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*National Evaluation of the
Violent Offender
Incarceration/Truth-in-
Sentencing Incentive Grant
Program*

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PREFACE

The Federal Violent Crime Control and Law Enforcement Act of 1994, as amended, provided for federal Violent-Offender Incarceration and Truth-in-Sentencing (VOI/TIS) grants to the states and U.S. territories. These grants are to be used to increase the capacity of state correctional systems to confine serious and violent offenders. Congress and the U.S. Department of Justice have agreed to devote some of the committed funds intended for these grants to evaluating the actions they support. This evaluation provides a unique opportunity to learn about the impacts of various sentencing strategies on patterns of confinement, crime rates, and state finances, as well as how states interpret and respond to the 1994 Act, as amended. This evaluation was conducted by RAND in partnership with four national organizations representing key participants in its implementation: the American Correctional Association, the American Prosecutors Research Institute, the Justice Management Institute, and the National Conference of State Legislatures. Each of these organizations assisted us with access to the experiences and perceptions of the constituencies they serve.

RAND's evaluation tracked and documented significant changes in a number of key process and outcome variables for all 50 states, including legislative actions, sentencing patterns, correctional populations, criminal justice system costs, and crime rates. Data on these variables were obtained through state publications and grant applications, special surveys conducted by our partner organizations, and analyses of state-level data series compiled by the Bureau of Justice Statistics. Additionally, we conducted case studies of recent sentencing and correctional reforms in seven states selected to be broadly representative of national trends (California, Minnesota, New York, North Carolina, Oregon, Texas, and Virginia). Data for these case studies were obtained from interviews with state officials, analyses of newspaper articles, and a more thorough review of documentation and data generated within the targeted states.

This report is one in a series of RAND studies on the impact of truth-in-sentencing and other "get tough" policies on state and local corrections. Other reports for interested readers include:

Susan Turner, Peter Greenwood, Elsa Chen, and Terry Fain (1999), "The Impact of Truth-in-Sentencing and Three-Strikes Legislation: Prison Populations, State Budgets, and Crime Rates," *Stanford Law and Policy Review*, Volume 11:1.

Joan Petersilia, Susan Turner, and Terry Fain (1999), *Profiling Inmates in Los Angeles County Jail: Risks, Recidivism, and Release Options*, DRR-2136-NIJ, Final Report to the National Institute of Justice.

Nancy Merritt, Susan Turner, Peter Greenwood, and Terry Fain (1999), *Implementation and Impact of Violent Offender and Truth-in-Sentencing Legislation: How Counties Respond to the Challenge*, DRR-2110-NIJ, Final Report to the National Institute of Justice.

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EXECUTIVE SUMMARY

VOI/TIS

The Federal Violent Crime Control and Law Enforcement Act of 1994, as amended, provided for federal Violent-Offender Incarceration and Truth-in-Sentencing (VOI/TIS) incentive grants to the states. These grants are to be used to increase the capacity of state correctional systems to confine serious and violent offenders.

The Act, as amended, authorized over \$10 billion in Subtitle A funds for the years 1995 to 2000, although appropriations have been much less. These funds were divided equally between two programs: Truth-in-Sentencing (TIS) Incentive Grants and Violent-Offender Incarceration (VOI) Grants. States can receive funding through either or both of these programs. A state may apply for TIS grants by meeting one of two criteria:

- It has implemented laws requiring convicted violent offenders to serve at least 85% of their sentence or resulting in such offenders serving on average 85% of their sentence
- It has enacted a law providing that within three years of its grant application it will require convicted violent offenders to serve at least 85% of their sentence

The percentage of the total TIS funds that each state is allocated for a given year is equal to the percentage of the nation's violent crimes committed in that state over the three years preceding the allocation. The grant is thus both merit- and need-based, because all states need to show statutory or de facto 85% truth in sentencing, but their amount of funding is contingent on "need" for federal assistance to combat violent crime.

For VOI funding, a state need only give assurances that it has implemented or will implement policies ensuring that

- violent offenders serve "a substantial portion" of their sentences
- their punishment is "sufficiently severe"
- the time served is "appropriately related" to the violent-offender status and sufficient to protect the public

States meeting these criteria are said to be eligible for "Tier 1" funding.¹ A state can receive a greater share of VOI funding (Tier 2) if it can show that since 1993 it has increased any of the following:

- the percentage of convicted violent offenders that have been sentenced to prison
- the average time they have served
- the average percentage of their sentence they have served

A state can also receive a greater share of VOI funding (Tier 3) if it can show it has accomplished either of the following:

- since 1993, increased the percentage of convicted violent offenders that have been sentenced to prison and the average percentage of their sentence they have served
- within the past three years, increased by at least 10% the number of convicted violent offenders committed by the courts to prison

Between fiscal years 1996 and 1999, nearly two billion dollars were awarded to states under the VOI/TIS grants program, with \$927 million allocated under TIS and \$920 million under VOI. Thirty states and the District of Columbia received TIS funding in at least one of these years; all states received Tiers 1 and 2 VOI funding. Tier 3 funding showed the most variation in number of states qualifying each year. In

¹This terminology has been adopted in implementing the Act; it is not present in the Act itself.

fiscal year 1996, 33 states and territories qualified for Tier 3; the highest number qualified in fiscal year 1998, with 41 receiving funding.

The purpose of the VOI/TIS incentive grants is to provide states with funds to:

- Build or expand correctional facilities to increase the bed capacity for the confinement of persons convicted of a Part 1 violent crime or adjudicated delinquent for an act which, if committed by an adult, would be a Part 1 violent crime
- Build or expand temporary or permanent correctional facilities, including facilities on military bases, prison barges, and boot camps for the confinement for convicted nonviolent offenders and criminal aliens, for the purpose of freeing suitable existing prison space for the confinement of persons convicted of a Part 1 violent crime
- Build or expand jails²

BACKGROUND

The roots of truth in sentencing may be traced back to two streams of American criminal justice reform originating over a quarter-century ago. Truth in sentencing may be viewed as a means of providing clarity, consistency, and certainty in the duration of prison terms set by judges and served by offenders. In that sense, truth in sentencing can be said to have sprung from the determinate sentencing reforms begun in the early 1970s and the various attempts at sentencing guidelines that followed. Truth in sentencing may also be viewed as a means of ensuring that felons serve prison terms judged by the public and their elected representatives as adequate to the crimes they have committed. In that sense, truth in sentencing drew sustenance and impetus from those within the victims' rights movement and others espousing harsher treatment of criminals.

² CPO 1999 Application Kit, p. 2.

Several other factors influenced the eventual decision to include in the 1994 federal Crime Act provisions encouraging truth in sentencing at the state level. Those factors included:

1. an overall upward trend in crime rates, including violent crime rates, particularly from the mid-1980s through the early 1990s
2. an increasing tendency on the part of political leaders of both parties to focus on crime in the early 1990s
3. media reporting on crime that focused more and more on sensational acts of violence
4. an increasing concern about crime among the public, which made more salient the public's existing dissatisfaction with the performance of the criminal justice system
5. the federal government's own truth-in-sentencing law, passed in 1984
6. the political environment in and around Washington, D. C., in 1993 and 1994

STUDY METHODOLOGY

This evaluation provides a unique opportunity to learn about the impacts of various sentencing strategies on patterns of confinement, crime rates, and state finances, as well as how states interpret and respond to the 1994 Act, as amended. The evaluation was conducted by RAND in partnership with four national organizations representing key participants in its implementation: the American Correctional Association, the American Prosecutors Research Institute, the Justice Management Institute, and the National Conference of State Legislatures. Each of these organizations assisted us with access to the experiences and perceptions of the constituencies they serve.

RAND's evaluation tracked and documented significant changes in a number of key process and outcome variables for all 50 states, including legislative actions, sentencing patterns, correctional populations, criminal justice system costs, and crime rates. Data on these variables were obtained through state publications and grant applications, special surveys conducted by our partner organizations, and analyses of state-

level data series compiled by the Bureau of Justice Statistics. Additionally, we conducted in-depth case studies of recent sentencing and correctional reforms in seven states selected to be broadly representative of national trends (California, Minnesota, New York, North Carolina, Oregon, Texas, and Virginia). Data for these case studies were obtained from in-depth interviews, analyses of newspaper articles, and a more thorough review of documentation and data generated within the targeted states.

Our major research questions include:

- How has the federal government implemented the law? How much money has been made available and what have been the criteria for disbursement?
- How have states reacted legislatively to the law? Have states adopted truth-in-sentencing having equivalent effect?
- How has the VOI/TIS money been spent and for what? How much has it increased prison capacities?
- Is the law increasing sentences given the violent offenders and terms served by them?

FINDINGS

Before we answer these questions, it is necessary to understand the constraints under which the current evaluation was conducted. First, our evaluation was conducted early in the implementation of VOI/TIS. As we have indicated throughout the report, the full impact of VOI/TIS will not be seen until years from now. This is due to several reasons. States do not have to spend funds during the year in which they are received--they have up to four years from the year in which they are awarded. In addition, the impacts of TIS legislation will not be felt until violent offenders begin to serve the portions of their sentences that are beyond that which was historically served. Second, although we can examine the differential effects of states that did and did not receive TIS funding, we cannot determine the impact of VOI/TIS funds overall. This is because all states received funding from the program. We do not have a set of states, for comparison purposes, that did not

participate in the VOI/TIS program. Thus, changes we observe over time may be due to other events, sentencing changes, or national trends not associated with VOI/TIS. We turn now to our major research questions.

How Has the Federal Government Implemented the Law?

The VOI/TIS program has been administered by the Corrections Program Office (CPO), Office of Justice Programs. This office was established in 1995 to implement the correctional grant programs created by the 1994 Crime Act, as amended. CPO is responsible for reviewing state applications for funding, technical assistance related to program requirements and grants management once grants are awarded, and monitoring the implementation of VOI/TIS. The original VOI/TIS authorizations were for \$10 billion through FY 2000; however, only a fraction of the authorized amounts have been appropriated. FY96 through FY99 awards totaled over \$1.8 billion. States qualified for federal funding under the two separate components--Violent Offender Incarceration (VOI) and Truth-in-Sentencing (TIS). In order to qualify for funding under VOI, states had to provide data indicating increased "toughening" for violent offenders as defined by various qualifying criteria based on the percentages of violent offenders incarcerated, average time served, and average percentage of sentence served. Three tiers of funding were available with all states qualifying for the first, least restrictive Tier 1. For TIS funds, states needed to show that they had implemented laws requiring convicted violent offenders serve 85% of their sentence or data that showed that, de facto, offenders were serving on average 85% of their sentences. Forty-one states and the District of Columbia had received TIS funding by 1999. The process of qualification was complicated by several factors, including the definition of "violent" offenses and calculation of the 85% TIS requirement.

How Have the States Reacted to the Law?

It appears that the program did motivate some states to pass TIS laws, but most TIS states would probably have passed TIS legislation anyway. GAO findings suggest that in only four states was the receipt

of federal grant funds a major factor in passing TIS laws. Other states were not motivated to pass TIS for financial reasons. For some, TIS was too big a financial commitment for the federal funds that it would bring along.

Our case study sites provided us with insights into individual state motivations. Many states had been moving toward increased severity before VOI/TIS funds became available. In several cases, extreme crimes with extensive news coverage served as the rallying cry for truth-in-sentencing legislation (e.g., in California and Minnesota). In Oregon, victim's groups were major supporters of the legislation. Even in North Carolina, in which the original TIS legislation was drafted with careful attention to the impact on prison beds, the widely-publicized murder of Michael Jordan's father generated hundreds of new crime bills after the implementation of their TIS. Thus unique events in individual states appear to be major motivations for passing of TIS and other "get-tough" legislation, apart from federal policy.

How Has the Money Been Spent?

Between 1996 and 1999, over \$1.8 billion in VOI/TIS funds have been allocated to the states. The funds have been used to build prison beds, but most states have added little prison capacity to date with VOI/TIS dollars. By the end of 1999, over 15,000 beds had been constructed; more than 25,000 were under construction. The use of leased beds has been relatively small--just over 2000 beds had been leased with VOI/TIS funds. The median number of beds added was 300 per state.³ In more than half the states, these beds represented less than 4% increase in capacity. The biggest increases were mostly in small, or less populous, states. Small increases partially reflect the ability of states to hold on to their funds for a period of four years past the award year. As a consequence much of the VOI/TIS bed expansion may occur well after FY 2000.

³ This median is based on states that added beds. Six states, plus the District of Columbia and two territories, reported building no beds by December 31, 1999.

Are Violent Offenders Serving Tougher Terms?

It is too early to definitively determine the extent to which offenders sentenced under TIS laws are serving longer terms. To date we do not see major increases in the percent of admissions to prison for violent offenses. We do know that nationwide, the imposed maximum sentence length, the average length of prison term, and percent of term served for violent offenses have increased for TIS states between 1993 and 1997. For non-TIS states, sentence lengths have been dropping, and months served have dropped slightly. As a result, for these states the percent of term served has increased several percentage points. But differences we observe between TIS and non-TIS states were evident before the passage of TIS legislation in many states. TIS states with structured sentencing have historically had high violent crime rates and the shorter sentences, while non-TIS states show lower violent crime rates and longer sentences. Many large states with urban centers are represented among TIS structured states, including California, Florida, Illinois, Michigan, Ohio, Oregon, Pennsylvania, Virginia, and Washington. In contrast, smaller, less urban states are among the non-TIS states--e.g., Alaska, Hawaii, Montana, Nebraska, New Hampshire, and Wyoming.

Perceptions of System Actors

In addition to our major research questions on VOI/TIS, our surveys of prosecutors, judges, and correctional administrators provided broad views of "get tough" legislation for key system actors. All indicate important changes as a result of TIS and other "get tough" legislation.

Prosecutors. The majority of prosecutors surveyed are working in sentencing environments characterized by recent "get tough" sentencing policies. Overall, prosecutors felt such laws will help achieve "get tough" goals of imposing lengthy incarceration, insuring that offenders serve significant portions of their sentence, and deterring others from committing crime. An unexpected finding is that non-TIS jurisdictions felt more certain that the "get tough" policies in their jurisdictions (that do not include TIS) will achieve these goals. It is not clear, however, why this is the case.

"Get tough" legislation has placed new demands on office resources and budgets. It has increased a number of activities that one would expect to increase with tougher laws--trials (for TIS states), juveniles waived to adult court, cases appealed, and offenses prosecuted as violent crimes. In addition, however, "get tough" legislation has worked to improve linkages with other actors in the system. Cooperation between law enforcement and prosecutors' offices, and perceptions of increased victim satisfaction with and participation in the justice system, have occurred for TIS and non-TIS states, though not in Texas.

Judges. Judges felt that "get tough" measures insure longer sentences for repeat violent offenders and that offenders serve a larger portion of their sentence. Judges were less convinced, however, that "get tough" approaches effectively deter violent criminals, and only Texas judges reported an increase in alternatives to incarceration.

Most judges believed that "get tough" measures have had rather substantial effects on the processing of court cases. The most significant changes were a reduction in judicial discretion in sentencing, and an increase in juvenile cases waived to adult court. Responses from judges in TIS and non-TIS states were not substantially different for most of these questions.

When we compare the overall patterns of responses of judges and prosecutors, we see some interesting parallels, as well as some marked differences. Both groups agree that "get tough" legislation has impacted their work--in terms of caseloads and processing time, numbers of plea bargains, and waivers to adult court. They also agree that such measures will achieve the goals of longer sentences and time served and feel that such measures have worked to the benefit of victim. They do, however, show marked differences in the perceptions of the impact on their own discretion. Judges, particularly those in TIS jurisdictions, feel that "get tough" legislation has reduced their discretion in sentencing, whereas prosecutors feel it has enhanced theirs.

Correctional Administrators. In the last few years, prisons have seen increases in all types of offenders, not just violent offenders. Although positive prison activities (such as inmate work, education, and recreation) have been increasing, so have negative behaviors such as

gang activity, infractions, and assaults on staff. Housing has been affected, with more offenders in double- and triple-bunking and more offenders housed in secure units. Prison staffing has increased to meet this, but training and staff qualifications remain about the same over the past few years. The use of gain/good time is already declining, as is parole in TIS states (although other forms of post-release supervision have increased). It was not possible for us to determine what percent of these changes were due to TIS legislation itself; however, we see many similar changes in both TIS and non-TIS states, suggesting these some of the changes are the result of laws and policies in place other than TIS.

ADDITIONAL CONSIDERATIONS

As we indicated earlier, it is not possible to directly test the impact of VOI/TIS funds on sentences for violent offenders, since all states received VOI/TIS funding. However, we might expect those states that were able to build more beds with VOI/TIS funds to show greater increases in the percent of term served and sentence lengths for violent offenders. Although the number of beds added to date has been modest, we examined the relationship between the numbers of beds built and sentences served and percent of sentence served for violent offenders. For TIS states, months served for states above and below the median are virtually the same, but they are increasing. Non-TIS states above and below the median show decreasing months between 1993 and 1996, and increases in 1997. In terms of percent of time served, TIS states with fewer than the median number beds built show large increases in the percent of time served; those TIS states above the median show increases through 1996, but decreases in 1997. Non-TIS states show increases for groups above and below the median. Thus, it does not appear that those states with more beds built have appreciably different sentences served than those with fewer beds. However, as with many other analyses, we will need to wait several years before definitive data are available.

Although preliminary, we may be able to glean some differences between "early" and "later" TIS adopters that might shed light on expected future trends. To test this, we divided TIS states into those

with qualifying legislation in 1994 or earlier, and those with qualifying legislation 1995 or later. Our analysis indicated that time served for early adopters is lower than for later adopters for most years, although the percent of time served is higher for the earlier adopters. This suggests that length of sentence imposed differs for earlier and late adopters. In fact, this is exactly the case. The length of sentence for violent offenses is higher for later adopters, resulting in a lower percentage of time served. In addition, time served and percent of sentences served were increasing several years before the later adopters implemented TIS, suggesting as we have indicated before, sentence practices were changing before VOI/TIS.

FUTURE RESEARCH

The most obvious suggestion for future research is to revisit our research questions several years from now. By the end of 2004, states should have completed construction of beds with funds allocated through FY 2000. Sentences imposed for prison admissions for violent offenses were roughly 60 months in 1994 and 1995 for TIS states. With offenders serving 85% of their terms, we would expect several years of release data by 2004 to document changes in the average terms imposed and served, percent of sentence under TIS, and potential impacts on the crime rate. Unfortunately, policymakers and practitioners need information sooner than this. Our study has provided experiences and impacts based on the early implementation of VOI/TIS and thus may not represent longer term trends that will occur. Nonetheless, these trends do suggest some promising patterns. As we await more definitive results in the future, interim studies can provide us with updates to the current findings.

CONCLUDING OBSERVATIONS

Although we did not know it at the time, VOI/TIS came late in the last cycle of reaction against crime. At the time of the 1994 Crime Act, violent crime rates had been increasing at an alarming rate for three decades, despite a slight decline after 1991. Since 1991, violent crime rates have been falling and prison populations are not increasing

as rapidly as feared. In a formal sense, the administration of the VOI/TIS program has been consistent with the Act, as amended. States receive funding in proportion to their violent crimes only with the degree to which they comply with detailed qualifying conditions set down in the law. However, in a practical sense, the outcome may not be what Congress expected. At the time of the 1994 Crime Act, crime was a number one concern of the public, and both the media and public officials were focusing attention on the most sensational aspects of this problem. Now, more than five years later, many states have not spent their VOI/TIS dollars, prison populations have not increased as expected, and the need for prison space may not be as acute as thought.

We raise some questions about the future of VOI/TIS. The VOI/TIS incentive has only been tested in good times, in an era of declining crime and budget surpluses. What will happen when things start to change, as they appear to be, at least in terms of the slowing of the overall economy? Perhaps more immediate, what will happen when crime starts to go up and TIS starts costing the states large amounts of money, especially for prison operating costs (that cannot be paid for with VOI/TIS funds)?

VOI/TIS legislation embodies a one-size-fits-all approach to the very complicated issue of criminal sentencing. All states, no matter how tough their current sentencing practices, were encouraged (by the qualifying conditions of the grants) to increase the fraction of their convicted violent offenders who were sent to prison, the length of their sentences, and the amount of time they served. But individual states differ considerably in their crime rates, the severity of their current sentencing practices, and the conditions of their prisons. By using this approach, VOI/TIS did not recognize pre-existing differences among states as to their current sentencing policies, recent attempts at reform, and financial needs. The Corrections Program Office dealt with this issue by sponsoring a series of workshops and conferences (as well as more specific technical assistance) designed to help states deal with a number of policy and practical issues.

VOI/TIS, like many other pieces of "get tough" legislation passed in recent years, was based on a few simple hypotheses or beliefs, and

not a great deal of serious analysis. The law promotes tougher sentences for violent offenders (no matter how tough they are now), and requires that all violent offenders serve 85% of their sentences. Analyses on the expected returns for increasingly longer sentences were not conducted. The 85% criteria for funding ignores efforts by some states that have been in the spirit of VOI/TIS but don't meet the Act's requirements. For example, in Texas, the public supports what they believe to be their state's tough sentencing policies, under which inmates convicted of aggravated violent offenses must serve 50% of their terms. And, as we have seen, the state has shown major increases in sentences imposed and time served for violent offenders. We suggest that future efforts be subject to more detailed scrutiny and analysis (North Carolina provides a model for such effects) before being passed or states should be allowed a wider choice of options in pursuing the objectives of the legislation.

ACKNOWLEDGMENTS

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1. INTRODUCTION

Over the last few decades, that criminals serve too little time in prison has been one of the most widely held beliefs of many Americans regarding the U.S. criminal justice system. A generally rightward ideological turn in Washington in the early 1980s allowed this belief to find expression in federal sentencing reforms passed in 1984. These reforms included a requirement that inmates of federal prisons serve at least 85% of the terms to which they had been sentenced.

Of course, most criminals, and particularly most violent criminals, are incarcerated by the states, on which the new federal "truth-in-sentencing" requirement had no direct effect. As violent-crime rates increased sharply in the mid- and late 1980s, some states began passing truth-in-sentencing legislation, but most were having trouble finding enough prison space to keep terms served close to what they had been. Two reports from the U.S. Department of Justice in 1992 helped focus attention on this issue. Finding that violent criminals were on average serving only 37% of their sentences, the reports urged states to adopt truth in sentencing and to fund the increased prison capacity necessary to implement it.

Thus, once Congress began considering a crime reduction bill the following year, it wasn't long before its members began searching for ways to induce the states to move toward truth in sentencing. The method on which they settled was embodied in the Truth-in-Sentencing (TIS) and Violent-Offender Incarceration (VOI) incentive grant programs in what eventually became the Violent Crime Control and Law Enforcement Act of 1994. These programs were created in recognition that states were releasing prisoners early because they did not have enough prison space to accommodate all convicts. The new programs addressed this problem by making prison construction funds available to states on the condition that they require that violent offenders serve 85% of their terms.

As part of the law, congress required that the implementation and effectiveness of the VOI/TIS grant programs be evaluated. We here report the results of that evaluation at the national level.

To do so, we address four broad areas:

- **How has the federal government implemented the law? How much money has been made available and what have been the criteria for disbursement?** The criteria that states were required to meet in order to be eligible for funding under VOI/TIS were fairly complex, and involved measures of sentencing outcomes that had not been routinely collected and reported in the past. Furthermore, there is tremendous diversity among the states in the structure of their sentencing laws, and the steps that would be required for them to meet the eligibility requirements of the law. Given this background, we would expect that the Justice Department agency charged with administering the law would have to deal with a wide range of questions and requests for special exceptions from those states seeking to qualify for funding under the law.
- **How have the states reacted legislatively to the law? Have states adopted truth in sentencing or statutes having equivalent effect?** The law promises to provide a significant amount of funding for states to meet two fairly popular objectives--increasing sentence severity for violent offenders and enacting truth in sentencing laws. Yet the funding available for any one state would represent only a small fraction of their total corrections budget, and the state must be prepared to pick up the operational costs after the facilities are built. Furthermore, a number of states had already taken steps to increase sentence severity for violent offenders before the federal law was passed, raising the baseline against which their future efforts would be measured. Given this situation, we would expect far from universal passage of TIS legislation across the states, with much of the

variation explained by the conditions that existed prior to passage of the federal law.

- **How has the state VOI/TIS money has been spent and for what? How much has it increased prison capacities?** Given the great variety in sentencing structures and prison construction programs across the states, we would also expect to see a great variety in how VOI/TIS funds were used.
- **Is the law increasing number of admissions, length of sentences, and terms served for violent offenders?** Increasing sentence severity for serious and violent offenders has been a politically popular policy reform throughout the early 1990s, whether through mandatory minimum sentences, truth-in-sentencing, toughening up on parole criteria, or waiver of juveniles to adult court. We would certainly expect to find a pattern of increasing sentence severity for violent offenders across most states, whether or not this pattern can be attributed to VOI/TIS.

In addition to these four major areas, we looked at related areas of interest, such as the impact of VOI/TIS and other "get tough" legislation on prosecutorial and judicial attitudes, policies, and practices. We also examined state spending on corrections, particularly for construction.

In Chapter 2 we give some background on the policy and political trends that led to the 1994 Crime Act. Chapter 3 presents the methodology and describes the data sets used in subsequent analyses. In Chapter 4 we summarize the provisions of the law itself. In Chapters 5 through 9, we present findings for our research questions.

2. EVENTS AND TRENDS LEADING TO TRUTH IN SENTENCING

The roots of truth in sentencing may be traced back to two streams of American criminal justice reform originating over a quarter-century ago. Truth in sentencing may be viewed as a means of providing clarity, consistency, and certainty in the duration of prison terms set by judges and served by offenders. In that sense, truth in sentencing can be said to have sprung from the determinate sentencing reforms begun in the early 1970s and the various attempts at sentencing guidelines that followed. Truth in sentencing may also be viewed as a means of ensuring that felons serve prison terms judged by the public and their elected representatives as adequate to the crimes they have committed. In that sense, truth in sentencing drew sustenance and impetus from those within the victims' rights movement and others espousing stricter treatment of criminals.

In this chapter, we offer a brief history of criminal justice reform over the quarter-century preceding the 1994 law. We discuss the period prior to 1990 in terms of the two streams of reform defined above. We then describe trends in crime and concern about crime that bore directly on the law in the early 1990s.

CLARIFYING SENTENCES AND CONTROLLING PRISON POPULATION GROWTH

For most of America's history, U.S. and state laws granted judges wide discretion in sentencing. Laws establishing penalties typically specified only maximum terms to be served and fines to be paid (see, for example, Stith and Koh, 1993). The use of parole and good-time credits further increased the variation possible in terms served for similar crimes. Under this "indeterminate sentencing" system, judges set prison terms, while release of a prisoner was governed by an executive-branch parole board.

This approach was consistent with the rehabilitative philosophy underlying imprisonment during the mid-20th century, which focused on individual prisoner needs, progress toward "correction," and timely return to society. By the 1960s, most jurisdictions were reducing

sanctions on offenders, leading to a decline in the number of those imprisoned, which in 1969 reached a low of 188,000 nationwide (Gettinger 1976).

