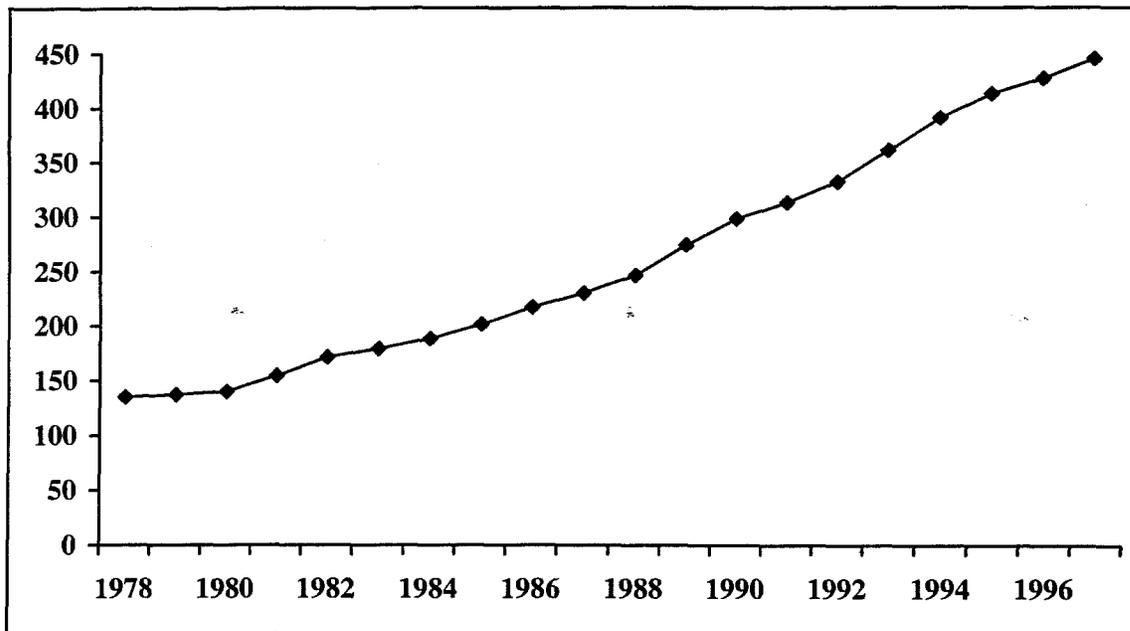
²⁵Three Strikes states based on National Conference of State Legislatures, "Three Strikes" Legislation Update, December 1997, TIS states based on GAO (1998).

Current Trends in Incarceration

Continuing increases in toughness in sentencing and crime control strategies appear to be taking a heavy toll on prison populations. Figure 2 shows the trend in incarceration rates throughout the past two decades, from 1978 through 1997. The felony incarceration rate has grown each year throughout this period. The prison and jail population reached 1.7 million in 1996, up approximately 7 percent per year since 1990 (Butterfield, Sept. 28, 1997).

FIGURE 2: U.S. Incarceration Rates Have Been on the Rise

State Prisoners Serving Sentences over 1 year, per 100,000 residents, 1978 – 1997²⁶



On the other hand, as shown in Table 6, the rate of growth of the US incarceration rate, which fluctuated from year to year, decelerated from 1992-93 to 1996, rising only slightly in

²⁶ Source: BJS, Sourcebook of Criminal Justice Statistics.

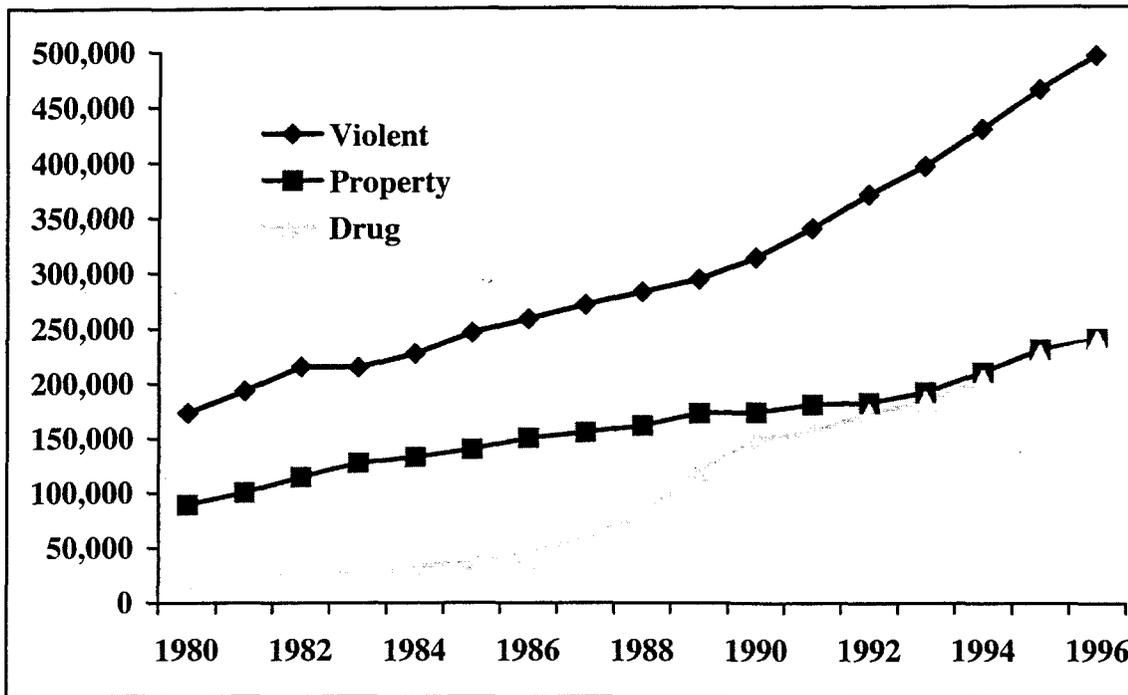
1997. The slowdown of prison growth could be the result of various factors, including policy changes, demographic changes, declines in crime, or prison capacity limitations.

Table 6: Rates of Incarceration Rate Growth, US Total

| Year | Rate | Year | Rate |
|----------------|-------------|----------------|-------------|
| 1977-78 | 2.3% | 1987-88 | 6.6% |
| 1978-79 | 1.5% | 1988-89 | 11.7% |
| 1979-80 | 2.4% | 1989-90 | 8.5% |
| 1980-81 | 10.1% | 1990-91 | 5.2% |
| 1981-82 | 10.7% | 1991-92 | 6.0% |
| 1982-83 | 4.9% | 1992-93 | 8.9% |
| 1983-84 | 4.8% | 1993-94 | 8.1% |
| 1984-85 | 7.2% | 1994-95 | 5.8% |
| 1985-96 | 7.6% | 1995-96 | 3.4% |
| 1986-87 | 6.4% | 1996-97 | 4.2% |

In addition, we can see from Figure 3 that the composition of prison populations has undergone interesting changes since 1980. Violent offenders now make up more than 50 percent of prison populations, and the majority of the increase in prison populations since 1980 is comprised of violent offenders. However, the number of drug offenders has shown the most dramatic percentage increase. This number grew more than tenfold from 1980 to 1996, and is now almost equal to the number of property crime offenders in prison.

FIGURE 3: WHO'S IN PRISON? Sentenced Prisoners in Custody of All State Correctional Facilities, by Most Serious Offense, 1980-1996²⁷



The decline in the proportion of prison inmates who are violent offenders caused concern among some policymakers. Most Truth in Sentencing and Three Strikes laws were designed with the intent of making the incarceration of violent offenders a priority, particularly given the shortage of prison space in many jurisdictions. From 1990 through 1997, the state prison populations averaged between 114 and 118 percent of capacity nationally (BJS, *Prisoners in 1997*).²⁸ Overcrowding is highest in California, where prisons were filled to 206 percent of their design capacity at yearend 1997. Several other states report prison populations which are over 150 percent of capacity (BJS, *Prisoners in 1997*).

²⁷ Sources: BJS, *Correctional Populations in the United States*; BJS, *Prisoners in 1997*.

²⁸ These figures are based on population as a proportion of highest reported capacity. Jurisdictions have the option of reporting one or more of three different capacity measures: rated, operational, and design capacity. These three

California's Three Strikes law, which has much more breadth to its wording and implementation than the Three Strikes law in any other state, is atypical in that it is widely applied toward nonviolent offenders. According to the data generated by the California Legislative Analysts's Office in October 1997, about 50 percent of California's Third Strike cases (those triggering sentences of 25 years to life), and 85 percent of second-strike cases (those earning doubled sentences) were for non-violent or non-serious crimes (*Legislative Analysts's Office paper, 1997*). In contrast, all but five of the cases prosecuted under Three Strikes in Washington by February 1999 were for violent offenses.²⁹

The relationship between incarceration and crime rates is complex. On the one hand, incarceration is intended to control or reduce crime rates, so one might expect to see correspondence between increases in incarceration (resulting, perhaps, from increased toughness in sentencing policies) and decreases in crime. On the other hand, increases in crime are likely to result in more arrests and convictions, and eventually, increases in incarcerated populations.

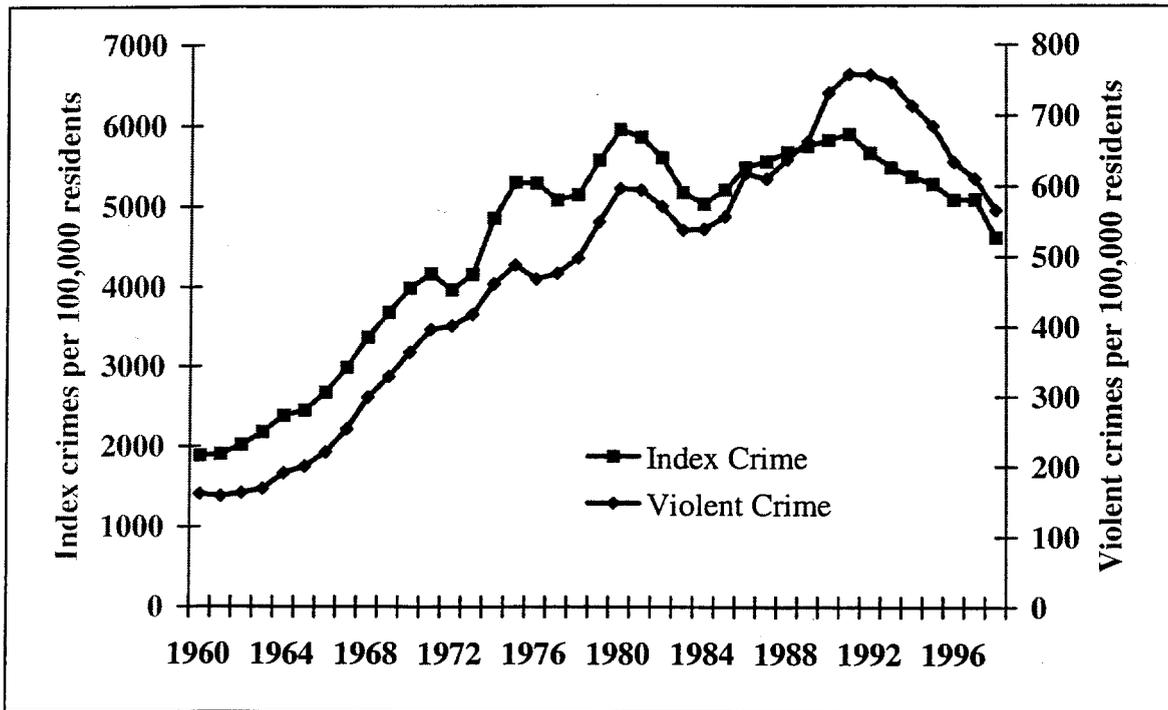
A look at crime rates over the past few decades shows a trend which is not as monotonic as that for incarceration rates. From Figure 4, we can see that both index and violent crime rates have risen dramatically from 1960 through 1996. A closer look at the last decade, however, reveals an increase, followed by a decrease of about the same magnitude, in crime rates over this period. Following substantial growth in the 1960s and 1970s, index crime rates dropped to almost exactly the same rate in 1996 (5078.9 per 100,000 residents) as in 1977 (5077.6 per 100,000). Violent crime rates rose by 33.2% during these two most recent decades, going from 475.9 per 100,000 in 1977 to 634.1 per 100,000 in 1996, with a peak of 758.1 per 100,000 in

measures may or may not be the same. The average of state prison populations as a percentage of lowest reported capacities was between 124 and 131 percent for all years from 1990 to 1997.

²⁹ The other five were for "burglary 1." Data provided by the Washington State Sentencing Guidelines Commission.

1991. Index crimes rates in the United States have been declining since 1991, and violent crimes have been declining since 1992.

FIGURE 4: U.S. INDEX AND VIOLENT CRIME RATES, 1960 – 1998³⁰



Three Strikes and Truth in Sentencing began to gain widespread popularity around 1993 and 1994. Thus, one important characteristic to note about the national trends in index and violent crime rates is that the most recent downturn began before Three Strikes was first implemented, and before TIS began to gain popularity. Similar trends occurred in most states, with and without Three Strikes and TIS.

The fact that drops in crime rates preceded the implementation of Three Strikes and TIS is a reminder that phenomena as complex as the rise and fall of crime rates cannot easily be explained by one, or even by a small number of factors or policies. While it suggests that Three

³⁰ Source: FBI, Uniform Crime Reports. Please note that y-axis labels for index crimes are on the left, and those for violent crimes are on the right.

Strikes and concurrently-implemented policies were not the only reason behind drops in crime, it does not disprove that they lowered crime rate (Beres and Griffith, 1998). A great deal of public speculation has been made about the reasons behind this decline, which has aptly been labeled a “conundrum” (Monkkonen, 1997). While the two policies’ impacts on the crime rate is a topic of paramount importance, this project will focus on the policies’ impacts on the correctional system. The question of impacts on crime is being addressed in other projects on which the author is working.

Potential and Expected Effects of Three Strikes and TIS on Corrections

By increasing the frequency with which repeat offenders are sentenced to prison, and requiring that these offenders serve longer terms in prison, Three Strikes might be expected to further accelerate the growth of prison populations. Truth in Sentencing would not increase the number of sentenced offenders, but it would require that those who are sentenced spend more time behind bars.

However, in many states, severe limits on prison capacity may place upper bounds on the growth of prison populations. Under such capacity constraints, the imprisonment of a larger number of repeat offenders may result in an increase in release rates for selected other inmates, such as nonviolent offenders, to accommodate the serious or violent offenders serving mandatory extended sentences. If a law like Three Strikes were to mandate prison sentences for many offenders who would otherwise have received lesser (non-prison) sentences, we would observe an increase in the rate of new admissions to prison. On the other hand, if the law were to have an impact primarily on the sentence length of offenders who would already have received prison terms (which is the case for most Three Strikes laws that only target serious and violent

offenders), or if (like Truth in Sentencing) it were to leave sentences unchanged but mandate that a greater percentage of the existing sentence must be spent behind bars, then the rate entry to prison might not change. Furthermore, nationwide, the total population of inmates in state prisons has consistently exceeded prison capacity throughout the last decade. From 1990 to 1998, state prison populations ranged between 113 and 116 percent of highest reported capacity levels (Beck and Mumola, 1999). At yearend 1998, thirty-three states reported prison populations at or above 100% of their highest reported capacity levels, and California had the most overcrowded prisons, at 203% of capacity (Beck and Mumola, 1999). Given these capacity constraints, it is possible that prison populations might actually shrink following the passage of mandatory sentencing laws, as inmates with shorter terms are replaced by fewer prisoners serving longer terms.

At first, therefore, the rate of exits from prison might grow faster than the rate of entries into prison, but eventually the flow of offenders leaving prison would slow down, as fewer short-term inmates would be behind bars.

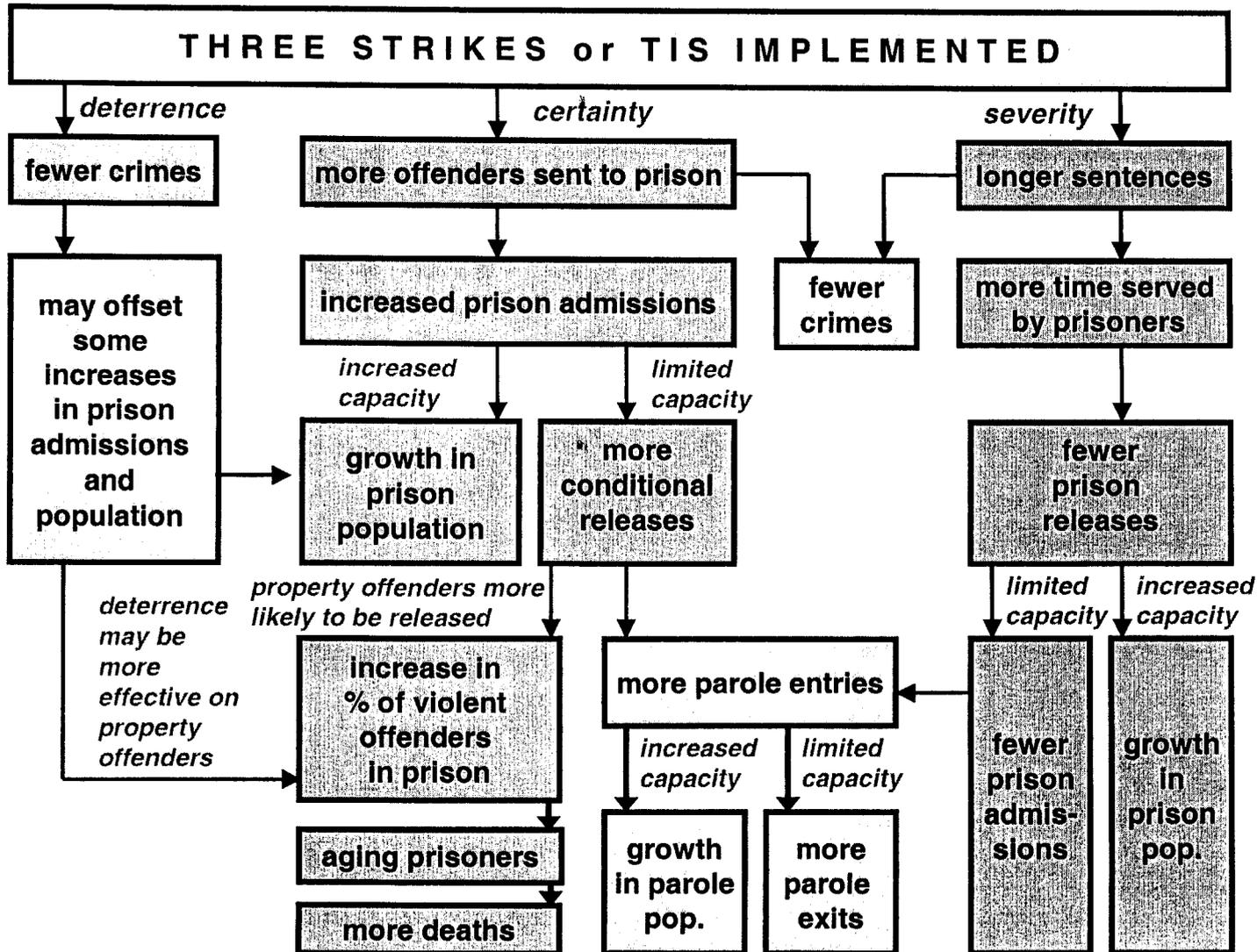
If limited prison capacity requires the release of certain less-serious offenders, then we would expect there to be a displacement of prison inmates to other parts of the criminal justice system, such as the parole system. Parole populations might therefore grow, or if the capacity of the parole system is constrained, there might be an increase in parole admissions, accompanied by an increase in parole releases, as the less-serious parolees are in turn displaced.