By the mid-1960s crime rates began to rise (see Figure 2.1). According to the FBI's Uniform Crime Reports (UCR), violent crimes reported to the police rose from 200 per 100,000 Americans in 1965 to almost 500 in 1975 (Bureau of Justice Statistics 1996). At the same time, the nation's crime control philosophy began to turn away from rehabilitation. Attorney General William Saxbe spoke out against it (Serrill 1975), and he drew support from sociologist Robert Martinson (1974; see also Lipton, Martinson, and Wilkes 1975). Martinson had surveyed data from hundreds of prisoner rehabilitation programs over two decades. He reported that, with few exceptions, there was no postprogram effect on the recidivism of participants.

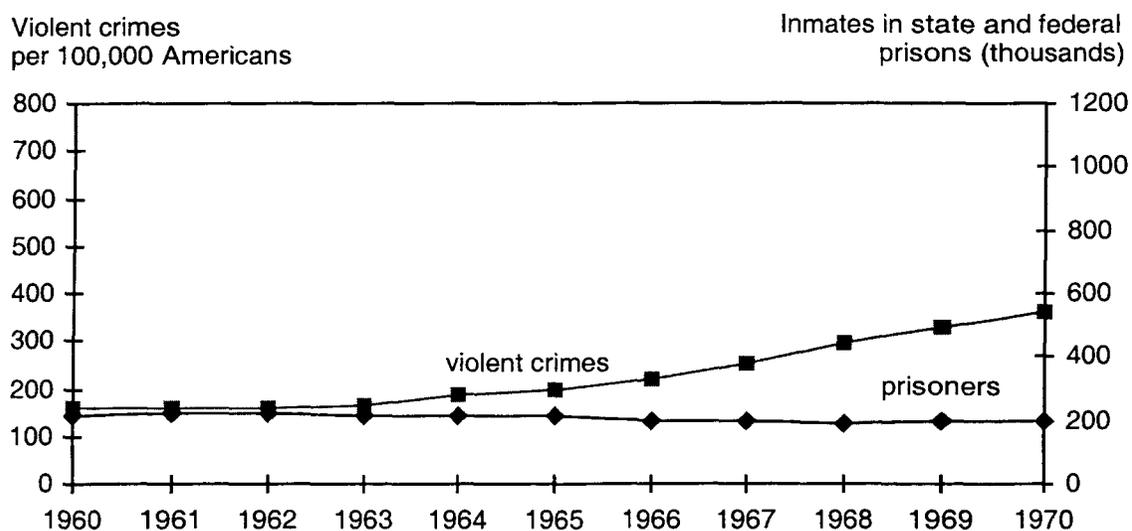


Fig. 2.1 - Violent-Crime Rates and Prison Population, 1960s⁴

⁴ Sources: U.S. Bureau of the Census, *Historical Statistics of the United States, Colonial Times to 1970, Part 1*, Washington, D.C., 1975, p. 413, citing Federal Bureau of Investigation, *Uniform Crime Reports for the United States*, annual issues, and p. 421, citing U.S. Bureau of Prisons, *National Prisoner Statistics*, annual issues; and U.S. Bureau of the Census, *Statistical Abstract of the United States: 1978* (99th ed.), Washington, D.C., 1978, p. 177.

Martinson's report was embraced by diverse constituencies calling for sentencing reforms. Many veterans of the civil-rights movement were primarily concerned with racial and class disparity in terms served and had already denounced the system of indeterminate sentencing and parole release as biased (American Friends Service Committee 1971). Others were motivated by the belief that most criminals were in fact "societal victims" of an inequitable distribution of wealth and opportunity.

James Q. Wilson, on the other hand, advised turning the focus of attention away from the "root causes of crime," since rehabilitation did not "work" in any case. He urged that incapacitation be tried instead. In *Thinking About Crime*, Wilson (1975) advocated definite terms of incarceration for most offenders.

One of the most influential criticisms of indeterminate sentencing came from federal district judge Marvin E. Frankel (1972).⁵ Frankel condemned indeterminate sentencing as "intolerable for a society that professes devotion to the law" and sought to construct sentencing rules that federal courts would be required to apply (Stith and Koh 1973).

In 1976, the California legislature enacted a far-reaching determinate sentencing law. Legislators abolished parole release and replaced indeterminate ranges with a schedule of low, middle, and high sentences for each of four offense categories. Following California, many other state legislatures began work on reforms of their own. Maine and Indiana had already enacted new sentencing laws, and determinate-sentencing reform proposals were under debate in seven more states (Gettinger 1977). A primary attraction of determinate sentencing for many legislators was that, where the "rules of the game" could be understood by prisoners and the public, all would know "the truth" about the sentences imposed and the time prisoners would serve.

Determinate sentencing raised an important issue: who would do the determining? California legislators wanted to escape the political heat for substituting determinate prison terms for longer, if fictional,

⁵Grace Mastalli, Assistant United States Attorney General, Office of Policy Development, has attributed to Frankel great influence on what eventually became the federal Sentencing Reform Act of 1984 (discussed below; Mastalli, phone interview, May 13, 1997).

indeterminate maximums. Thus, the notion of an appointed sentencing-guidelines commission emerged. The early guidelines advanced by such commissions tended to be descriptive, reflecting prevailing sentencing practices. As a result, though descriptive guidelines were later implemented in many states--e.g., Maryland, Florida, Michigan, Utah, Delaware, and Wisconsin (Frase 1995)--they have been shown to have had little effect on sentencing.

By the end of 1976 the U.S. prison population topped 260,000 (see Figure 2.2). Deteriorating facility conditions fueled by overcrowding were increasingly giving rise to lawsuits (Wilson 1977), which, by 1979, had brought 17 states under some form of court-ordered relief. Prerelease arrangements were moving many prisoners back to their communities ahead of their parole dates. Population caps and emergency release provisions became common, some mandated by federal courts and others enacted by state legislatures. For example, by 1981, Michigan and Iowa legislators had authorized reductions in previously imposed state prison sentences when overcrowding reached "emergency" proportions. Such release mechanisms were highly controversial, but they would be replicated in many states; in some, they produced dramatic reductions in the average fraction of sentence served. This gap between sentence and time served spurred calls to narrow it.

Among those issuing such calls was David Jones of North Carolina's Criminal Justice Analysis Center, who gave the title *Truth in Sentencing* to his 1987 report on his state's Fair Sentencing Act of 1981. This act had set presumptive sentences and ended discretionary parole, though it also provided for "day-for-day" good time credits. With fraction of sentence served shrinking because of measures taken to address overcrowding, prosecutors and judges were increasing the percentage of sentences above the guidelines--from 19% in 1982 to 46% in 1986--which further fueled overcrowding. *Truth in Sentencing* recommended eliminating good time and revising the guidelines so they would closely reflect time served.

Some states tried to control prison populations with a new generation of prescriptive guidelines. Minnesota's guidelines of 1980 were crafted to reflect the state's correctional resources. The

drafters used a prison population impact model to assure that the population would remain stable. Under the guidelines, serious violent offenders would serve the longest prison terms, while most property offenders imprisoned under the indeterminate system would now receive probation. The result was a 7% drop in the state's prison population.

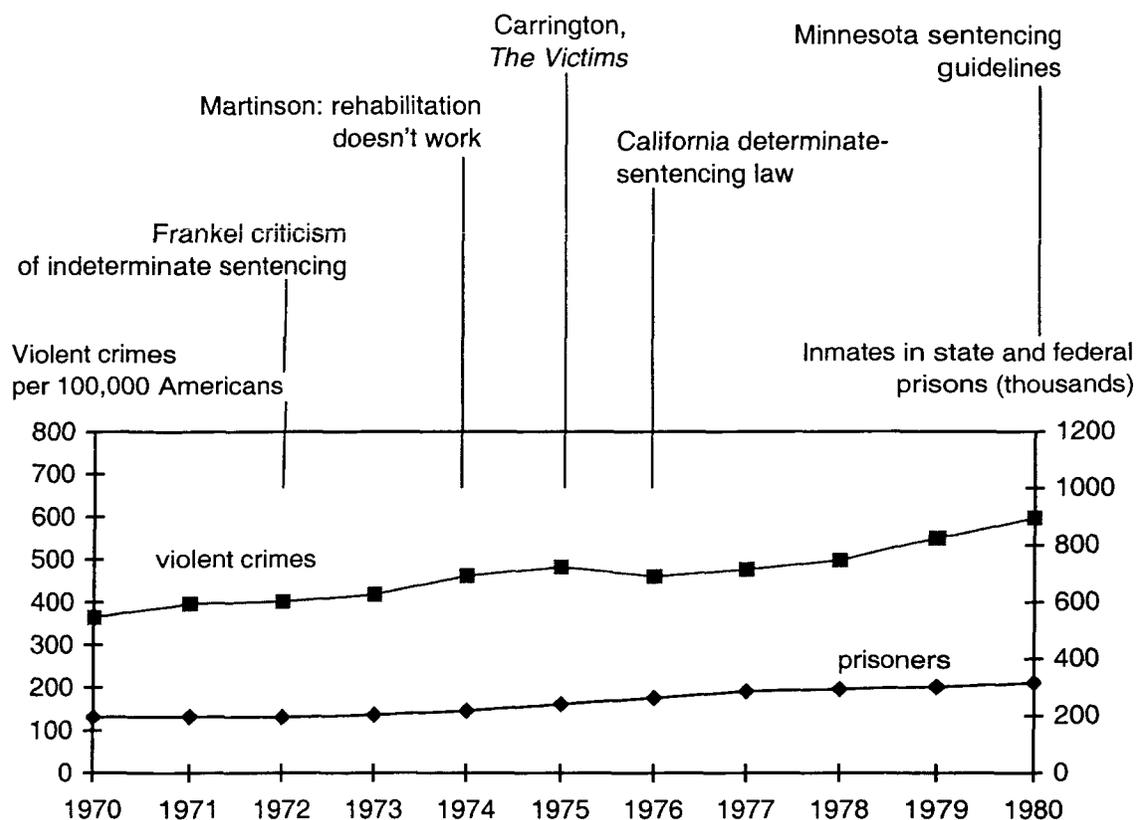


Fig. 2.2 - Violent-Crime Rates, Prison Populations, and Truth-in-Sentencing Timeline, 1970s⁶

⁶ Sources as cited in text, plus U.S. Bureau of the Census, *Historical Statistics of the United States, Colonial Times to 1970, Part 1*, Washington, D.C., 1975, p. 421, citing U.S. Bureau of Prisons, *National Prisoner Statistics*, annual issues; U.S. Bureau of the Census, *Statistical Abstract of the United States: 1978* (99th ed.), Washington, D.C., 1978, p. 177 and p. 197, citing U.S. Law Enforcement Assistance Administration, *Prisoners in State and Federal Institutions on December 31*, annual issues; U.S. Bureau of the Census, *Statistical Abstract of the United States: 1988* (108th ed.), Washington, D.C., 1988, p. 158,

Oregon's drafters, working later in the decade, followed Minnesota in taking very seriously the restraints of correctional capacity, as well as the desire of policymakers to assure enough prison space for serious violent criminals. Postimplementation monitoring indicated that judicial compliance was high and sentencing disparity had been reduced. Washington state's guidelines were also tuned to capacity issues. States continued implementing guidelines into the 1990s. North Carolina, for example, issued guidelines under the rubric of "structured sentencing."

Meanwhile, the FBI violent-crime rate had undergone a dip in the early 1980s. This trend bottomed out in 1984, when it fell to 539 per 100,000 Americans--from the historic high in 1980 of 597 (see Figure 2.3). But the prisoner population had continued rising. Most experts were scrambling to discover plausible explanations for this; the toughening of attitudes about offenders was deemed to be a major contributing factor (Gettinger 1983, p. 9).

PUSHING FOR LONGER SENTENCES

As crime rates increased in the late 1960s, many Americans began to feel that part of the problem lay in the criminal justice system. They pointed to a series of U.S. Supreme Court decisions expanding the rights of the accused and to judicial actions reducing the frequency of executions. Such persons identified more closely with the victims of crime than with arrestees. Reformers with these views were not only interested in clarifying sentences but also in making them longer.

Thus, at the same time that the states were debating and adopting determinate sentencing and sentencing guidelines, all of them also passed mandatory-sentence laws (Tonry 1996). Most of these provisions affected violent criminals, drug and weapon offenders, or those with prior felony records. In Illinois, for example, a sentencing reform

citing Federal Bureau of Investigation, *Crime in the United States*, annual issues; and U.S. Bureau of the Census, *Statistical Abstract of the United States: 1980* (100th ed.), Washington, D.C., 1980, p. 200; *1981* (101st ed.), Washington, D.C., 1981, p. 189; and *1999* (119th ed.), Washington, D.C., 1999, p. 231, all citing *Prisoners in State and Federal Institutions on December 31*, annual issues.

bill passed in 1978 doubled ranges for certain aggravating factors and prescribed "natural life" for some "habitual criminals." Those convicted of armed violence, rape, or major narcotics offenses were to get a minimum sentence of six years.

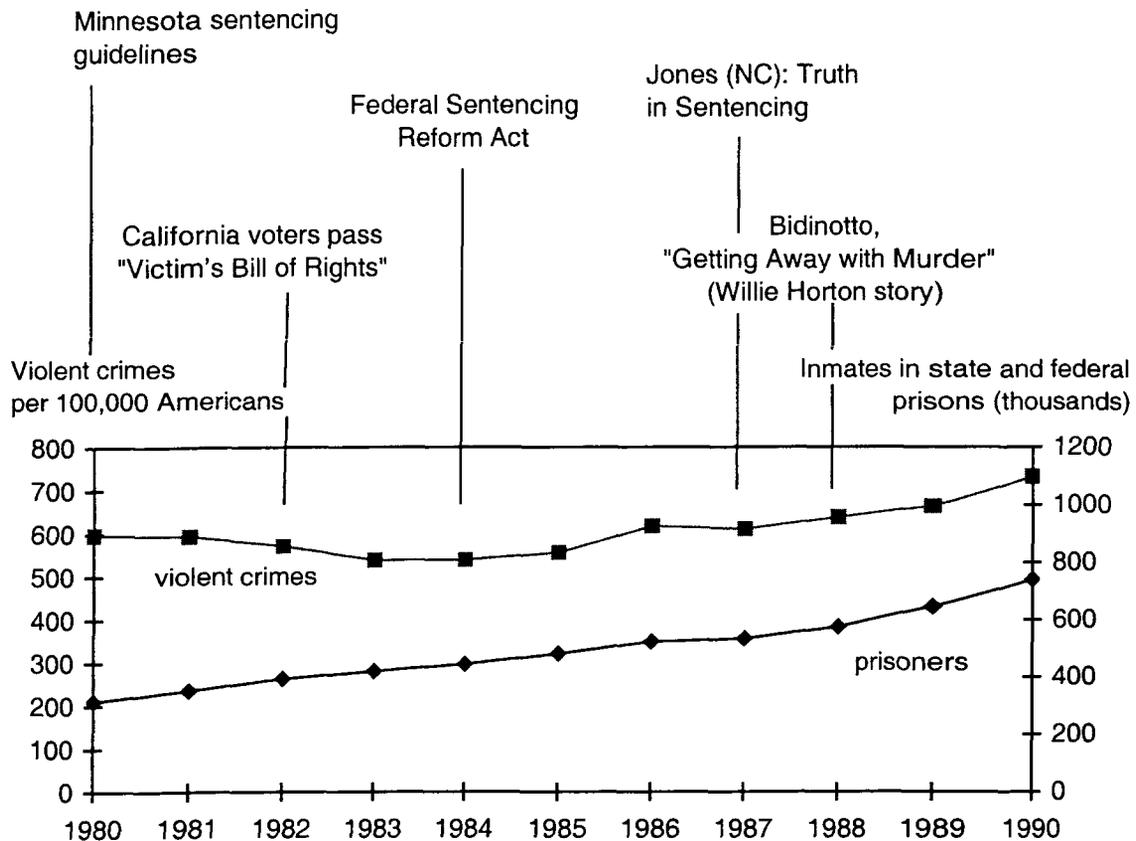


Fig. 2.3 - Violent-Crime Rates, Prison Populations, and Truth-in-Sentencing Timeline, 1980s⁷

⁷ Sources as cited in text, plus U.S. Bureau of the Census, *Statistical Abstract of the United States: 1988* (108th ed.), Washington, D.C., 1988, p. 158, and U.S. Census Bureau, *Statistical Abstract of the United States: 1999* (119th ed.), Washington, D.C., 1999, p. 214, both citing Federal Bureau of Investigation, *Crime in the United States*, annual issues; and *Statistical Abstract of the United States: 1999*, p. 231, citing U.S. Bureau of Justice Statistics, *Prisoners in State and Federal Institutions on December 31*, annual issues.

The ultimate manifestation of mandatory minimums was in laws embodying the slogan "three strikes and you're out." The first such law was enacted in Washington state in 1993; nominally similar measures were passed by about half the states and the U.S. Congress over the next two years. Three-strikes laws typically mandate life sentences for those convicted of a third serious felony, and most have been applied to fewer than a hundred cases so far. The key exception is the much more broadly applicable law in California, under which thousands of offenders have been sentenced.

The push for mandatory sentences manifested the influence of victims' rights groups whose leaders were often crime victims or their relatives. These groups gained intellectual support from Frank Carrington's *The Victims*, a book decrying the treatment of crime victims in American jurisprudence. Carrington's thesis was that the Warren Court had weakened law enforcement and contributed to the increase in crime begun in the 1960s. He called for reorienting the criminal justice system toward the rights of crime victims. A victim-oriented approach would provide for mandatory-minimum sentences for all but minor offenses (Carrington 1975).

In the 1980s the effort to win victims' rights obtained a powerful boost when in California it was married to a social movement attempting to reform state laws in response to expansion of defendants' rights by the state Supreme Court. One product of that movement was Proposition 8, the "Victim's Bill of Rights," which was passed by California voters in June 1982 (*Corrections Magazine* 1982). This measure created a web of new legal rights for crime victims, curbed plea bargaining, set tougher bail procedures, and increased sentencing enhancements for prior felony convictions.

Victims' rights were much in the mind of various groups and individuals who in the 1980s proposed increasing the certainty and severity of sanctions on criminals. A task force created by the Reagan administration focused specifically on victims of crime. The task force's final report, released in April 1982, recommended 60 specific reforms. These included denial of bail to "dangerous offenders," abolition of the exclusionary rule, and victim "input" at every stage of

criminal proceedings. A second task force chaired by Attorney General William French Smith proposed developing a comprehensive program of narcotics control and recommended replacing parole with mandatory sentences (Carrington 1983).

Recommendations from both task forces were included in the anticrime program submitted by the administration to Congress in 1983. The following year, Congress enacted the Sentencing Reform Act (PL 98-473), which required, among other things, that federal prisoners serve at least 85% of their terms.⁸

Two publications from this period were particularly influential. In a Heritage Foundation publication, *Crime and Justice*, Carrington (1983) laid out an agenda for criminal justice reform covering a broad list of issues including bail reform, *habeas corpus*, capital punishment, the insanity defense, and prisoners' rights. He called for increasing sentences for drug trafficking, lowering the age limit for charging juveniles as adults, and increasing penalties for juveniles convicted of violent crimes.

The second publication, the article "Getting Away With Murder," was written by Robert James Bidinotto in 1988. Bidinotto detailed the now-famous "Willie Horton" story of violent crimes committed while Horton was AWOL from a prison furlough. Bidinotto rejected probation and parole because they undermined deterrence and demoralized crime victims (Bidinotto 1996, p. 82). He held that concessions made to prisoners for the sake of rehabilitation and smooth facility operation had undermined prisons' punitive aim. He set forth a multipronged reform program, including abolition of the exclusionary rule, the insanity defense, and plea bargaining. Instead, he advocated a "progressive sentencing" system under which terms of prison would increase in multiples (two, four, eight years and so forth) for each repeat conviction.

⁸ To be more precise, the statute provided that a prisoner "may receive credit toward the service of the prisoner's sentence, beyond the time served, of up to 54 days at the end of each year of the prisoner's term of imprisonment" (18 USC §3624). The 54-day credit is 14.8% of 365 days, and would constitute a still lower percentage if accruing exactly as provided in the law. However, it has been commonly understood to be 15%.

TOWARDS A NEW FEDERAL CRIME CONTROL ACT

Between 1984 and 1992 the violent-crime rate as reported by the FBI increased by 40% to approximately 750 per 100,000 Americans (see Figures 2.3 and 2.4).⁹ Political attention to the crime issue increased greatly over the same period. Mentions of violent crime in the Congressional Record increased by a factor of 10 between 1987 and 1991. These increases in crime and its salience in the media drove crime to the top of the political agenda in the following years and played an important role in the passage of the 1994 federal crime control act.

In 1992, U.S. Attorney General William Barr called on the states to step up their efforts to reduce violent crime through reforms such as truth in sentencing. The Department of Justice issued two reports in support of that call. *Combating Violent Crime* cited data from a 1988 Bureau of Justice Statistics study showing that violent offenders were serving only 37% of their imposed prison terms. *The Case For More Incarceration* claimed that crime rates had leveled off because of increased levels of imprisonment.

In June 1993, the Heritage Foundation published Mary Kate Cary's "How States Can Fight Violent Crime: Two Dozen Steps to a Safer America." Cary urged President Clinton to call on governors and state legislators to embrace Barr's recommendations--and to frame a federal crime bill designed to facilitate these actions. Cary echoed Barr's call for "truth in sentencing" by limiting parole or "good time" release to 15% of the sentence, as under federal law. She recommended that states invest in building and operating more prisons or risk collapse of the criminal justice system (Cary 1993).

⁹ The National Crime Victimization Survey did not show much of an increase over the same period, suggesting that at least some of the UCR increase resulted from more thorough reporting of crimes to and by police. The FBI numbers, however, are much more widely cited in the media and thus contribute more to public perceptions of the crime problem.

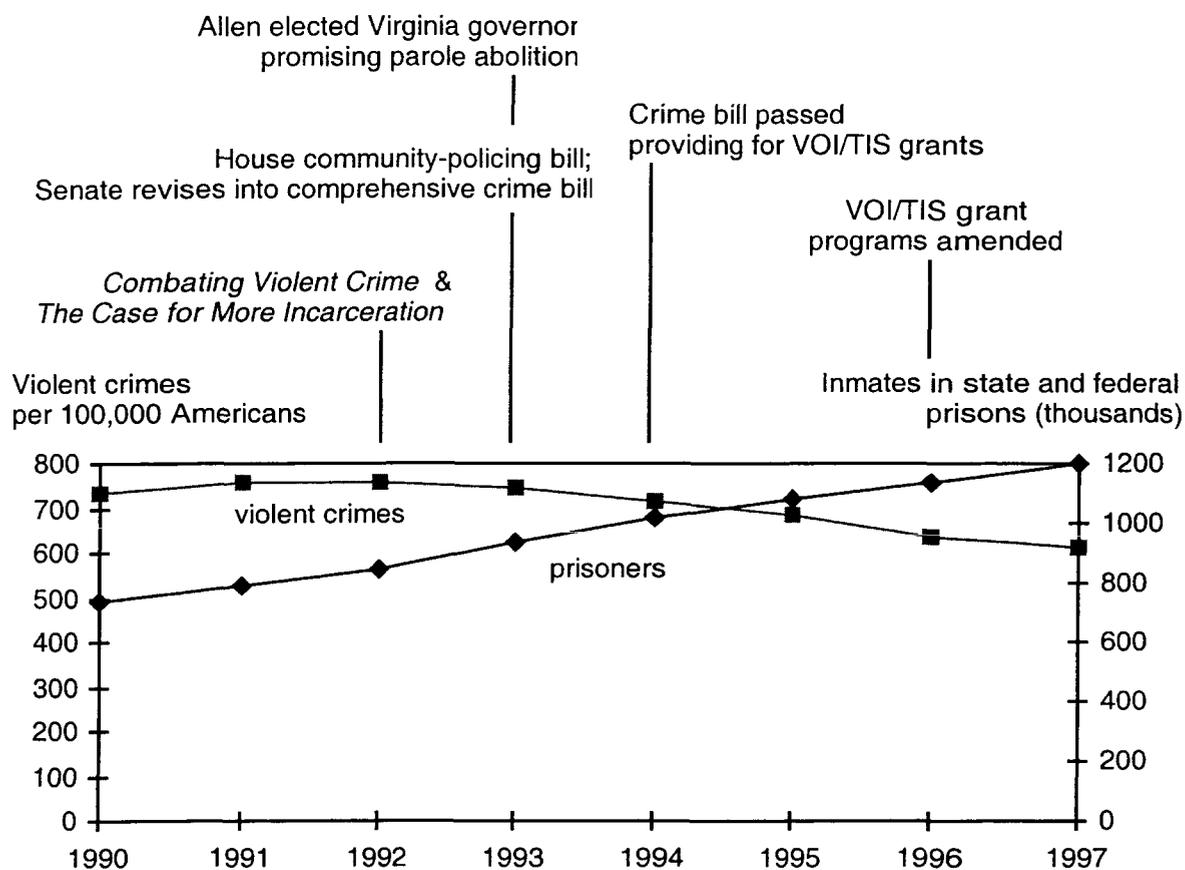


Fig. 2.4 - Violent-Crime Rates, Prison Populations, and Truth-in-Sentencing Timeline, 1990s¹⁰

Trends in Public Opinion

These expressions of concern and the reforms espoused were quite consistent with concurrent trends in public opinion.¹¹ According to Gallup, those believing that crime was the nation's most important

¹⁰ Sources as cited in text, plus U.S. Census Bureau, *Statistical Abstract of the United States: 1999* (119th ed.), Washington, D.C., 1999, p. 214, citing Federal Bureau of Investigation, *Crime in the United States*, annual issues, and p. 231, citing U.S. Bureau of Justice Statistics, *Prisoners in State and Federal Institutions on December 31*, annual issues.

¹¹ For the analysis supporting the conclusions given in this subsection, see Larson (1999).

problem rose from nearly zero in the summer of 1991 to more than 50% in August 1994. Fear of crime, in terms of those who were "truly desperate" about crime, nearly doubled from 1989 to 1994, from 34% to 62%. Other findings of interest are as follows:

- Gallup reported that in 1993 and 1994, fewer than 20% of those asked expressed "a great deal" or "quite a lot" of confidence in the criminal justice system; this percentage was the lowest for the fourteen institutions about which the question was asked.
- There was an increase in the portion of the public feeling that courts had not been harsh enough in dealing with criminals, from 73% in 1972 to 89% in 1994 (see Davis, 1997).
- Support for rehabilitation fell as support for punishment increased. For example, those who thought it was more important to punish prisoners for their crimes rather than "get them started 'on the right road'" had risen from 17% in 1955 to 34% in 1982, and to 44% in 1989 (Page and Shapiro, 1992).

Not coincidentally, attention to crime by the news media also increased dramatically. The Center on Media and Public Affairs reports that the number of crime stories on the three largest television networks more than tripled between 1991 and 1994. The result of the increased media salience of crime and public concern over it was consistently high support for spending more on "halting the rising crime rate."