In addition, if Three Strikes and Truth in Sentencing succeed in their primary objectives, the incapacitation of potential recidivists or deterrence of potential criminal offenders could result in declines in crime rates, which would then reduce the flow of inmates into the prison system and offset some of the effects described above.

While Three Strikes and Truth in Sentencing may not increase the volume of prison populations, the composition of these populations might change. The percentage of violent offenders among prison inmates would be expected to increase, and the number of older prison inmates might increase over time as inmates are required to serve longer sentences. Eventually, rates of death among prisoners could also increase.

Figure 5 below provides a flow diagram summarizing these processes by which the implementation of Three Strikes and TIS could result in impacts on the corrections system and crime rates.

Figure 5: Flow Diagram of Impacts on Crime and Corrections



Methodology

The impacts of Three Strikes and Truth in Sentencing laws are empirically estimated in this study using pooled time-series analysis with fixed effects.³¹ This method can be employed when measurements of relevant variables are available for numerous observations over a series of points in time. The procedure combines time-series analysis, which looks for changes in dependent variables as the same observations are measured over a period of time, with cross-sectional analysis, which examines many different observations simultaneously. It allows for concurrent analysis of states which did and did not implement new laws, so that the latter can function as control cases for the interventions that took place in the former. Using this method, researchers can look for consistent effects of new legislation in states which have widely varying “starting points” and whose implementation of new laws occurred in several different years. Benefits of this method include substantial increases in sample size for a single analysis, which improves the statistical efficiency of the estimates (Sayrs, 1989). Wicharaya (1995), who used this method in an analysis of the impacts of 1980s sentencing policies, states that it maximizes generalizability because it “offers statistically significant tests of policy impacts across jurisdictions tested.”

Data, Variables, and Model

The unit of observation for the data used in this analysis is the state-year. The data are measured at the state level, and the dataset covers all states and years from 1986 to 1997. A full

³¹ This method has also referred to as multiple time series analysis (Marvell and Moody, 1996) and time series cross-sectional analysis (Beck and Katz, 1996).

summary of the definitions, availability, and sources of the variables coded in the dataset can be found in Appendix C.

Dependent Variables

Incarceration, “Certainty,” and “Severity”

The analysis of impacts on prisons examines possible changes in several aspects of corrections: the rate of incarceration of inmates, estimated average time served in prison by offenders, and the certainty of being sentenced to prison. The incarceration rate is measured as the number of inmates serving felony sentences of longer than one year, per 100,000 residents in a state.³² “Certainty” of prison sentencing is represented by the conditional probability of a prison sentence given the disposition of a felony case. It is estimated by dividing the number of felony cases disposed by the number of new court commitments to prison in a given year and state. The number of months served in prison is used to represent “severity” of sentencing, and is estimated by dividing the total number of inmates in a state by the number of prison admissions in that year (see Beck and Blumstein, 1999, for discussion of this measurement). The incarceration rate and “certainty” data were available for the years 1986 through 1997; the “severity” proxy was available from 1986 through 1996.

Prison Admissions and Releases

Two categories of admissions are tested, *total admissions* and *new court commitments*. New court commitments differ from total admissions in that they only include inmates who are sent to prison as a result of a new conviction, and exclude prisoners who are readmitted as a

³² Inmates serving sentences of one year or more meet the standard definition of “felons.” The number of inmates in a state’s jurisdiction includes a state’s inmates who are being held out of state, such as Alaska’s prisoners being held in private contract facilities in Arizona.

result of violations of parole or other forms of conditional release. It is not clear which one of these two measures of admissions would be more strongly impacted by Three Strikes and Truth in Sentencing. One possible difference may result from the way these laws affect the court system. Defendants who face sentencing under Three Strikes tend to request jury trials more often than other defendants, since there is no advantage to pleading guilty when a lengthy mandatory sentence would be the result of any guilty plea. Inmates who are subject to Truth in Sentencing would also have more to lose from a guilty plea. This may result in delays in the processing of court cases, and declines in the rate of new convictions, especially in the early years of a new law's implementation. It is administratively much easier to return a recidivist to prison for a technical violation of release conditions (such as failure to report to a parole officer or a "dirty" drug test) rather than prosecuting the offender for a new crime, so the ratio of new court commitments to other types of admissions might drop. The existence of Three Strikes or TIS as a prosecutorial bargaining tool may make recidivists more willing to accept a revocation of parole, and serve the remainder of a pre-existing term, rather than risk a long mandatory sentence if convicted. Judges, defense attorneys, or even prosecutors who are uncomfortable with the use of lengthy mandatory sentences may also favor the use of parole revocation, instead of the imposition of a Three Strikes or TIS sentence, when the option is available. The dependent variables used here are the numbers of total prison admissions, new court commitments, total releases, and conditional prison releases in each state-year.³³ All of the measures of admissions and releases were available from 1986 through 1996.

³³ The Bureau of Justice Statistics report series, *Correctional Populations in the United States*, served as the source of the data on prison admissions and releases and parole populations, admissions, and releases. Prison population and capacity data come from the BJS report series, *Prisoners in 1986* (and corresponding reports for subsequent years through 1998).

Parole Population, Entries, and Exits

Impacts on parole are estimated using actual counts of the parole population, and the number of entries and exits from parole in each state-year. These data were available from 1986 through 1997.

Proportion of Inmates Over Age 50, Death Rates, and Suicide Rates Among Prisoners

The percentage of state prison populations over the age of 50 was available for the years 1990 through 1997. These data were reported by state departments of correction in response to annual surveys fielded by the Criminal Justice Institute (Camp and Camp, 1986-1998).

Death and suicide rates were reported by most states from 1986 through 1996. However, these numbers are very low. On average, there were only 41 reported inmate deaths, and 2.4 inmate suicides, per year. As a result, these data may be highly sensitive to random fluctuations.

Inmate Composition by Offense

The impact of Three Strikes and TIS on the offense composition of inmates in prisons was analyzed using dependent variables representing the percentage of inmates in a state whose primary offense was a violent offense, a property offense, or drug-related offense. The source for these data was the National Corrections Reporting Program (NCRP), a voluntary reporting program run by the Department of Justice, Bureau of Justice Statistics. Reporting states submit descriptive statistics on every inmate in the states' prison populations with regard to several characteristics, including the ones used in this section. The most recent year of data available was 1997. On average, 36 states report annually to the NCRP, but unfortunately, the specific states that report change from year to year. As a result, the time series for many states have gaps or missing data. Smaller states tend to report less frequently to NCRP. All of the dependent

variables were available for California for all 12 years from 1986 through 1997, and all of the time series were complete for the state of Washington. A more complete description of the available NCRP data can be found in Appendix E.

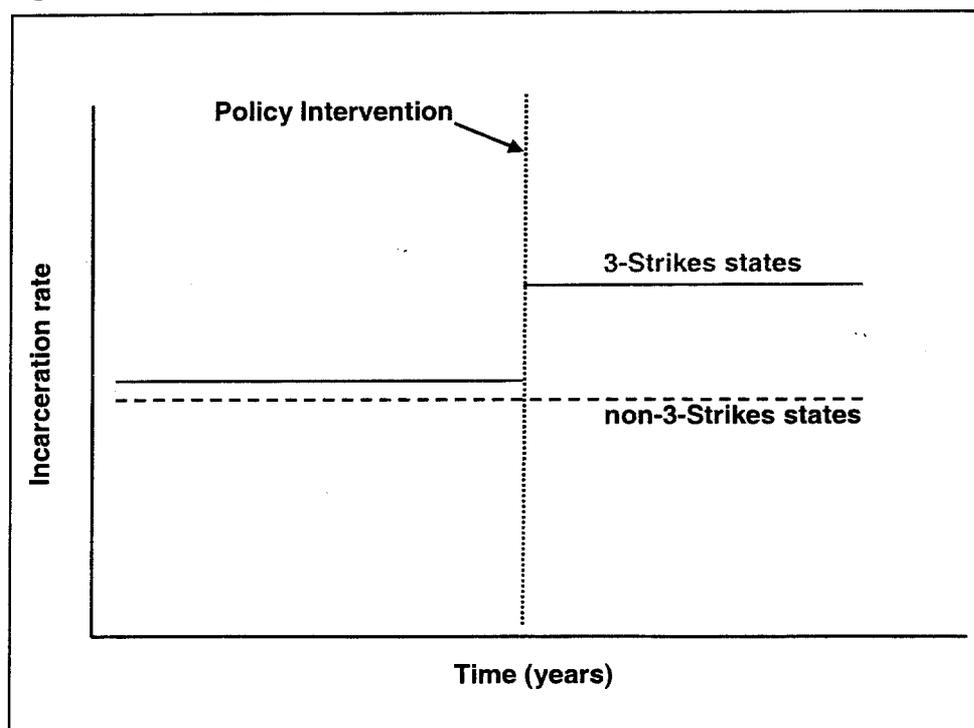
The National Corrections Reporting Program collects data on the characteristics of offenders admitted or released from prison in a given year, as opposed to characteristics of each state's standing prison population. For this reason, it is difficult to draw conclusions from analyses using NCRP admissions data regarding prison populations as a whole. For example, one can examine whether more violent offenders are being admitted to prison as a consequence of Three Strikes, but the proportion of inmates who are violent offenders may eventually increase even if the proportion of violent new admissions does not, if the average violent offender admitted is now required to serve a longer term. While it would be preferable to use data on the composition of total inmate populations, rather than admissions, appropriate time-series data by state were unfortunately not available for offense breakdowns of prison populations.

Independent Variables: Policy Interventions – Building a Model

An econometric model has been developed to estimate the impacts of the two policy interventions on the rates of incarceration and other dependent variables. To explain the choice of policy intervention variables, it is useful to consider how the hypothesized effect of one of the policy interventions on a dependent variable would “look.” In the following examples, the hypothesized effects of Three Strikes on the incarceration rate will be used to illustrate the steps that were involved in building the model.

In its simplest incarnation, the impact of Three Strikes on incarceration might be visualized as follows:

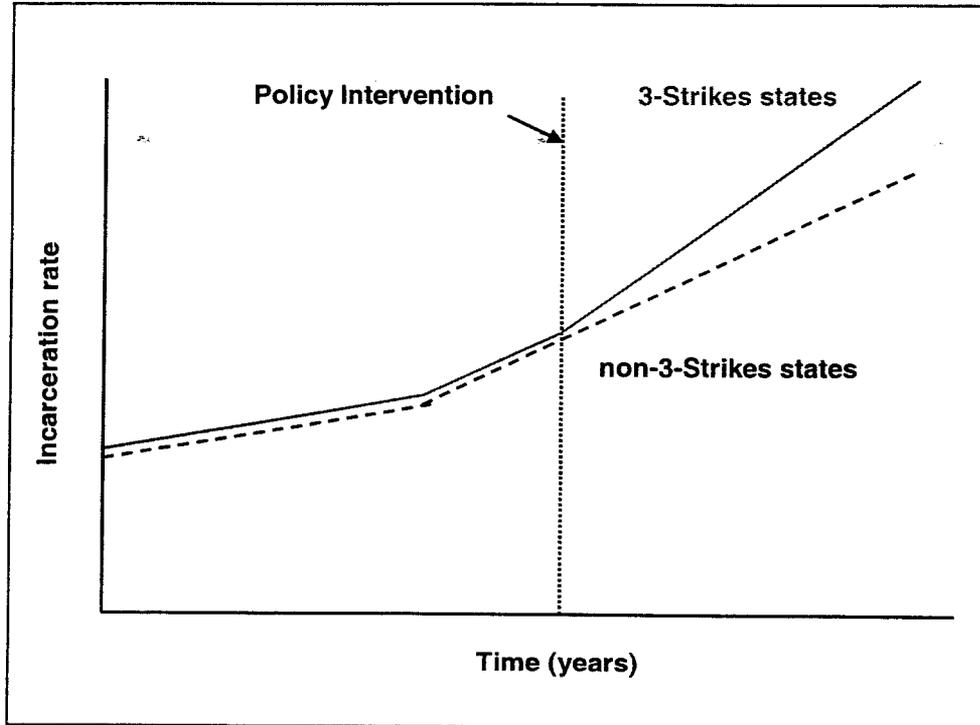
Figure 6: What Might a Policy Impact Look Like? A Simple Illustration



In this case, the independent variable representing a policy change of interest is a dummy variable representing the presence or absence of Three Strikes in a given state-year. The dummy variable would be coded as 1 in every state-year where the policy was in place, and 0 in all other state-years. For example, in California and Virginia, where Three Strikes was passed in 1994, the Three Strikes dummy variable is coded as 0 from 1986 through 1993, and as 1 from 1994 through 1997. In this case, the relationship between the law and crime rates could be summarized with the equation, “Incarceration = $\alpha + \beta_1$ (3 Strikes).” Rates of incarceration would be expected to increase in Three Strikes states, but not in states without the law, so the coefficient β_1 would be positive.

The above diagram is somewhat unrealistic, however. One reason is that incarceration trends were clearly not flat before or after the implementation of the law. As summarized in Figure 2 above, we know that incarceration was steadily growing before most Three Strikes laws went into effect, and then continued to grow after the laws were in place. If this national trend is not taken into consideration in our analysis, it is possible to overestimate the impact of the law on increases in the incarceration rate, which was already growing. Thus, year fixed effects are added to the model as a proxy representing factors which may have driven national trends in the dependent variables that may have taken place over this twelve-year time period. Year fixed effects are simply dummy variables representing each year from 1987 through 1997. The year 1986 is the baseline year and is not assigned a dummy. With these dummy variables included, the hypothesized relationship between Three Strikes and incarceration might look more like this:

Figure 7: Year Fixed Effects Allow the National Trends to Vary

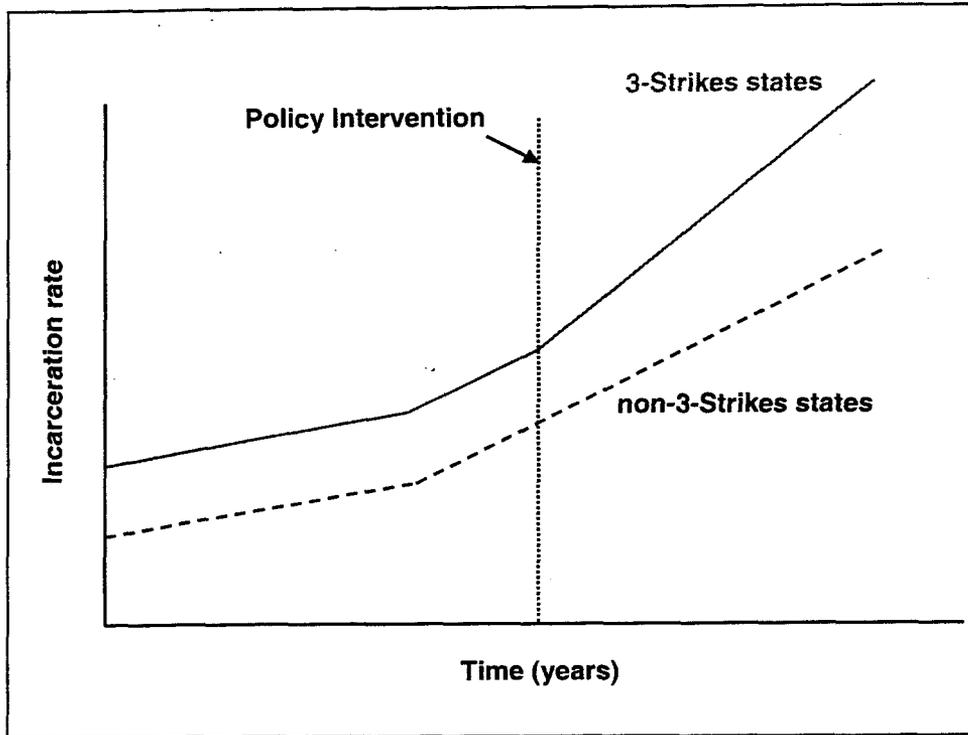


As a result of including the year fixed effects, the pre-existing national trends in incarceration rates are now taken into consideration. The diagram depicts a situation in which the impact of the policy is to cause the incarceration rates in the states with Three Strikes to depart from the increase that would already have taken place, even in states without the policy. “Incarceration = $\alpha + \beta_1$ (3 Strikes) + β_2 (Year Fixed Effects),” where the term β_2 (Year Fixed Effects) actually refers to a series of terms, “ β_2 (year 1987) + β_3 (year 1988) + . . . + β_{12} (year 1987).”