These trends and associations were not restricted to the national level. Data from selected states suggest that media reporting levels generally increased in response to rising violent crime rates and tended to peak in 1994, the year of the federal crime act. We also reviewed public opinion data in four states--California, Minnesota, North Carolina, and Oregon. Opinion there echoed many of the themes observed at the national level: increased concern about crime, frustration with the performance of the criminal justice system, and support for longer sentences.

The Bills of Late 1993

Encouraged by strong public support for federal crime legislation, the House began deliberation on a new crime bill in October 1993.¹² The original bill introduced by Rep. Jack Brooks was primarily oriented toward community policing. The bill received strong bipartisan support and was passed by voice vote.¹³

Such bills, however, would not mollify those interested in tougher sentencing. In November 1993, the Heritage Foundation issued "What's Wrong with the Brooks and Biden Crime Bills." In this paper, Paul J. McNulty applauded Congress members who favored funding large regional prisons to house certain violent offenders from any state agreeing to pass "truth in sentencing" reforms. An illustrative sentiment of the proponents of truth in sentencing was the following by Rep. Steven Schiff:

. . . if there was only time to bring one bill before this House between now and the time we adjourn . . ., my choice would have been truth in sentencing . . . [T]he No. 1 problem in law enforcement is the early release of violent criminals to the street.¹⁴

Senators were also discussing the merits of truth in sentencing on the floor. Senator Orrin Hatch, for example, cited *Combating Violent Crime* to the effect that state prisoners were typically serving less than half of their sentences.¹⁵

In fact, no Congress members outspokenly opposed the policy that convicted criminals should serve their sentences. The ensuing debate was not over *whether* truth in sentencing should be implemented but *how*.

Congress members recognized early that achieving truth in sentencing would impose significant financial costs on states and were willing to provide considerable federal assistance to build correctional

¹² 139 *Congressional Record* H. 8506.

¹³ 139 *Cong. Rec.* H. 8723.

¹⁴ 139 *Cong. Rec.* H. 8726.

¹⁵ 139 *Cong. Rec.* S 14940, citing statistics from Bureau of Justice Statistics (1992), Tab. 2-7.

facilities. The debate was over the means toward that end and specifically over two issues:

- To what extent should federal funding address nonviolent offenders?
- What conditions should Congress impose on states for receiving federal funds?

Some members of Congress wanted to provide funds only to help states incarcerate violent offenders. They were reluctant to allocate money for other purposes. Senator Charles Grassley (R-IA), for example, criticized early versions of the crime bill for emphasizing drug treatment and boot camps over the construction of prisons.¹⁶ Other senators argued that the shortage of prison space affected states' ability to house both violent and nonviolent offenders. They wondered whether states might be encouraged to choose cheaper ways to sanction nonviolent offenders, particularly young ones. They worried that the latter, incarcerated in the company of violent offenders, could be "schooled" to violence¹⁷.

The debate over state eligibility for federal funds was largely over the timing of compliance with truth in sentencing. Some senators feared that states would use federal prison funds to replace their own or to increase their prison funding but not commit to truth in sentencing, so they wanted compliance to be a prerequisite for funding.¹⁸ In favor of gradual compliance were senators concerned that federal funds would account for only a fraction of the amount required to build the prison space necessary to meet the federal goal. They

¹⁶ 139 *Cong. Rec. S.* 15019, 15074.

¹⁷ See, for example, the comments of Sen. David Boren (D-OK) at 139 *Cong. Rec. S.* 15073, Sen. Daniel Coats (R-IN) at 15500-02, and Sen. Joseph Biden (D-DE) at 15005.

¹⁸ See the remarks of Sen. Robert Dole (R-KS) at 139 *Cong. Rec. S.* 14974, 15005.

worried that this arrangement would not provide adequate incentive for truth in sentencing.¹⁹

At this point, the first view won out. On November 19, the Senate passed a comprehensive crime bill bearing little resemblance to the House version passed two weeks earlier. The new text foreshadowed the final version of the 1994 Act, with provisions for expanding the death penalty, offering greater protection for women against acts of gender-motivated violence, and greater federal funding for community policing. It authorized \$3 billion for at least 10 federal or state regional prisons designed specifically for violent criminals. To receive the funding, states had to comply with an 85% truth-in-sentencing standard. The bill also authorized \$3 billion in grants for states or multistate compacts to build correctional facilities for nonviolent offenders or regional prisons.

The 85% standard for truth in sentencing was one requirement that was not debated. Congress was reluctant to choose a lower figure, in part because of the federal precedent, and also because some states-- among them Washington and Virginia--had followed the federal standard in implementing laws of their own. Conversely, Congress could not credibly hold states to a higher truth-in-sentencing standard than it had set for itself. A standard higher than 85% might also have been too costly, and would have denied inmates any incentive to engage in good behavior.²⁰

Subsequent Debate and Passage of the 1994 Act

The House decided to follow the Senate's lead and help the states out. Early the following year, it amended the community-policing bill it had sent to the Senate into a comprehensive crime bill of its own, which it passed on April 21.²¹ Among other provisions along the lines of those in the Senate bill, the House version provided, under two grant programs, \$13.5 billion to help states build prisons.

¹⁹ See the remarks of Sen. Joseph Biden (D-DE), 139 *Cong. Rec. S.* 14916

²⁰ Phone interviews with Senate majority staff member Christopher Putala, May 30, 1997, and Paul McNulty, Chief Counsel for House Judiciary Committee, June 2, 1997.

²¹ 140 *Cong. Rec. H.* 2450, 2609, 2613.

The first program authorized \$10.6 billion for 1996-2000. Of that total, 75% was to be given to the states proportionally according to their incidence of violent crime. The remaining 25% would go to states with the toughest truth-in-sentencing laws.

The second program authorized \$3 billion, also for prison-building grants. These "violent-offender incarceration" grants would not require states to comply with 85% truth in sentencing. Rather, states could receive funding by adopting "laws that ensure that violent offenders serve a substantial portion of the sentences imposed."

The House's decision to split the funding arose from pressure from the states. State governments lobbied hard against the truth-in-sentencing requirement. They argued that it could lead to a huge, continuing increase in the number of prisoners and in the cost of prison construction, which the states alone would have to pay after federal funds ran out in the year 2000.²²

Over the next several months, those favoring tougher action against criminals kept the pressure on Congress to further shift the bills' emphasis from prevention and rehabilitation to incapacitation and punishment. In May 1994, Paul McNulty authored *Rhetoric vs. Reality: A Closer Look at the Congressional Crime Bill*, in which he warned that the content of the House and Senate measures had diverged from Congress members' tough rhetoric (McNulty 1994). He praised "the one truly useful proposal" in the bill--billions of new dollars for state prison construction. He stressed the importance of tying this money to state sentencing reforms to make the bill's "truth in sentencing" provisions real.

NRA CrimeStrike²³ circulated to lawmakers a set of charts, tables, and advocacy points that had been prepared for "Criminals Cause Crime" Coalition, a lobbying group sympathetic to NRA interests. The thrust of the arguments contained in the packet was that the Congress should provide grants to states to finance building of 250,000 new prison beds

²² 140 Cong. Rec. H. 2415, 2449.

²³ A division of the National Rifle Association that had been founded in 1991 to "focus on the failures of America's criminal justice system."

by the year 2000 for incarceration of serious violent and repeat offenders (NRA [n.d.]).

Another publication distributed widely on the Hill was Robert J. Bidinotto's *Criminal Justice? The Legal System Versus Individual Responsibility*. This book contained reprints of articles previously published by himself and by others drawing conclusions similar to his own. These supported truth in sentencing and called for longer terms of imprisonment for violent offenders (Bidinotto 1996).

In June, with the crime bill still pending in conference committee, the Heritage Foundation released *It's Time to Throw the Switch on the Federal Crime Bill*. In this paper, William J. Bennett applauded the bill's truth-in-sentencing provisions but complained that the bill would hamper state and local authorities with intrusive federal rules. He proposed, instead, a simple income-tax rebate plan to finance more prison capacity (Bennett 1994).

Such free advice was not the only factor weighing on Congress members' minds. They could not help but notice the course of criminal justice reform in Virginia, a state whose politics and policies receive considerable play in the Washington media. In running for governor of Virginia in 1993, George Allen made crime one of the central issues of his ultimately successful campaign, promising to abolish parole if elected. Following the election, Allen appointed former U.S. Attorney General Barr to head his Commission on Parole Abolition and Sentencing Reform. The Commission recommended in August 1994 that the state spend an additional \$200 million to increase incarceration of violent offenders and ensure that such offenders serve at least 85% of their sentences (Koklanaris and Woellert, 1994). The Virginia plan contributed to the pressure on members of Congress to pass legislation encouraging states to increase terms served by violent offenders.²⁴

Despite the forces operating in favor of a strict version of federal truth-in-sentencing legislation, the bill that emerged in August from the House-Senate conference committee was closer to the more

²⁴ Phone interview with Paul McNulty, Chief Counsel for the House Judiciary Committee, June 2, 1997.

lenient House version. It allowed states to receive federal funds without enacting 85% truth in sentencing, provided they give assurances that they would eventually enact it.²⁵ A bill with such provisions eventually passed the House.²⁶ In the Senate, Minority Leader Dole criticized the bill for what he viewed as excess funding for social programs and too few tough sentencing provisions (Maschi, 1994). Specifically, he said,

Fifty percent of the state prison grants aren't conditioned on any truth-in-sentencing requirement at all. And the other 50% is conditioned on a watered-down version . . .²⁷

Yet, despite attempts by Senator Dole to derail the bill, it passed the Senate in late August.²⁸

The 1996 Amendment

Senator Dole's concerns came into much greater significance when Republicans gained leadership of both houses of Congress in 1994. Members of the new Congress were also concerned that the recent law did not provide enough incentive money to states trying hardest to implement truth in sentencing.²⁹

In a 1996 amendment, Congress increased funds for truth in sentencing and established more rigorous criteria for receiving them. It also narrowed their use from application toward any "correctional facility" to construction of prison space for violent offenders (privatization excepted).³⁰ In addition, the amendments broadened the application of truth-in-sentencing requirements from second-time violent prison admissions to all such admissions.

²⁵ H. Rept. 694 (discussing eligibility under §20101).

²⁶ 140 *Cong. Rec. H.* 8966.

²⁷ Remarks by Senate Minority Leader Robert Dole (D-KS), 140 *Cong. Rec. S.* 12551.

²⁸ 140 *Cong. Rec. S.* 12603.

²⁹ 142 *Cong. Rec. H.* 4187, 4189.

³⁰ Amendments in 1996 and 1997 were made through the Appropriations Acts.

3. METHODOLOGY

We relied on many data sources for our analysis of the implementation and impact of VOI/TIS. Some of these are publicly available, either as raw data for analysis, or in summary form in published documents. To supplement publicly-available data, we also collaborated with three organizations, as noted below, to field surveys specifically addressing the impact of VOI/TIS on state and local policies and practices. Respondents of these surveys were officials in the justice system who had first-hand knowledge of the changes that resulted from the introduction of VOI/TIS and other "get tough" legislation.

Below we detail the data sources used, the time span referenced, and the role of each data set for the overall analysis.

DATA SOURCES FOR THE IMPLEMENTATION OF VOI/TIS

Our analysis of the implementation of VOI/TIS utilized a variety of major sources. Individual state application packages, analysis of eligibility, Violent Offender Incarceration and Truth-in-Sentencing award amounts, and semi-annual progress reports were provided by the Corrections Program Office. Information on truth in sentencing laws were contained in state application packages as well as supplied by the National Conference of State Legislatures. Progress reports were used to gather information on the number and type of beds constructed or leased with VOI/TIS funds. Our analyses use information through December 1999, the reporting period for which the most complete state semi-annual data were available.

DATA SOURCES FOR ASSESSING THE IMPACT OF VOI/TIS

Existing National Data Sources

National Corrections Reporting Program (NCRP). The National Corrections Reporting Program (NCRP) evolved from the need to improve and consolidate data on corrections at the national level. In 1983 the National Prisoners Statistics (NPS) program, which compiled data on prisoner admissions and releases, and the Uniform Parole Reports (UPR)

were combined into a single reporting system, creating the NCRP. Its objective was to provide a consistent and comprehensive description of prisoners entering and leaving the custody or supervision of state and federal authorities. In addition to the state prisons, the Federal Prison System and the California Youth Authority also began reporting data in 1984. Data are gathered from official state prison records on topics such as race, sex, and age of inmates, length of time in jail, length of time in prison, and type of offense committed. In a typical year, approximately 35 state prison systems, as well as the Federal Prison System, the California Youth Authority, and the District of Columbia, report admissions, paroles, and releases to NCRP. In our present analyses, we used NCRP admission and release data from 1986 through 1997 to determine sentence lengths and time actually served.

Uniform Crime Reports (UCR). Since 1930, the Federal Bureau of Investigation (FBI) has administered the Uniform Crime Reporting (UCR) Program, a nationwide cooperative statistical effort of city, county, and state law enforcement agencies voluntarily reporting data on crimes brought to their attention. To provide for comparability across states in crime reporting, the UCR uses standardized offense definitions by which law enforcement agencies submit data without regard for local statutes. We analyzed UCR data from 1986 through 1997 to determine index, violent, property, and drug crime rates for states.

United States Census Data. In addition to the decennial census, the United States Census Bureau publishes annual population estimates for each county in the country. County population estimates are created by starting with the most recent decennial census figures and updating that figure with information on births, deaths, and migration between the census date and the date of the population estimate. Birth and death data are obtained through vital statistics, domestic migration is estimated through the address matching of federal tax returns, and international migration data is supplied by the Immigration and Naturalization Service. County estimates are summed to create state-level population estimates.

The Census Bureau's Annual General Finance and Employment Surveys include data on corrections expenditure and employment for Federal, state, and local governments. Expenditure data are provided for fiscal

year. The reports adjusts the data for inflation, and analyzes trends in justice spending and employment. Included are expenditure data per capita for each state.

We used census population estimates and expenditure data from 1986 through 1996 for state per capita expenses for prison construction, as well as for per capita corrections expenditures.

National Prisoner Statistics (NPS). The Bureau of Justice Statistics (BJS) has published several documents in recent years that include standing correctional populations. Annual year-end populations by state from 1977 through 1998 are available via Internet through the BJS Web site, <http://www.ojp.usdoj.gov/bjs/prisons.htm> (BJS, 2000b). *Prisoners in 1999* (BJS 2000a) includes data for the most recent year currently available for correctional populations. We used these data to determine the number of individuals in prison in a given year.

Special Data Collection

To supplement existing data sources, RAND contracted with the American Correctional Association (ACA), the American Prosecutors Research Institute (APRI), and the Justice Management Institute (JMI) to conduct special surveys among state correctional officials, prosecutors, and judges. The specific surveys are described below.

ACA Survey of State Correctional Departments. The ACA fielded a survey of state departments of correction in all 50 states and the District of Columbia in the summer of 1998. Thirty-seven states (including the District of Columbia) returned surveys (72%). States were asked to indicate the extent of changes in a number of prison operations and activities since 1996, when VOI/TIS funds became available, including the types of offenders in prison, inmate activities and programs, prison staffing, and effects on operations (including use of gain/good time, parole, etc.). See Appendix A for a copy of the survey and a list of the states that responded.

APRI Survey of Prosecutors' Offices. In summer of 1999, the APRI surveyed prosecutors nationwide to ascertain their perceptions of the effects of "get tough" legislation (including TIS) on a number of dimensions. The mail survey targeted the same 308 prosecutors as the 1998 National Survey of Prosecutors (NSP) and utilized the same

stratified sampling methodology used in the NSP survey (see BJS, 1998). A total of 129 prosecutors (42%) responded to the APRI survey, representing 43 states.³¹ For the full text of the survey, see Appendix B. Individual responses were weighted to adjust for missing data and the original sampling fraction utilized in the BJS survey.³² When weighted, the sample is nationally representative.

The JMI Survey of Judges. In fall of 1999, using the same sampling frame as the APRI survey, the JMI surveyed 297 judges.³³ Eighty-nine judges in 35 states responded (30%). The questionnaire asked their impressions of the effectiveness of several "get tough" measures in their states, including Truth in Sentencing (TIS), sentence enhancements for violent offenders (VOI), three-strikes, and mandatory minimum sentences. Judges ranked various kinds of "get tough" measures on a five-point Likert scale, where the lowest score (1) represents a very negative opinion, the highest score (5) a very positive opinion, with a score of 3 representing neutrality. For a copy of the survey, along with a list of states represented, see Appendix C.

ANALYSIS STRATEGY

Many analyses consist of data presented for individual states. In addition, we conducted major analyses by two major characteristics that are of policy interest in understanding the implementation and impact of VOI/TIS:

- states receiving TIS funds vs. those that did not³⁴

³¹ The states not represented in the survey are Alaska, Arkansas, Montana, Nebraska, North Dakota, Oklahoma, and Wyoming.

³² The weighting factor was the total number of prosecutorial units within each of six strata, divided by the number of survey respondents from that strata. The resulting weights for the 6 strata (with strata 1 being the largest jurisdictions and strata 6 the smallest) were 1.84, 2.96, 10.33, 14.95, 73.00, and 192.00, respectively.

³³ The JMI surveyed judges from the same districts as the prosecutors surveyed by APRI.

³⁴ We separate out Texas, since its effect--particularly for quantitative measures of crime and sentences--swamps the effects of other non-TIS states.

- states that have "structured" sentencing--determinate sentencing or voluntary or presumptive guidelines--vs. indeterminate sentencing states

Table 3.1 shows how states are categorized.

Table 3.1
TIS and Determinate Sentencing, by State

State	Truth-in-Sentencing	Structured Sentencing
Alabama		
Alaska		
Arizona	X	X
Arkansas		X
California	X	X
Colorado		
Connecticut	X	
Delaware	X	X
Florida	X	X
Georgia	X	
Hawaii		
Idaho		
Illinois	X	X
Indiana		X
Iowa	X	
Kansas	X	X
Kentucky		
Louisiana	X	
Maine	X	X
Maryland		X
Massachusetts		
Michigan	X	X
Minnesota	X	X
Mississippi	X	
Missouri	X	X
Montana		
Nebraska		
Nevada		
New Hampshire		
New Jersey	X	
New Mexico		
New York	X	
North Carolina	X	X
North Dakota	X	
Ohio	X	X
Oklahoma	X	X
Oregon	X	X

(continued on next page)

Table 3.1 (cont'd)

TIS and Determinate Sentencing, by State

State	Truth-in-Sentencing	Structured Sentencing
Pennsylvania	X	X
Rhode Island		
South Carolina	X	
South Dakota		
Tennessee	X	X
Texas		
Utah	X	X
Vermont		
Virginia	X	X
Washington	X	X
West Virginia		
Wisconsin		
Wyoming		

NOTES: (1) TIS classification is based on funding, not on whether the state passed TIS legislation. New Mexico, Wisconsin, and the District of Columbia were not included as TIS states in analyses, since they enacted TIS later than the most recently available data.

(2) Classification of states having structured sentencing is based on Bureau of Justice Assistance, *National Assessment of Structured Sentencing* (1996).

In Chapter 6, where we examine motivations for passage of TIS legislation and compliance with the 85% requirement, we restrict the definition of TIS states to the subset of awardees that actually passed TIS legislation, excluding the three states (Michigan, Pennsylvania, and Utah) that qualified for TIS funding under the "Utah exception." In all other analyses in this report, the three Utah exception states are counted as TIS states, because they received VOI/TIS funding as TIS states. In most analyses, we separate out Texas, since its effect-- particularly for quantitative measures of crime and sentences--swamps the effects of other non-TIS states.

Finally, we supplement national analyses with the experiences of seven states in order to provide even finer level of detail. The states are California, Oregon, North Carolina, Minnesota, Virginia, New York, and Texas. These states represent a range of sentencing structures, crime and incarceration rates, as well as geographical representation.

Table 3.2 summarizes the data sources used to address each of the research questions, and the type of methodology used.

Table 3.2

Data Sources Used in Analyses

Question	Data Source	Methodology	Chapter
How has the federal government implemented the law?	CPO grant application publications and internal reviews, state applications, state semi-annual progress reports; literature review	Descriptive	5
How was the money made available?	CPO grant application publications and internal reviews, state applications, state semi-annual progress reports; literature review	Descriptive	5
What are criteria for disbursement?	CPO grant application publications and internal reviews, state applications, state semi-annual progress reports; literature review	Descriptive	5
How much money was allocated?	CPO annual award summaries	Descriptive	5
How have the states reacted legislatively to the law?	State applications and semi-annual progress reports; National Council of State Legislatures summaries	Descriptive; case study states	6
What were motivations for TIS passage?	1998 GAO report; state crime rates	Descriptive	6
How has state VOI/TIS money been spent?	State semi-annual progress reports	Descriptive	7
How much has it increased prison capacities?	State semi-annual progress reports	Descriptive; relationships with TIS, structured sentencing, crime rates, case study states	7
Impact of TIS and other "get tough" legislation on prosecution	Prosecutor survey	Means on survey items by TIS, non-TIS, and Texas	8
Impact of TIS and other "get tough" legislation on judicial behaviors	Judge survey	Means on survey items by TIS, non-TIS, and Texas	8
Impact of TIS and other "get tough" legislation on prison operations	State correctional administrator surveys	Means on survey items by TIS, non-TIS, and Texas	8

(continued on next page)

Table 3.2 (cont'd)
Data Sources Used in Analyses

<i>Question</i>	<i>Data Source</i>	<i>Methodology</i>	<i>Chapter</i>
Impact of VOI/TIS on crime rates	Uniform Crime Reports, 1986-1997, on index crimes, violent crimes, property crimes	Time trends by TIS, non-TIS, and Texas; by TIS/non-TIS and structured/indeterminate sentencing	9
Impact of VOI/TIS on incarceration rates	National Corrections Reporting Program (NCRP) Admissions, 1986-1997, for prison admissions for violent crimes; Bureau of Justice Statistics (BJS) <i>Prisoners in 1986</i> and similar for 1987-1996 for number of violent crimes reported	Time trends by TIS, non-TIS, and Texas; by TIS/non-TIS and structured/indeterminate sentencing	9
Impact of VOI/TIS on prison admissions	National Corrections Reporting Program (NCRP) Admissions, 1986-1997, for prison admissions for violent crimes, admissions for property crimes, admissions for drug crimes	Time trends by TIS, non-TIS, and Texas; by TIS/non-TIS and structured/indeterminate sentencing	7
Impact of VOI/TIS on sentences imposed	NCRP Releases, 1986-1997, for released prisoners, released prisoners for violent offenses, released prisoners for property offenses, released prisoners for drug offenses	Time trends by TIS, non-TIS, and Texas; by TIS/non-TIS and structured/indeterminate sentencing	9
	BJS data, 1993, 1995, 1997 for violent releases	Mean sentence length by TIS, non-TIS, and Texas	9
Impact of VOI/TIS on length of time served	NCRP Releases, 1986-1997, for released prisoners, for released prisoners for violent offenses, released prisoners for property offenses; released prisoners for drug offenses	Time trends by TIS, non-TIS, and Texas; by TIS/non-TIS and structured/indeterminate sentencing	9
	BJS data, 1993, 1995, 1997 for violent releases	Mean sentence length by TIS, non-TIS, and Texas	9

(continued on next page)

Table 3.2 (cont'd)

Data Sources Used in Analyses

Question	Data Source	Methodology	Chapter
Impact of VOI/TIS on percent of sentence served	NCRP Releases, 1986-1997, for released prisoners, released prisoners for violent offenses, released prisoners for property offenses, released prisoners for drug offenses	Time trends by TIS, non-TIS, and Texas; by TIS/non-TIS and structured/indeterminate sentencing	9
	BJS data, 1993, 1995, 1997 for violent releases	Mean sentence length by TIS, non-TIS, and Texas	9
Impact of VOI/TIS on state spending	U.S. Census, 1986-1996, for corrections expenditures as percentage of general expenditures, corrections expenditures per 1000 persons, correctional institution construction expenditures per 1000 persons	Time trends by TIS, non-TIS, and Texas; by TIS/non-TIS and structured/indeterminate sentencing	9
Relationship between beds built and sentences	NCRP Releases, 1986-1997, for time served for violent crime, percent of sentence served for violent crime	Time trends by median split beds built	10
Relationship between TIS "early adopters" vs. "later adopters" on sentences	NCRP Releases, 1986-1997, for time served for violent offenses, percent of sentence served for violent offenses, length of sentences for violent offenses	Time trends by those with TIS 1994 and earlier vs. those with TIS after 1995	10

4. THE ACT

In this chapter we summarize the truth-in-sentencing provisions of the Violent Crime Control and Law Enforcement Act of 1994, as amended with fiscal year 1996 appropriations. These provisions are contained in Title II (Prisons), Subtitle A (Violent-Offender Incarceration and Truth-in-Sentencing Incentive Grants). For the full text of the operative document, see Appendix D.

The Act, as amended, allocates grants to states³⁵ to help them construct, develop, expand, modify, operate, or improve correctional facilities. The objective is to provide additional space for the confinement of violent offenders or to free current prison for them through the provision of more space for nonviolent offenders. To qualify for any funding under Title II, Subtitle A, states must formally commit to a general policy of truth in sentencing for violent offenders.

The act, as amended, authorized over \$10 billion in Subtitle A funds for the years 1995 to 2000, as shown in Table 4.1.³⁶ The original 1994 authorizations were \$175 million for 1995, \$750 million for 1996, \$1 billion for 1997, \$1.9 billion for 1998, \$2 billion for 1999, and \$2.07 billion for 2000. States can receive funding through either or both of these programs. A state may apply for TIS grants by meeting one of two criteria:

- It has implemented laws requiring convicted violent offenders to serve at least 85% of their sentence or resulting in such offenders serving on average 85% of their sentence

³⁵ In this summary, we follow the practice of the Act in including within the term "states" the District of Columbia, Puerto Rico, the U.S. Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

³⁶ These funds were divided equally between two programs: Truth-in-Sentencing (TIS) Incentive Grants and Violent-Offender Incarceration (VOI) Grants.

- It has enacted a law providing that within three years of its grant application it will require convicted violent offenders to serve at least 85% of their sentence

Under the Act, a convicted violent offender is an offender convicted of a "Part 1" violent crime, i.e., murder, nonnegligent manslaughter, forcible rape, robbery, or aggravated assault.

Table 4.1
Funds Authorized by Federal Crime Control Act
for TIS and VOI Grants

Year	Authorization (millions of dollars)
1995	\$175
1996	\$998
1997	\$1,330
1998	\$2,527
1999	\$2,660
2000	\$2,753

Sources: 1995 from the 1994 Act, as amended;
other years from the 1996 appropriations.

The percentage of the total TIS funds that each state is allocated for a given year is equal to the percentage of the nation's violent crimes committed in that state over the three years preceding the allocation. The grant is thus both merit- and need-based, because all states need to show statutory or de facto 85% truth in sentencing, but their amount of funding is contingent on "need" for federal assistance to combat violent crime.