Up to this point, the assumption has also been implicit that the rates of incarceration for the different groups of states (with and without Three Strikes) are the same before the implementation of Three Strikes. In fact, the rates of crime (and of the other dependent variables examined in this study) vary widely. For this reason, fixed effects, or individual dummy variables, are also incorporated for each of the states used in the analysis. These allow each state to have a different Y-intercept. This is depicted, in a simplified manner, in the following diagram, which corresponds to the equation, “Incarceration = $\alpha + \beta_1$ (3 Strikes) + β_2 (Year Fixed Effects) + β_3 (State Fixed Effects),” where the term “ β_2 (Year Fixed Effects)” represents the series of 10 separate year dummy variables described above, and “ β_3 (State Fixed Effects)” similarly represents a series of separate dummy variables representing each of the states.³⁴ In the diagram below, the slope on “Three Strikes” is again positive, but national trends are taken into account, and the different states have different intercept terms, as allowed by the state fixed effects.

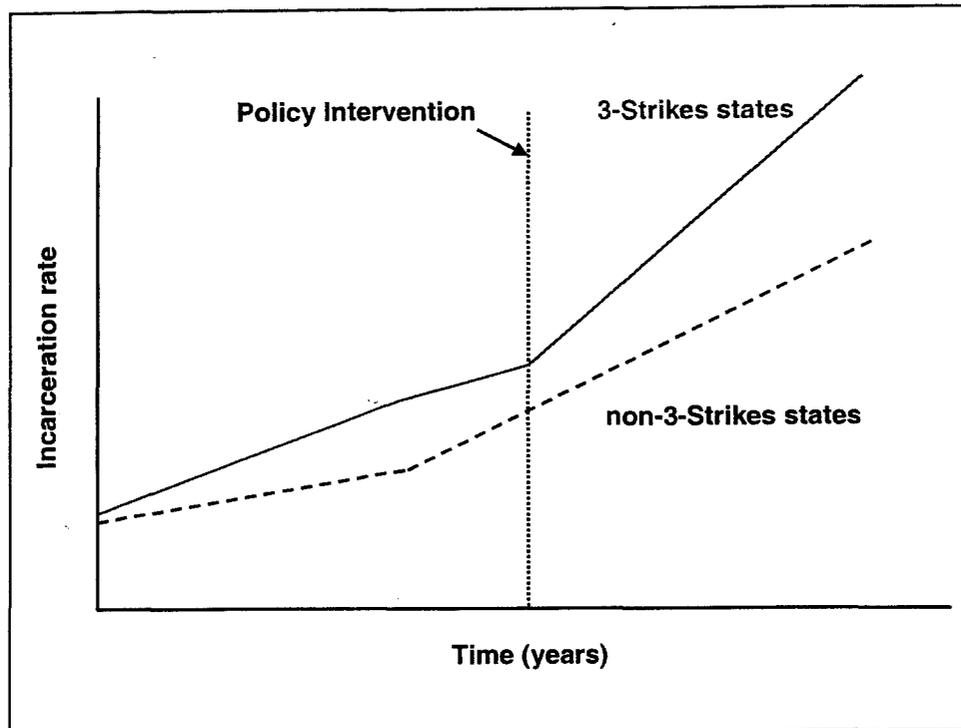
³⁴ Using the statistical software program STATA, this process corresponds to the “XTREG” command with fixed effects, and year dummies added.

Figure 8: State Fixed Effects Allow States to Have Different Intercepts



The final assumption that is relaxed in the development of this model is that incarceration rates followed parallel trends in states with and without Three Strikes before the adoption of the policy. It is quite possible (and further analysis indicates that it is probably true) that Three-Strikes and non-Three-Strikes states differed not only in their levels of incarceration, but also in the rates of change in incarceration that preceded the adoption of the policy. With that in mind, the policy intervention variables were designed so that post-Three-Strikes trends in incarceration were measured, while controlling for pre-Three-Strikes trends. Separate variables were created to represent pre-existing trends in Three Strikes states before Three Strikes, and trends in Three Strikes states after Three Strikes. A simplified illustration of this last step might look like this:

Figure 9: Separate Variables for “Before” and “After” Allow Trends to Vary



In the above (hypothetical) diagram, incarceration rates in Three Strikes states were rising more steeply than those in states without Three Strikes for most of the years before the policy implementation, tapering off slightly, and then growing even more sharply after the policy implementation. The equation corresponding to this scenario can be summarized, “Incarceration = $\alpha + \beta_1$ (Trend in 3 Strikes states before law) + β_2 (Trend in 3 Strikes states after law) + β_3 (Year Fixed Effects) + β_4 (State Fixed Effects).”³⁵ The coefficient of particular interest here would be β_2 , the change in the trend associated with each year in the post-Three Strikes period, where pre-existing trends are already controlled. Corresponding variables are also introduced for Truth in Sentencing states before and after adoption of that policy.

³⁵ In the model used in the present analysis, the “before” variables are coded 0 for the year of implementation, -1, -2, -3, ... for the years t-1, t-2, t-3, etc., and 1, 2, 3, ... for the years t+1, t+2, t+3, etc. The “after” variables are coded 0 for all years until adoption, then 1, 2, 3, ... for years after implementation.

Independent Variables: Interaction Terms

In addition, special attention is given in the model to California, which has the broadest and most widely used Three Strikes law, and also to Washington state, which was the first state to implement Three Strikes, has the one of the five most widely implemented laws, and was an early adopter of Truth in Sentencing. California has also adopted Truth in Sentencing. Three separate interaction terms are introduced to represent the presence of Three Strikes/TIS in California, Three Strikes in Washington, and TIS in Washington.³⁶ Since both Three Strikes and Truth in Sentencing were implemented in 1994 in California, the dummy variable for California's Three Strikes/TIS measures changes in the dependent variables that took place from 1994 through 1997, but it is impossible, using the available data at this level of analysis, to separate the effects of Three Strikes from those of Truth in Sentencing.³⁷ In Washington, on the other hand, TIS was adopted in 1990, three years before Three Strikes was passed there, so the effects of these two policies can be measured separately in that state.

Independent Variables: Control Variables

Two control variables are also included to account for key demographic and economic factors that have been cited as major causes of changes in crime and incarceration rates. These two control variables are the percentage of the state's population between the ages of 18 and 24, and the employment rate (in percentage points) in each state and year. Other factors were used

³⁶ The California Three Strikes/TIS variable, for example, is coded as 1 in California from 1994 through 1997, and 0 in all other state-years. Comparable interaction terms were created for Washington Three Strikes and Washington TIS.

³⁷ In fact, the effects of other, concurrent, policy changes or other factors which may have impacted the dependent variables in these same years would also be "picked up" by these interaction terms, and the same may be true of the other dummy variables for Three Strikes and TIS.

in early versions of the model, but were removed after they were found to have no effect. These included the percentage of blacks or nonwhites in a state's population, and average household income in a state. The former is probably almost completely "absorbed" by the state fixed effects, and the latter was found to be collinear with the other variable representing economic conditions, employment rate.

Variable transformation

Natural-logarithm transformations were performed on most of the dependent variables, for easier interpretation. The semi-log functional form, " $\ln(Y) = \alpha + \beta X$," was used. In regressions of the natural logarithm of a dependent variable on untransformed independent variables, the coefficients on the continuous independent variables (e.g. unemployment rate, percentage ages 18-24) can be interpreted as the percentage change in Y which results from a one unit increase in X, at the means of the independent variables. The percentage changes associated with policy implementation in this paper will be based on this calculation. (In these analyses, a one-unit increase in each of the dummy variables representing Three Strikes or TIS can be substantively interpreted as the implementation of that policy.) The natural-log transformation was not used in cases where the dependent variable was a probability or a percentage (i.e. conditional probability of a prison sentence given felony disposition, and percentage of violent, property, or drug offenders among new admissions), because doing so for dependent variables constrained between 0 and 1 creates irregularities in the magnitudes of the estimated coefficients on the independent variables. For these variables, percentage changes were calculated "by hand" using the methodology explained in Appendix B.

Model Summary

In short, the model measures whether the policy interventions resulted in faster or slower growth or declines in crime, incarceration rates, and other variables. The model tested for each of the dependent variables has the following functional form:

$$\begin{aligned} \ln(\text{Dependent Variable}) = & \\ & \text{Constant term} + \beta_1 (\text{Trend in Three Strikes states before the law}) \\ & + \beta_2 (\text{Trend in Three Strikes states after the law}) \\ & + \beta_3 (\text{Trend in California before Three Strikes \& TIS}) \\ & + \beta_4 (\text{Trend in California after Three Strikes \& TIS}) \\ & + \beta_5 (\text{Trend in Washington without Three Strikes \& TIS}) \\ & + \beta_6 (\text{Trend in Washington after Three Strikes}) \\ & + \beta_7 (\text{Trend in Washington after TIS}) \\ & + \beta_8 (\text{Trend in Truth in Sentencing states before TIS}) \\ & + \beta_9 (\text{Trend in Truth in Sentencing states after TIS}) \\ & + \beta_{10} (\text{Employment rate})_{it} \\ & + \beta_{11} (\text{Percent of population between the ages of 18 and 24})_{it} \\ & + \beta_{12} (\text{YEAR FIXED EFFECTS}) + \beta_{13} (\text{STATE FIXED EFFECTS}) \end{aligned}$$

The subscript i represents the state, and the subscript t represents the year (i.e., time). The term “YEAR FIXED EFFECTS” represents 11 dummy variables, one for each year from 1987 to 1997; and the term “STATE FIXED EFFECTS” represents 50 dummy variables, one for each state.

Nonzero coefficients on the variables representing the trend in Three Strikes states before the law, the trend in TIS states before TIS, and California and Washington before Three Strikes and TIS (β_1 , β_3 , β_5 , and β_8) would indicate that pre-existing differences between “adopters” and “non-adopters” existed even before the passage of Three Strikes or Truth in Sentencing. Unless otherwise specified, the coefficient on each “before” trend variable represents the percentage

difference each year between the corresponding group (e.g. states that eventually adopted Truth in Sentencing) and the other states (e.g. states that never adopted TIS) in the growth rate of the dependent variable.

The coefficients of particular interest are those associated with the “after” trends for Three Strikes and TIS nationally, in California, and in Washington (β_2 , β_4 , β_6 , β_7 , and β_9). Nonzero values of these coefficients would indicate that even controlling for national trends, pre-existing trends in the adopting states, and selected economic and demographic factors, differences in the trends in the dependent variables were found to be temporally and spatially associated with the presence of Three Strikes or Truth in Sentencing. Nonzero coefficients on the specific interaction variables for California and Washington (β_4 , β_6 , and β_7) would indicate that the trends in these states differed significantly from those in the other states that adopted Three Strikes or Truth in Sentencing.

This paper now proceeds with the analysis of effects of Three Strikes and TIS on prison incarceration rates, certainty, and severity of sentencing. This will be followed by a discussion of the two policies’ impacts on the flow of admissions and releases, impacts on parole, and effects on the composition of prison populations.

Impacts on Incarceration and Prison Admissions and Releases

Incarceration Rates, “Certainty,” and “Severity” of Prison Sentencing

As depicted in Figure 5 earlier, there are two main processes by which policies such as Three Strikes and TIS would be expected to impact crime rates: *deterrence* and *incapacitation*. To test the incapacitation hypothesis, three measures of impacts on the correctional system were

also examined. Table 7 below summarizes the results of the analyses examining the impacts on prison incarceration rates, estimated time served (“severity”), and new prison admissions per felony disposition (“certainty”).

The results displayed in Table 7 show that the incarceration rate is not affected by Three Strikes or Truth in Sentencing nationally, or in the state of Washington. This finding makes sense; Three Strikes is so infrequently used in most states that the law would have very little impact on prison populations. In Washington, Three Strikes was used about 120 times over five years, and even in those cases, it was applied to offenders whose sentences would most likely have been five or more years long even without the law, so the changes in their sentences will not emerge until future years. Prison populations have also been affected by dramatic, unforeseen drops in crime rates which have taken place throughout the nation since about 1992. This has reduced the number of offenders entering the sentencing process. Finally, laws have not been fully implemented in many jurisdictions. Observers in states with narrowly defined Three Strikes laws have reported little impact on courts and prisons (Cunningham, 1997). In many cases, new laws labeled “Three Strikes” did not differ significantly from pre-existing laws (Clark, Austin, and Henry, 1997).

Table 7: Impacts on Incarceration Rates), New Prison Admissions per Felony Disposition (“Certainty”), and Time Served (“Severity”)³⁸

| | | Coefficient (S.E. in parentheses) | |
|---|-----------------------|---|---|
| | Incarceration Rate | New Prison Admissions per Felony Disposition ³⁹ | Estimated Time Served (Months) |
| * significant at p<0.10 ** significant at p<0.05 | | | |
| Trend in 3 Strikes states before law | -0.7% ** (0.3%) | -0.2% | -1.4% (1.8%) |
| Trend in 3 Strikes states after law | 0.2% (1.3%) | -9.8% | 10.9% (10.3%) |
| Trend in CA before 3 Strikes & TIS | 1.2% (1.2%) | 16.7% | -11.9% * (6.7%) |
| Trend in CA after 3 Strikes & TIS | 0.9% (4.3%) | 30.2% | -14.6% (33.5%) |
| Trend in WA before 3 Strikes & TIS | -6.0% (3.8%) | -0.8% | -51.2% ** (20.2%) |
| Trend in WA after 3 Strikes | -5.8% (4.7%) | -6.0% | -34.1% (31.3%) |
| Trend in WA after TIS | 11.1% ** (5.6%) | 26.6% | 71.4% ** (30.6%) |
| Trend in TIS states before law | -1.0% ** (0.2%) | -5.3% ** | -1.0% (1.5%) |
| Trend in TIS states after law | -0.4% (0.5%) | -10.5% ** | -0.7% (2.9%) |
| Employment rate | 0.6% * (0.4%) | -0.4% | -1.1% (2.5%) |
| % of population ages 18-24 | -1.7% ** (0.8%) | 21.4% ** | 6.3% (5.9%) |
| Prison Capacity | 0.0% ** (0.0%) | 0.0% | 0.0% ** (0.0%) |
| Constant | 4.9 ** (0.2) | -0.38 ** (0.20) | 5.7 ** (1.0) |
| R-squared within ⁴⁰ | 0.85 | 0.10 | 0.21 |
| Number of Observations (n) | 600 | 502 | 550 |

³⁸ Incarceration rate and “severity” are natural-log transformed; “certainty” is not transformed.

³⁹ Percentage changes in this column were calculated using coefficients derived from model without natural-log transformed dependent variable. For actual coefficients, corresponding standard errors, and methodology for calculating percentage changes, please see Appendices A and B.

⁴⁰ In this and all similar tables, the “R-squared within” is the R² with state fixed effects excluded. Including the state fixed effects results in extremely high R² values, since state-to-state differences explain most of the variation that is observed.

Even in California, where one might expect that there would have been an impact on incarceration rates due to the high frequency with which the Three Strikes law is applied, no such impact was found incarceration rates. One reason for the lack of an observed impact, as shown in Table 8 below, may be that the capacity of California's prison system only increased about 12 percent from 1994 through 1997. Furthermore, prison overcrowding has been increasing in California to the extent that facilities are now holding more than twice as many inmates as they were designed to accommodate. In the absence of dramatic increases in prison capacity and in the face of already-severe prison overcrowding, it is unlikely that new policies could increase the population of prisons much more than they already appear to have done. In fact, in the presence of severe capacity constraints, it would even be possible for incarceration rates to *decrease* after the passage of a law like Three Strikes, if multiple offenders with short sentences need to be released to accommodate a smaller number of inmates with longer sentences. While other states, such as Washington, are also above 100% of capacity, the overcrowding problems elsewhere are not as severe as they are in California.

Table 8: California Prison Capacity Levels and Changes, 1986-1997

| Year | Design Capacity | % Change | # of Inmates | % Over Capacity |
|-------------|------------------------|-----------------|---------------------|------------------------|
| 1986 | 32853 | | 57725 | 75.7% |
| 1987 | 41094 | 20.1% | 64812 | 57.7% |
| 1988 | 46279 | 11.2% | 73780 | 59.4% |
| 1989 | 48311 | 4.2% | 84338 | 74.6% |
| 1990 | 52698 | 8.3% | 94122 | 78.6% |
| 1991 | 55692 | 5.4% | 98515 | 76.9% |
| 1992 | 57367 | 2.9% | 105467 | 83.8% |
| 1993 | 63293 | 9.4% | 115573 | 82.6% |
| 1994 | 68366 | 7.4% | 121084 | 77.1% |
| 1995 | 71641 | 4.6% | 131745 | 83.9% |
| 1996 | 72621 | 1.3% | 142865 | 96.7% |
| 1997 | 76352 | 4.9% | 154368 | 102.2% |

Another factor that could prevent incarceration rates from increasing would be effectiveness of any of these interventions in the deterrence of crime. If crime rates fall because would-be offenders are afraid to incur a long prison term, then this reduces the “supply” of inmates entering prison. Reductions in crime rates that result from unrelated reasons would also temper impacts on incarceration rates. As discussed earlier, crime rates started a downward swing before either Three Strikes or TIS became widely popular.

The lack of an impact on incarceration rates may also be a measurement issue. Because the size of the prison population is very large compared to any changes in the size of the population that may occur from year to year, effects may need to be very large to appear as changes in the overall incarceration rate.

Finally, while Three Strikes and TIS are not specifically associated with changes in incarceration rates, it is important to point out that the year fixed effects, not shown in Table 7, reveal a dramatic growth in incarceration rates (see Table A in Appendix for full results including year fixed effects). As discussed earlier and illustrated in Figure 2, states were incarcerating more and more inmates throughout the country. In states that had Three Strikes or Truth in Sentencing, these policies might have been behind that growth; in other states, alternative policies, such as stricter policing, abolition of parole, or Truth in Sentencing policies that did not meet the 85% federal criteria, might have been applied with similar results.

The only significant finding about TIS is that the states that implemented it had slightly slower growth in their incarceration rates before implementing the law, which continued unchanged after TIS was passed.⁴¹ This suggests that there may be fundamental differences in

⁴¹ For convenience, positive coefficients are discussed as increases in rates of growth and negative coefficients as decreases in rates of growth. Statistically significant negative coefficients such as this one actually indicate either slower rates of growth or faster rates of decline. Technically, a positive coefficient simply indicates that the slope has a greater value and a negative coefficient means the slope has a lesser value.

approaches to sentencing between states that passed TIS and those that did not. For example, states that adopt Truth in Sentencing are more likely than non-TIS states to have sentencing guidelines commissions, which are responsible for forecasting prison populations and designing states' sentencing structures, and often have influence on the nature of sentencing legislation.⁴²

Truth in Sentencing is not designed to affect the rate at which felons receive prison sentences, but only the proportion of their sentences that they spend behind bars once they have been sentenced. "Three Strikes and You're Out," however, may affect the certainty of prison sentencing by requiring that repeat offenders receive prison sentences instead of less severe penalties. Given the actual rate at which Three Strikes has been used, however, it is unlikely that the law would have much of an impact on certainty at the statewide level, except perhaps in California. In fact, no impacts of Three Strikes on the conditional probability of receiving a prison sentence nationally, in Washington, or in California.⁴³ Unexpectedly, Truth in Sentencing states were found to have a 5.3 percent slower rate of growth in this "certainty" measure before TIS was adopted, and this rate grew 10.5 percent slower each year afterwards. Since TIS was not designed to have an impact on certainty of imprisonment, and since differences already existed before the adoption of TIS, it is likely that this apparent effect is a reflection of underlying differences in sentencing approaches between TIS and non-TIS states.

California and Washington had slower than average growth in their rates of prison time served before the adoption of Truth in Sentencing and "Three Strikes and You're Out." This suggests that the new sentencing policies may have been passed, in part, in response to the

⁴² This result was found using a cross-sectional time series probit regression model where the adoption of Truth in Sentencing was the binomial dependent variable, and the independent variables included the political parties of the governor and legislature, the violent crime rate, presence of sentencing guidelines, prison capacity, and corrections spending dollars per capita.

perception that inmates were not serving adequate prison terms. After Three Strikes was passed, no significant effects were found on estimated time served, nationally, in Washington, or in California. In addition to the infrequency with which Three Strikes is used in most states, the time lag involved with increases in time served is probably a primary reason for the lack of observed effects thus far. Truth in Sentencing may demonstrate impacts on estimated time served in the long run, unless base sentence lengths are reduced as the percentage of sentences served is increased. In Washington, TIS does appear to have had a substantial influence on time served already: the rate of growth has increased 71 percent. Because Washington was an early adopter of Truth in Sentencing, effects are more likely to be observable in that state than in most others.

Impacts on the Flow of Prison Admissions and Releases

While incarceration rates may remain stable, especially when the reason is limited prison bed capacity, new sentencing policies can have dramatic effects on the rate at which inmates enter and exit the prison system. As discussed previously, more inmates may receive mandatory sentences, resulting in increases in admission rates, more inmates may have longer stays, resulting in increases in release rates for other offenders, or an increase in those serving long, mandatory terms may lead to the diversion of other offenders to alternative punishments, leading to a decline in the number of inmates entering and leaving prison.

Table 9 below shows the results of analyses where two different measurements for prison admission rates, total new admissions to prison and new court commitments to prison, were used. Likewise, two different measures of releases, total releases and conditional releases, were

⁴³ “Conditional probability of receiving a prison sentence” was estimated by dividing the number of new admissions to prison by the number of felony cases disposed in the same state and year. Appropriate data on the number of

used to generate the results shown in Table 10. The differences between these four measures were discussed in an earlier section of this paper. The impacts of Three Strikes and TIS nationally, in California, and in Washington are measured, controlling for pre-existing trends, employment rate, the proportion of young people in the population, and violent and property crime rates.

felony cases that resulted in convictions, which might have been a more accurate denominator, could not be found.

Table 9: Impacts on Total New Admissions and New Court Commitments to Prison (all dependent variables natural-log transformed)

| | Coefficient (S.E. in parentheses) | |
|--|--------------------------------------|----------------------------------|
| | Total New Admissions Rate | New Court Commitments Rate |
| * significant at p<0.10 | | |
| ** significant at p<0.05 | | |
| Trend in Three Strikes states before law | 1.2% (1.7%) | 0.4% (1.8%) |
| Trend in Three Strikes states after law | -8.8% (9.7%) | -6.8% (10.4%) |
| Trend in CA before 3 Strikes & TIS | 11.9%* (6.5%) | 13.0%* (6.9%) |
| Trend in CA after 3 Strikes & TIS | 5.5% (32.8%) | -20.8% (35.1%) |
| Trend in WA before 3 Strikes & TIS | 49.3%** (19.8%) | 71.6%** (21.2%) |
| Trend in WA after 3 Strikes | 21.7% (30.5%) | 16.7% (32.7%) |
| Trend in WA after TIS | -62.3%** (29.8%) | -84.3%** (31.9%) |
| Trend in TIS states before law | -0.6% (1.4%) | -0.1% (1.5%) |
| Trend in TIS states after law | 1.1% (2.8%) | -0.3% (2.9%) |
| Employment rate | 1.5% (2.3%) | 0.5% (2.5%) |
| % of population ages 18-24 | -8.2% (5.9%) | -5.1% (6.3%) |
| Violent Crime Rate | -0.1%** (0.0%) | -0.1%** (0.0%) |
| Property Crime Rate | 0.0% (0.0%) | 0.0%* (0.0%) |
| Constant | 5.2** (0.9) | 4.7** (1.0) |
| R-squared within | 0.05 | 0.05 |
| Number of Observations (n) | 550 | 550 |

Table 10: Impacts on Total and Conditional Releases from Prison (all dependent variables natural-log transformed)

| | Coefficient (S.E. in parentheses) | |
|--|--------------------------------------|---------------------------------|
| | Total Releases Rate | Conditional Releases Rate |
| * significant at p<0.10 | | |
| ** significant at p<0.05 | | |
| Trend in Three Strikes states before law | 1.4% (1.7%) | 2.5% (1.9%) |
| Trend in Three Strikes states after law | -9.4% (9.8%) | -9.3% (11.1%) |
| Trend in CA before 3 Strikes & TIS | 7.4% (6.5%) | 8.9% (7.3%) |
| Trend in CA after 3 Strikes & TIS | 15.1% (32.9%) | 23.7% (37.3%) |
| Trend in WA before 3 Strikes & TIS | 44.2% ** (19.8%) | 75.1% ** (22.5%) |
| Trend in WA after 3 Strikes | 23.5% (30.6%) | -4.3% (34.7%) |
| Trend in WA after TIS | -59.3% ** (29.8%) | -80.8% ** (33.8%) |
| Trend in TIS states before law | -0.5% (1.4%) | -1.2% (1.5%) |
| Trend in TIS states after law | 1.8% (2.8%) | 4.3% (3.1%) |
| Employment rate | 1.6% (2.4%) | 2.3% (2.7%) |
| % of population ages 18-24 | -7.8% (5.9%) | -8.4% (6.6%) |
| Violent Crime Rate | -0.1% ** (0.0%) | -0.1% ** (0.1%) |
| Property Crime Rate | 0.0% (0.0%) | 0.0% (0.0%) |
| Constant | 5.1 ** (0.9) | 4.7 ** (1.0) |
| R-squared within | 0.04 | 0.07 |
| Number of Observations (n) | 550 | 550 |

When pre-existing trends in prison admissions and releases are compared, using any of the four measures described above, states that implemented Three Strikes were not found to differ significantly from states that did not implement these policies. This is also true for states that adopted TIS. Admissions rates were increasing more rapidly in California before 1994, however. Total new admissions were rising about 12 percent faster, and new court commitments 13 percent faster before the laws were passed in California. This growth continued, but did not increase or decrease significantly, following the adoption of Three Strikes and TIS.

In the absence of Three Strikes and TIS, Washington State faced dramatically higher baseline growth rates in prison admissions than the rest of the nation. Growth in total new admissions exceeded that in other states by an average of 49 percent each year, and growth in new court commitments to prison was 72% higher than elsewhere. Correspondingly, the prison release rates in Washington States were also growing more rapidly. Compared to the rates in other states, the total release rate was 44 percent higher, and the conditional release rate was 75 percent higher.

Washington's narrowly-focused Three Strikes law, passed in 1993, was found to have no statistically significant impacts on admissions or releases, but TIS appears to have had some large impacts. After TIS was adopted, total admissions and new court commitments grew 62 and 84 percent more slowly, respectively, and total released slowed by 59 percent, and conditional releases by 81 percent in each post-TIS year in Washington.⁴⁴ The combination of faster growth in incarceration, as found in the earlier analysis, and slower growth in admissions and releases, is consistent with growth in sentence lengths. When more inmates are serving long sentences,

⁴⁴ The magnitude of these variables seems unusually large. This may be related to the artificial control imposed for the pre-existing trend, which had a fairly large positive coefficient. It may also indicate a misspecification of the model related to the logarithmic functional form. Though the magnitude might not be accurate, the significance and direction of the coefficients are of interest.

fewer short-term prisoners can flow in and out of the system. Compared to most other states, Washington was an early adopter of TIS, which could be one reason that effects of the law on prison admission and releases were detected in that state but not in California or the rest of the nation.

Impacts on Parole Populations and Flow of Offenders to and from the Parole System

As shown in Table 11 below, the analysis finds that Three Strikes states and non-Three Strikes states had differing trends in their rates of parole usage and the number of entries to parole before the policies were adopted. Parole rates were already growing 3 percent faster, and entries to parole were increasing 4 percent faster, in Three Strikes states. This suggests that Three Strikes may have been adopted in response to a perception that too many offenders were being given parole sentences. For Three Strikes states in general, these trends did not appear to change after Three Strikes was passed. Growth in exits from parole, while not noticeably faster before Three Strikes, did increase after the law's passage. The explanation for this is not obvious. Parole exits include released offenders such as those who have completed their terms or are discharged early, as well as inmates whose parole terms are revoked and who are recommitted to prison (Bureau of Justice Statistics, *Sourcebook of Criminal Justice Statistics* 1993). Thus, increases in exits from parole could reflect, among other things, more inmates sent back to prison for parole violations, more inmates released from parole to make room for inmates whose parole terms are longer, or a decline in the use of parole.

Table 11: Impacts on Parole Population, Entries, and Exits (all dependent variables natural-log transformed)

| | Coefficient (S.E. in parentheses) | | |
|--|--------------------------------------|----------------------|-----------------------|
| | Parole Population | Entries to Parole | Exits from Parole |
| * significant at p<0.10 | | | |
| ** significant at p<0.05 | | | |
| Trend in Three Strikes states before law | 2.6% ** (0.8%) | 3.5% ** (1.3%) | 0.7% (1.1%) |
| Trend in Three Strikes states after law | -0.7% (3.4%) | 1.2% (5.1%) | 8.7% * (4.5%) |
| Trend in CA before 3 Strikes & TIS | 0.7% (3.2%) | 1.1% (4.8%) | 3.5% (4.2%) |
| Trend in CA after 3 Strikes & TIS | -8.3% (11.6%) | -9.9% (17.4%) | -15.5% (15.3%) |
| Trend in WA before 3 Strikes & TIS | 4.2% (10.1%) | -49.1% ** (15.3%) | 21.3% (13.5%) |
| Trend in WA after 3 Strikes | -19.1% (12.6%) | -69.8% ** (18.8%) | -110.5% ** (16.6%) |
| Trend in WA after TIS | -46.5% ** (15.1%) | 30.9% (22.6%) | -2.6% (19.9%) |
| Trend in TIS states before law | 0.8% (0.6%) | -0.7% (1.0%) | -0.6% (0.8%) |
| Trend in TIS states after law | -0.5% (1.2%) | -2.1% (1.9%) | 0.0% (1.6%) |
| Employment rate | -2.8% ** (1.0%) | -3.8% ** (1.5%) | -3.0% ** (1.3%) |
| % of population ages 18-24 | 5.0% ** (2.1%) | 3.7% (3.2%) | 3.2% (2.8%) |
| Violent Crime Rate | 0.0% (0.0%) | -0.1% ** (0.0%) | -0.1% ** (0.0%) |
| Property Crime Rate | 0.0% ** (0.0%) | 0.0% (0.0%) | 0.0% (0.0%) |
| Constant | 9.3 ** (0.4) | 9.3 ** (0.6) | 8.7 ** (0.6) |
| R-squared within | 0.58 | 0.46 | 0.46 |
| Number of Observations (n) | 595 | 530 | 531 |

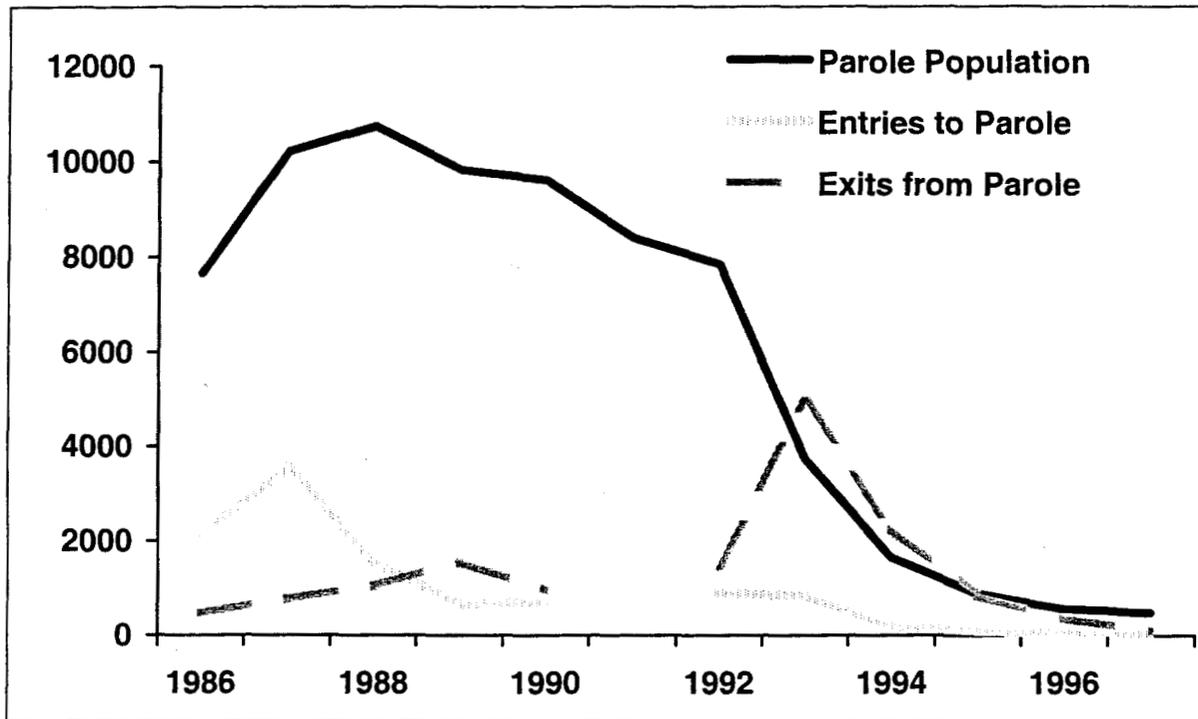
The results in Table 11 provide only weak evidence that the growth rates in parole rates and parole entries and exits were faster than average in California before Three Strikes and TIS, and slower than average afterwards. These findings would be consistent with the belief that

Three Strikes and TIS were reducing the practice of allowing inmates to be released to parole, but while the signs on the coefficients were consistent, none of these coefficients was significant at the 10% level.

Washington State had a lower baseline rate of entries to parole before either Three Strikes or TIS was passed. Even controlling for the pre-existing trends, Three Strikes in Washington was associated with much slower growth in parole rates, entries, and exits. However, a close examination of the trends in Washington reveals that there appears to have been a decade-long effort to reduce the use of parole in Washington State, which accelerated after the passage of TIS in 1990, and before the adoption of Three Strikes in 1993. As illustrated in Figure 10 below, the reported use of parole in Washington decreased dramatically from 1987 through 1997, with the most dramatic declines taking place after 1992. Exits from parole have exceeded entries to parole every year from 1989 to the present. Thus, while Three Strikes is statistically associated with major changes in parole in Washington, the policy's implementation seems to have followed the onset of substantial changes.

Figure 10: Parole Population, Entries, and Exits in Washington, 1986-1997

(Source: Bureau of Justice Statistics. *Correctional Populations in the United States*. 1991 data for entries and exits unavailable)



Impacts on Percentage of Prisoners over Age 50, Deaths, and Suicides Among Inmates

The following analyses examine whether the presence of Three Strikes and TIS is associated with an increase in the percentage of prison population over age 50 or increases in deaths or suicides among inmates. Critics have argued that laws like Three Strikes would increase the number of older offenders in prison, at periods of their criminal careers when their risks of recidivism are lowest, thus leading to inefficient use of prison resources, especially in the long run. Offenders who are eligible to be sentenced under Three Strikes are likely to be older, because of the time that it would have taken to have accumulate two prior serious offenses (and in many states, to have served two prior sentences). Inmates sentenced under Three Strikes and TIS also stay longer, and over time this may lead to increases in the percentage of prison

population over age 50, and even a higher mortality rate among prisoners. Three Strikes and Truth in Sentencing inmates, who face long prison terms with little hope of sentence reductions, may experience feelings of desperation, causing them to act out against other inmates, staff, or themselves.