For VOI funding, a state need only give assurances that it has implemented or will implement policies ensuring that

- violent offenders serve "a substantial portion" of their sentences
- their punishment is "sufficiently severe"
- the time served is "appropriately related" to the violent-offender status and sufficient to protect the public

States meeting these criteria are said to be eligible for "Tier 1" funding.³⁷ A state can receive a greater share of VOI funding (Tier 2) if it can show that since 1993 it has increased any of the following:

- the percentage of convicted violent offenders that have been sentenced to prison
- the average time they have served
- the average percentage of their sentence they have served

A state can also receive a greater share of VOI funding (Tier 3) if it can show it has accomplished either of the following:

- since 1993, increased the percentage of convicted violent offenders that have been sentenced to prison and the average percentage of their sentence they have served
- within the past three years, increased by at least 10% the number of convicted violent offenders committed by the courts to prison

Tier 1 eligibility is a prerequisite for Tier 2 or 3 eligibility. However, Tier 2 eligibility is not a prerequisite for Tier 3 (or vice-versa).

Eighty-five percent of the VOI grant fund total is allocated under Tiers 1 and 2 (called "formula allocation" in the Act; see Figure 4.1). Each state (here, excluding the four territories) eligible for Tier 1 receives 0.75% of the Tier-1-and-2 total and each territory 0.05%. That adds up to about half of the 85% (less if some states do not meet Tier 1 requirements). The other half is distributed to each state eligible for Tier 2 funding according to its need. Need is determined by a formula identical to that for the TIS funds (except that the calculation is limited to states eligible for Tier 2).

³⁷ This terminology has been adopted in implementing the Act; it is not present in the Act itself.

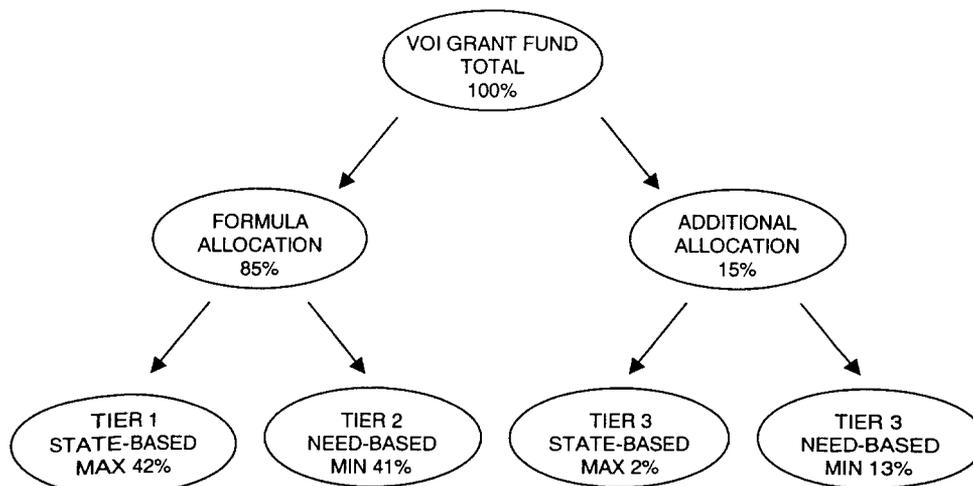


Fig. 4.1 - How VOI Grant Funds Are Allocated

The remaining 15% of the VOI grant fund is allocated under Tier 3 (called "additional allocation" in the Act) in a manner analogous to the Tier-1-and-2 formula allocation. In this case, however, it is eligibility for Tier 3 that matters and each state gets 3% of the 15 and each territory 0.03%. The maximum allocable by formula is thus approximately 2.4% ($15\% \times ((3\% \times 52) + (0.03\% \times 4))$) of the VOI grant total. The remainder of the 15% is then allocated by need.

Alternative Definition of "Violent Crime"

States may use the definition of the Part I violent crimes to demonstrate compliance with the eligibility requirements or a definition of serious violent crime as defined by the State and approved by the Attorney General. An alternative definition of "total violent crimes" that CPO lists in their application kit's Appendix D includes: "murder, manslaughter, rape, sexual assault, robbery, assault, extortion, intimidation, criminal endangerment, child abuse, and other offenses involving confrontational force or threat of force." (CPO, 1996). As described in the next chapter, many states used definitions different from the Part 1 violent crimes.

Additional Information on Qualifying for Indeterminate Sentencing States

Under VOI/TIS, an indeterminate sentencing state is one that as of April 26, 1996, practiced indeterminate sentencing with regard to any Part I violent crime. For TIS funds, indeterminate states have to demonstrate that persons convicted of violent crimes serve, on average, not less than 85% of the prison term established under the state's sentencing and release guidelines, or on average serve not less than 85% of the maximum prison term allowed under the sentence imposed by the court (CPO FY96 Application Kit, p. 6).

Exceptions for 85% Rule

The program allows for exceptions to the 85% rule for geriatric inmates and prisoners with medical conditions. Governors of the state may release geriatric prisoners, as defined by the state, if it is determined they no longer pose a threat to the public; or for a medical condition that precludes the prisoner from posing a public threat (but only after a public hearing has been held in which prisoner's victims and the public have had an opportunity to be heard regarding a release) (CPO FY96 Application Kit, p. 7).

For all states, time served is calculated to include prison time as well as jail time, time served in community and reintegration placements, but not probation or parole. Administrative or statutory time credits, such as reductions for good behavior, earned time, meritorious conduct, or population control releases are not included (CPO FY96 Application Kit, p. 6).

Limits on Dollar Awards

No state can receive more than 25% of the total available for TIS grants or more than 9% of total VOI funds. The Federal share of a grant-funded project may not exceed 90% of the total costs of the project; a 10% cash match is required. Federal funds are to be used to supplement existing funds and are not to supplant funds already appropriated for projects.

Additional Requirements for VOI/TIS Funding

In the years subsequent to the initial funding, several requirements were added to states in order to qualify for VOI/TIS funding. In 1997, states applying for VOI/TIS funding were required to report information on inmate deaths to the Bureau of Justice Statistics through the existing annual National Prisoner Statistics Program. The Fiscal Year 1997 appropriations act included a provision on drug testing, sanctions and treatment for offenders (this is discussed more in Chapter 4). Up to 10% of a state's VOI/TIS dollars can be applied to the costs of inmate drug testing and treatment (CPO, 1999). A third change was the requirement that by October 26, 1997 all states had implemented or would implement policies that provide for the rights and needs of crime victims (all states are in compliance).

Facilities on Tribal Lands

"The Crime Act authorizes a portion of the VOI/TIS program funds to be used for discretionary grants to Indian tribes. The grant funds may be used to construct jails on tribal lands for the incarceration of offenders subject to tribal jurisdiction. In FY 1998, \$5 million was awarded; in FY 1999, \$34 million was appropriated for this program.

5. IMPLEMENTATION OF VOI/TIS FROM THE FEDERAL PERSPECTIVE

The VOI/TIS Program is administered by the Corrections Program Office (CPO), Office of Justice Programs, U.S. Department of Justice. The Corrections Program Office was established in 1995 to implement the correctional grant programs created by the 1994 Crime Act, as amended. OJP is responsible for a number of components of the VOI/TIS Incentive Grants Program, including review of state applications for VOI/TIS funding, technical assistance related to program requirements and grants management once grants are awarded, and monitoring the implementation of VOI/TIS. In addition to the VOI/TIS grants, CPO also administers the residential Substance Abuse Treatment for State Prisoners Formula Grant program (RSAT); the Tuberculosis Prevention, Diagnosis, and Treatment Discretionary Grant Program (TB); and Facilities on Tribal Lands Discretionary Grant Program.

We have already indicated that we would expect the great diversity in sentencing structures found across states to cause complications in determining the eligibility of individual states for VOI/TIS funds. We might anticipate that CPO would be required to establish a set of formal procedures for reviewing applications for funding from the states, and handling the inevitable appeals that could be expected when decisions did not go the way a state wanted. We would expect this review and appeals process to be subject to the kind of political scrutiny and pressures that state funding programs usually entail. But we would expect this review process to become fairly routine after the first few years of funding.

Given the apparent political popularity of the VOI/TIS program, we would expect there to be great pressure from the Congress and the Administration to get the money flowing to the states as quickly as possible. In fact, given the popularity of the issue, it came as somewhat of surprise that Congress failed to appropriate anywhere near the full amount of funding that was initially authorized for VOI/TIS. This lack of funding support in Congress, and the Administration's attempt to end the program entirely in FY 2000 could only be expected to

increase the uncertainty and skepticism with which state policy makers would view this funding stream.

In addition to its role in determining eligibility for funding, CPO was also responsible for developing a fairly extensive program of technical assistance to assist states in complying with the mandates of the Act, and dealing with the other critical issues they faced. Given the newness of CPO as an organizational entity within Justice, it would not be surprising to find them using their technical assistance role as a means of developing relationships with those state officials who would become their primary constituency. This circumstance would suggest that much of the technical assistance provided by CPO would be needs driven and user friendly, rather than prescribed and allocated centrally.

STATE APPLICATION AND REPORTING

Application for VOI/TIS Funds

General requirements for states in applying for VOI/TIS grants in FY 1996 was a brief (5-10 page) description of the planned use of funds and how the planned use will increase bed space for the confinement of violent offenders; a certification that the state would fully support, operate, and maintain the correctional facilities constructed with grant funds; and general and victim rights assurances.

In addition, states were required to submit key pieces of information to determine eligibility for the TIS and VOI Tiers. These items included for 1993, 1994, and 1995, the numbers of sentenced prisoners admitted to prison for Part 1 violent offenses³⁸; the number of Part 1 violent prisoners released; average total maximum sentence length; and average time served in prison and jail by released violent prisoners. Technical assistance to states in providing the required data elements is provided by the Corrections staff at the Bureau of Justice Statistics. For Fiscal Year 1996, states were required to submit their applications no later than August 15, 1996.³⁹

³⁸ States could use an alternate definition of violent crimes (see definition, Chapter 3).

³⁹ Each year states are requested to update information for determining eligibility with data from the most recent calendar year.

In following years, application and eligibility requirements were basically the same; however, several addition provisions were added. The Fiscal Year 1997 Appropriations Act required that states implement a program of drug testing, intervention, and sanctions for offenders under correctional supervision as well as a requirement to report deaths within correctional facilities (OJP 1997 Program Application Kit).

The former requirement was added as part of a larger federal effort to reduce drug use and crime through coordinated use of drug testing, graduated sanctions, and treatment. The statutory requirement mandated that states, no later than September 1, 1998, have a program of "controlled substance testing and intervention for appropriate categories of convicted offenders during periods of incarceration and criminal justice supervision with sanctions including denial or revocation of release for positive controlled substance tests, consistent with guidelines issued by the Attorney General" (CPO Drug Testing Guidelines and Supporting Guidance 1998, p.4). While states were free to define the scope of the testing programs, at a minimum states were to have written policies and procedures that included targeted and random testing, as well as testing of offenders while in treatment, with positive tests followed by appropriate interventions and/or graduated sanctions that include denial or revocation of release in appropriate circumstances. A baseline rate of drug-free inmates was to be conducted in late 1998; subsequent state annual applications for VOI/TIS funds were to submit reports on progress towards a drug-free prison environment in their requests for VOI/TIS Tier 1 funds (CPO Drug Testing Guidelines and Supporting Guidance, p. 7).

Initially, VOI/TIS funds could not be used to implement the testing, treatment, and sanctions policy. However, an amendment adopted in fiscal year 1999 allowed states to spend up to 10% of their fiscal year 1999 and subsequent awards to implement the programs. The 1999 amendment also changed the mandatory requirement of the testing, sanctions and treatment condition to a voluntary one, and extended the date for states to consider the program to September 1, 2000. In practice, though, all states had met the requirement by September 1, 1998.

Progress Reports

Twice a year, states report on progress to CPO. These reports provide information on the status of the implementation of the formula grant program. States were asked to provide, in narrative form, the status of program implementation (including a status report of each project and spending of federal funds); the numbers of beds under construction at the end of the reporting period; the number of beds completed during the reporting period, the number of beds completed since the fiscal year 1996 initial award, and the number of beds being leased from the private sector or from privately operated facilities; any changes in truth-in-sentencing practices during the reporting period (such as the passage of any new legislation or changes in prosecution or sentencing policies); the state's progress in implementing the drug testing, sanctions, and treatment requirement; changes in the administration of the program; and any identified technical assistance issues.

APPLICATION REVIEW PROCESS

Applications for VOI/TIS were received by the Corrections Program Office and were extensively reviewed. The review process for TIS and VOI funding was different. Because there is considerable variation in sentencing laws and practices across states, determination of individual state TIS eligibility required CPO to conduct an extensive review and analysis of each state's sentencing practices. Review for TIS funding requests included an initial review by teams of CPO grant managers. Recommendations from the team reviews were presented to the CPO Director, Chief of Grants Management, and a Senior Policy Analyst at CPO. Recommendations from the reviews with the Director were presented to the BJS Chief of Corrections Statistics, the OJP Office of General Counsel, and the Special Counsel to the Assistant Attorney General. Finally the Assistant Attorney General made funding decisions based on recommendations from the CPO staff, Office of General Counsel, and the Special Counsel. Applications for VOI Tiers 2 and 3 were carefully reviewed by BJS to make sure that the data were accurate and consistent with prior submissions of state data to the FBI.

Issues In Qualifying for VOI/TIS Funds⁴⁰

In 1996, 50 states, the District of Columbia, and the five Territories requested funding under VOI/TIS. Thirty states requested TIS incentive grants; 26 states requested only Violent Offender Incarceration grants. Reviewing applications for eligibility was not a simple matter, often requiring an iterative process of questions of states by CPO and detailed responses regarding qualifying legislation, sentencing and release practices, as well as the definition of "violent offenses." Of the 30 states applying for Truth-in-Sentencing grants, 12 qualified for funding without questions. The other 18 either met initial queries as to whether or not they met TIS requirements regarding the definition of "violent crimes" and time served, required BJS review on information on eligibility for 1994 Crime Bill exceptions, or were eliminated from consideration for other reasons. The most frequently occurring issue related to TIS eligibility concerned states' definitions of "violent crime." States were to use the UCR definition or to request use (in their initial application) of an alternative definition of violent crime.

During the review process, most of the requesting states were eventually deemed eligible to receive TIS funding; however, applications by the District of Columbia, Indiana, Vermont, and New Jersey were denied. Seven states (California, Delaware, Georgia, Illinois, Tennessee, Washington, Iowa) initially queried about their definition of "violent crimes" were granted use of alternative definitions of "violent crime," allowing them to receive TIS funding. Concerns about the actual length of time that offenders sentenced to life terms would serve were raised for Kansas and California (neither state has a statutorily defined period of time to be served on a life sentence by which to judge the 85% compliance); subsequent review by CPO determined them eligible for TIS funding. In California's case, the number of paroled "lifers" was negligible; aside from these, the state met the average 85% sentence

⁴⁰ The CPO "Briefing Book" was used as the source of information for material in this section. The briefing book consisted of CPO review, summaries, and written correspondence with states regarding eligibility determinations.

served criteria. Initially Oregon was deemed ineligible because data indicated offenders served 100% of their *minimum* terms, and not the required maximum sentence (or presumptive release date). This state appealed the decision, stating that data initially supplied in their application was not submitted through the Governor's Office and was inadequate. Oregon won its appeal and was determined to be eligible. Initially New York was deemed ineligible for not meeting either of the 1994 Crime Act Exceptions; however, receipt of additional data regarding expected changes in time served allowed it to receive funding. Three states (Utah, Pennsylvania, and Michigan) received funding under the "Utah Exception," or Chapter 20104(a)(3)(A), for indeterminate states with sentencing guidelines.

Qualifying under this exception, perhaps more than any other issue, required special guidance and interpretation by Office of Justice Programs General Counsel for state eligibility. Wording in the Act, as well as an examination of the Conference Report (the legislative history) were consulted to provide conditions under which states would qualify. Ultimately, a state could qualify under this exception if it met four conditions:

1. it has enacted and implemented sentencing release guidelines
2. guidelines are used by both the sentencing judge and paroling authorities
3. the guidelines serve as an aid in setting a prison term
4. Part 1 violent offenders serve on average not less than 85% of the prison term

Issues Related to VOI

Unlike the review process for TIS, reviews for VOI qualifications were basically data driven. States were required to submit key data elements which were reviewed by BJS staff to ensure eligibility for Tiers 2 and 3 of VOI. Because this was the first time that data on violent crimes, arrests, convictions, and sentences were used to qualify for or determine level of funding, many states needed assistance in providing required data elements. One of the most difficult problems in some states was estimating projected release dates, rather than relying

on time served by released offenders. CPO and BJS worked with many states to assist them in getting the required data elements. CPO also set up a toll-free telephone number to facilitate dialog with the states, and began publishing a series called "Answers to Frequently Asked Questions," as a way of educating states in how the law was being applied.

Not all states applied for all levels of FY96 VOI funding, as would be expected given the increasingly stringent criteria for awards under this component. All 50 states, the District of Columbia, and five American Territories applied for at least one level of funding. Five states/territories requested funds under Tier 1 only (New Mexico, Northern Mariana Islands, Rhode Island, Virgin Islands, and Guam).⁴¹ Alabama, American Samoa, Georgia, Hawaii, Maine, Maryland, Michigan, and Oklahoma requested funds for Tiers 1 and 2; the remaining states and territories requested funds under all three Tiers. Funding for Tiers 1 and 2 were awarded to all requesting states.⁴² Many states that requested Tier 3 funds, however, did not qualify during FY96. These included California, Florida, Idaho, Illinois, Iowa, Louisiana, Minnesota, Missouri, North Dakota, Ohio, Tennessee, Washington, and Wisconsin. Nine of these states eventually received Tier 3 funds in subsequent years.

AWARDING THE DOLLARS 1996-1999

Authorized amounts for VOI/TIS through FY 2000 were to total \$10 billion dollars. However, during subsequent appropriations, only a fraction of the authorized amounts were appropriated. In addition special set-asides for the State Criminal Alien Assistance Program (SCAAP) to reimburse state and local jurisdictions for incarcerating criminal aliens, reimbursements for holding prisoners in state and local facilities, a discretionary grant program to build jails on tribal lands, and program administration reduced the amounts available for grants still further. Table 5.1 presents the authorized amounts, total

⁴¹ The FY96 Guam application was incomplete.

⁴² In addition, New Mexico and the Virgin Islands received Tier 2 funding, although they had not initially requested it.

appropriations, and grant funding available for fiscal years 1996 to date.

Table 5.1
Authorized Amounts, Total Appropriations, and Grant Funding Available
for Fiscal Years 1996 to Date

Year	Authorized amount	Total VOI/TIS appropriation	TIS and VOI grants appropriate amount
1996	\$997.5	\$617.5	\$391
1997	\$1,333.0	\$670.0	\$471
1998	\$2,527.0	\$720.5	\$509
1999	\$2,660.0	\$720.5	\$481
2000	\$2,753.1	\$686.5	N/A

(in millions of dollars)

Continued allocation of funding has not been easy. In the FY 2000 budget negotiations, the President asked to discontinue the VOI/TIS program; however, Congress prevailed in keeping the program in operation. Justice Department officials reported that the Administration felt the money could be better spent elsewhere (Criminal Justice Newsletter, 11/2/98; Corrections Journal 2/8/99). In particular, relative to the Community Policing (COPS) program, Violence Against Women (VAW) grant to state and local governments, and the State Criminal Alien Assistance Program (SCAAP), three of the most visible Crime Act programs, VOI/TIS received a far lower percentage of authorized funding relative to appropriations (see Table 5.2).

Table 5.2
Authorizations and Appropriations for Select 1994 Crime Act Programs

	Authorized	Appropriated	% Appropriated
	FY 1996		
Community policing/Cops on the beat	\$1,850	\$1,400	76%
VOI/TIS	\$997.5	\$617.5	62%
State Criminal Alien Assistance	\$300	\$300	100%
Violence Against Women grants to state & local govts.	\$130	\$174.5	134%
	FY 1997		
Community policing/Cops on the beat	\$1,950	\$1,400	72%
VOI/TIS	\$1,330	\$670	50%
State Criminal Alien Assistance	\$330	\$420	127%
Violence Against Women grants to state & local govts.	\$145	\$196.5	136%
	FY 1998		
Community policing/Cops on the beat	\$1,700	\$1,400	82%
VOI/TIS	\$2,527	\$720.5	29%
State Criminal Alien Assistance	\$350	\$420	120%
Violence Against Women grants to state & local govts.	\$160	\$270	169%
	FY 1999		
Community policing/Cops on the beat	\$1,700	\$1,400	82%
VOI/TIS	\$2,660	\$721	27%
State Criminal Alien Assistance	\$350	\$420	120%
Violence Against Women grants to state & local govts.	\$165	\$282	171%

(in millions of dollars)

Funds for each fiscal year are awarded for a period that includes the fiscal year of the appropriation plus four additional years (CPO, FY96 Application Kit, p. 10). Table 4.3 presents the award totals from FY96 to FY99 (individual fiscal year awards are contained in Appendix E).

Table 5.3
TIS and VOI Funding by State, FY 1996-99 Totals

	TIS Total	VOI Total	VOI/TIS Total
Alabama		\$14,133,339	\$14,133,339
Alaska		\$10,285,918	\$10,285,918
Arizona	\$20,860,947	\$18,154,227	\$39,015,174
Arkansas		\$13,864,398	\$13,864,398
California	\$208,555,281	\$80,671,530	\$289,226,811
Colorado		\$14,622,690	\$14,622,690
Connecticut	\$9,840,957	\$13,843,717	\$23,684,674
Delaware	\$3,614,720	\$11,414,089	\$15,028,809
District of Columbia	\$4,813,882	\$12,712,285	\$17,526,167
Florida	\$111,157,415	\$50,958,656	\$162,116,071
Georgia	\$34,068,241	\$21,030,588	\$55,098,829
Hawaii		\$9,726,045	\$9,726,045
Idaho		\$7,819,153	\$7,819,153
Illinois	\$35,439,307	\$37,353,388	\$72,792,695
Indiana		\$16,240,698	\$16,240,698
Iowa	\$6,488,551	\$8,390,572	\$14,879,123
Kansas	\$8,071,587	\$10,897,910	\$18,969,497
Kentucky		\$13,086,173	\$13,086,173
Louisiana	\$29,719,600	\$20,588,617	\$50,308,217
Maine	\$918,023	\$7,428,264	\$8,346,287
Maryland		\$21,303,053	\$21,303,053
Massachusetts		\$19,326,206	\$19,326,206
Michigan	\$46,835,668	\$27,201,462	\$74,037,130
Minnesota	\$11,579,450	\$12,610,729	\$24,190,179
Mississippi	\$9,447,429	\$11,425,049	\$20,872,478
Missouri	\$24,784,913	\$15,383,450	\$40,168,363
Montana		\$9,309,950	\$9,309,950
Nebraska		\$9,781,738	\$9,781,738
Nevada		\$13,833,703	\$13,833,703
New Hampshire		\$9,298,466	\$9,298,466
New Jersey	\$25,157,748	\$22,533,691	\$47,691,439
New Mexico	\$2,870,778	\$14,168,560	\$17,039,338
New York	\$105,885,177	\$46,342,398	\$152,227,575
North Carolina	\$32,890,308	\$22,862,776	\$55,753,084
North Dakota	\$398,474	\$6,059,294	\$6,457,768
Ohio	\$36,694,829	\$19,935,665	\$56,630,494
Oklahoma	\$8,139,270	\$11,526,765	\$19,666,035
Oregon	\$11,136,421	\$13,366,853	\$24,503,274
Pennsylvania	\$37,778,864	\$24,777,835	\$62,556,699
Rhode Island		\$8,814,693	\$8,814,693
South Carolina	\$26,771,701	\$17,159,760	\$43,931,461
South Dakota		\$9,255,557	\$9,255,557
Tennessee	\$29,557,683	\$18,329,811	\$47,887,494
Texas		\$45,160,312	\$45,160,312
Utah	\$4,689,728	\$11,832,550	\$16,522,278

(continued on next page)

Table 5.3 (cont'd)
TIS and VOI Funding by State, FY 1996-99 Totals

	TIS Total	VOI Total	VOI/TIS Total
Vermont		\$10,188,774	\$10,188,774
Virginia	\$15,467,546	\$13,888,156	\$29,355,702
Washington	\$16,847,094	\$13,350,813	\$30,197,907
West Virginia		\$9,964,741	\$9,964,741
Wisconsin	\$2,506,148	\$9,950,594	\$12,456,742
Wyoming		\$8,218,670	\$8,218,670
American Samoa		\$462,774	\$462,774
Guam		\$404,745	\$404,745
Northern Mariana Islands		\$393,768	\$393,768
Puerto Rico		\$16,117,824	\$16,117,824
Virgin Islands		\$812,860	\$812,860
Totals	\$926,513,412	\$920,744,575	\$1,847,257,987

Between fiscal years 1996 and 1999, nearly two billion dollars were awarded to states under the VOI/TIS grants program, with \$927 million allocated under TIS and \$920 million under VOI. Thirty states and the District of Columbia received TIS funding in at least one of these years; all states received Tiers 1 and 2 VOI funding. Tier 3 funding showed the most variation in number of states qualifying each year. In fiscal year 1996, 33 states and territories qualified for Tier 3; the highest number qualified in fiscal year 1998, with 41 receiving funding. Not surprisingly, the larger grants have gone to the most populous states because most of the funds disbursed are proportional to the total number of violent crimes. California has received the most funds to date--\$289 million; New York and Florida have received over \$150 million each. Eleven states--Hawaii, Idaho, Maine, Montana, Nebraska, New Hampshire, North Dakota, Rhode Island, South Dakota, West Virginia, and Wyoming--received less than \$10 million each.

TECHNICAL ASSISTANCE AND TRAINING

The Corrections Program Office considers the provision of Technical Assistance and Training one of its primary objectives.⁴³ CPO developed

⁴³ In addition to Technical Assistance for VOI/TIS, the CPO also administers the Technical Assistance for the Residential Substance Abuse Treatment for State Prisoners Formula Grant Program (RSAT), the Tuberculosis Prevention, Diagnosis, and Treatment Discretionary Grant

"a comprehensive technical assistance program which includes conferences, workshops, training, and site-specific assistance to assist states with the effective implementation of these grant programs, to address the policy and operations issues related to implementation of the programs, and to manage the impact of the policy changes required to qualify for grant funds" (p. 1, CPO Technical Assistance Plan for FY 1998). CPO accepts requests for Technical Assistance from grantees, juvenile and adult agencies, and non-grantees, including local agencies.

CPO sponsors a number of activities including focus groups, seminars, symposia, and research. In Fiscal Year 98, a major focus was national conferences and workshops. During FY98 workshops were conducted on the VOI/TIS drug testing requirements; Truth-in-Sentencing, in which states shared experiences related to TIS legislation; prison population forecasting and projection, that provided participants with technical information about using forecasting models to predict prison populations; and privatization, designed to help administrators make informed decisions about the use and management of private facilities and support services, among others (see Appendix F for a partial listing of conferences, or CPO Technical Assistance Plans, 1998, 1999 for more complete listings). Participation is by invitation and CPO generally pays expenses related to attending the event. As part of the conferences, CPO asked participants to complete evaluation forms on the relevance of the conference, quality of the speakers, and usefulness of the results. Ratings were highly favorable.⁴⁴

CPO also provides more targeted technical assistance to individual jurisdictions related to issues having to do with eligibility, implementation, and administration of the VOI/TIS program. The areas of assistance include sentencing reform; violent offender management; facility design, space management, and overcrowding; information systems; budgetary implications of VOI/TIS; geriatric prisoners and prisoners with medical conditions, crime victim's rights, and

Program (TB), and Facilities on Tribal Lands Discretionary Grant Program. Among these areas, RSAT and VOI/TIS generate the most requests for assistance

⁴⁴ See Appendix F.

privatization; and drug testing, sanctions, and treatment requirements of the VOI/TIS program (see Appendix F for examples).