Changes in the proportion of inmates over 50 and rates of death that are related to aging are unlikely to be observed in the short run, especially because most violent or serious offenders who have been convicted under Three Strikes or Truth in Sentencing since most of the laws were passed around 1994 probably would have been required to spend at least three years in prison even in the absence of the policies. Changes in these variables are more likely to be observed when prisoners who would have been freed before Three Strikes or TIS will have to remain behind bars as a consequence of these policies.

With that in mind, it is not surprising to find that there were no observable changes in death rates among prisoners, and none in the expected direction for suicide rates or the proportion of inmates over age 50. Growth in the latter variable actually seems to have declined about 10.6 percent more each year following the adoption of Three Strikes and TIS in California. This might be due to a need to release certain inmates to make room for those with mandatory sentences. The inmates who are most likely to be released would be those with the lowest risk of reoffending, and those who are older generally fall into that category. The suicide rate trend seems to be about 9 percent lower in post-TIS years, which is an inexplicable outcome. One explanation might simply be that the very low numbers of suicide in general (many states report none or single digits in several years) make this variable highly susceptible to randomly occurring fluctuations; therefore analyses based on this variable may not be very meaningful.

Table 12: Impacts on Average Age of Populations⁴⁵, Deaths and Suicides of Inmates (all dependent variables natural-log transformed)

| | Coefficient (S.E. in parentheses) | | |
|--|--|----------------------------------|---------------------------------------|
| | % of Prison Population Over Age 50 | Death Rate per 1000 Prisoners | Suicide Rate per 1000 Prisoners |
| * significant at p<0.10 | | | |
| ** significant at p<0.05 | | | |
| Trend in Three Strikes states before law | 1.4% (1.7%) | 0.7% (2.4%) | -4.0% (3.6%) |
| Trend in Three Strikes states after law | -10.6%** (4.7%) | 17.4% (14.5%) | 3.4% (19.3%) |
| Trend in CA before 3 Strikes & TIS | -3.9% (6.8%) | -9.0% (9.2%) | -5.5% (10.8%) |
| Trend in CA after 3 Strikes & TIS | 11.4% (16.5%) | 12.2% (46.4%) | -12.5% (54.5%) |
| Trend in WA before 3 Strikes & TIS | -6.0% (8.7%) | -27.0% (28.0%) | -31.4% (33.4%) |
| Trend in WA after 3 Strikes | 10.0% (15.2%) | -18.5% (43.4%) | -90.5% (64.4%) |
| Trend in WA after TIS | (dropped) | 28.6% (42.3%) | 53.1% (55.1%) |
| Trend in TIS states before law | 2.4%** (1.2%) | 1.6% (2.0%) | 0.7% (3.0%) |
| Trend in TIS states after law | -1.4% (2.3%) | 1.9% (3.9%) | -9.2%* (5.5%) |
| Employment rate | 2.3%* (1.4%) | 6.3%* (3.4%) | -4.5% (5.2%) |
| % of population ages 18-24 | 1.4% (2.7%) | -38.4%** (8.3%) | -19.1% (14.0%) |
| Constant | 0.33 (0.66) | 2.4* (1.3) | 2.9 (2.0) |
| R-squared within | 0.21 | 0.08 | 0.10 |
| Number of Observations (n) | 425 | 520 | 372 |

⁴⁵ Data for this variable were only available for years 1990-1997. Because Washington adopted TIS in 1990, there were no pre-TIS data points for Washington; therefore the Washington post-TIS trend variable was dropped from the analysis.

Impacts on Offense Composition of Admissions to Prison

As shown in Table 13 below, states that would later choose to adopt Three Strikes had a slightly (1.2 percent) higher baseline growth rate in the proportion of property offenders among their new prison admissions, but the adoption of Three Strikes laws nationally, in California, and in Washington has not led to any noticeable impacts on the composition of inmates admitted to prison. States that eventually adopted TIS had slightly faster baseline rates of growth in their proportions of both violent and property offenders (1.4% and 0.6% faster, respectively) among prison admissions.⁴⁶ The proportion of property offenders entering prison declined about 1% faster after the law's passage. This slight decrease in the proportion of property offenders was the only significant effect of Three Strikes on offender composition that had been expected.

With regard to the proportion of drug offenders among prison admissions, no significant differences before policy adoption, or changes after policy adoption, were observed that separated the trends in Three Strikes or TIS states from those in other states at the national level, and no effects were detected in California.⁴⁷ In Washington, the proportion of drug offenders among new admissions was growing about 14 percent faster than the national trend before the state adopted Three Strikes. The post-3 Strikes trend in Washington has a negative but statistically non-significant coefficient, but the post-TIS trend in Washington was significantly lower than the national trend by about 12 percent. As violent and serious offenders served longer proportions of their prison sentences, Washington State may have had to reduce the number of drug offenders who were kept in prison.

⁴⁶ Aside from violent, property, and drug offenses, other categories of offenses included parole and probation violation, certain white collar crimes, vice, public order offenses, driving while intoxicated, weapons offenses, sex offenses other than rape, escape from custody, flight to avoid prosecution and several other types of felonies.

⁴⁷ The dependent variable used was the proportion of prison admissions whose most serious offense was a drug offense of any type. Total drug offenses included both possession and trafficking of marijuana, cocaine/crack, heroin, and other controlled substances. Possession and trafficking could not be analyzed separately because many states did not appear to report these offenses separately.

Table 13: Summary of Calculated Percentage Impacts of Three Strikes and TIS on Proportion of Violent, Property, and Drug Offenders Among New Prison Admissions

| | Coefficient (S.E. in parentheses) | | |
|--|--------------------------------------|---------------------------------------|-----------------------------------|
| | % Violent Offenders Among Admissions | % Property Offenders Among Admissions | % Drug Offenders Among Admissions |
| * significant at p<0.10 | | | |
| ** significant at p<0.05 | | | |
| Trend in Three Strikes states before law | -0.1% | 1.2% ** | 0.8% |
| Trend in Three Strikes states after law | 0.9% | 2.3% | 1.1% |
| Trend in CA before 3 Strikes or TIS | -1.7% | -0.9% | -2.1% |
| Trend in CA after 3 Strikes and TIS | 0.8% | -2.6% | 3.6% |
| Trend in WA before 3 Strikes | -7.5% | -4.1% | 13.7% ** |
| Trend in WA after 3 Strikes | -5.6% | -3.3% | -4.8% |
| Trend in WA after TIS | 10.7% | 6.5% | -12.2% * |
| Trend in TIS states before TIS | 1.4% ** | 0.6% * | 0.1% |
| Trend in TIS states after TIS | 0.3% | -1.2% * | 1.8% |
| Employment Rate | -1.9% ** | -1.1% ** | 0.7% |
| % of population ages 18-24 | 2.1% | -3.8% ** | 3.6% |
| R-squared within | 0.19 | 0.65 | 0.57 |
| Number of Observations (n) | 431 | 430 | 433 |

Overall, Three Strikes was not associated with any significant changes in the offense composition of inmates entering prison nationally, in California, or in Washington; and Truth in Sentencing was only associated with a decrease in drug offenders in Washington and a very slight decline in property offenders nationwide. The lack of substantial impacts of these two policies on the offense composition of inmates admitted to prison is not an entirely surprising finding. While laws like Truth in Sentencing and Three Strikes were intended, in part, to increase the proportion of violent offenders in prisons, they probably do not affect the arrest and prosecution of violent offenders, and therefore do not change the “mix” of inmates entering prison. As violent offenders serve longer mandatory sentences, the composition of inmates who are released may include proportionately more property offenders, and as a result, the percentage of violent offenders among the “standing populations” in prisons may increase. Unfortunately,

appropriate time-series data were not available for the offense composition of standing prison populations, or for release populations, at the time of this report's completion.⁴⁸

Summary and Conclusions

“Three Strikes and You’re Out” and “Truth in Sentencing” were adopted by many states in the 1990s. They can be viewed as part of a national trend to “get tough on crime.” Both of the laws were intended to ascertain that certain offenders would spend more time behind bars. Three Strikes is present in 24 states; TIS has been adopted by 27 states. The laws were passed against the backdrop of rapid growth in incarceration throughout the nation.

While Three Strikes laws share a common name, there is a great deal of variance from state to state in the specific nature of the laws. California has, by far, the nation’s most wide-ranging and frequently-used Three Strikes policy. In four years, California sentenced over 40,000 offenders under either the “two strikes” or “three strikes” provision of its law.

Truth in Sentencing is designed to ensure that parole and other forms of early release are severely curtailed for violent offenders. In most states, TIS laws require that violent offenders spend at least 85 percent of their sentences behind bars. TIS is heavily promoted by the federal government.

Using a more extensive dataset and more rigorous methodology than previous studies analyzing Three Strikes and Truth in Sentencing, this study examined the impacts of these two laws on correctional populations in the U.S. as a whole, and in the states of California and Washington. Pooled time-series analysis was used to determine the impacts of these policy

⁴⁸ Eventually, the author hopes to combine NCRP release data with admissions data for the corresponding years, to better assess the potential impacts on inmate populations.

interventions, while controlling for variables such as national trends, pre-existing trends, and selected demographic and economic factors.

As summarized in Figures 11 and 12 below, Three Strikes was found to have no statistically significant nationwide impacts on any of the dependent variables that were studied, except for exits from parole, which appeared to grow about 8.7 percent faster after the law was implemented. These findings are not surprising, since the Three Strikes laws passed in most states are seldom used, or not used at all. In two-thirds of the states that have a Three Strikes policy, it was applied in a dozen or fewer cases by August, 1998. Furthermore, in most of these jurisdictions, the Three Strikes law did not differ greatly from pre-existing policy. In the tables below, the light gray striped bars correspond to coefficients that are not statistically significant, the solid light gray bars represent statistical significance at $p=10\%$, and the coefficients depicted by the solid dark gray bars are significant at $p=5\%$.

Figure 11: Changes in Trends in Volume and Flow of Correctional Populations Associated with 3 Strikes Nationwide

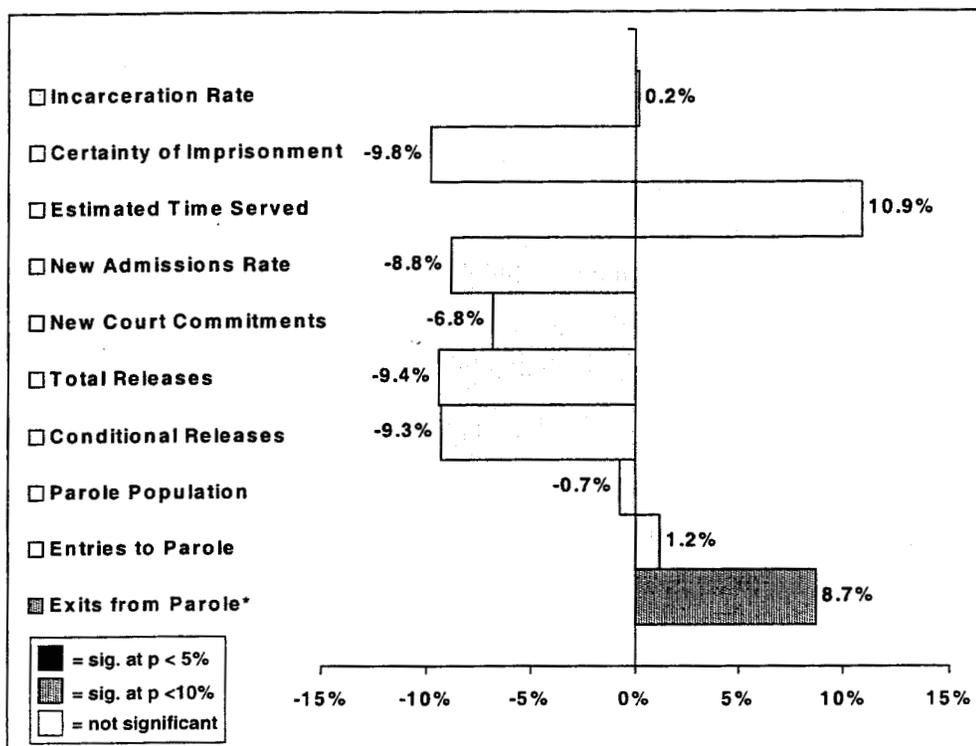
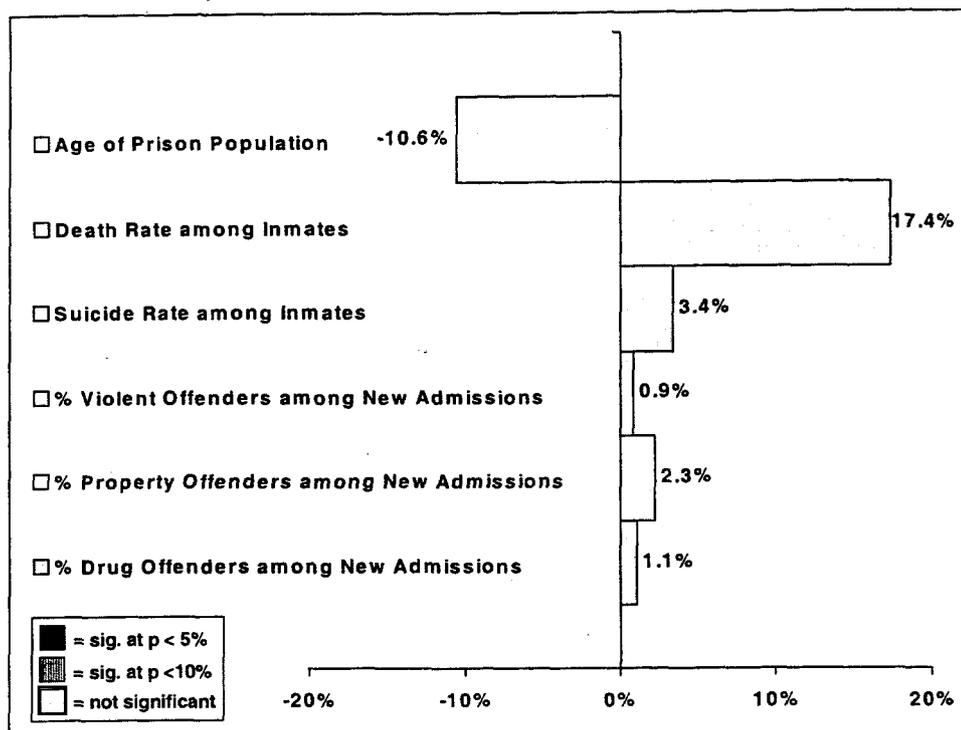


Figure 12: Changes in Trends in Age, Deaths, Suicides of Prison Inmates and Offense Composition of Prison Admissions Associated with 3 Strikes Nationwide



The analysis also found that states that adopted Three Strikes had some significant pre-existing differences from non-adopting states, as shown in Table 14 below. While the incarceration rate was already growing more slowly before the adoption of Three Strikes, the proportion of those entering prison who were property offenders was growing slightly more rapidly. In addition, the flow of offenders through the parole system was greater. Entries to parole were growing 3.5 percent faster, and exits were increasing 0.7 percent faster, leading to a 2.6 percent more rapid annual rate of growth in the parole population in states that would later pass Three Strikes.