VOI/TIS funds also support research on adjudication, sentencing, and corrections. The National Institute of Justice receives funding via CPO to support a portfolio of research that funds a wide range of projects, including partnership projects between researchers and practitioners; a national evaluation (the current project); aftercare and reintegration; drug treatment; recidivism; impact of crime the community, neighborhood and the family; correctional management and operations; and sentencing.

In many of its technical assistance activities, CPO works with other agencies (e.g., the National Institute of Justice, Bureau of Justice Statistics, Association of State Correctional Administrators, National Institute of Corrections, Center of Substance Abuse Treatment, Office of Juvenile Justice and Delinquency Prevention, Office for Victims of Crime, and the Bureau of Justice Assistance) to co-sponsor workshops and focus groups. In addition, CPO utilizes private providers and consultants in technical assistance requests.

6. VOI/TIS AND THE PASSAGE OF TIS LEGISLATION

Today sentencing across the country looks substantially different than it did 25 years ago. As detailed in Chapter 2, recent changes have produced a complex national picture of states that utilize determinate and indeterminate sentencing, guidelines sentencing, three-strikes and other mandatory minimums, abolishment of parole, etc. (Tonry 1996, 1999). It is into this mix of sentencing practices that many states passed "truth-in-sentencing." In this chapter we examine several key questions related to truth-in-sentencing. How many states have passed truth-in-sentencing legislation qualifying for federal funds? What were these laws like? What influence did VOI/TIS have on the adoption of such laws? Why else might states have passed TIS legislation?

In the previous chapter we speculated that the great diversity in sentencing structures found across the states would lead to a complicated process for determining which states were eligible for TIS funding. Similarly, that diversity could also be expected to result in widely different legislation. Thus the types of laws passed and mechanisms for achieving the 85% criteria are important to document.

Furthermore, in many states Truth In Sentencing had become a popular political issue, like many other types of "get tough" legislation, aside from the federal funding incentives provided in VOI/TIS. In many of these states we might expect to see passage of TIS laws without any specific reference to the federal law and the funds it could provide. Across all states, we might expect those where crime rates were the highest to pass TIS legislation as part of "get tough" policies.

Finally, since the passage of TIS laws would result in a very large increase in the amount of time to be served by violent offenders in many states, with a proportionate increase in costs, we might expect concern with prison costs to be one of the primary reasons for not passing TIS legislation.

STATES WITH QUALIFYING TRUTH-IN-SENTENCING PRACTICES

What constitutes "truth-in-sentencing" is a somewhat complex determination. Determinate sentencing states can qualify for funds if they have passed legislation requiring persons convicted of a Part 1 violent crime to serve not less than 85% of the sentence imposed or have passed TIS laws that result in persons convicted of a Part 1 violent crime serving on average not less than 85% of the sentence imposed. Indeterminate sentencing states can qualify for TIS funds if, based on existing policies, offenders serve on average 85% or more of their maximum sentence (or prison term established under the state's sentencing and release guidelines) in prison. These determinations were made during the state's application process for TIS funds (as described in Chapter 5). Other states adopted versions of truth-in-sentencing legislation with less than the federal requirement of 85% or with variants of an 85% criterion that did not meet federal requirements for TIS funding. Our analysis in this chapter focuses on states that qualified for TIS funding. Appendix G presents a synopsis of the TIS legislation for all states qualifying for TIS funds. In Table 6.1 we summarize a few key aspects of TIS legislation for the states.

Table 6.1
States Receiving TIS Dollars, 1996-1999

<i>State</i>	<i>Structured Sentencing</i>	<i>Years of TIS Funding</i>	<i>Year Passed Qualifying TIS</i>	<i>Reduced Parole</i>	<i>Reduced Time Credits</i>
Alabama	No	N/A			
Alaska	No	N/A			
Arizona	Yes	1996-1999	1993	Yes	Yes
Arkansas	Yes	N/A			
California	Yes	1996-1999	1994	Yes	Yes
Colorado	No	N/A			
Connecticut	No	1996-1999	1995	Yes	
D.C.	Yes	1998-1999	1998	Yes	
Delaware	No	1996-1999	1989	Yes	Yes
Florida	Yes	1996-1999	1995		Yes
Georgia	No	1996-1999	1994	Yes	
Hawaii	No	N/A			
Idaho	No	N/A			
Illinois	Yes	1996	1995 ^a	Yes	Yes
Indiana	Yes	N/A			
Iowa	No	1996-1999	1996	Yes	Yes
Kansas	Yes	1996-1999	1993		Yes
Kentucky	No	N/A			
Louisiana	No	1996-1999	1995	Yes	Yes
Maine	Yes	1997-1999	1995	Yes	Yes
Maryland	Yes	N/A			
Massachusetts	No	N/A			
Michigan	Yes	1996-1999	1994 ^b	Yes	
Minnesota	Yes	1996-1999	1992		Yes
Mississippi	No	1996-1999	1995	Yes	Yes
Missouri	Yes	1996-1999	1994	Yes	
Montana	No	N/A			
Nebraska	No	N/A			
Nevada	No	N/A			
New Hampshire	No	N/A			
New Jersey	No	1997-1999	1997		
New Mexico	No	1999	1999		Yes
New York	No	1996-1999	1995	Yes	Yes
North Carolina	Yes	1996-1999	1993	Yes	Yes
North Dakota	No	1996-1999	1997	Yes	Yes
Ohio	Yes	1996-1999	1995	Yes	Yes
Oklahoma	Yes	1997-1999	1997		
Oregon	Yes	1996-1999	1995	Yes	Yes
Pennsylvania	Yes	1996-1999	1911 ^b	Yes	Yes
Rhode Island	No	N/A			
South Carolina	No	1996-1999	1995	Yes	Yes
South Dakota	No	N/A			
Tennessee	Yes	1996-1999	1995	Yes	Yes
Texas	No	N/A			
Utah	Yes	1996-1999	1985 ^b		

(continued on next page)

Table 6.1 (cont'd)
Truth in Sentencing in the States

<i>State</i>	<i>Structured Sentencing</i>	<i>Years of TIS Funding</i>	<i>Year Passed Qualifying TIS</i>	<i>Reduced Parole</i>	<i>Reduced Time Credits</i>
Vermont	No	N/A			
Virginia	Yes	1996-1999	1994	Yes	Yes
Washington	Yes	1996-1999	1990		Yes
West Virginia	No	N/A			
Wisconsin	No	1999	1998	Yes	
Wyoming	No	N/A			

^a Qualified as an exception state for passing a law which would have made the state eligible for funds under Subtitle A of Title II of the Violent Crime Control and Law Enforcement Assistance Act of 1994 prior to April 26, 1996.

^b Qualified under the Utah Exception.

ACHIEVING THE 85% TIS REQUIREMENT

Table 6.1 presents information on Truth-in-Sentencing legislation and awards for the 50 states and District of Columbia. The third and fourth columns present the years of TIS funding and the year the state passed qualifying TIS legislation. The last two columns indicate whether TIS legislation⁴⁵ included reductions in the use of parole or in the use of time credits. These latter--"gain time," "good time," or "earned time"--refer to the practice many states use of rewarding offender behavior with reductions in the sentence served. The behaviors that earn credits vary across states and type of time credit, but include such things as meritorious conduct, participation in work/training/education in the institution, maintaining positive behavior, etc.

Table 6.1 reveals that virtually all laws were enacted since the early 1990s, with a majority enacted just about the time of the Crime Act, as amended. The states achieve their 85% requirement by restricting the use of parole and earned time--essentially by modifying the latter portion of the sentence. On the surface, such rules would result in offenders serving longer sentences under TIS legislation.

⁴⁵ In some instances, it is state correctional policy, not the legislation per se, that limits parole and earned credits.

Another mechanism states might use to comply with the 85% requirement and *not* increase the absolute length of stay would be to reduce the sentence lengths imposed for violent crimes. Serving 85% of the time for a shorter sentence imposed could help mitigate prison crowding pressures from TIS requirements. In order to examine this possibility we examined the length of sentences imposed for admissions to state prisons from 1987 through 1997⁴⁶ for TIS and non-TIS states. As we indicated in Chapter 3, we separate out Texas, since its effect--particularly for quantitative measures of crime and sentences--swamps the effects of other non-TIS states. Figure 6.1 shows that sentences for violent crimes have been decreasing slightly for both TIS and non-TIS states since the early 1990s. In absolute numbers the decline has been from a high of 66 months in 1994 to 51 months in 1997 for TIS states, and from 70 months in 1992 to 47 months in 1997 for non-TIS states. This decline suggests that one way states may meet the 85% requirement is in reductions of the average sentence lengths imposed. A definitive answer is years away, however, when these violent offenders begin leaving prison.

⁴⁶ This is the period of time for which the NCRP data were available for our study.

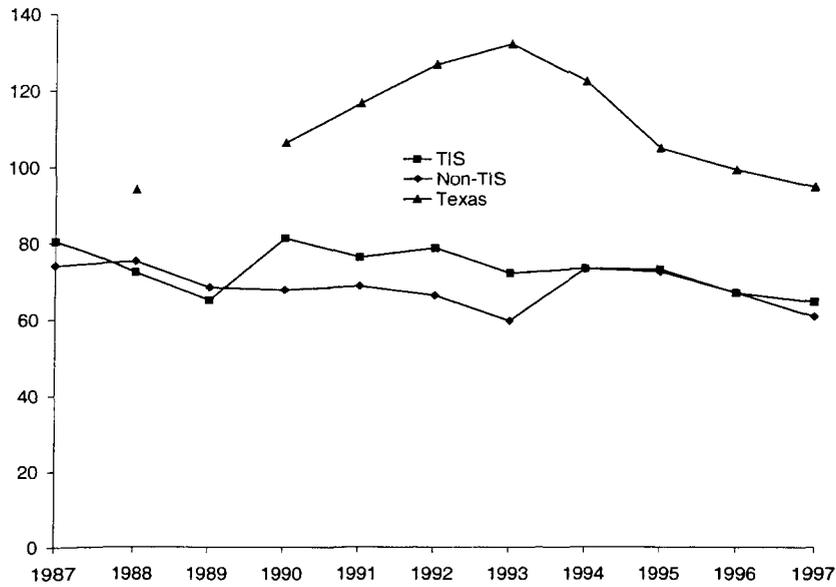


Fig. 6.1 - Sentence Lengths for Violent Crimes in TIS and Non-TIS States⁴⁷

LOW-CRIME VERSUS HIGH-CRIME STATES

One of the reasons states may have for passing TIS legislation is the hope that increased sentences for violent offenders will help reduce crime rates. Thus, we might expect that states with more violent crime are more likely to pass TIS legislation than those with less. Table 6.2 ranks states according to their violent crimes. When we display states in this fashion, we see a pattern between the number of violent crimes and TIS. (The correlation between TIS status and violent crimes is .28; $p < .051$). Of the 17 states with the most violent crimes in 1997, 14 are truth-in-sentencing states (Texas, Maryland, and Massachusetts did not receive TIS funds). This pattern suggests that one reason for TIS is to control violent crime.

⁴⁷ For this analysis, the "Utah exception" states (Michigan, Pennsylvania, and Utah) are considered non-TIS states.

Table 6.2
Violent Crimes Are Correlated with Truth-in-Sentencing⁴⁸

<i>State</i>	<i>TIS</i>	<i>Violent Crimes</i>
California	Yes	257,595
Florida	Yes	149,998
New York	Yes	124,891
Texas	No	117,120
Illinois	Yes	102,472
Michigan	No*	57,667
Pennsylvania	No*	53,140
Ohio	Yes	48,704
Georgia	Yes	45,410
North Carolina	Yes	45,070
Maryland	No	43,126
Tennessee	Yes	42,391
New Jersey	Yes	39,669
Massachusetts	No	39,412
Louisiana	Yes	37,249
South Carolina	Yes	37,235
Missouri	Yes	31,191
Indiana	No	30,176
Arizona	Yes	28,410
Washington	Yes	24,723
Alabama	No	24,381
Virginia	Yes	23,246
Oklahoma	Yes	18,559
Minnesota	Yes	15,829
New Mexico	No	14,762
Oregon	Yes	14,412
Colorado	No	14,139
Wisconsin	No	13,990
Nevada	No	13,394
Arkansas	No	13,294
Mississippi	Yes	12,808
Connecticut	Yes	12,782
Kentucky	No	12,384
Kansas	Yes	10,619
Iowa	Yes	8,841
Nebraska	Yes	7,264
Utah	No*	6,877
Delaware	Yes	4,962
Alaska	No	4,270
West Virginia	No	3,972
Hawaii	No	3,299
Rhode Island	No	3,292
Idaho	No	3,107

(continued on next page)

⁴⁸ Source: UCR, 1997

Table 6.2 (cont'd)

Violent Crimes Are Correlated with Truth-in-Sentencing

<i>State</i>	<i>TIS</i>	<i>Violent Crimes</i>
Maine	Yes	1,500
South Dakota	No	1,457
New Hampshire	No	1,328
Wyoming	No	1,225
Montana	No	1,161
Vermont	No	705
North Dakota	No	559

* Michigan, Pennsylvania, and Utah received TIS funding under the Utah Exception. For purposes of this table, they are classified as non-TIS states.

Individual State Experiences

As mentioned earlier, Appendix G presents a brief description of the truth-in-sentencing laws enacted by the states. States varied a great deal in their adoption and construction of TIS laws. Generally states chose to limit this requirement to offenders with violent offenses; however, a few states (Maine, for example) chose to apply TIS requirements to a broader range of offenses. As one would expect from the qualification process in which many states utilized alternative definitions of "violent crime," the exact violent offenses subject to TIS requirements varied widely across states. We present below examples of TIS for our case study states.

Virginia introduced its TIS into a sentencing system of voluntary sentencing guidelines. The judicially controlled guidelines had been in existence since the early 1990s in an attempt to reduce disparity. The final form of TIS was developed by a special Governor's commission and included abolishing parole (although offenders are placed on post prison supervised release, similar to supervised probation); reduction of good time accrual; and changes in the guidelines terms for both non-violent and violent offenders in an effort to align imposed sentenced more closely with time actually being served (Ostrom, Cheesman, Jones, Peterson, and Kauder 1999). Receipt of TIS funds was a partial reason for the state adopting TIS; however, Virginia passed its truth-in-sentencing before Congress passed the federal version. In fact, truth-

in-sentencing was a major campaign centerpiece for George Allen's successful gubernatorial election bid in 1994.

Minnesota was the first state in the country to adopt presumptive sentencing guidelines and to appoint a Sentencing Guidelines Commission charged with setting sentence lengths for various crimes. Several major crime bills had been enacted in the 1980s, primarily in response to high-profile violent crimes committed by ex-prisoners. The 1992 legislation that qualified Minnesota for TIS included, among other sentencing increases, a provision that eliminated good time terminology and substituted a system of bifurcated sentencing--2/3 in prison, 1/3 as release time that could be revoked at any time prior to the completion of the entire sentence. This change had no substantive impact on the actual length of term served in prison before release; however, it allowed Minnesota to qualify for TIS, as it allowed the state to claim that violent offenders were required to serve 100% of their prison terms. As one might expect, Minnesota reported that federal TIS funds were not a factor in the TIS legislation.⁴⁹

North Carolina's 1993 TIS law was also introduced into a system of presumptive sentences for each felony. The state overhauled its system and instituted structured sentencing guidelines that utilized a matrix of offense type and prior record to determine prison, intermediate sanction, and community corrections sentences. Initially, prison sentence lengths were set at what planners thought they deserved; these were revised downwards after cost estimates of more than \$1 billion in construction costs would be needed (Wright 1999). In fact, key to the North Carolina structured sentencing effort was the role that cost estimates for proposed legislation played--by statute the legislature is required to obtain a fiscal impact statement before making any change to sentencing laws. North Carolina also reported that TIS funds were not a factor in passing their TIS legislation.

In California, TIS legislation was enacted in 1994, concurrent with the state's "Three-Strikes and You're Out" law. Both laws were largely

⁴⁹ Perceptions of impact are from GAO (1998).

a result of the Polly Klaas murder,⁵⁰ and were introduced into a determinate sentencing system⁵¹ that had been increasing penalties since determinate sentencing legislation was first introduced in the late 70s. Between 1994 and 1995 the state enacted approximately 150 new tougher sentencing laws. The TIS legislation requires that a person imprisoned for an enumerated violent felony⁵² be eligible for a maximum of 15% work time credit. Although the TIS legislation was passed in the same month as the Federal Crime Bill, its provisions had been proposed in the legislature as early as 1988, and was not influenced by federal funds.

Oregon's sentencing laws had been undergoing changes since 1977 with the introduction of parole guidelines. In 1987, faced with increasing prison populations and a public unwilling to pass bond measures for prison construction, a new system of sentencing guidelines was introduced. As a result of these guidelines, from 1988 to 1994, there was a marked shift in the offender profile of prisoners, with a sizable increase in the proportion of offenders sentenced to prison for crimes against persons and a substantial decrease in property offenders. The percentage of time served on prison sentences also more than doubled.⁵³

⁵⁰ In the fall of 1993, Polly Klass had been abducted from her home and murdered by a man with two prior convictions for kidnapping. The child had been missing for some time before her murder had been discovered, and the search and discovery of the body and the killer were played out before a national news audience.

⁵¹ Determinate sentencing is applicable to all felonies, excluding those punishable by death or life imprisonment.

⁵² These violent felonies include:

- (a) murder or voluntary manslaughter
- (b) mayhem
- (c) rape
- (d) sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person
- (e) oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person
- (f) lewd acts on a child under the age of 14 years
- (g) any felony punishable by death or imprisonment in the state prison for life
- (h) any felony in which the defendant inflicts great bodily injury on any person other than an accomplice
- (i) any robbery perpetrated in an inhabited dwelling house, vessel which is inhabited and designed for habitation, an inhabited

In 1994, however, Oregon voters enacted an enormous change to this system through the passage of Ballot Measure 11, with large support from victims' right groups. This measure, which passed with 2/3 of the vote, imposed mandatory minimum sentences for 16 serious felonies⁵⁴, ranging from second-degree assault to homicide, supplanting the effect of the guidelines for those crimes.⁵⁵ These mandatory minimums represented dramatic increases from the presumptive sentences specified by the guidelines.⁵⁶ It also mandated that juveniles 15 years or older be tried as adults if they were charged with one or more of the enumerated

floating home, an inhabited trailer coach, or in the inhabited portion of any other building, wherein it is charged and proved that the defendant personally used a deadly or dangerous weapon in the commission of that robbery

(j) arson

(k) foreign object rape

(l) attempted murder

(m) use of a destructive device or explosive with the intent to commit murder

(n) kidnapping of a child 14 years of age or less through false promise, misrepresentation, or the like, for the purpose of committing a lewd or lascivious act

(o) kidnapping of a child 14 years or younger

(p) continuous sexual abuse of a child

(q) carjacking, if it is charged and proved that the defendant personally used a dangerous or deadly weapon in the commission of the carjacking

(r) use of a firearm in the commission of any felony

⁵³ National Corrections Reporting Program (NCRP) releases, 1998 and 1994.

⁵⁴ The number of offenses covered by M11 was later increased to 21.

⁵⁵ The offenses enumerated in M11 were murder, first and second degree manslaughter, first and second degree assault, first and second degree kidnapping, first and second degree rape, first and second degree sodomy, first and second degree unlawful sexual penetration, first degree sexual abuse, and first and second degree robbery.

⁵⁶ For example, presumptive sentences under the guidelines for murder, the most serious crime enumerated in M11, ranged from 120-121 months for an offender with a minor misdemeanor or no criminal record to 225-269 months for an offender with 3+ person felony convictions. M11 imposed a minimum penalty of 300 months for all murders. The least serious offense affected by M11 was assault in the second degree. Under the guidelines, the presumptive punishment ranged from non-prison sentences for the lowest three levels of the criminal history scale (maximum of 90 days in jail) to 25-30 months in prison for an offender with 3+ violent felony convictions. M11 imposed a minimum sentence of 70 months for this offense.

felonies, and the application of mandatory minimums to such offenders if convicted. Ballot Measure 11--Oregon's TIS legislation--was not impacted by the availability of federal funds.

The Sentencing Reform Act of 1995 qualified New York to receive TIS funds. New York is an indeterminate sentencing state with tough drug sentencing laws (known as the Rockefeller Drug Laws). The two major components of the legislation lengthened sentences for all violent felony offenders and abolished parole release for repeat violent felons. This reform lengthened minimum terms from one-third to one-half the maximum for indeterminate sentencing of offenders convicted for the first time of a violent felony offense ("VFO"), and introduced determinate sentencing for VFO convictions where the offender has one or more prior felony convictions. Parole was abolished for both second VFOs (where both offenses are VFOs) and for second felony offenders ("SFOs") where only the *instant* offense is a VFO, but the range of permitted terms is set higher for a second VFO (e.g., the sentence must be set between 10 and 25 years for a Class B VFO) than for an SFO where the first felony was *not* a VFO (e.g., between 8 and 25 years for a Class B VFO). Both types of prisoners would no longer be eligible for parole release; instead, they would be required to serve at least six-sevenths (85%) of their prison term. The final form of the legislation did not end parole for all violent offenders, as the governor had wanted as part of his anti-crime agenda.

In 1996, New York received TIS funding as a 1994 Exception State. DOJ officials informed the state that unless further qualifying legislation was enacted prior to the TIS application deadline for fiscal year 1997, the state would not be eligible for TIS funds in 1997. The threatened loss was estimated to be \$70.2 million over three years (DCJS 1997). New York was able to receive subsequent TIS year funding without additional legislation by supplying prospective data estimates of time served that met with federal approval.

New York reported that federal funds were a key factor in the decision to pass a TIS law in the state.

WHAT INFLUENCE DID VOI/TIS HAVE ON THE ADOPTION OF TRUTH-IN-SENTENCING?

In early 1998, the General Accounting Office was asked by Congress to determine whether the availability of VOI/TIS funds was a factor in adopting TIS laws and why some states did not enact TIS laws.⁵⁷ Telephone interviews were conducted with state officials responsible for grant coordination for their perceptions of the influence of VOI/TIS funds on legislation. According to GAO findings, although some states were highly influenced by the availability of funds, many were not. Table 6.3 presents states classified by whether TIS grants were a "key", "partial", or not a "factor" on passage of state laws.

⁵⁷ GAO (1998). In addition, GAO determined the number of states that passed legislation that met federal grant eligibility requirements.

Table 6.3

Reasons Why States Did or Did Not Seek TIS Funding Grants⁵⁸

State	TIS	Grants a Factor?			Why Not TIS?	
		No	Partial	Key	High Cost	Other Reason
Alabama	No				X	
Alaska	No					X
Arizona	Yes	X				
Arkansas	No				X	
California	Yes	X				
Colorado	No				X	
Connecticut	Yes		X			
Delaware	Yes	X				
D.C.	No					X
Florida	Yes		X			
Georgia	Yes	X				
Hawaii	No				X	
Idaho	No					X
Illinois	Yes				X	
Indiana	No				X	
Iowa	Yes		X			
Kansas	Yes		X			
Kentucky	No				X	
Louisiana	Yes			X		
Maine	Yes			X		
Maryland	No				X	
Massachusetts	No					X
Michigan*	Yes	X				
Minnesota	Yes	X				
Mississippi	Yes		X			
Missouri	Yes		X			
Montana	No				X	
Nebraska	No				X	
Nevada	No					X
New Hampshire	No					X
New Jersey	Yes		X			
New Mexico	No				X	
New York	Yes			X		
North Carolina	Yes	X				
North Dakota	Yes		X			
Ohio	Yes	X				
Oklahoma	Yes			X		
Oregon	Yes	X				
Pennsylvania*	Yes	X				
Rhode Island	No				X	

(continued on next page)

⁵⁸ Source: GAO 1998

Table 6.3 (cont'd)
Reasons Why States Did or Did Not Seek TIS Funding Grants

State	TIS	Grants a Factor?			Why Not TIS?	
		No	Partial	Key	High Cost	Other Reason
South Carolina	Yes					
South Dakota	No				X	
Tennessee	Yes		X			
Texas	No					X
Utah*	Yes	X				
Vermont	No				X	
Virginia	Yes		X			
Washington	Yes	X				
West Virginia	No				X	
Wisconsin	No					X
Wyoming	No				X	

NOTE: Michigan, Pennsylvania, and Utah qualified for TIS funding under the "Utah exception."

According to the GAO findings, only Louisiana, Maine, New York, and Oklahoma indicated that the grants were a key factor. Eleven states (Connecticut, Florida, Iowa, Kansas, Mississippi, Missouri, New Jersey, South Carolina, Tennessee, and Virginia) said that federal grants played a role, though not necessarily a major or decisive one, in the passage of TIS. Twelve states reported that TIS funds were not a factor on state laws (Arizona, California, Delaware, Georgia, Michigan, Minnesota, North Carolina, Ohio, Oregon, Pennsylvania, Utah, and Washington). The date of passage of TIS legislation for the last set of states was often years before the 1994 Crime Act, as amended. In seven of these states, TIS legislation was enacted in 1993 or earlier.

Many states reported that they did not want to pass TIS laws because it would commit them to spending more correctional dollars. Sixteen states reported that the high costs of prison construction and/or operational costs were too high to enact TIS (GAO 1998). According to officials in Illinois. "There was some analysis done, and it was determined that it would impact our Department of Corrections to the tune of \$1 billion over the next 10 years," (as quoted in *Corrections Journal*, October 7, 1998, p. 6). Jim Turpin, legislative liaison for the American Correctional Association, stated, "The amount

of money you get compared to what you have to spend to get it is just not cost-effective" (as quoted in *Corrections Journal*, October 7, 1998, p. 6).

Five states (Idaho, Massachusetts, Nevada, New Hampshire, and Texas) reported not enacting TIS laws because their own sentencing practices were working well. In two jurisdictions (Alaska and the District of Columbia), TIS funds were applied for, but denied.⁵⁹

WHAT OTHER MOTIVATIONS MIGHT THERE BE FOR TRUTH-IN-SENTENCING?

If TIS funds were not a major motivation for passing truth-in-sentencing laws, what other motivation might there be? In this section, we examine TIS and non-TIS states and in relation to violent crimes and offer some potential explanations.

Earlier in the chapter we presented information on the relationship between the number of violent crimes and passage of TIS, showing that those states with more violent crime were more likely to pass TIS legislation. This finding suggests one or both of the following: 1) violent crime was enough of an incentive for states to pass TIS laws without federal incentives, and/or 2) low-crime states could get substantial VOI funding without passing TIS laws, since half of the federal funds do not require the passage of TIS laws and TIS required a financial commitment well beyond the years in which funds would be received.