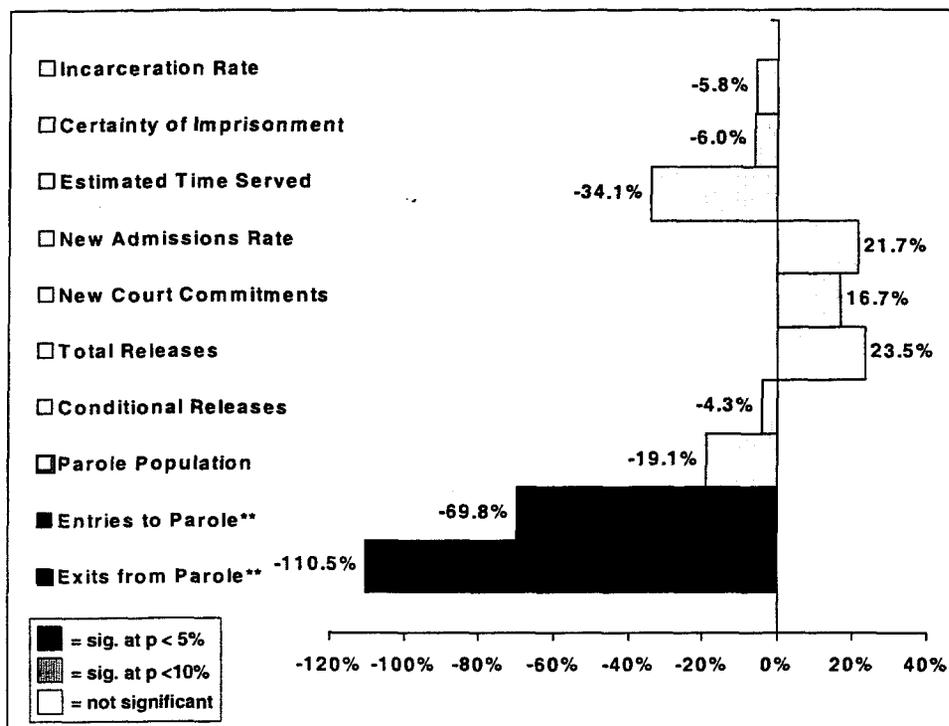
Table 14: Differences in Trends Associated with 3 Strikes Nationwide

| Dependent Variable | Before 3 Strikes | After 3 Strikes |
|---|-----------------------------|----------------------------|
| Incarceration Rate | -0.7% ** | 0.2% |
| "Certainty" of Imprisonment | -0.2% | -9.8% |
| Estimated Time Served | -1.4% | 10.9% |
| New Admissions Rate | 1.2% | -8.8% |
| New Court Commitments | 0.4% | -6.8% |
| Total Releases | 1.4% | -9.4% |
| Conditional Releases | 2.5% | -9.3% |
| Parole Population | 2.6% ** | -0.7% |
| Entries to Parole | 3.5% ** | 1.2% |
| Exits from Parole | 0.7% | 8.7% * |
| Age of Prison Population | 1.4% ** | -10.6% |
| Death Rate among Inmates | 0.7% | 17.4% |
| Suicide Rate among Inmates | -4.0% | 3.4% |
| % Violent Offenders among New Admissions | -0.1% | 0.9% |
| % Property Offenders among New Admissions | 1.2% ** | 2.3% |
| % Drug Offenders among New Admissions | 0.8% | 1.1% |

Figures 13 and 14 below show the changes associated with Three Strikes in the state of Washington. Washington's Three Strikes law was the first such policy passed in the United States, and it has been used moderately. One hundred and twenty one offenders were convicted under Washington's Three Strikes in the first five years of its implementation. Although this rate of usage places Washington among the five states with most frequent application of Three Strikes, the law's effects have been very modest there. No observed changes were found in any of three measures of incarceration (incarceration rate, "certainty," or "severity"), nor were any changes in the flow of prison admissions or releases detected. There were no discernable changes in the composition of prison populations or new admissions. However, the analysis did indicate that large declines in the number of inmates entering and exiting parole were associated with the presence of Three Strikes in Washington. Upon closer examination, however (as

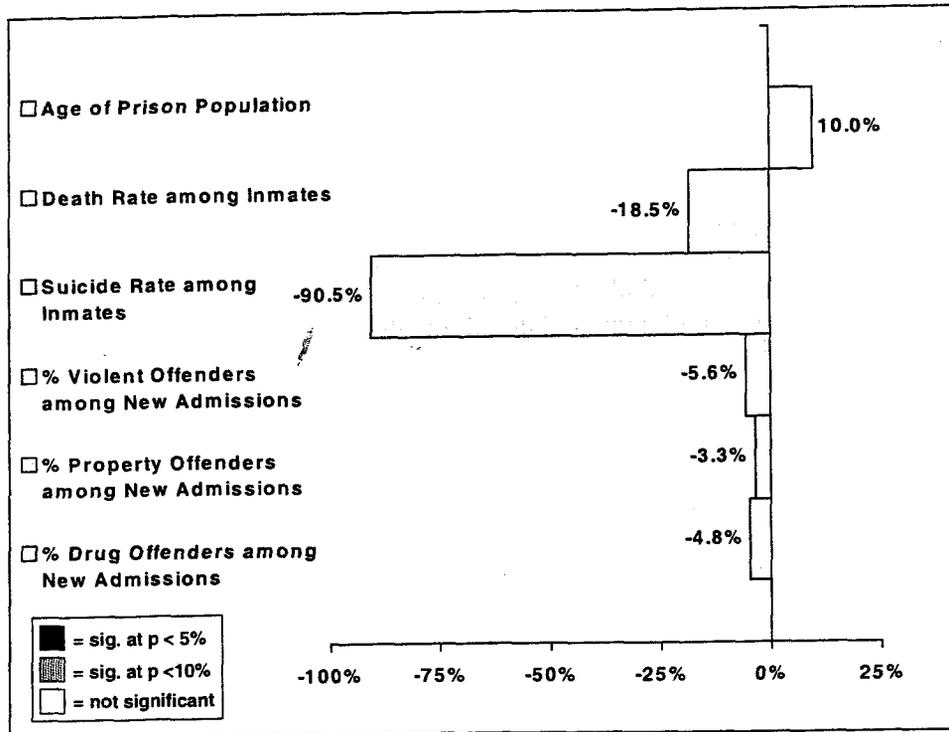
illustrated in Figure 10 earlier), it appears that the onset of these declines preceded the implementation of Three Strikes in that state.⁴⁹

Figure 13: Changes in Trends in the Volume and Flow of Correctional Populations Associated with 3 Strikes in Washington



⁴⁹ Furthermore, the coefficient on “exits from parole” produces an unrealistic decline of more than 100%. This is likely to be due to the fact that the actual relationship between the dependent and independent variables analyzed here is not accurately captured by the functional form used in the model. Logarithmic functions deviate from linear trends the most at values far from the average; in Washington, the changes in the variables representing parole entries and exits were unusually extreme.

Figure 14: Changes in Trends in Age, Deaths, Suicides of Prison Inmates and Offense Composition of Prison Admissions Associated with 3 Strikes in Washington



Before adopting Three Strikes, the trends in Washington did appear to be quite different from those in other states. Estimated time served in prison was growing 51% less annually than elsewhere, and while admissions to prison (both total and new court commitments to prison) were growing much more rapidly than in other states, releases (total and conditional releases) were growing correspondingly, suggesting that inmates may have been serving shorter sentences in general. These factors may have encouraged lawmakers to change sentencing policies. Entries to parole were also growing significantly slower, which seems to suggest that those being conditionally released were going to some form of supervision other than parole. The number and flow of parolees in Washington declined dramatically from its peak in 1988 to the present.

Table 15: Differences in Trends Associated with 3 Strikes in Washington

| Dependent Variable | Before 3 Strikes & TIS | After 3 Strikes |
|---|---------------------------------------|----------------------------|
| Incarceration Rate | -6.0% | -5.8% |
| "Certainty" of Imprisonment | -0.8% | -6.0% |
| Estimated Time Served | -51.2% ** | -34.1% |
| New Admissions Rate | 49.3% ** | 21.7% |
| New Court Commitments | 71.6% ** | 16.7% |
| Total Releases | 44.2% ** | 23.5% |
| Conditional Releases | 75.1% ** | -4.3% |
| Parole Population | 4.2% | -19.1% |
| Entries to Parole | -49.1% ** | -69.8% ** |
| Exits from Parole | 21.3% | -110.5% ** |
| Age of Prison Population | -6.0% * | 10.0% |
| Death Rate among Inmates | -27.0% | -18.5% |
| Suicide Rate among Inmates | -31.4% | -90.5% |
| % Violent Offenders among New Admissions | -7.5% | -5.6% |
| % Property Offenders among New Admissions | -4.1% | -3.3% |
| % Drug Offenders among New Admissions | 13.7% ** | -4.8% |

Since it has been so frequently applied compared to other policies by the same name, California's Three Strikes law might be expected to have more influence on the volume and composition of correctional populations than the national policy. Before the law's adoption, many scholars predicted that the impacts on the correctional system could be overwhelming and prohibitively expensive. Therefore, it is somewhat surprising to find that following the concurrent implementation of Three Strikes and Truth in Sentencing in California, there were no statistically significant changes in the trends of any of the variables examined in this study, except for an 11.4% faster growth rate in the proportion of prison populations over the age of 50. This one change was in the expected direction, since offenders with multiple strikes tend to be older.⁵⁰ Figures 15 and 16 below illustrate the magnitude and direction of the estimated changes in the sixteen dependent variables that were analyzed, but since none of the corresponding

⁵⁰On the other hand, it is probably too early for the extra time served in prison due to Three Strikes and TIS to have increased the proportion of prisoner over age 50 by a substantial amount.

coefficients except the proportion over age 50 was statistically significant even at the 10% level, we ought to have very low confidence in the accuracy of most of these estimated parameters.

Figure 15: Changes in Trends in Volume and Flow of Correctional Populations Associated with 3 Strikes and TIS in California

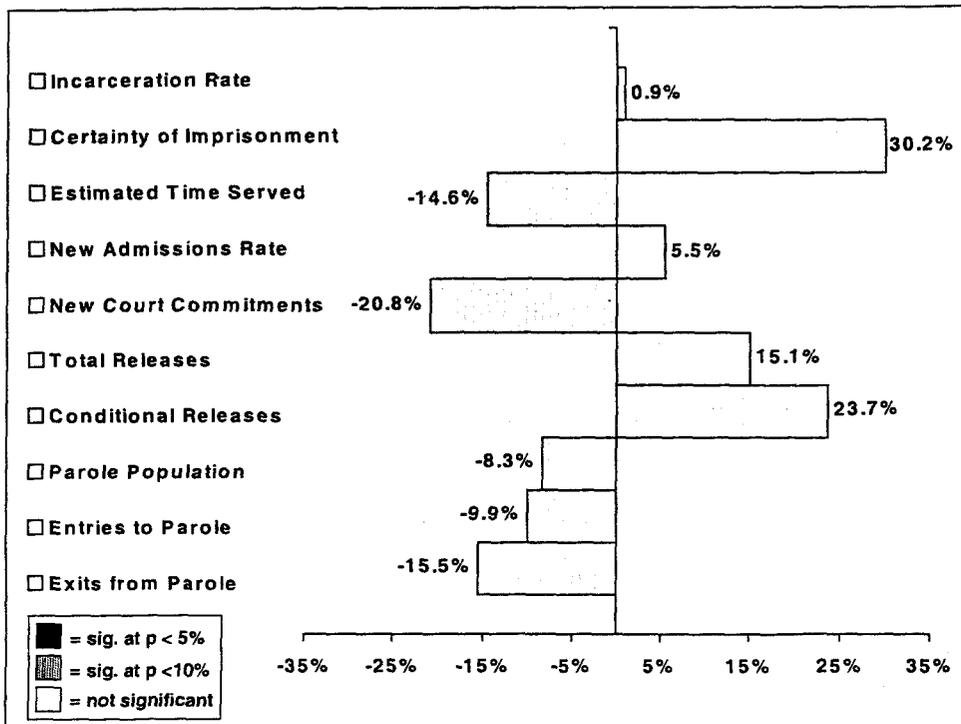
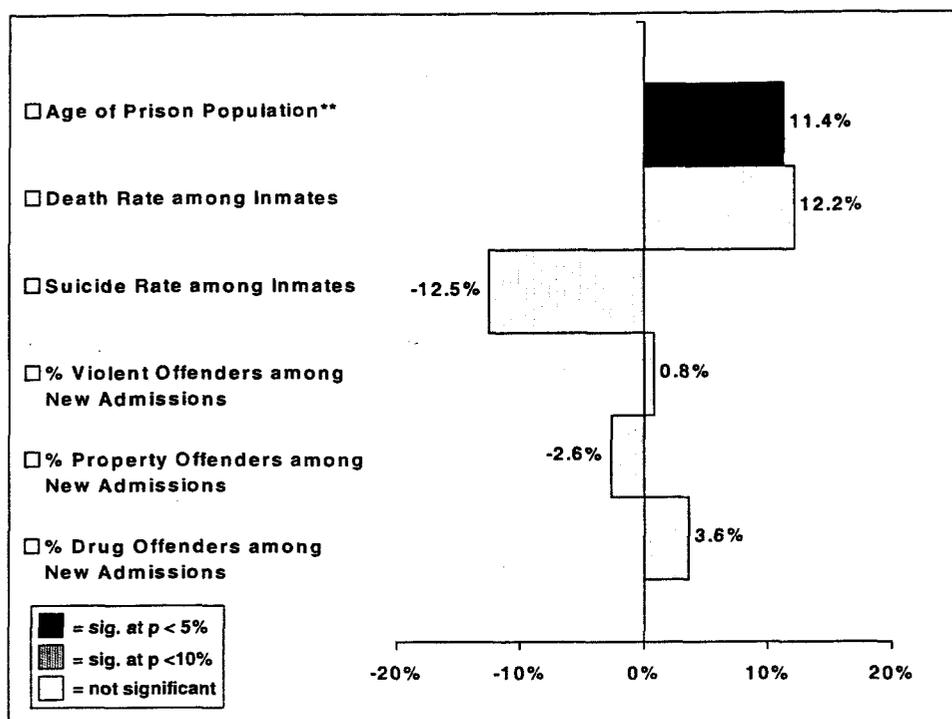


Figure 16: Changes in Trends in Age, Deaths, Suicides of Prison Inmates and Offense Composition of Prison Admissions Associated with 3 Strikes and TIS in California



Although the analysis found no changes in post-adoption trends associated with Three Strikes and TIS in California, the trends in California did have some distinguishing characteristics before these policies were adopted. As shown in Table 16 below, estimated time served in prison was already about 12% lower annually in California, while the two measures of admissions to prison, new admissions and new court commitments, were about 12 and 13 percent above the national trends each year. The phenomenon of more offenders going to prison for shorter lengths of time may have been one of the factors that motivated California's voters and legislators to support the passage of Three Strikes.

Table 15: Differences in Trends Associated with 3 Strikes and Truth in Sentencing in California

| Dependent Variable | Before 3 Strikes & TIS | After 3 Strikes & TIS |
|---|---------------------------------------|--------------------------------------|
| Incarceration Rate | -1.0% ** | -0.4% |
| "Certainty" of Imprisonment | -5.3% ** | -10.5% ** |
| Estimated Time Served | -1.0% | -0.7% |
| New Admissions Rate | -0.6% | 1.1% |
| New Court Commitments | -0.1% | -0.3% |
| Total Releases | -0.5% | 1.8% |
| Conditional Releases | -1.2% | 4.3% |
| Parole Population | 0.8% | -0.5% |
| Entries to Parole | -0.7% | -2.1% |
| Exits from Parole | -0.6% | 0.0% |
| Age of Prison Population | -3.9% | 11.4% ** |
| Death Rate among Inmates | 1.6% | 1.9% |
| Suicide Rate among Inmates | 0.7% | -9.2% * |
| % Violent Offenders among New Admissions | 1.4% ** | 0.3% |
| % Property Offenders among New Admissions | 0.6% * | -1.2% * |
| % Drug Offenders among New Admissions | 0.1% | 1.8% |

The lack of substantial change in incarceration rates associated with “Three Strikes and You’re Out” is somewhat unexpected, especially in California, where over 50,000 prisoners have been sentenced to date under this policy. The lack of an effect may be due in part to relatively steep recent declines in crime rates in California (which may or may not be related to these policies), adaptation to the law by prosecutors, judges, and other participants in the criminal justice system, or the longer-term nature of most of the expected impacts of the policy change. Because many of the repeat offenders sentenced under Three Strikes would also have been sentenced to prison terms even in the absence of the law, a few more years may need to pass before the impacts of the longer mandatory sentences can be fully observed.

Furthermore, it may be difficult to link effects specifically to Three Strikes in California or other states because a variety of major sentencing reforms were being adopted throughout the nation at about the same time that Three Strikes laws were being passed. Other policy changes,

such as the abolition of parole, the passage of other mandatory sentencing laws, the construction of more correctional facilities, or the use of private prisons, may have caused prison populations to grow dramatically in states without Three Strikes policies. There is strong evidence for this: throughout the United States, incarceration rates have increased rapidly and steeply, especially in 1994 through 1997, as states passed many different policy measures in efforts to “get tough on crime.” Concurrent interventions in other states that resulted in similar effects could “camouflage” any impacts that Three Strikes might have produced.

The national effects of Truth in Sentencing are illustrated below in Figures 17 and 18. Most of the coefficients summarized in these two tables are small and not statistically significant. Unexpectedly, the conditional probability of going to prison given a felony disposition appeared to have 10.5% slower growth each post-TIS year. Since TIS was not designed to have an impact on certainty of imprisonment, and since differences already existed before the adoption of TIS, it is likely that this apparent effect is a reflection of underlying differences in sentencing approaches between TIS and non-TIS states. This is somewhat confirmed by the finding (shown in Table 16 below) that the pre-TIS trend in states that later adopted Truth in Sentencing was also significantly slower. Another unexpected finding, significant at the 10% level but not at 5%, was a decline in the suicide rate among inmates of about 9 percent each post-TIS year. There does not appear to be any obvious explanation for this finding; however, the very low suicide rates in general make this variable more susceptible to random fluctuations, and therefore less reliable, than most of the others used in this study.

The final statistically significant coefficient corresponded to a change in the proportion of new admissions sent to prison for a property crime. This trend declined 1.2 percent, a very modest amount. Given capacity limits, a law that keeps violent offenders behind bars for more

time could reasonably result in a need to divert less serious offenders to some alternative form of punishment.

Figure 17: Changes in Trends in Volume and Flow of Correctional Populations Associated with TIS Nationwide

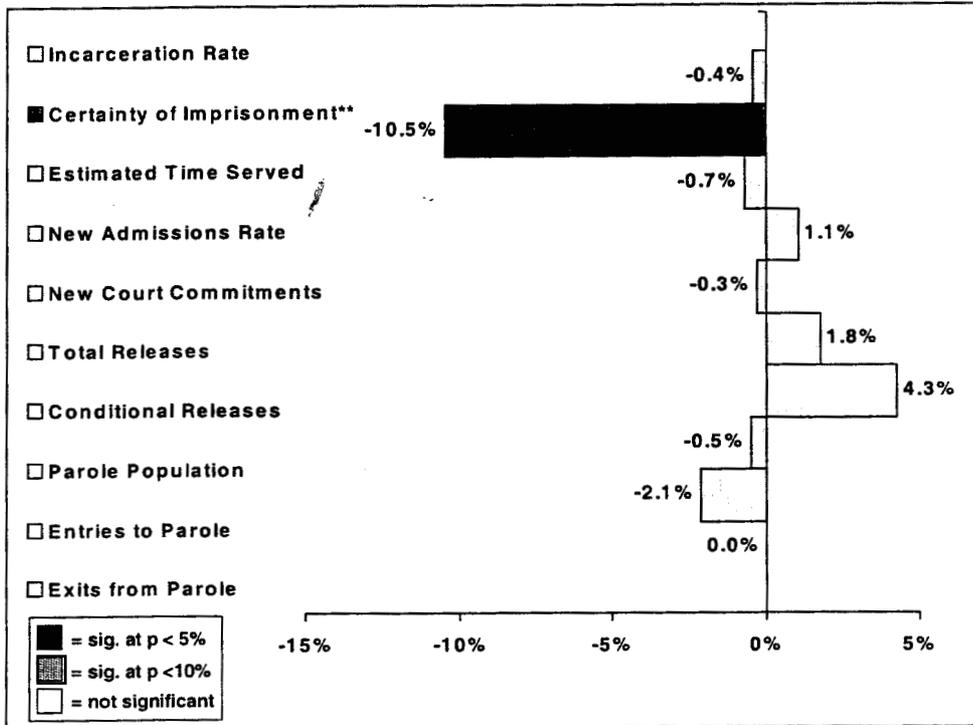
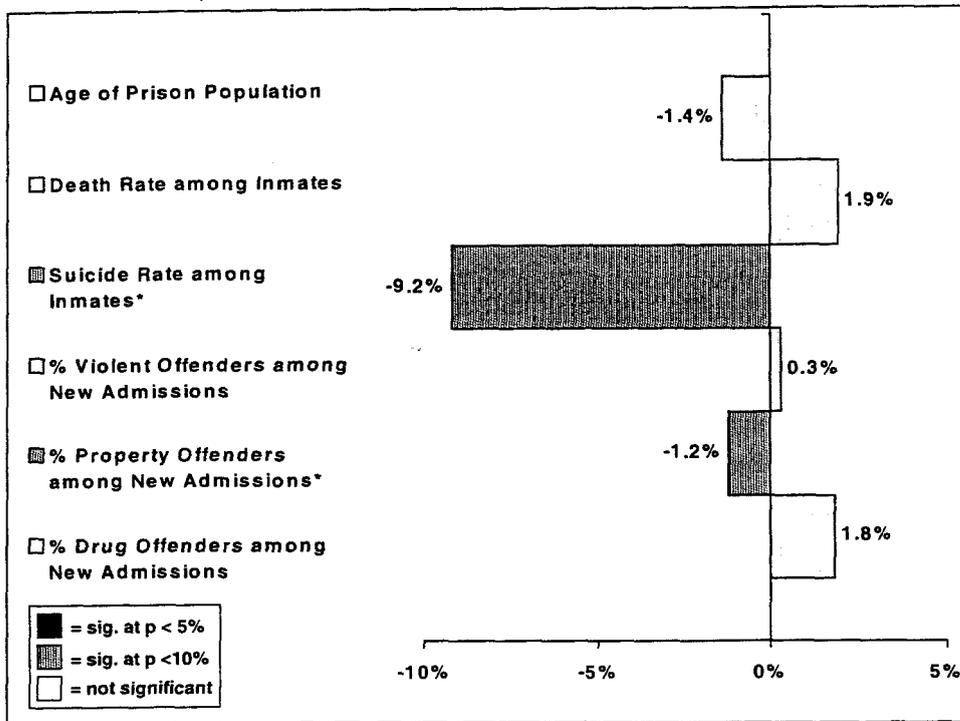


Figure 18: Changes in Trends in Age, Deaths, Suicides of Prison Inmates and Offense Composition of Prison Admissions Associated with TIS Nationwide



Did states that later adopted Truth in Sentencing have pre-existing differences from states that chose not to pass the law? In addition to the differences in the “certainty” of incarceration described above, the rate of incarceration was also growing slightly less rapidly in the states that would eventually pass TIS. The proportion of new admissions to prison who were violent offenders was growing 1.4% faster, and the proportion who were property offenders was also increasing faster, but very slightly so (0.6%). These observations, taken together, may suggest that the states that were to pass Truth in Sentencing, had somewhat better control over the growth and composition of their prison populations, even before TIS was implemented. This hypothesis finds some support in the fact that TIS states are also more likely to have sentencing guidelines, as determined in a separate analysis.

Table 16: Differences in Trends Associated with TIS Nationwide

| Dependent Variable | Before TIS | After TIS |
|---|-------------------|------------------|
| Incarceration Rate | -1.0%** | -0.4% |
| "Certainty" of Imprisonment | -5.3%** | -10.5%** |
| Estimated Time Served | -1.0% | -0.7% |
| New Admissions Rate | -0.6% | 1.1% |
| New Court Commitments | -0.1% | -0.3% |
| Total Releases | -0.5% | 1.8% |
| Conditional Releases | -1.2% | 4.3% |
| Parole Population | 0.8% | -0.5% |
| Entries to Parole | -0.7% | -2.1% |
| Exits from Parole | -0.6% | 0.0% |
| Age of Prison Population | 2.4% | -1.4% |
| Death Rate among Inmates | 1.6% | 1.9% |
| Suicide Rate among Inmates | 0.7% | -9.2%* |
| % Violent Offenders among New Admissions | 1.4%** | 0.3% |
| % Property Offenders among New Admissions | 0.6%* | -1.2%* |
| % Drug Offenders among New Admissions | 0.1% | 1.8% |

The state of Washington was an early adopter of Truth in Sentencing, implementing its policy in 1990, several years before the federal government began to offer substantial monetary incentives to encourage states to pass TIS laws. This might be one reason why the impacts of TIS on corrections in Washington appear to exceed those found nationally, or in California, where Truth in Sentencing was passed in 1994.

As shown in Figures 19 and 20 and Table 17 below, many statistically significant effects appear to be associated with Truth in Sentencing in Washington. After the law's adoption, the incarceration rate grew about 11% faster each year. The growth in estimated time served changed from well below the trend in other states (-51.2%) to well above it (+71.4%), and with dramatic declines in all of the measures of admissions and releases, the flow of inmates into and out of prison slowed dramatically. All of these results seem to indicate that Truth in Sentencing was having many of its intended effects by seven years after its adoption. The results may also foreshadow some potential future impacts in other Truth in Sentencing states, which passed their laws after Washington did.

Figure 19: Changes in Trends in Volume and Flow of Correctional Populations Associated with TIS in Washington

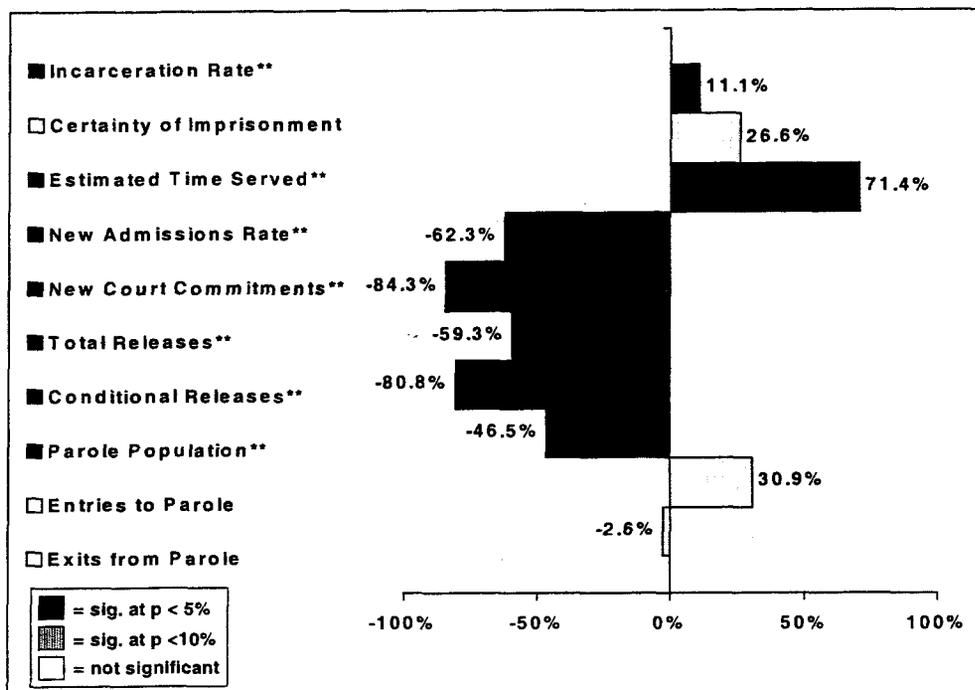


Figure 20: Changes in Trends in Age, Deaths, Suicides of Prison Inmates and Offense Composition of Prison Admissions Associated with TIS in Washington

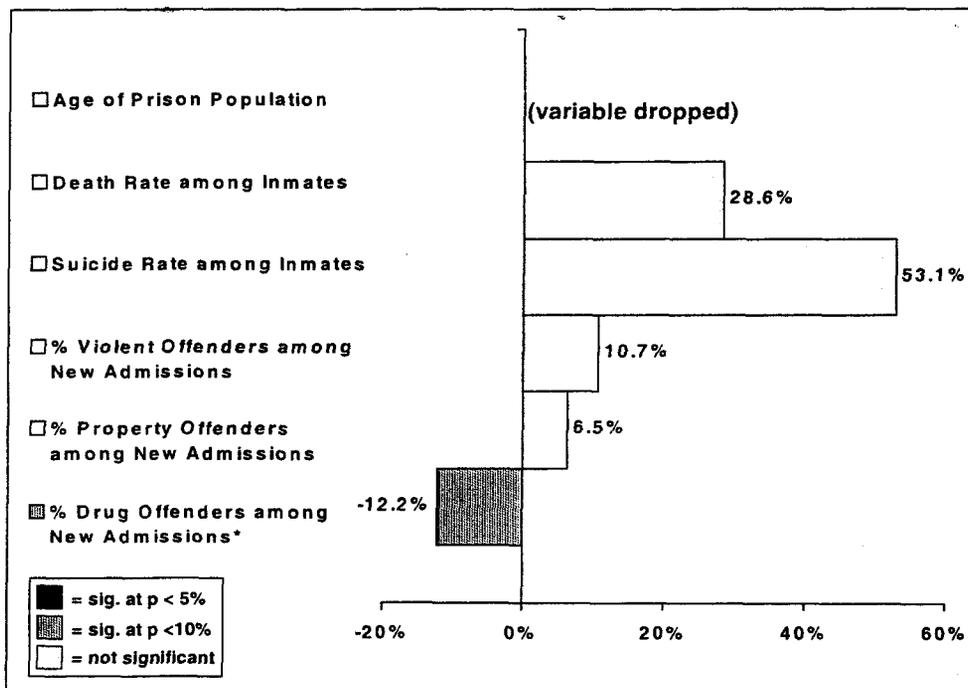


Table 17: Differences in Trends Associated with TIS in Washington

| Dependent Variable | Before 3 Strikes & TIS | After TIS |
|---|---------------------------------------|------------------|
| Incarceration Rate | -6.0% | 11.1%** |
| "Certainty" of Imprisonment | -0.8% | 26.6% |
| Estimated Time Served | -51.2%** | 71.4%** |
| New Admissions Rate | 49.3%** | -62.3%** |
| New Court Commitments | 71.6%** | -84.3%** |
| Total Releases | 44.2%** | -59.3%** |
| Conditional Releases | 75.1%** | -80.8%** |
| Parole Population | 4.2% | -46.5%** |
| Entries to Parole | -49.1%** | 30.9% |
| Exits from Parole | 21.3% | -2.6% |
| Age of Prison Population | -6.0%* | (dropped) |
| Death Rate among Inmates | -27.0% | 28.6% |
| Suicide Rate among Inmates | -31.4% | 53.1% |
| % Violent Offenders among New Admissions | -7.5% | 10.7% |
| % Property Offenders among New Admissions | -4.1% | 6.5% |
| % Drug Offenders among New Admissions | 13.7%** | -12.2%* |

Like Three Strikes laws, Truth in Sentencing laws, on the whole, have also had negligible national impacts on prison incarceration rates and time served. One reason for a lack of observed effects is probably the fact that TIS laws do not affect the number of offenders receiving prison sentences, but only extends the proportion of time served for already-imposed sentences. Thus, the law's impacts will only begin to be noticeable towards the middle or end of existing sentences. Since the law is aimed primarily at violent offenders, who would have received relatively long sentences, this additional time spent in prison may not yet have begun for most TIS inmates. Another reason for a lack of impacts may be an apparent loophole in the law. While it requires that a fixed percentage of sentences be spent in prison, the law does not prevent judges from reducing sentences so that the actual time served remains essentially unchanged. Finally, the lack of publicity about TIS probably diminishes any deterrent effect it may have had.

In summary, both Three Strikes and Truth in Sentencing appear to have had few observable short-term impacts on the volume or composition of correctional populations, but there appears to be evidence of a longer-term effect of Truth in Sentencing in a state that passed the law earlier than most other states did. Whether these impacts are unique to the state of Washington is unclear.

The lack of observed impacts on most of the dependent variables selected for analysis here does not necessarily indicate a failure of Three Strikes or Truth in Sentencing. The impacts of these policy interventions may not have developed fully yet. Over time, continued examination of the questions explored here, using methods such as those developed for this study, may shed more light on the effects of these two popular sentencing policies.

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Appendix A: Additional Detailed Tables

Table A1: Full Results from Regression Model with Incarceration Rate as Dependent Variable, Including Year Fixed Effects⁵¹

| Incarceration Rate | Coefficient | P> t |
|--|--------------------|-----------------|
| Trend in Three Strikes states before law | -0.7% ** | 0.039 |
| Trend in Three Strikes states after law | 0.2% | 0.896 |
| Trend in CA before 3 Strikes & TIS | 1.2% | 0.319 |
| Trend in CA after 3 Strikes & TIS | 0.9% | 0.832 |
| Trend in WA before 3 Strikes & TIS | -6.0% ** | 0.109 |
| Trend in WA after 3 Strikes | -5.8% ** | 0.218 |
| Trend in WA after TIS | 11.1% | 0.048 |
| Trend in TIS states before law | -1.0% ** | 0.000 |
| Trend in TIS states after law | -0.4% ** | 0.379 |
| Employment rate | 0.6% | 0.075 |
| % of population ages 18-24 | -1.7% ** | 0.027 |
| Capacity | 0.0% ** | 0.000 |
| Year Fixed Effect for 1987 | 4.9% ** | 0.021 |
| Year Fixed Effect for 1988 | 9.3% ** | 0.000 |
| Year Fixed Effect for 1989 | 20.6% ** | 0.000 |
| Year Fixed Effect for 1990 | 26.5% ** | 0.000 |
| Year Fixed Effect for 1991 | 32.9% ** | 0.000 |
| Year Fixed Effect for 1992 | 37.6% ** | 0.000 |
| Year Fixed Effect for 1993 | 41.8% ** | 0.000 |
| Year Fixed Effect for 1994 | 47.5% ** | 0.000 |
| Year Fixed Effect for 1995 | 52.8% ** | 0.000 |
| Year Fixed Effect for 1996 | 59.5% ** | 0.000 |
| Year Fixed Effect for 1997 | 66.0% ** | 0.000 |
| Constant | 492.8% ** | 0.000 |

Year fixed effects represent the difference in the slope in the corresponding year, compared to the slope of the dependent variable in 1986, the baseline year. For example, the incarceration rate was growing 66% faster in 1996 than it was in 1986.

⁵¹ The year fixed effects shown here are the coefficients corresponding to dummy variables for each of the years. Here, they represent the percentage difference in the corresponding year, compared to 1986, which was the baseline year (not assigned a dummy variable).

Table A2: Impacts on “Certainty,” Calculated as New Prison Admissions Divided By Felony Dispositions (dependent variables *not* natural-log transformed)

| New Prison Admissions per Felony Disposition | Coefficient | P> t |
|---|--------------------|------------------|
| Trend in Three Strikes states before law | 0.00 0.00 | 0.915 |
| Trend in Three Strikes states after law | -0.02 0.03 | 0.459 |
| Trend in CA before 3 Strikes or TIS | 0.01 0.02 | 0.421 |
| Trend in CA after 3 Strikes and TIS | 0.04 0.09 | 0.645 |
| Trend in WA before 3 Strikes | 0.00 0.05 | 0.973 |
| Trend in WA after 3 Strikes | -0.01 0.08 | 0.867 |
| Trend in WA after TIS | 0.05 0.08 | 0.534 |
| Trend in TIS states before TIS | -0.01 ** 0.00 | 0.005 |
| Trend in TIS states after TIS | -0.02 ** 0.01 | 0.006 |
| Employment Rate | 0.00 0.01 | 0.913 |
| % of population ages 18-24 | 0.05 ** 0.02 | 0.002 |
| Capacity | 0.00 0.00 | 0.588 |
| Constant | -0.38 ** 0.20 | 0.058 |
| R-squared (within) | 0.10 | |

Table A3: Impacts on Percentage of Violent, Property, and Drug Offenders Among Prison Admissions (all dependent variables *not* natural-log transformed)

| | % Violent Offenders Among Admissions | | % Property Offenders Among Admissions | | % Drug Offenders Among Admissions | |
|--|--------------------------------------|-------|---------------------------------------|-------|-----------------------------------|-------|
| | | P> t | | P> t | | P> t |
| Trend in Three Strikes states before law | -0.03 0.13 | 0.849 | 0.29** 0.11 | 0.008 | 0.19 0.17 | 0.261 |
| Trend in Three Strikes states after law | 0.18 0.53 | 0.736 | 0.56 0.44 | 0.201 | 0.25 0.69 | 0.716 |
| Trend in CA before 3 Strikes or TIS | -0.38 0.42 | 0.367 | -0.21 0.34 | 0.547 | -0.70 0.54 | 0.196 |
| Trend in CA after 3 Strikes and TIS | 0.17 1.49 | 0.907 | -0.60 1.23 | 0.625 | 1.20 1.94 | 0.536 |
| Trend in WA before 3 Strikes | -1.97 1.29 | 0.129 | -0.75 1.07 | 0.481 | 4.46** 1.69 | 0.009 |
| Trend in WA after 3 Strikes | -1.55 1.63 | 0.341 | -0.55 1.35 | 0.683 | -1.76 2.13 | 0.408 |
| Trend in WA after TIS | 2.51 1.94 | 0.195 | 1.12 1.60 | 0.486 | -4.54* 2.53 | 0.074 |
| Trend in TIS states before TIS | 0.28** 0.10 | 0.004 | 0.16* 0.08 | 0.051 | 0.02 0.13 | 0.854 |
| Trend in TIS states after TIS | 0.07 0.20 | 0.737 | -0.30* 0.17 | 0.075 | 0.41 0.26 | 0.122 |
| Employment Rate | -0.39** 0.16 | 0.015 | -0.28** 0.13 | 0.031 | 0.16 0.21 | 0.428 |
| % of population ages 18-24 | 0.43 0.40 | 0.283 | -0.94** 0.33 | 0.004 | 0.84 0.52 | 0.106 |
| Constant | 37.45** 6.90 | 0.000 | 55.60** 5.70 | 0.000 | -2.34 9.01 | 0.796 |
| R-squared (within) | 0.19 | | 0.65 | | 0.57 | |