In summary, some states, especially low crime states, did not pass TIS laws because of the high costs of committing to TIS, and the low-crime states were also able to qualify for substantial funding under the VOI/TIS program without passing TIS laws. We illustrate this last point in Table 6.4 below by presenting the VOI/TIS dollars received by states per violent crime.

⁵⁹ Alaska has not received TIS funds; the District of Columbia received TIS funding in 1998 and 1999, after passage of new legislation.

Table 6.4

Low-Crime States Received More VOI/TIS Dollars per Violent Crime

<i>State</i>	<i>TIS</i>	<i>Violent Crimes</i>	<i>VOI/TIS Funding</i>	<i>\$\$\$ per Violent Crime</i>
Vermont	No	705	\$10,188,774	\$14,452
North Dakota	No	559	\$6,457,768	\$11,552
Montana	No	1,161	\$9,309,950	\$8,019
New Hampshire	No	1,328	\$9,298,466	\$7,002
Wyoming	No	1,225	\$8,218,670	\$6,709
South Dakota	No	1,457	\$9,255,557	\$6,352
Maine	Yes	1,500	\$8,346,287	\$5,564
Delaware	Yes	4,962	\$15,028,809	\$3,029
Hawaii	No	3,299	\$9,726,045	\$2,948
Rhode Island	No	3,292	\$8,814,693	\$2,678
Idaho	No	3,107	\$7,819,153	\$2,517
West Virginia	No	3,972	\$9,964,741	\$2,509
Alaska	No	4,270	\$10,285,918	\$2,409
Utah	No*	6,877	\$16,522,278	\$2,403
Connecticut	Yes	12,782	\$23,684,674	\$1,853
Kansas	Yes	10,619	\$18,969,497	\$1,786
Oregon	Yes	14,412	\$24,503,274	\$1,700
Iowa	Yes	8,841	\$14,879,123	\$1,683
Mississippi	Yes	12,808	\$20,872,478	\$1,630
Minnesota	Yes	15,829	\$24,190,179	\$1,528
Arizona	Yes	28,410	\$39,015,174	\$1,373
Louisiana	Yes	37,249	\$50,308,217	\$1,351
Nebraska	Yes	7,264	\$9,781,738	\$1,347
Missouri	Yes	31,191	\$40,168,363	\$1,288
Michigan	No*	57,667	\$74,037,130	\$1,284
Virginia	Yes	23,246	\$29,355,702	\$1,263
North Carolina	Yes	45,070	\$55,753,084	\$1,237
Washington	Yes	24,723	\$30,197,907	\$1,221
New York	Yes	124,891	\$152,227,575	\$1,219
Georgia	Yes	45,410	\$55,098,829	\$1,213
New Jersey	Yes	39,669	\$47,691,439	\$1,202
South Carolina	Yes	37,235	\$43,931,461	\$1,180
Pennsylvania	No*	53,140	\$62,556,699	\$1,177
Ohio	Yes	48,704	\$56,630,494	\$1,163
New Mexico	No	14,762	\$17,039,338	\$1,154
Tennessee	Yes	42,391	\$47,887,494	\$1,130
California	Yes	257,595	\$289,226,811	\$1,123
Florida	Yes	149,998	\$162,116,071	\$1,081
Oklahoma	Yes	18,559	\$19,666,035	\$1,060
Kentucky	No	12,384	\$13,086,173	\$1,057
Arkansas	No	13,294	\$13,864,398	\$1,043
Colorado	No	14,139	\$14,622,690	\$1,034
Nevada	No	13,394	\$13,833,703	\$1,033

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Table 6.4 (cont'd)

Low-Crime States Received More VOI/TIS Dollars per Violent Crime

<i>State</i>	<i>TIS</i>	<i>Violent Crimes</i>	<i>VOI/TIS Funding</i>	<i>\$\$\$ per Violent Crime</i>
Wisconsin	No	13,990	\$12,456,742	\$890
Illinois	Yes	102,472	\$72,792,695	\$710
Alabama	No	24,381	\$14,133,339	\$580
Indiana	No	30,176	\$16,240,698	\$538
Maryland	No	43,126	\$21,303,053	\$494
Massachusetts	No	39,412	\$19,326,206	\$490
Texas	No	117,120	\$45,160,312	\$386

* Michigan, Pennsylvania, and Utah received TIS funding, but never passed truth-in-sentencing laws. For purposes of this table, they are classified as non-TIS states.

Table 6.4 lists states from the highest number of dollars per violent crime to the lowest. For each state we depict the dollars received per violent crime (using total 1996-1999 VOI/TIS dollars, and 1997 numbers of violent crimes as reported to UCR Part 1). Dollars received per violent crime range from a low of \$386 for Texas to over \$14,450 per violent crime in Vermont. Low crime states, particularly those without TIS, show some of the highest dollars per crime received under VOI/TIS, suggesting that these states were able to obtain relatively large amounts of funding to combat violent crimes without passing TIS legislation.

7. HOW VOI/TIS FUNDS WERE SPENT

PROGRAM PURPOSES

The purpose of the VOI/TIS incentive grants is to provide states with funds to:

- Build or expand correctional facilities to increase the bed capacity for the confinement of persons convicted of a Part 1 violent crime or adjudicated delinquent for an act which, if committed by an adult, would be a Part 1 violent crime
- Build or expand temporary or permanent correctional facilities, including facilities on military bases, prison barges, and boot camps for the confinement for convicted nonviolent offenders and criminal aliens, for the purpose of freeing suitable existing prison space for the confinement of persons convicted of a Part 1 violent crime
- Build or expand jails⁶⁰

Thus, the VOI/TIS funds were to be used for "bricks and mortar" of prisons--not the costs associated with operation, except for the privatization of facilities to carry out the purposes of the program. The allowances for privatization were limited. For the purposes of VOI/TIS funding, privatization meant private sector management and operation of a correctional facility owned by the state, leasing of beds from a private entity, or the construction of a state correctional facility by a private entity for meeting VOI/TIS purposes (CPO 1997, Frequently Asked Questions, p. 27).

Construction expenses were defined by CPO to include "costs associated with the erection, renovation, repair, remodeling, or expansion of new or existing facilities, and the acquisition or installation of fixed furnishings and equipment. Included are facility planning, pre-architectural programming, architectural design,

⁶⁰ CPO 1999 Application Kit, p. 2.

preservation, construction administration, construction management, or project management costs. Construction does not include the purchase of land." (CPO FY99 Application Kit, p. 2).

Within these guidelines, states could decide to build the beds for juvenile or adults, pass through up to 15% of funds to local jails to increase capacity at the local level, or build beds for non-violent offenders as long as this opened up additional beds for violent offenders. Thus states had a fairly wide latitude in how they decided to spend their allocated dollars.

Given the great variety in sentencing structures and prison construction programs across the states, we would expect to see a great variety in how VOI/TIS funds were used. Furthermore, given the steep declines in violent crime and prison admission rates that began just before passage of the VOI/TIS law in 1994, and the provisions of the law that allow states to postpone spending their VOI/TIS funds for several years after they are received, we would expect to find many states delaying expenditure of their funds for as long as possible while they wait for their prison population trends to stabilize. The incentives for states to postpone spending were further increased by the Justice Department's practice of gradually removing restrictions on how the funds could be used.

Regardless of how their VOI/TIS funds were used, in most states we would expect to find only a small increase in overall capacity as a result of VOI/TIS spending, due to the funding available.

NUMBER OF BEDS BUILT WITH VOI/TIS FUNDS

One of our major research questions is: how many beds were added to state systems using VOI/TIS dollars? For this analysis, we relied on states' semi-annual progress reports to the CPO in which they detailed the numbers and types of beds constructed, as well as the total dollars spent by the reporting period.

Table 7.1 presents a summary of information gathered from the semi-annual progress reports submitted by the states to the CPO. Information

is current as of December 31, 1999, except where noted.⁶¹ In addition to beds built or under construction, we also present the total VOI/TIS dollars received FY96-99 (recall that states have up to four years, after the award year, to spend VOI/TIS dollars).

⁶¹ This is the most complete recent reporting period for which data are available.

Table 7.1
State Uses of VOI/TIS Funds Through December 31, 1999

State	Beds			Total	VOI/TIS Total\$
	Constructed	Under construction	Leased		
Alabama	200	95	373	668	\$14,133,339
Alaska	20	0	213	233	\$10,285,918
Arizona	1240	0	0	1240	\$39,015,174
Arkansas	0	332	0	332	\$13,864,398
California	175	1164	0	1339	\$289,226,811
Colorado	0	580	0	580	\$14,622,690
Connecticut	48	0	150	198	\$23,684,674
Delaware	600	1310	0	1910	\$15,028,809
DC	0	0	0	0	\$17,526,167
Florida	212	5730	0	5942	\$162,116,071
Georgia	576	755	0	1331	\$55,098,829
Hawaii	400	168	0	568	\$9,726,045
Idaho	0	0	0	0	\$7,819,153
Illinois	0	70	0	70	\$72,792,695
Indiana	0	0	0	0	\$16,240,698
Iowa	196	256	0	452	\$14,879,123
Kansas	400	17	0	417	\$18,969,497
Kentucky	0	80	0	80	\$13,086,173
Louisiana	200	310	0	510	\$50,308,217
Maine	0	0	0	0	\$8,346,287
Maryland	394	0	0	394	\$21,303,053
Massachusetts	0	0	0	0	\$19,326,206
Michigan	0	2060	301	2361	\$74,037,130
Minnesota	0	223	0	223	\$24,190,179
Mississippi	15	0	0	15	\$20,872,478
Missouri	3825	4280	0	8105	\$40,168,363
Montana	144	0	0	144	\$9,309,950
Nebraska	0	960	0	960	\$9,781,738
Nevada	320	0	0	320	\$13,833,703
New Hampshire	0	0	0	0	\$9,298,466
New Jersey	0	0	500	500	\$47,691,439
New Mexico	180	0	0	180	\$17,039,338
New York	3450	1500	0	4950	\$152,227,575
North Carolina	0	192	0	192	\$55,753,084
North Dakota	0	240	0	240	\$6,457,768
Ohio	22	1226	46	1294	\$56,630,494
Oklahoma	499	121	126	746	\$19,666,035
Oregon	0	50	0	0	\$24,503,274
Pennsylvania	0	296	0	296	\$62,556,699
Rhode Island	68	20	0	88	\$8,814,693
South Carolina	768	1164	0	1932	\$43,931,461
South Dakota	161	0	0	161	\$9,255,557
Tennessee	170	256	0	426	\$47,887,494

(continued on following page)

Table 7.1 (cont'd)
State Uses of VOI/TIS Funds Through December 31, 1999

State	Beds				VOI/TIS Total\$
	Constructed	Under construction	Leased	Total	
Texas	0	382	379	761	\$45,160,312
Utah	64	720	0	784	\$16,522,278
Vermont	0	161	0	161	\$10,188,774
Virginia	0	0	0	0	\$29,355,702
Washington	128	0	0	128	\$30,197,907
West Virginia	186	116	0	302	\$9,964,741
Wisconsin	659	314	0	973	\$12,456,742
Wyoming	0	96	0	96	\$8,218,670
Amer. Samoa	66	0	0	66	\$462,774
Guam	0	0	0	0	\$404,745
N. Marianas	12	0	0	12	\$393,768
Puerto Rico	0	0	0	0	\$16,117,824
Virgin Islands	64	0	0	64	\$812,860
TOTAL	15,462	25,244	2,088	42,794	\$1,847,257,987

Source: CPO semi-annual state reports. Hawaii and New Hampshire data are from June 2000, Texas data from June 1999, Wyoming data from June 1998.

By the end of 1999, over 15,000 beds had been constructed; more than 25,000 were under construction. The use of leased beds has been relatively small--just over 2000 beds had been leased with VOI/TIS funds. Eight states (Alabama, Alaska, Connecticut, Michigan, New Jersey, Ohio, Oklahoma, and Texas) reported using VOI/TIS funds for leasing beds.

Six states, plus the District of Columbia and two territories, reported building no beds by December 31, 1999. Semi-annual reports to CPO from these states indicate that all are in pre-construction planning phases. States that have not yet added beds are shown in Table 7.2, along with their plans for spending VOI/TIS funds to increase capacity.

Table 7.2

States That Had Not Used VOI/TIS Funds to Increase Capacity before
December 31, 1999

<i>State</i>	<i>Plans for VOI/TIS-funded Increased Capacity</i>
Idaho	Remodel and add to the Boise Women's Community Work Center.
Indiana	Construct a 125-bed facility for juvenile females, with 25 beds dedicated to special needs.
Maine	Construct a facility for violent and chronic juvenile offenders, to relieve overcrowding at the Maine Youth Center
Massachusetts	Construct an additional 234 prison beds, as well as 40 juvenile beds. Counties also plan to use VOI/TIS funds to expand jail capacity by approximately 750 beds, 300 of which are to be leased.
New Hampshire	Build or expand correctional facilities for violent juvenile offenders.
Virginia	Construct a new medium security prison, plus renovate or reconstruct St. Brides Correctional Center for juvenile offenders.
District of Columbia	Currently in the demolition stage in preparation for building a new juvenile detention center in Washington, D.C.
Guam	Convert a 22-bed medium facility to a 22-bed maximum facility.
Puerto Rico	Construct two 120-bed Special Control Units for maximum security inmates.

TIS, SENTENCING STRUCTURE, CRIME RATE, AND INCARCERATION RATE

As we have seen above, some states received a great deal of VOI/TIS funding, while others got only a minimum amount. This is partly accounted for by the fact that all states were eligible for VOI grants, but many states chose not to enact truth-in-sentencing laws and hence were ineligible for the TIS part of VOI/TIS funding.⁶² It is also clear from Table 7.1 that the states that received the most funding were not necessarily those that added the most capacity, either in terms of total beds or in percentage increase. Other states, such as Delaware, received relatively modest funding under VOI/TIS, yet undertook a massive expansion of prison capacity.

⁶² Michigan, Pennsylvania, and Utah qualified for TIS funding under the "Utah exception."

This suggests a relationship between a state's "toughness" in its attitude toward crime and its willingness to undertake an expansion of prison capacity. We used several measures of "toughness"--whether a state had enacted truth-in-sentencing, whether it had determinate or indeterminate sentencing, and whether its index crime rate and incarceration rate were above the national average--to determine whether the state's attitude toward crime made it more likely to use VOI/TIS funding for increased bed capacity.

As Table 7.3 shows, no matter which of the four measures of "toughness" is used, the "tougher" states were much more likely to use VOI/TIS funds to add beds. In terms of raw numbers, the greatest difference was between states with higher than average incarceration rates and those with lower incarceration rates. The greatest difference in percentage of increase--calculated as total number of beds added, divided by existing capacity--was between TIS states and non-TIS states. States with structured sentencing increased capacity more than states with indeterminate sentencing, and states with higher than average index crime rates built more new beds than those with lower crime rates. The marked differences between means and medians in Table 7.3 indicate that the increases were primarily driven by relatively few states.

Table 7.3

Number of Beds Added, by State Crime and Incarceration Characteristics

<i>Type of State</i>	<i>Constructed</i>		<i>Under Construction</i>		<i>Leased</i>		<i>Percent Increase</i>
	<i>Mean</i>	<i>Median</i>	<i>Mean</i>	<i>Median</i>	<i>Mean</i>	<i>Median</i>	
TIS	450	96	784	248	40	0	5.2%
Non-TIS	124	10	150	50	44	0	2.3%
Structured	351	43	820	208	22	0	4.8%
Indeterminate	271	58	257	96	58	0	3.6%
High crime	415	190	809	224	58	0	4.4%
Low crime	206	0	225	50	27	0	4.0%
High incarceration	550	200	897	310	84	0	4.5%
Low incarceration	99	0	171	80	6	0	3.5%

NOTE: States were classified as having high crime if their 1996 index crime rate was above the national average. Similarly, high incarceration states had rates higher than the national average in 1996. The "Utah exception" states (Michigan, Pennsylvania, and Utah) are counted as TIS states in this table, since they received TIS funding.

CAPACITY INCREASE

The number of beds built varied greatly across states. Through the end of 1999, Missouri had constructed the greatest number of beds (3825) followed by New York (3450 beds) and Arizona (1240 beds). Despite receiving the largest amount of VOI/TIS dollars, California had built just 175 beds and had 1164 beds (437 juvenile and 727 adult) under construction. This is because California was allowed to use VOI/TIS funds for several unusual purposes. California's legislature declared "exigent circumstances"⁶³ and \$106 million were made available to the California Board of Corrections for distribution to local counties for local detention facility construction. An additional \$69 million were sent to the state's general fund for reimbursement for the costs of incarcerating undocumented aliens (SCAAP).

The median number of beds completed or under construction was approximately 300 per state--a small fraction of capacity. When we consider the total numbers of beds completed, under construction, and leased for each state, divided by the state's reported prison capacity in 1996, we find the VOI/TIS impact to be modest. In Table 7.4, we present the increase in each state's capacity, ranked from the largest to the smallest increase. In more than half of the states, the increase is less than 4%. The biggest increases are mostly in small or less populous states: Delaware and Nebraska showed increases above 40%. Missouri and North Dakota saw increases in the 25-30% range (Missouri built more than 3800 beds, while North Dakota's additional 240 beds comprise one-fourth of its overall capacity). Utah, Hawaii, Vermont, West Virginia, and Montana saw increases between 10% and 25%. Twelve

⁶³ The "exigent circumstances" is an exception to the 15% limitation for local jails to received VOI/TIS funds. If a State declares "exigent circumstances," requiring the State to expend funds to build or expand facilities in order to confine juvenile offenders other than juveniles adjudicated delinquent for an act which, if committed by an adult, would be a Part 1 violent crime, any amount of the State's total award may be used to build or expand local correctional facilities, including pretrial detention centers and boot camps, for such nonviolent juvenile offenders" (CPO, Frequently Asked Questions 1997, p. 24).

states increased their bed capacity by less than 1% through use of
VOI/TIS funding.

Table 7.4
Increase in Prison Capacity Funded by VOT/TIS

<u>State</u>	<u>Increase</u>
Delaware	45.4%
Nebraska	40.5%
Missouri	29.6%
North Dakota	25.2%
Utah	17.7%
Hawaii	16.7%
Vermont	13.4%
West Virginia	10.5%
Montana	10.3%
Alaska	9.0%
Wisconsin	8.9%
South Carolina	8.2%
Florida	8.1%
Wyoming	7.7%
New York	7.5%
Iowa	7.3%
South Dakota	6.3%
Michigan	5.2%
Colorado	5.2%
Arizona	5.1%
Kansas	4.7%
Nevada	4.6%
Minnesota	3.9%
Ohio	3.5%
Oklahoma	3.3%
New Mexico	3.2%
Arkansas	3.2%
Alabama	3.1%
Georgia	3.0%
New Jersey	2.9%
Louisiana	2.6%
Tennessee	2.5%
Rhode Island	2.4%
Maryland	1.7%
California	1.7%
Pennsylvania	1.2%
Washington	1.1%
North Carolina	0.7%
Kentucky	0.7%
Texas	0.5%
Illinois	0.2%
Mississippi	0.1%

NOTE: Idaho, Indiana, Maine, Massachusetts, New Hampshire, and Virginia did not increase capacity. A 1995 state law prohibits Connecticut from reporting prison capacity.

INDIVIDUAL STATE EXPERIENCES

Our case study states provide a more detailed picture of the types of activities engaged in by the states using VOI/TIS funds.⁶⁴ At the time of their initial FY 1996 applications, states provided CPO with descriptions of the planned use of VOI/TIS funds. Some of the initial descriptions were very specific, others very general. At the time of the initial applications, states did not know the amount of money they would receive. During subsequent years, particularly in light of less than anticipated funding by Congress, states revised their plans. We present below state plans and activities as of the end of 1999.

From the beginning, Texas targeted its VOI/TIS funds for juveniles. Texas' current plans are to use VOI/TIS funds to pay for contracting private beds, constructing an additional 30 beds for an administrative segregation unit at a State School, and building a 352-bed high restriction juvenile facility with a support and infrastructure for an eventual 660 beds. By mid 1999, 379 beds had been leased from private vendors, construction had just begun on the segregation unit, and the juvenile facility was about 60% complete.

Virginia had originally proposed building over 1200 high security and 1000 medium security beds, with a pass-through of up to 15% for local agencies. Virginia currently has allocated its VOI/TIS funds to several specific projects, including a medium security prison, post-incarceration treatment, and replacement construction of an existing facility, as well as a \$12 million pass through to the Department of Juvenile Justice for Special projects identified by the General Assembly. By the end of 1999, no beds had been leased or completed with VOI/TIS funds, although planning for the construction project was underway.

Originally Minnesota's plan was very general, suggesting several funding options. Current Minnesota plans include the building of a 160-bed administrative segregation unit, an expansion of 63 beds at an adult

⁶⁴ Semi-annual reports generally discussed whether VOI/TIS funds had been *allocated*, but did not provide consistent data on funds actually spent. Thus we could not determine the percentage of a state's VOI/TIS award that had actually been spent.

correctional center, and an expansion of 60 beds to a facility that houses the most dangerous and violent male offenders in the Minnesota prison system. At the end of 1999, the beds at the 160-bed facility and adult correctional center were under construction; however, no beds had been completed. The expansion of beds for dangerous offenders was still in the design phase.

New York originally proposed a capacity expansion plan that they are following. Its VOI/TIS funds are being used for the expansion of 12 facilities and construction of 2 new facilities. Approximately half of these projects were partially funded with VOI/TIS funding. By the end of 1999, all expansion projects had been completed; the new construction projects were between 60% and 99% complete.

North Carolina originally submitted a specific plan to build beds, with an emphasis on adult female felons. Today's plans include the building of a 192-cell Death Row housing/diagnostic center, a 208-bed close and maximum custody facility for women, design and construction of a 168-cell housing and support administrative expansion, and the design of three 1000-cell close security units. By the end of 1999, 192 beds were under construction, although no beds had been completed.

Oregon's original plans were to allocate 15% of funds to the Oregon State Police Criminal Justice Division, and 85% to the Department of Corrections and Youth Services. Today Oregon has targeted VOI/TIS funds for 18 separate projects in counties throughout the state, as well as the Oregon Youth Authority and Department of Corrections. Projects include a women's prison and male/female intake center, a 50-bed youth accountability camp, and construction of numerous juvenile detention facilities across the state. The vast majority of programs remained in the planning stages as of the end of 1999; 50 beds were under construction.

As indicated earlier, California primarily used VOI/TIS funds for local facility construction and reimbursement to the state's general fund for the incarceration of undocumented aliens under "exigent circumstances." In addition, the California Youth Authority planned to construct a 50-bed intensive treatment project for juvenile offenders.

At the end of 1999, the state had built 175 beds and had 1164 beds under construction.

8. PERCEPTIONS OF TIS AND OTHER "GET TOUGH" LEGISLATION BY SYSTEM ACTORS

Although the ultimate measures of success of TIS legislation and VO/TIS incentive grant funds may be increases in beds for violent offenders and in percent of sentences served, we would not understand its fuller impact without examining how key system actors--prosecutors, judges and state correctional administrators--are affected. These individuals are responsible for implementing the harsher sentencing practices. How their workloads are affected, how they adapt to the changes, and how they perceive the overall effectiveness will help inform other states considering the adoption of similar practices.

In this chapter, we present analyses of surveys conducted by our partner organizations, the American Correctional Association (ACA), the American Prosecutors Research Institute (APRI), and the Justice Management Institute (JMI) of state correctional administrators, prosecutors, and judges, respectively. These surveys are described in Chapter 3 (copies may be found in Appendices A, B, and C).

For prosecutors and judges, we broadened our questions beyond TIS to include perceptions and experiences with other types of "get tough" legislation. This is because these actors often deal with a variety of enhanced sentencing practices, only one of which is TIS. In addition, not all states have passed TIS laws. By including general perceptions of "get tough" legislation for all states, we can provide a national picture as well as differences between TIS and non-TIS jurisdictions. For our survey of state correctional administrators, our questions center on VOI/TIS alone (all states received VOI funds).

Analyses in this chapter represent attitudes and perceptions. Contrasted with analyses to be presented in the next chapter, our findings in this chapter are more subjective and confined to the time periods in which the surveys were administered (1998 and 1999).

IMPACT ON CASE PROSECUTING

The impact of TIS laws (as well as other "get-tough" sentencing) is felt in all facets of the justice system. Some changes, such as three-

strikes laws, place a great deal of power in the hands of prosecutors. The type of charge filed can determine whether or not an offender "picks up" an additional strike and is subsequently sentenced to long periods of incarceration. TIS laws may increase trial rates, as offenders refuse to plea bargain for certain, long sentences. These laws may also increase the workload of prosecutors who must make certain investigations support the charges. We first examine the impact of TIS and other "get-tough" legislation on how prosecutors do their work.

Extent of "Get Tough" Legislation

Of the 43 states responding to the APRI survey of prosecutors, all but 4 had passed some form of "get tough" legislation. Thirty-four states (79%) reported having enacted some form of "Truth-in-Sentencing" law.⁶⁵ Table 8.1 shows the prevalence in the surveyed states of other "get tough" measures: three-strikes laws, youth waivers to adult courts, mandatory minimums sentences, and increased time served for crimes involving a firearm. More than half of the states reported having passed a three-strikes law; almost three-quarters have passed youth waivers to adult court and mandatory minimum sentences for certain crimes. Overall, the prosecutors are operating in environments with multiple "get tough" laws. More than a quarter of the responding states report three such laws; more than half have four or more.

Table 8.1
"Get Tough" Legislation, Prosecutor Sample

<u>Number of states with</u>	
TIS	34 (79.1%)
3-strikes	23 (53.5%)
Youth waivers	31 (72.1%)
Mandatory minimum	33 (76.7%)
Firearm	14 (32.6%)

⁶⁵ Not all "truth-in-sentencing" laws meet the requirement that offenders serve at least 85% of their sentence. Analyses in this chapter will define TIS states as those that received TIS funding.

Achievement of Specific Sentencing Objectives

In the following analyses we present responses for TIS states, non-TIS states, and Texas separately.⁶⁶ As Table 8.2 shows, respondents from non-TIS states were significantly more likely to feel that "get tough" legislation would achieve its intended goals of longer sentences, reduction of early releases, and deterrence of violent crime than TIS jurisdictions.

Table 8.2

Perceptions of How Likely Get-Tough Achieve Goals, Prosecutor Survey

Item	TIS	Non-TIS	Texas
Ensure lengthy incarceration	3.7	4.4*	5.0
Provide certainty offenders will serve significant portion of sentence	4.3	4.9*	4.9
Deter others from committing violent offenses	3.1	3.9*	3.9

* $p < .05$ ⁶⁷ (1=very unlikely; 5=very likely)

When asked about the effects of "get tough" legislation on budgets, caseloads, and resources, respondents generally indicated that such laws caused slight increases in resource use, as detailed in Table 8.3. In two instances--demands placed on budgets and caseload size--TIS states indicated more increases as a result of "get tough" legislation than did states without TIS. Texas reported the most increases in caseload processing time and resources needed for trial preparation.