Appendix B: Methodology for Calculating Percentage Changes in Non-Logged Dependent Variables

Percentage changes in all dependent variables that were not natural-log transformed were calculated by dividing the numerator in the left-hand column of the table below by the corresponding denominator listed in the table below.

| Numerator | Denominator |
|---|--|
| Coefficient on Trend in Three Strikes states before law | Overall Mean of Dependent Variable (All Years) |
| Coefficient on Trend in Three Strikes states after law | Overall Mean of Dependent Variable (All Years) |
| Coefficient on Trend in CA before 3 Strikes or TIS | Mean of Dependent Variable (All Years) In CA |
| Coefficient on Trend in CA after 3 Strikes and TIS | Value of Dependent Variable In CA, 1994 |
| Coefficient on Trend in WA before 3 Strikes | Mean of Dependent Variable (All Years) In WA |
| Coefficient on Trend in WA after 3 Strikes | Value of Dependent Variable In WA, 1993 |
| Coefficient on Trend in WA after TIS | Value of Dependent Variable In WA, 1990 |
| Coefficient on Trend in TIS states before TIS | Overall Mean of Dependent Variable (All Years) |
| Coefficient on Trend in TIS states after TIS | Overall Mean of Dependent Variable (All Years) |
| Coefficient on Employment Rate | Overall Mean of Dependent Variable (All Years) |
| Coefficient on % of population ages 18-24 | Overall Mean of Dependent Variable (All Years) |

Appendix C: Data Descriptions and Sources

| Variable | Definition | Availability | Source |
|---|--|------------------------------------|--|
| Incarceration Rate | Number of inmates serving prison terms of one year or longer, per 100,000 residents | All 50 states, all years 1986-1997 | Bureau of Justice Statistics, <i>Prisoners in 1986</i> and corresponding reports for years 1987 through 1998 |
| "Certainty" of Imprisonment | Calculated as New Court Commitments to Prison divided by Number of Felonies Disposed | All 50 states, years 1986-1996 | See listings for the separate components |
| Number of Felonies Disposed | Felony cases that were closed in the given year | All 50 states, years 1986-1997 | Bureau of Justice Statistics, <i>State Court Statistics</i> |
| Estimated Time Served ("Severity") | Calculated as Total Prison Population divided by Total Admissions to Prison | All 50 states, years 1986-1996 | See listings for the separate components |
| New Admissions | All inmates entering prison | All 50 states, years 1986-1996 | Bureau of Justice Statistics, <i>Correctional Populations in the United States, 1986-1996</i> . |
| New Court Commitments | Inmates sent to prison as a result of a new conviction. Excludes prisoners readmitted as a result of violations terms of conditional release | All 50 states, years 1986-1996 | Bureau of Justice Statistics, <i>Correctional Populations in the United States, 1986-1996</i> . |
| Total Releases | All inmates released from prison, for any cause, including completion of sentence, parole, death, and escape | All 50 states, years 1986-1996 | Bureau of Justice Statistics, <i>Correctional Populations in the United States, 1986-1996</i> . |
| Conditional Releases | Inmates released to another form of supervision | All 50 states, years 1986-1996 | Bureau of Justice Statistics, <i>Correctional Populations in the United States, 1986-1996</i> . |
| Parole Population | All offenders under parole supervision | All 50 states, all years 1986-1997 | Bureau of Justice Statistics, <i>Probation and Parole Populations</i> (press release), and <i>Sourcebook of Criminal Justice Statistics, 1986-1998</i> . |
| Entries to Parole | All offenders entering parole | All 50 states, all years 1986-1997 | Bureau of Justice Statistics, <i>Probation and Parole Populations</i> (press release), and <i>Sourcebook of Criminal Justice Statistics, 1986-1998</i> . |

| Variable | Definition | Availability | Source |
|--|--|---|--|
| Exits from Parole | All offenders released from parole | All 50 states, all years 1986-1997 | Bureau of Justice Statistics, <i>Probation and Parole Populations</i> (press release), and <i>Sourcebook of Criminal Justice Statistics</i> , 1986-1998. |
| Percentage of Prison Population over Age 50 | Data as reported by departments of corrections in response to survey | All 50 states, 1990-1997 | <i>The Corrections Yearbook</i> , 1990-1997, published by Criminal Justice Institute, Inc. |
| Death Rate among Inmates | Number of inmate deaths reported by state departments of corrections, divided by thousands of prison inmates | Most states, 1986-1996 | Bureau of Justice Statistics, <i>Sourcebook of Criminal Justice Statistics</i> , 1986-1998. |
| Suicide Rate among Inmates | Number of inmate suicides reported by state departments of corrections, divided by thousands of prison inmates | Most states, 1986-1996 | Bureau of Justice Statistics, <i>Sourcebook of Criminal Justice Statistics</i> , 1986-1998. |
| % Violent Offenders among New Admissions | Proportion of new prison admissions whose most serious conviction was murder/non-negligent manslaughter, forcible rape, robbery, or aggravated assault | All years 1990-1997. NCRP is a voluntary reporting program, and approximately 36 states report each year. Non-reporting states vary, but in general they tend to be those with smaller populations. See Appendix D for full list. | Data compiled using National Corrections Reporting Program files provided by Bureau of Justice Statistics |
| % Property Offenders among New Admissions | Proportion of new prison admissions whose most serious conviction was burglary, larceny-theft, or motor vehicle theft | All years 1990-1997 (see above for details). | Data compiled using National Corrections Reporting Program files provided by Bureau of Justice Statistics |
| % Drug Offenders among New Admissions | Proportion of new prison admissions whose most serious conviction was drug possession, drug trafficking, other, or unspecified drug offense | All years 1990-1997 (see above for details). | Data compiled using National Corrections Reporting Program files provided by Bureau of Justice Statistics |
| Three Strikes states | States reporting adoption and implementation of "Three Strikes and You're Out" or similar habitual offender laws by 1997 | All years 1990-1997 (see above for details). | National Council on Crime and Delinquency, 1997 <i>Survey of State Sentencing Structures</i> |
| TIS states | States meeting federal criteria to receive Truth in Sentencing grants (implementation of a law requiring FBI Part I violent offenders to serve 85% or more of their sentences, or de facto TIS policy) | All 50 states, 1996-1997 | GAO report: <i>Truth in Sentencing: Availability of Federal Grants Influenced Laws in Some States</i> (February 1998) |

| Variable | Definition | Availability | Source |
|-----------------------------------|---|--------------------------|--|
| Employment rate | Civilians employed as a percent of the civilian noninstitutional population. | All 50 states, 1996-1997 | US Department of Commerce, Bureau of the Census, <i>Statistical Abstract of the United States</i> |
| % of population ages 18-24 | Inter-census data calculated by Census Bureau | All 50 states, 1996-1997 | Bureau of Justice Statistics, <i>Sourcebook of Criminal Justice Statistics</i> , 1986-1998. |
| Prison Capacity | Capacities as reported to Bureau of Justice Statistics by state departments of correction. Please see Appendix E for details. | All 50 states, 1996-1997 | Bureau of Justice Statistics, <i>Prisoners in 1986</i> and corresponding reports for years 1987 through 1998 |
| Violent Crime Rate | Violent crimes defined by FBI as murder/non-negligent manslaughter, forcible rape, robbery, and aggravated assault | All 50 states, 1996-1997 | FBI Uniform Crime Reports, published as <i>Crime in the United States</i> |
| Property Crime Rate | Property crimes defined by FBI as burglary, larceny, and motor vehicle theft | All 50 states, 1996-1997 | FBI Uniform Crime Reports, published as <i>Crime in the United States</i> |

Appendix D: States Reporting to Bureau of Justice Statistics, National Corrections Reporting Program (NCRP), 1986-1997

• Denotes that state reported in given year

| | 1986 | 1987 | 1988 | 1989 | 1990 | 1991 | 1992 | 1993 | 1994 | 1995 | 1996 | 1997 | # of years reported for this state |
|----------------|------|------|------|------|------|------|------|------|------|------|------|------|------------------------------------|
| Alabama | • | • | • | • | • | • | • | • | • | • | • | • | 0 |
| Alaska | | | | | | | | | • | | | | 0 |
| Arizona | | | | | | | | | | | | | 0 |
| Arkansas | | | | • | • | • | • | • | • | • | • | • | 0 |
| California | • | • | • | • | • | • | • | • | • | • | • | • | 0 |
| Colorado | • | • | • | • | • | • | • | • | • | • | • | • | 0 |
| Connecticut | | | | | | | | | | | | | 0 |
| Delaware | • | • | • | | | | | | | | | | 0 |
| Florida | | | • | • | • | • | • | • | • | • | • | • | 0 |
| Georgia | | • | • | • | • | • | • | • | • | • | • | | 0 |
| Hawaii | • | • | • | • | • | • | • | • | • | • | • | • | 0 |
| Idaho | | | | | | | | | | | | | 0 |
| Illinois | • | • | • | • | • | • | • | • | • | • | • | • | 0 |
| Indiana | | | | | | | | | | | | | 0 |
| Iowa | | • | • | • | • | • | • | • | • | • | • | • | 0 |
| Kansas | | | • | | | | | | | | | | 0 |
| Kentucky | • | • | | • | • | • | • | • | • | • | • | • | 0 |
| Louisiana | | | | | | | • | • | • | • | • | • | 0 |
| Maine | • | | | | | | • | • | • | • | • | • | 0 |
| Maryland | • | • | • | • | • | • | • | • | • | • | • | • | 0 |
| Massachusetts | • | • | • | • | • | | • | • | • | • | | | 0 |
| Michigan | • | • | • | • | • | • | • | • | • | • | • | • | 0 |
| Minnesota | • | • | • | • | • | • | • | • | • | • | • | • | 0 |
| Mississippi | • | • | • | • | • | • | • | • | • | • | • | • | 0 |
| Missouri | • | • | • | • | • | • | • | • | • | • | • | • | 0 |
| Montana | | | | | | | | | | | • | | 0 |
| Nebraska | | • | | | • | • | • | • | • | • | | • | 0 |
| Nevada | • | • | • | • | • | • | • | • | • | • | • | • | 0 |
| New Hampshire | • | • | • | • | • | • | • | • | • | • | • | • | 0 |
| New Jersey | • | • | • | • | • | • | • | • | • | • | • | • | 0 |
| New Mexico | | | | | | | | | | • | | | 0 |
| New York | • | • | • | • | • | • | • | • | • | | • | • | 0 |
| North Carolina | • | • | • | • | • | • | • | • | • | • | • | • | 0 |
| North Dakota | • | • | • | • | • | • | • | • | • | • | • | • | 0 |
| Ohio | • | • | • | • | • | • | • | • | • | • | • | • | 0 |
| Oklahoma | • | • | • | • | • | • | • | • | • | • | • | • | 0 |
| Oregon | • | • | • | • | • | • | • | • | • | • | • | • | 0 |
| Pennsylvania | • | • | • | | • | • | • | • | • | • | • | • | 0 |

| | 1986 | 1987 | 1988 | 1989 | 1990 | 1991 | 1992 | 1993 | 1994 | 1995 | 1996 | 1997 | # of years reported for this state |
|---------------------------------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|------------------------------------|
| Rhode Island | • | • | | | • | | | | | | | | 0 |
| South Carolina | • | • | • | • | | • | • | • | • | • | • | • | 0 |
| South Dakota | • | | | | | • | • | • | • | • | • | • | 0 |
| Tennessee | • | • | • | • | • | • | • | • | • | • | • | • | 0 |
| Texas | • | • | • | | • | • | • | • | • | • | • | • | 0 |
| Utah | • | • | • | • | • | • | • | • | • | • | • | • | 0 |
| Vermont | | | | | | | | | | | | | 0 |
| Virginia | • | • | • | • | • | • | • | • | • | • | • | • | 0 |
| Washington | • | • | • | • | • | • | • | • | • | • | • | • | 0 |
| West Virginia | • | • | • | • | • | • | • | • | • | • | • | • | 0 |
| Wisconsin | • | • | • | • | • | • | • | • | • | • | • | • | 0 |
| Wyoming | • | | | | | | | | | | | | 0 |
| Total states reporting in year | 35 | 35 | 34 | 32 | 35 | 35 | 38 | 38 | 39 | 38 | 37 | 36 | 432 |

Appendix E: Measures of Capacity Used for Prison Capacity Variable

The source for all prison capacity data was the Bureau of Justice bulletin, *Prisoners in 1986*, and corresponding bulletins for years 1987-1997. There are three different measures of capacity: design, rated, and operational. While these three measures are often the same or close, at times they differ considerably. States may report one or more of these measures each year. Unfortunately, there is a lack of consistency from state to state with regard to the measurement that is reported. In addition, some states do not report the same measure each year.

Different capacity measures had to be combined to construct time-series data for use in the analyses. Because state fixed effects were included that captured many underlying differences between states, and the phenomenon of interest was the change within each state associated with the implementation of a new policy, the variables were selected with consistent time series within states in mind.

The most frequently reported measure was operational capacity, and this variable was selected in all states that reported this measure in most years. Where operational capacity was infrequently reported, design or rated capacity was used depending on which measure was reported in the most years. In one state, Michigan, a combination of operational and rated capacity measures was used to construct the time series for the entire 12-year period studied.

| State | 1986 | 1987 | 1988 | 1989 | 1990 | 1991 | 1992 | 1993 | 1994 | 1995 | 1996 | 1997 |
|---------------|------|------|------|------|------|------|------|------|------|------|------|------|
| Alabama | O | O | O | O | O | O | O | O | O | O | O | O |
| Alaska | R | | | R | R | R | R | R | R | R | R | R |
| Arizona | O | O | O | O | O | O | O | O | O | O | O | O |
| Arkansas | | | O | O | O | O | O | O | O | O | O | O |
| California | D | D | D | D | D | D | D | D | D | D | D | D |
| Colorado | O | | O | O | O | O | O | O | O | O | O | O |
| Connecticut | O | O | O | O | O | O | O | O | O | | | |
| Delaware | O | O | O | O | O | O | O | O | O | O | O | O |
| Florida | O | O | O | O | O | O | O | O | O | | O | O |
| Georgia | | | O | O | O | O | O | | O | O | O | |
| Hawaii | | | O | O | O | O | O | O | O | O | O | O |
| Idaho | O | O | O | O | O | O | O | O | O | O | O | O |
| Illinois | O | O | O | O | O | O | O | O | O | O | O | O |
| Indiana | R | R | R | R | R | R | R | R | R | R | R | R |
| Iowa | O | O | O | O | O | O | O | O | O | O | O | O |
| Kansas | R | R | | R | | | R | R | R | R | R | R |
| Kentucky | R | R | R | R | R | R | R | R | R | R | R | R |
| Louisiana | O | O | O | O | O | O | O | O | O | O | O | O |
| Maine | O | O | O | O | O | O | O | O | O | O | | O |
| Maryland | O | O | O | O | O | O | O | O | O | O | O | O |
| Massachusetts | | D | D | D | D | D | D | D | D | D | D | D |
| Michigan | O | O | R | R | R | R | R | R | R | O | O | O |
| Minnesota | O | O | O | O | O | O | O | O | O | O | O | O |
| Mississippi | | | O | O | O | O | O | O | O | O | O | O |
| Missouri | O | O | O | O | O | O | O | O | O | O | O | O |

| State | 1986 | 1987 | 1988 | 1989 | 1990 | 1991 | 1992 | 1993 | 1994 | 1995 | 1996 | 1997 |
|----------------|------|------|------|------|------|------|------|------|------|------|------|------|
| Montana | O | O | O | O | O | O | O | O | O | O | O | O |
| Nebraska | D | D | D | D | D | D | D | | D | D | D | D |
| Nevada | D | D | D | D | D | D | D | D | D | D | D | D |
| New Hampshire | O | O | O | O | O | O | O | O | O | O | O | O |
| New Jersey | D | D | D | D | D | D | D | D | D | D | D | D |
| New Mexico | O | O | O | O | O | O | O | O | O | O | O | O |
| New York | O | O | O | O | O | O | O | O | O | O | O | O |
| North Carolina | | R | R | R | R | R | R | R | R | R | R | R |
| North Dakota | O | O | O | O | O | O | O | O | O | O | O | O |
| Ohio | D | D | D | D | D | D | D | D | D | D | D | |
| Oklahoma | | | O | O | O | O | O | O | O | O | O | O |
| Oregon | O | O | O | O | O | O | O | O | O | O | O | O |
| Pennsylvania | D | D | D | D | D | D | D | D | D | | D | D |
| Rhode Island | O | O | O | O | O | O | O | O | O | O | O | O |
| South Carolina | O | O | O | O | O | O | O | O | O | O | O | O |
| South Dakota | O | O | O | O | O | O | O | O | O | O | O | |
| Tennessee | | | O | O | O | O | O | O | O | O | O | O |
| Texas | O | O | O | O | O | O | O | O | O | O | O | O |
| Utah | O | O | O | O | O | O | O | O | O | O | O | O |
| Vermont | O | O | O | O | O | O | O | O | O | O | O | O |
| Virginia | O | O | O | O | O | O | O | O | O | O | O | O |
| Washington | O | O | O | O | O | O | O | O | O | O | O | O |
| West Virginia | O | O | O | O | O | O | O | O | O | O | O | O |
| Wisconsin | O | O | | O | O | O | O | O | O | O | O | O |
| Wyoming | O | O | O | O | O | O | O | O | O | O | O | O |

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