Table 8.3

Effects on Budget and Resources, Prosecutor Survey

Item	TIS	Non-TIS	Texas
Place demands on budget	3.4	3.1*	3.0
Caseload size	3.3	2.8*	3.0
Caseload processing time	3.4	3.3	3.9
Resources needed for case screening/charging	3.3	3.5	3.0
Resources needed for trial preparation	3.5	3.5	3.9

* $p < .05$ ⁶⁸ (1=substantially decreased; 5=substantially increased)

⁶⁶ As we indicated in Chapter 3, we separate out Texas since its effect--particularly for quantitative measures of crime and sentences--swamps the effects of other non-TIS states.

⁶⁷ Texas was not included in significance testing, which applies only to TIS states vs. non-TIS states.

Most respondents felt that "get tough" legislation has impacted virtually every aspect of the prosecutorial process (Table 8.4). For both TIS and non-TIS jurisdictions, "get tough" legislation has increased

- cooperation between the prosecutor's office and law enforcement
- violent crime arrests in the jurisdiction
- number of plea bargains (but not number of dismissals)
- number of juveniles waived to adult court
- number of cases appealed
- offenses prosecuted as violent crimes
- prosecutorial discretion in the office
- victim participation and satisfaction with the justice process
- scrutiny given the charges decisions

Table 8.4
Effects on the Prosecution Process, Prosecutor Survey

Item	TIS	Non-TIS	Texas
Number of violent crime cases your office takes to trial	3.4	2.6*	4.0
Cooperation between your office and law enforcement	3.2	3.8*	3.0
Violent crime arrests in your jurisdiction	3.1	3.1	3.0
Number of plea bargains	3.0	4.0*	2.2
Number of trials	3.5	2.6*	4.0
Number of dismissals	3.0	3.0	3.8
Number of juveniles waived to adult court	3.5	3.5	3.0
Number of cases appealed	3.3	3.7	3.1
Offenses to be prosecuted as violent crimes	3.2	3.4	2.1
Prosecutorial discretion in your office	3.0	3.6*	3.9
Victim participation in the justice process	3.4	3.4	3.0
Victim satisfaction with the justice process	3.7	4.0	4.0
Scrutiny given to charging decisions	3.5	4.0*	3.9

* $p < .05$ ⁶⁹ (1=substantially decreased; 5=substantially increased)

⁶⁸ Texas was not included in significance testing, which applies only to TIS states vs. non-TIS states.

⁶⁹ Texas was not included in significance testing, which applies only to TIS states vs. non-TIS states.

A number of interesting differences emerge between TIS and non-TIS jurisdictions. TIS jurisdictions reported increases in the number of violent crime cases the office takes to trial, contrasted with a decrease for non-TIS states; the number of trials has increased in TIS states, while decreasing in non-TIS states; prosecutorial discretion, victim satisfaction with the justice process, and scrutiny given to charging decisions have increased more for non-TIS than TIS jurisdictions as a result of "get tough" legislation.

Texas stands apart from the other jurisdictions in a number of instances. Prosecutors in Texas reported no changes in cooperation with law enforcement, victim participation in the justice process, or number of juveniles waived to adult court. They reported decreases in the number of offenses prosecuted as violent crimes, but at the same time experienced increases in number of violent cases offices take to trial as well as trials generally. More so than TIS or non-TIS jurisdictions, Texas prosecutors felt that "get tough" legislation has increased prosecutorial discretion.

In terms of effects on sentencing and corrections, non-TIS jurisdictions felt that "get tough" laws have increased sentence lengths and actual prison time served. Their TIS counterparts agreed, but less strongly. Non-TIS respondents also agreed that "get tough" legislation would increase the use of non-prison sentences, as well as the proportion of violent offenders sentenced to probation. TIS respondents believed that the proportion of violent offenders given probation has decreased. In Texas, prosecutors appear to be using probation sentences more frequently for violent offenders; however, when violent offenders are incarcerated, their time is substantially increased. These results are shown in Table 8.5.

Table 8.5

Effects on Sentencing and Corrections, Prosecutor Survey

Item	TIS	Non-TIS	Texas
Length of sentence imposed by the court on violent offenders	3.5	4.5*	3.1
Use of sentencing alternatives to prison	3.1	3.5*	3.0
Proportion of probation sentences received by violent offenders	2.7	3.1	3.9
Actual prison time served by violent offenders	4.0	4.6*	5.0

* $p < .05$ ⁷⁰ (1=substantially decreased; 5=substantially increased)

In summary, our survey reveals that the majority of prosecutors surveyed are working in sentencing environments characterized by recent "get tough" sentencing policies. Overall, prosecutors felt such laws will help achieve "get tough" goals of imposing lengthy incarceration, insuring that offenders serve significant portions of their sentence, and deterring others from committing crime. An unexpected finding is that non-TIS jurisdictions felt more certain that the "get tough" policies in their jurisdictions (that do not include TIS) will achieve these goals. It is not clear, however, why this is the case.

"Get tough" legislation has placed new demands on office resources and budgets. It has increased a number of activities that one would expect to increase with tougher laws--trials (for TIS states), juveniles waived to adult court, cases appealed, and offenses prosecuted as violent crimes. In addition, however, "get tough" legislation has worked to improve linkages with other actors in the system. Cooperation between law enforcement and prosecutors' offices, and perceptions of increased victim satisfaction with and participation in the justice system, have occurred for TIS and non-TIS states, but not in Texas.

EFFECTS ON ATTITUDES OF JUDGES

We turn next to the survey of judges. As mentioned in Chapter 3, this survey uses the same sampling frame as the prosecutor survey; thus the same jurisdictions were sampled. Similar to the prosecutor survey, this survey focused on impressions of the "get tough" measures in their

⁷⁰ Texas was not included in significance testing, which applies only to TIS states vs. non-TIS states.

states, including truth-in-sentencing (TIS), sentence enhancements for violent offenders (VOI), three-strikes, and mandatory minimum sentences. Unlike prosecutors, who have seen increased discretion with "get tough" measures, such measures often reduce the discretion of the judges and might be perceived in a negative light.

Judges were asked for their opinions on several forms of "get tough" legislation. Similar to prosecutors, judges felt that "get tough" legislation had significant effects in their states. As Table 8.6 shows, judges in TIS states, non-TIS states, and Texas felt that "get tough" measures insure longer sentences for repeat violent offenders and that offenders serve a larger portion of their sentence. Judges were less convinced, however, that "get tough" approaches effectively deter violent criminals, and only Texas judges reported an increase in alternatives to incarceration.

Table 8.6
Effects of "Get Tough" Legislation

	TIS	Non-TIS	Texas
Ensure Lengthy Incarceration for Repeat Violent Offenders	4.7	4.3	4.5
Provide Certainty that Offenders Will Serve a Significant Portion of Imposed Sentence	4.9	4.6	4.5
Deter Others From Committing Violent Offenses	3.0	2.8	2.0
Increase Use of Community Corrections and Other Alternatives to Incarceration	2.8	2.8	3.5

*p < .05⁷¹ (1=very likely; 5=very likely)

As Table 8.7 indicates, most judges believed that "get tough" measures have had rather substantial effects on the processing of court cases. The most significant changes were a reduction in judicial discretion in sentencing, and an increase in juvenile cases waived to adult court. Responses from judges in TIS and non-TIS states were not substantially different for most of these questions. As with other

⁷¹ Texas was not included in significance testing, which applies only to TIS states vs. non-TIS states.

survey questions, Texas judges reported more impact on case processing than their counterparts in other states.

Table 8.7
Impacts of "Get Tough" Legislation

	TIS	Non-TIS	Texas
Caseloads	3.6	3.6	4.0
Case Processing Time	3.9	3.9	4.0
Proportion of Cases Going to Jury Trial	3.6	3.3	4.0
Number of Plea Bargains	3.0	3.4	3.9
Number of Dismissals	2.8	3.1	3.5
Your Discretion in Sentencing	1.7	2.5*	2.0
Length of Sentences Imposed for Violent Offenses	4.0	4.1	4.0
Number of Juvenile Cases Waived to Adult Court	3.8	4.3*	4.4
Use of Community Corrections or Other Alternatives to Incarceration	3.0	2.6	4.0
Actual Prison Time Served by Violent Offenders	4.2	4.2	4.0
Victim Participation in the Judicial Process	3.5	3.7	4.0
Victim Satisfaction with the Judicial Process	3.5	3.6	4.0
Number of Offenses Prosecuted as Violent Crimes	3.5	3.7	4.0

* $p < .05$ ⁷² (1=substantially decreased; 5=substantially increased)

When we compare the overall patterns of responses of judges and prosecutors, we see some interesting parallels, as well as some marked differences. Both groups agree that "get tough" legislation has impacted their work--in terms of caseloads and processing time, numbers of plea bargains, and waivers to adult court. They also agree that such measures will achieve the goals of longer sentences and time served and feel that such measures have worked to the benefit of victim. They do, however, show marked differences in the perceptions of the impact on their own discretion. Judges, particularly those in TIS jurisdictions, feel that "get tough" legislation has reduced their discretion in

⁷² Texas was not included in significance testing, which applies only to TIS states vs. non-TIS states.

sentencing, whereas prosecutors feel it has enhanced theirs. However, according to the survey responses, few responding judges had any input into "get tough" legislation; the majority of judicial councils or associations took no position with respect to the enactment of such policies.

IMPACT ON PRISON OPERATIONS

Our survey of state correctional administrators requested information on the effects of VOI/TIS on prison and jail admissions, characteristics of the prison population, effects on prison inmate activities and programs, prison staffing, and operations⁷³ since 1996, when VOI/TIS funds became available.⁷⁴ Although, as we discuss in more detail in the next chapter, we do not expect to see major changes in the first few years of the program, we may see evidence of early trends in the data. As we saw in Chapter 5, TIS legislation often entailed the reduced use of parole and time credits in order to qualify for the 85% TIS requirement. We might see early effects of these changes. The changes we might expect to see include increases in offender misconduct and offender assaults as time credit incentives are constrained (see Memory et al. 1999, for an example of this occurring in North Carolina).⁷⁵ As more violent offenders are housed for longer periods of time, we would also expect to see prison crowding increase, and the use of higher levels of security to house the violent offenders. And given the higher security level of inmates, we might also expect to see additional staff training and education to deal with increases in violent offenders.

TIS states, non-TIS states, and Texas all reported increases in prison populations since 1996, as shown in Table 8.8. Texas reported significant increases in virtually every category of inmates. The only

⁷³ The survey also included questions on the use of VOI/TIS funds and sentences. These data are not discussed in this chapter. These topics are covered in other chapters in the report.

⁷⁴ States were asked to rate increases/decreases since 1996, and to attribute the percent of the change attributable to VOI/TIS. Unfortunately, due to missing data, we were unable to use the latter.

⁷⁵ We are exploring the impact of VOI/TIS on prison management more fully under another NIJ-funded grant.

significant difference between TIS and non-TIS states occurred in the number of juveniles tried as adults, with TIS states experiencing a steeper increase.

Table 8.8
Changes in Prison Population Since 1996

	TIS	non-TIS	Texas
Violent offenders	3.5	3.2	4.0
Property offenders	4.0	3.7	4.0
Drug offenders	3.4	3.4	5.0
Other offenders	3.6	3.6	5.0
Adults	3.6	3.4	5.0
Juveniles sentenced as adults	4.1	3.6*	3.0
Juveniles	3.6	3.3	3.0
Males	3.3	3.5	5.0
Females	3.9	3.8	5.0
Offenders 50+	3.8	3.6	5.0
Offenders with drug/alcohol needs	4.0	3.5	3.0
Offenders with physical health problems	3.4	3.7	5.0
Offenders with mental health problems	3.5	3.2	5.0

* $p < .05$ ⁷⁶ (1=substantially decreased; 5=substantially increased)

Many inmate activities and programs have also increased since 1996, though the increases are, for the most part, relatively small. TIS states had significantly more inmates housed in secure units than non-TIS states, while Texas saw large increases in inmate gang activity, infractions, and assaults on staff, as well as in inmates housed in secure units. Details of changes in inmate activities and programs are given in Table 8.9.

⁷⁶ Texas was not included in significance testing, which applies only to TIS states vs. non-TIS states.

Table 8.9
Changes in Prison Inmate Activities and Programs Since 1996

	TIS	non-TIS	Texas
Inmates who work regularly	3.6	3.4	3.0
Inmates being educated regularly	3.4	3.3	3.0
Inmates with outside recreation	3.3	3.1	3.0
Inmates with visitation privileges	3.2	3.0	3.0
Inmate drug treatment programs	3.9	3.6	4.0
Inmate drug testing	3.9	3.8	3.0
Inmates who test positive for drugs	3.3	2.8	3.0
Inmate gang activity	3.4	3.4	5.0
Inmate appeals	3.2	3.2	3.0
Inmates housed in secure units	3.8	3.2*	5.0
Inmates double-bunked	3.4	3.4	3.0
Inmates triple bunked	3.2	3.1	3.0
Inmate infractions	3.4	3.3	5.0
Inmate assaults on staff	3.1	3.2	5.0

* $p < .05^{77}$ (1=substantially decreased; 5=substantially increased)

With the increase in inmates has come a corresponding need for more staff, as illustrated in Table 8.10. At the same time, staff training has increased very slightly if at all, and Texas admitted that staff qualifications have actually decreased since 1996.

Table 8.10
Changes in Prison Staffing Since 1996

	TIS	non-TIS	Texas
Number of staff	3.9	3.7	5.0
Male staff	3.8	3.5	5.0
Female staff	3.9	3.5	5.0
Staff qualifications	3.1	3.2	2.0
Hours worked by staff	3.1	3.4	3.0
Hours of training	3.2	3.4	--
Security training	3.2	3.2	--
Physical training	3.2	3.2	--
Other training	3.2	3.1	--

NOTE: (1=substantially decreased; 5=substantially increased)

Texas claims no changes in prison operation since 1996, and other states report relatively small changes, as well, as shown in Table 8.11.

⁷⁷ Texas was not included in significance testing, which applies only to TIS states vs. non-TIS states.

The use of good time/gain time has declined in both TIS and non-TIS states, as has use of parole in TIS states only.

Table 8.11
Changes in Operations Since 1996

	TIS	non-TIS	Texas
Use of good time/gain time	2.3	2.7	3.0
Use of parole	2.5	3.1*	3.0
Post release supervision (other than parole)	3.2	3.5	3.0
Inmate classification	3.3	3.1	3.0
For risk	3.3	3.2	3.0
For programming needs	3.2	3.2	3.0
For prison management	3.3	3.3	3.0

* $p < .05$ ⁷⁸ (1=substantially decreased; 5=substantially increased)

Our analyses show that in the last few years, prisons have seen increases in all types of offenders, not just violent offenders. Although positive prison activities (such as inmate work, education, and recreation) have been increasing, so have negative behaviors such as gang activity, infractions, and assaults on staff. Housing has been affected with more offenders in double- and triple-bunking and more offenders housed in secure units. Prison staffing has increased to meet this, but training and staff qualifications remain about the same over the past few years. The use of gain/good time is already declining, as is parole in TIS states (although other forms of post-release supervision have increased). It is not possible for us to determine what percent of these changes are due to TIS legislation itself; however, we see many similar changes in both TIS and non-TIS states, suggesting these some of the changes are the result of laws and policies in place other than TIS.

⁷⁸ Texas was not included in significance testing, which applies only to TIS states vs. non-TIS states.

**9. VOI/TIS IMPACT ON CRIME RATES, INCARCERATION, SENTENCES IMPOSED,
TIME SERVED, AND CORRECTIONAL BUDGETS**

This last section presents our findings on a number of areas in which VOI/TIS is expected to have an impact. We examine the potential impact of VOI/TIS funding on crime rates, incarceration (including incarceration rates and prison admissions), time served, and correctional budgets. For many of our analyses, we compare states that received TIS funds with those that did not in order to document the experiences to date of such practices. However, estimating the impact of TIS legislation poses challenges because of many factors other than sentencing policies--such as increases in community policing, the stabilization of the drug trade, and weapon seizures (Sabol and Lynch 1999). The full impact of truth-in-sentencing legislation will only be understood after offenders have served the prison terms they would have served prior to the new laws' application.

Increasing sentence severity for serious and violent offenders has been a politically popular policy reform throughout the early 1990s, whether through mandatory minimum sentences, truth-in-sentencing, toughening up on parole criteria, or waiver of juveniles to adult court. However, we might expect those states that passed TIS laws to show faster rates of growth in their incarceration rates and prison populations because of several reasons. First, passage of TIS laws usually requires substantial increases in the time to be served by violent offenders. Additionally, TIS represents one of the more widely adopted sentencing reforms of the decade, and is thus a good indicator of those states that are serious about getting tough on violent offenders.

The one factor that could mitigate against TIS states showing greater increases in severity, in comparison to other states, is the fact that those adopting TIS are more likely to be large high crime states, where the additional cost consequences might be more troublesome.

The impact of VOI/TIS on crime rates could come about through either deterrence or incapacitation. Keeping chronic violent offenders out of circulation for longer periods of time will result in some degree of incapacitation effect. Whether those effects will be apparent in the first few years after implementation of VOI/TIS is somewhat problematic, since many of these offenders will not yet have reached that point in their term where the TIS enhancement takes effect. On the other hand, whatever deterrent effect is generated by discussion and announcement of new TIS laws will be felt immediately, and should be visible now.

IMPACTS ON CRIME RATES

Although the major focus of VOI/TIS incentive grants was to build more beds, a major assumption behind the effort is that by keeping violent offenders housed longer, crime will be reduced. In fact, in criticizing the Administration's effort to discontinue the program, one of the VOI/TIS program supporters, Senator Hatch, stated, "...This program has, by any measure, been a tremendous success, providing critical seed money to states for bricks and mortar prison construction and thus making our streets safer." (Corrections Journal 2/8/99, p. 6)

At the present time, however, we might not expect to see major decreases in crime rates as a result of VOI/TIS for several reasons. As indicated earlier, the incapacitation effects of tougher TIS laws will not be felt during the first few years of implementation because offenders have not reached the point in their terms where the TIS enhancement takes effect. In addition, by the end of 1999, most states had not constructed large numbers of new beds in which they could house additional violent offenders. However, we can examine the early implementation years for any beginning trends associated with VOI/TIS.

Our analyses in this chapter focus on national trends and trends for states receiving TIS funds and those not receiving TIS funds.⁷⁹ As moderating factors, we examine the patterns for structured versus indeterminate states (refer to Chapter 3 for how states were

⁷⁹ Because available data go through 1997, we classify as TIS states those that passed laws and received funding prior to 1996.

categorized). Texas is included as a separate category because it often swamps the effects of other states.⁸⁰

CRIME RATES

Nationally, index crime (murder, forcible rape, robbery, aggravated assault, burglary, larceny-theft, motor vehicle theft and arson) rates had been rising over three decades before declining slightly in the three years before the passage of the 1994 Crime Act (Figure 9.1), and have been falling slowly since then. Rates for non-TIS states have been consistently lower than rates for TIS states. Texas crime rates were much higher than the national average.

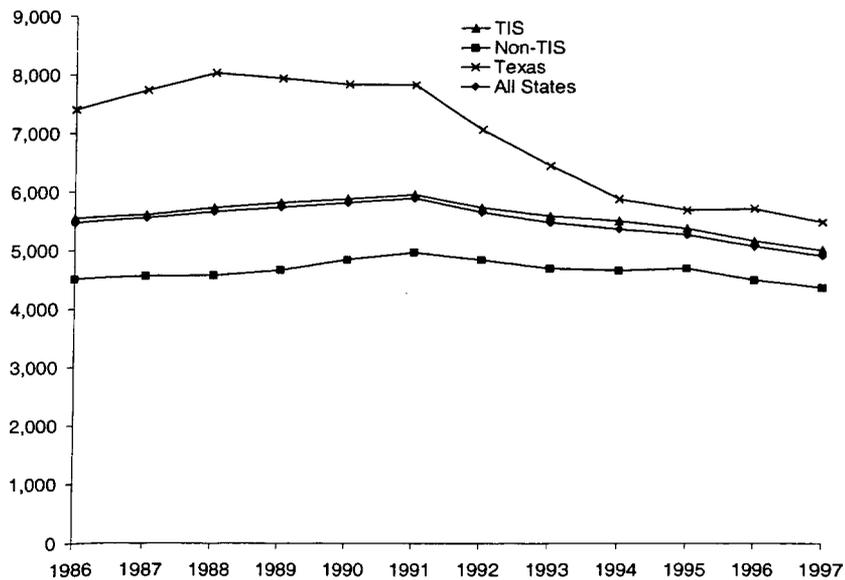


Fig. 9.1 - Index Crime Rates, TIS, non-TIS States, and Texas

Until 1994, TIS states had the highest index crime rates, regardless of whether they had structured or indeterminate sentencing. Since 1994, however, structured states have shown the highest index

⁸⁰ Texas has the toughest criminal justice system in the country: it has the highest incarceration rate in the U.S. and the third largest per capita adult parole and probation population, and it executes more offenders than any other state (BJS, 1997, 1998).

crime rates, with non-TIS structured states showing higher rates than TIS indeterminate states, as shown in Figure 9.2.⁸¹

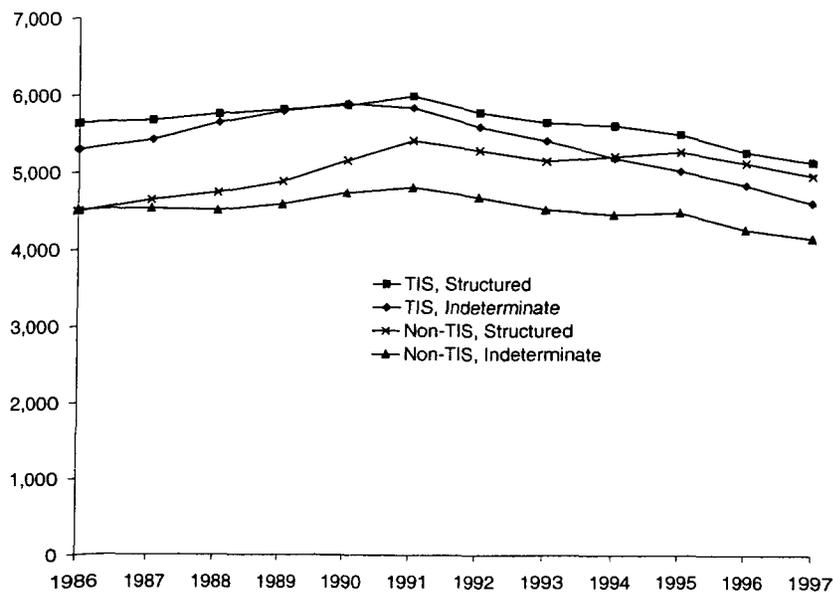


Fig. 9.2 - Index Crime Rates, by TIS and Structured Sentencing

When we decompose the types of crime contained in the Index Crime rate into violent and property, a quite different picture (Figures 9.3 and 9.4) emerges.

⁸¹ We exclude Texas in graphs that depict structured and indeterminate results.

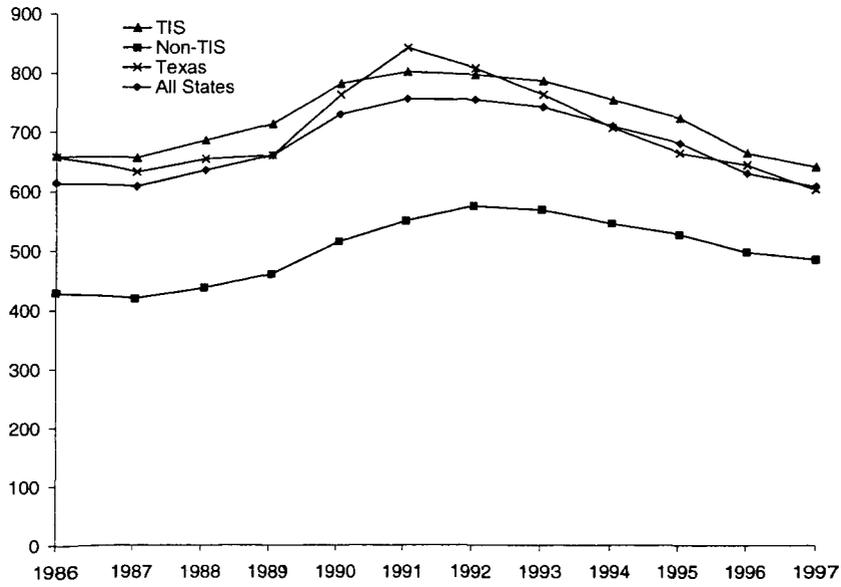


Fig. 9.3 - Violent Crime Rates, TIS States, non-TIS States, and Texas

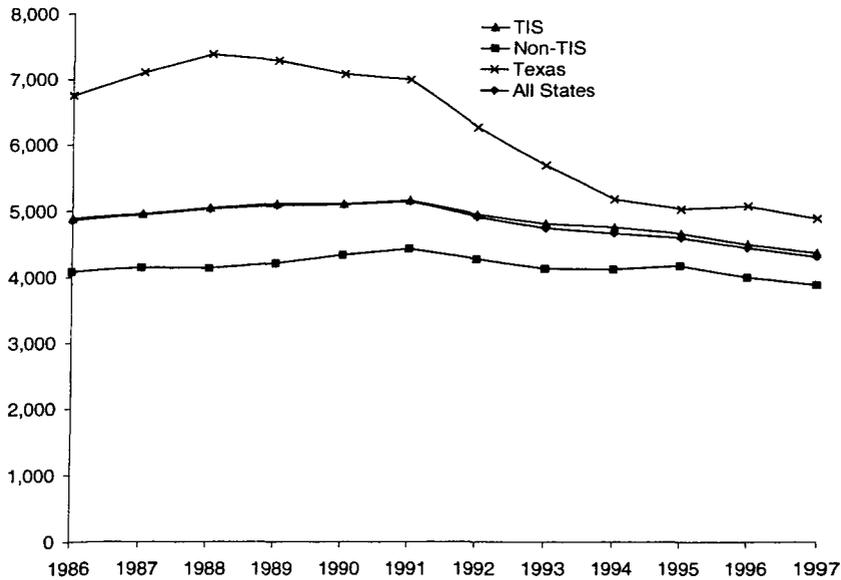


Fig. 9.4 - Property Crime Rates, TIS States, non-TIS States, and Texas

Nationally, the violent crime rate had been increasing for decades until shortly before the Crime Act was passed. In 1986, the violent

crime rate was 615 crimes per 100,000 persons. By 1991, the rate had increased to 754. What Congress and the public did not know at the time, was that violent crime would shortly take a downward turn--a trend that has continued since 1991. For violent crime, as for the index crime measure, TIS states show higher levels than states without TIS.

Unlike violent crime, the historical pattern for property crimes has stayed relatively flat, with small decreases overall since the early 1990s. Non-TIS states show lower property crime rates than TIS states; Texas has experienced a dramatic reduction in the rate of property crimes, a pattern unlike the national average.

When we examine the relationship between sentencing structure and type of crime, we again see that the lowest rates of violent as well as property crime are for non-TIS states with indeterminate sentencing structures, as shown in figures 9.5 and 9.6, respectively.

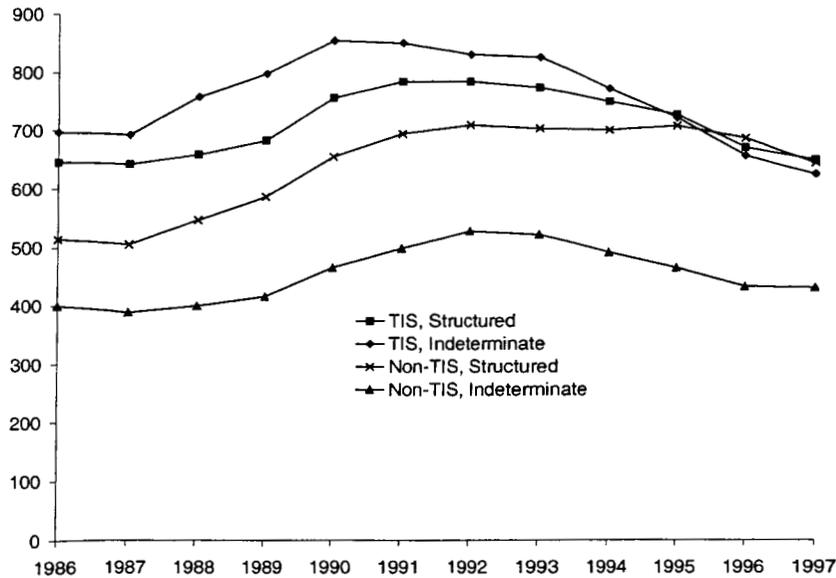


Fig. 9.5 - Violent Crime Rates, by TIS and Structured Sentencing

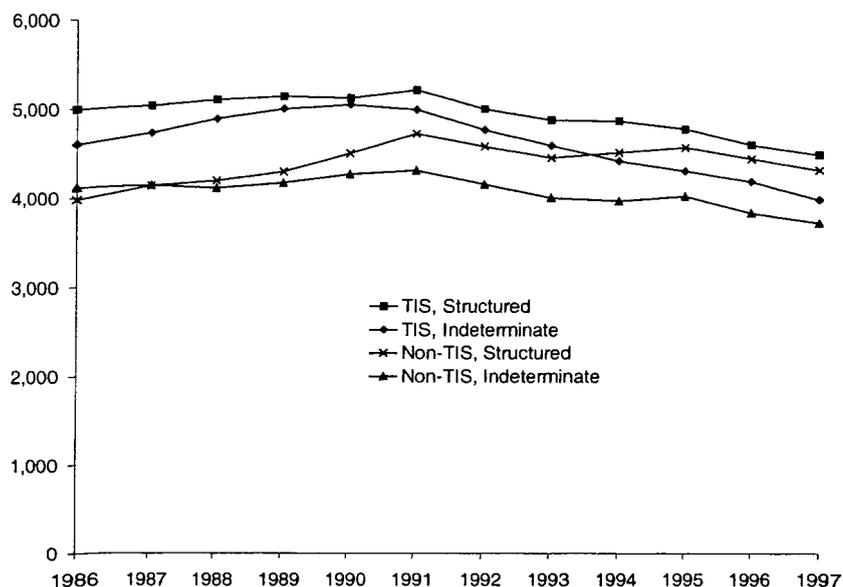


Fig. 9.6 - Property Crime Rates, by TIS and Structured Sentencing

Available crime data only allow us to examine the impact of TIS within the first two or three years after many states' implementation. If an early deterrent effect were to be observed, one would see a sharp break in TIS states after about 1993, particularly for violent crimes. Instead the lowest rates are for those states without TIS legislation. The slope for both groups appears to be about the same (see Figure 9.3), suggesting no major impact on crime rates, at least in the early years. The impact of these findings is moderated to some extent by the nature of the state's sentencing structure--indeterminate non-TIS states show lower violent crime rates than structured sentencing states. This finding is partially due to the fact that states with structured sentencing generally have higher crime rates (the correlation between state sentencing structure and crime rate is .28, $p < .051$).

IMPACT ON INCARCERATION RATES

At the same time violent crime rates began to decrease in the early and mid-90s, incarceration rates began to increase sharply, as shown in

Figure 9.7 below.⁸² Incarceration rates in mid-1986 were generally less than 400 per 1000 violent crimes; by 1996, they were almost 600 per 1000 violent crimes. The increase is most evident for Texas, as this state began the "largest prison expansion in the history of the Western democracies" (Criminal Justice Policy Council 1997, p. 2) in the early 1990s.

TIS legislation was not specifically aimed at increasing incarceration rates, but rather at increasing the percent of sentence served. Thus we would not necessarily expect to see any differences between TIS and non-TIS states unless TIS states also instituted additional "get tough" measures that increased rates of incarceration. In fact, the national average, TIS, and non-TIS lines appear fairly similar in their overall incarceration trends during this time period, although TIS rates are slightly lower than non-TIS state rates.

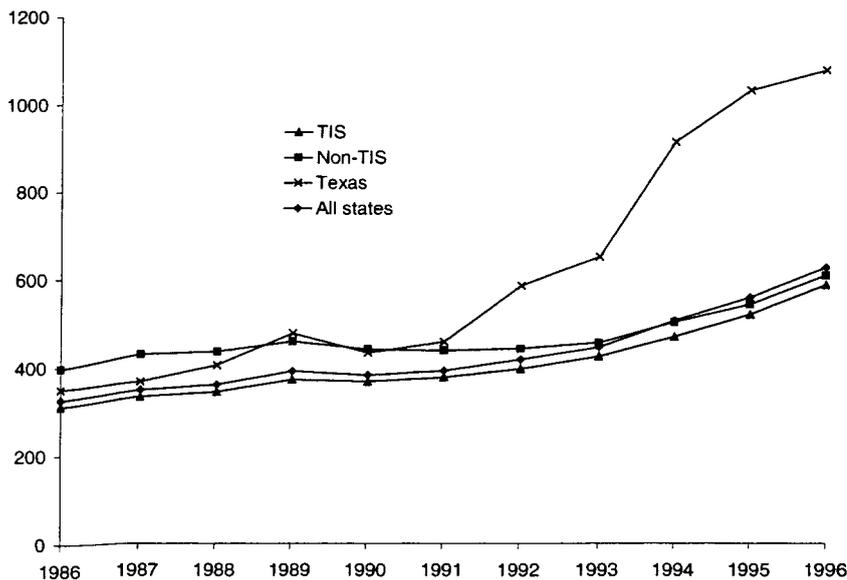


Fig. 9.7 - Felony Incarcerations per 1000 Violent Crimes

The most dramatic increases have occurred in TIS states and non-TIS states with indeterminate sentencing, whereas non-TIS states with structured sentencing have increased their felony incarcerations per 1000 crimes only from 429 in 1986 to 510 in 1996. By contrast, TIS-

⁸² 1997 for incarcerations were not available.

indeterminate states have seen rates double during the same period, from 313 in 1986 to 626 in 1996. These trends are illustrated in Figure 9.8 below.

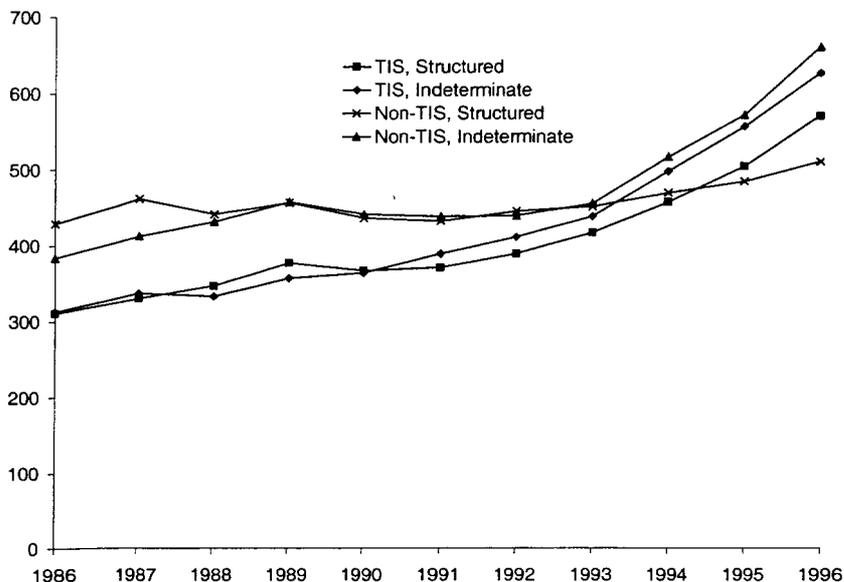


Fig. 9.8 - Felony Incarcerations per 1000 Violent Crimes, by TIS and Structured Sentencing

Although impossible to attribute solely to VOI/TIS incentive funds and TIS legislation, an increased emphasis on violent offenders would result in an increasing prison population overall, and violent offenders, in particular. Recent national data are partially consistent with this possibility. At the end of 1997, the number of prisoners under the jurisdiction of state or federal correctional authorities was 1,244,522, up 5.2% from the year before. At the national level, the largest increase in absolute numbers of offenders in prison occurred among violent offenders, although the percentages of total state inmates sentenced for violent, property, drug, and public-order offenses remained about the same from 1990 to 1998 (BJS 2000).

IMPACT ON PRISON ADMISSIONS

Over time, as violent offenders are incarcerated under TIS and serve greater percentages of their sentences, we would expect to see an increasing portion of the prison population imprisoned for violent offenses. Thus one of the expected consequences of TIS would be an increasingly "harder" prison population of more serious offenders that may have substantial management implication.⁸³ However, like many other impacts of TIS, we would not expect to see this until several years after a state introduced TIS legislation, when offenders begin to serve the portion of their TIS sentence that is beyond what they would have served previously. Thus, analyses conducted at the present time would provide only the most preliminary measurements of such an impact. Unfortunately, no national data on the numbers of offenders in prison for different offense types on a yearly basis are publicly available on a state-by-state basis to allow such an analysis.⁸⁴ Instead, we have chosen here to examine TIS effects on prison admissions provide a measure of the "up-front" pressures on prison systems from changes in legislation.

Figures 9.9, 9.10, and 9.11 show the percent of prison admissions for violent, property, and drug crimes from 1986 through 1997. The overall patterns show increases in drug offenders, with a decrease in the percent of property offense admissions. While drug offenders generally accounted for fewer than 20% of prison admissions in the mid-1980s, they had increased to more than 30% of all admissions in 1997. Violent offenders, as a percent of all admissions, actually have decreased somewhat from the mid-80s to slightly less than 20% of all admissions by 1997. However, this pattern is more pronounced for non-TIS states; those states with TIS showed violent admissions staying about constant at slightly over 20%; the percent of admissions for non-TIS states decreased from about 25% in 1992 to under 20% in 1997.

⁸³ The impact of VOI/TIS on prison management and the use of privatization is being conducted under a separate NIJ-funded grant.

⁸⁴ The Bureau of Justice Statistics is in the planning stages for adding information of this type to the National Corrections Reporting Program (NCRP).

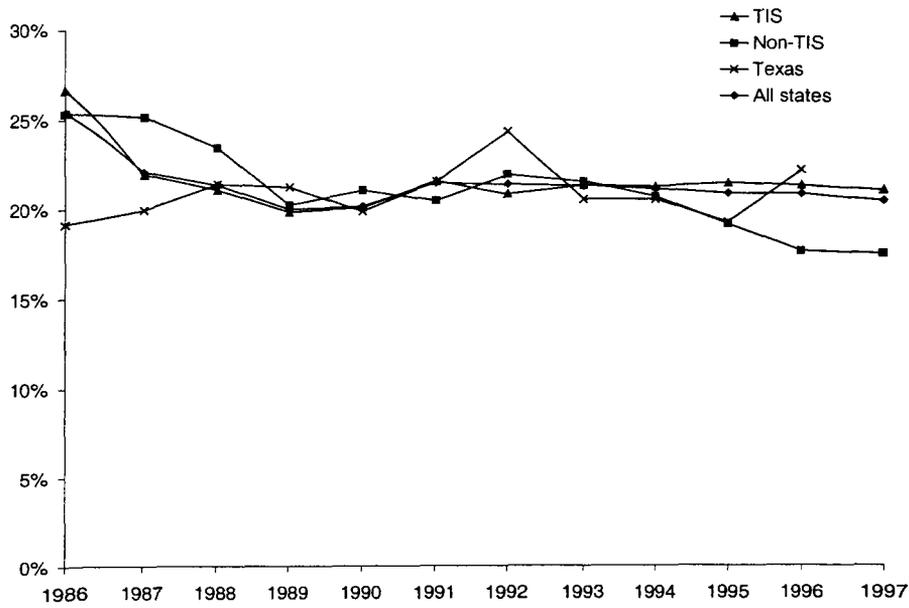


Fig. 9.9 - Percent of Prison Admissions for Violent Crimes

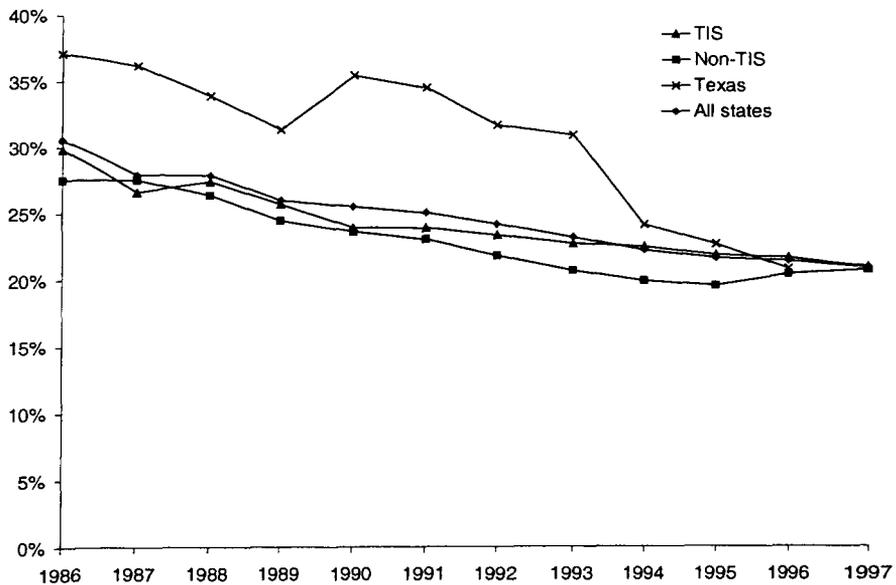


Fig. 9.10 - Percent of Prison Admissions for Property Crimes

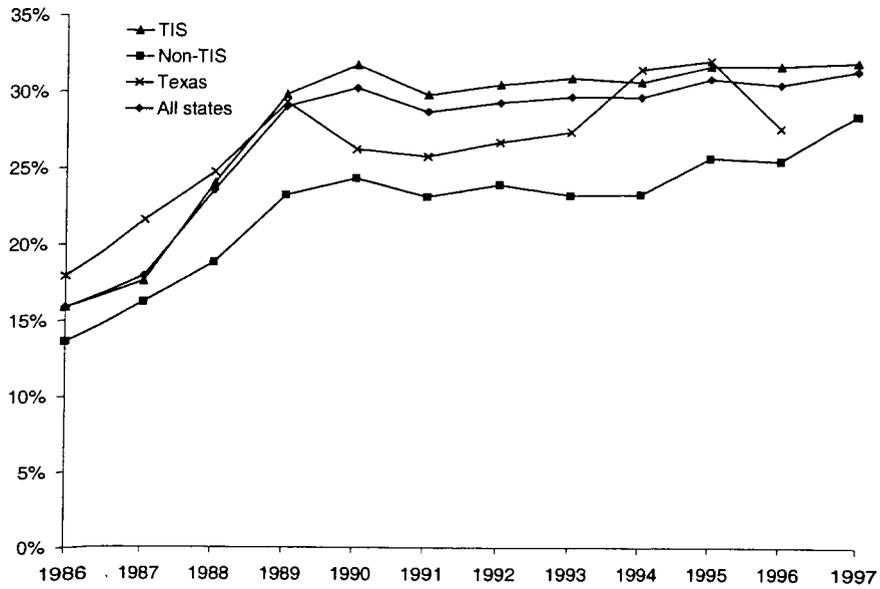


Fig. 9.11 - Percent of Prison Admissions for Drug Crimes

Since 1994, TIS states have a higher percentage of prison admissions for violent crimes than non-TIS states. This relationship holds for both structured and indeterminate sentencing states, as shown in Figure 9.12 below. These early findings suggest that apart from any impacts on the percent of time served, TIS may be associated with steady admissions to prison, particularly for structured states.

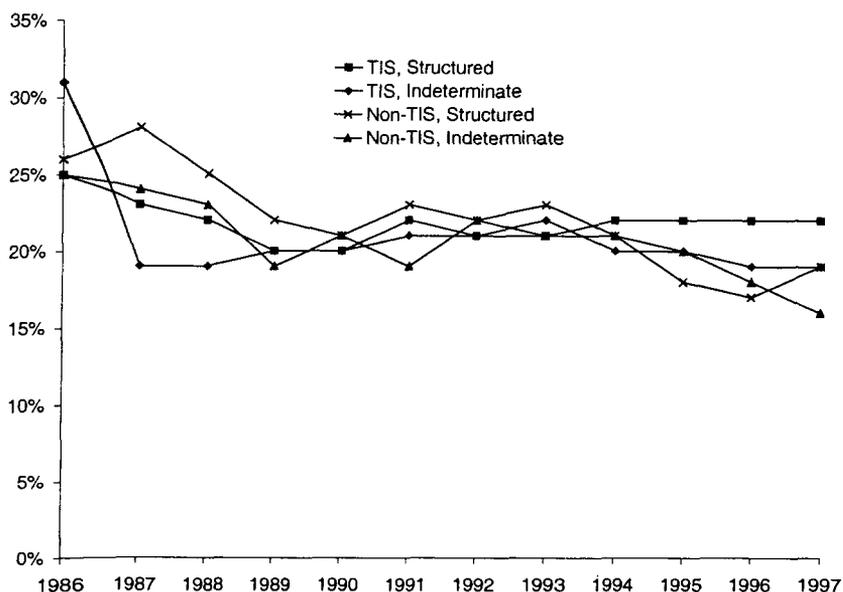


Fig. 9.12 - Percent of Prison Admissions for Violent Crimes, by TIS and Structured Sentencing

IMPACT ON SENTENCES AND TIME SERVED

TIS funds are awarded in order to increase the percent of sentences served for violent offenders. Unfortunately, as we have indicated in many instances, it is too early to tell definitively how TIS has impacted lengths of prison stay. Because TIS laws were enacted fairly recently, many offenders sentenced under them are still serving sentences and have not yet been released. Many TIS laws were enacted in 1993 and 1994 at a time when the average prison term served for a violent offense was 43 months (BJS 1995). Thus it was not until 1998 and 1999 when the first offenders sentenced under these laws began exiting prison. Because national data bases often lag several years behind, it is still several years before we will be able to provide information on releases for large numbers of offenders sentenced under TIS laws.

In fact, BJS estimated that 42% of all Part 1 violent offenders in 1997 were actually sentenced under an 85% TIS law (BJS 1999a). In lieu of actual release dates, one might use projected dates of release for

offenders sentenced under TIS. However, currently available national data do not provide yearly estimates on a state by state basis for different offenses on projected lengths of time to be served. At present, our most comprehensive national look at sentences served is from yearly cohorts of *released* prisoners. These data, however, do not represent offenders sentenced exclusively under TIS. In fact, the vast majority of released offenders to date were not sentenced under TIS-- they contain offenders sentenced under a variety of sentencing laws and practices. As such, they do not provide a true picture of the effect of TIS, and we need to keep this in mind as we discuss our findings.

We next turn to analyses of sentences. We first analyze changes in maximum sentences imposed, then sentences served, and finally, the percent of time served--the most direct measure of compliance with TIS.⁸⁵

Sentences Imposed

In Figures 9.13, 9.14, 9.15, and 9.16, we present the mean sentence lengths for prisoners released in a given year. Figure 9.13 shows the sentence for all offenses, Figure 9.14 for violent offenses, Figure 9.15 for property offenses, and Figure 9.16 for drug offenses, each with TIS states compared to non-TIS states and to Texas. A consistent pattern emerges regardless of the type of offense one looks at: sentences are slightly lower in TIS states than in non-TIS states, and Texas sentences are considerably longer than those imposed in either TIS or non-TIS states.

⁸⁵ All analyses of sentence length are of the maximum sentence imposed.

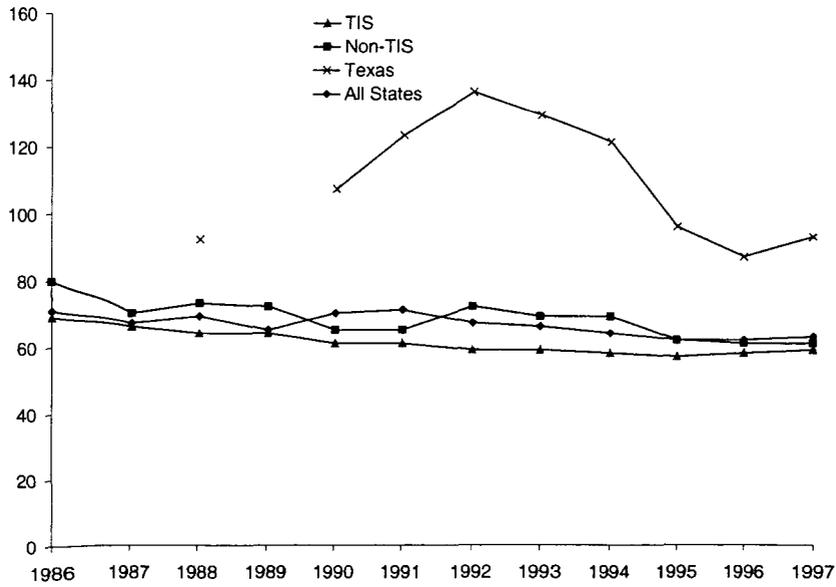


Fig. 9.13 - Sentence Length for Released Prisoners, All Offenses

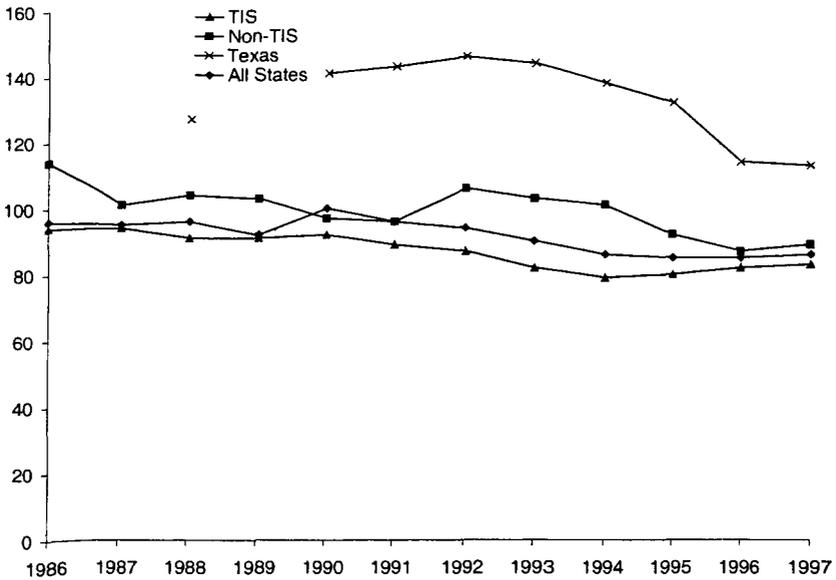


Fig. 9.14 - Sentence Length for Released Prisoners, Violent Offenses

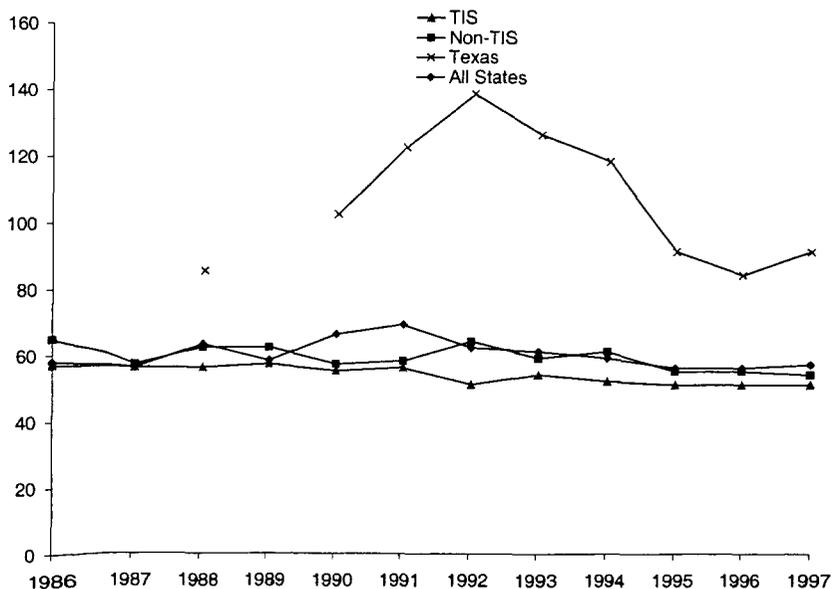


Fig. 9.15 - Sentence Length for Released Prisoners, Property Offenses

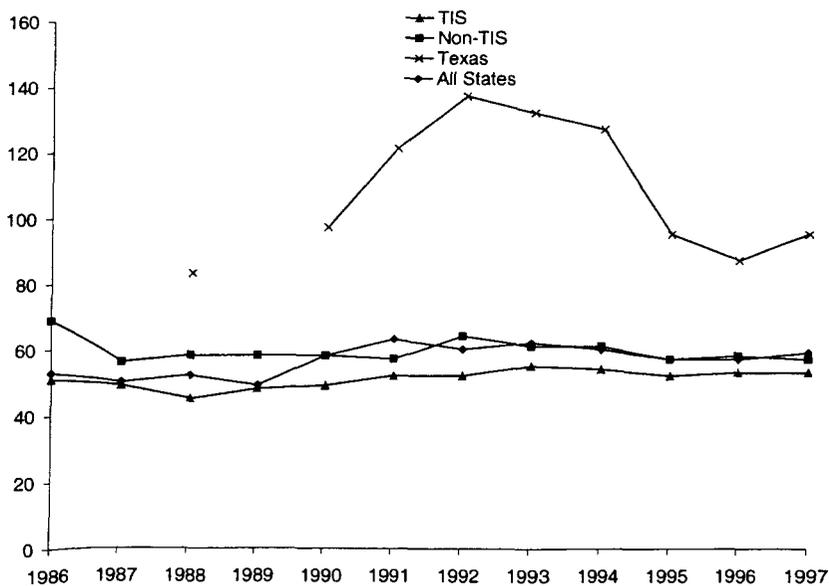


Fig. 9.16 - Sentence Length for Released Prisoners, Drug Offenses

When we examine the sentences imposed as a function of structured or indeterminate sentencing practices, we find that since 1993 offenders

sentenced in non-TIS indeterminate states have received the longest terms for violent, drug, and property offenses (see Figures 9.17, 9.18, and 9.19, respectively). In most cases the shortest sentences for violent, property, and drug offenses have been received by offenders in structured TIS states.

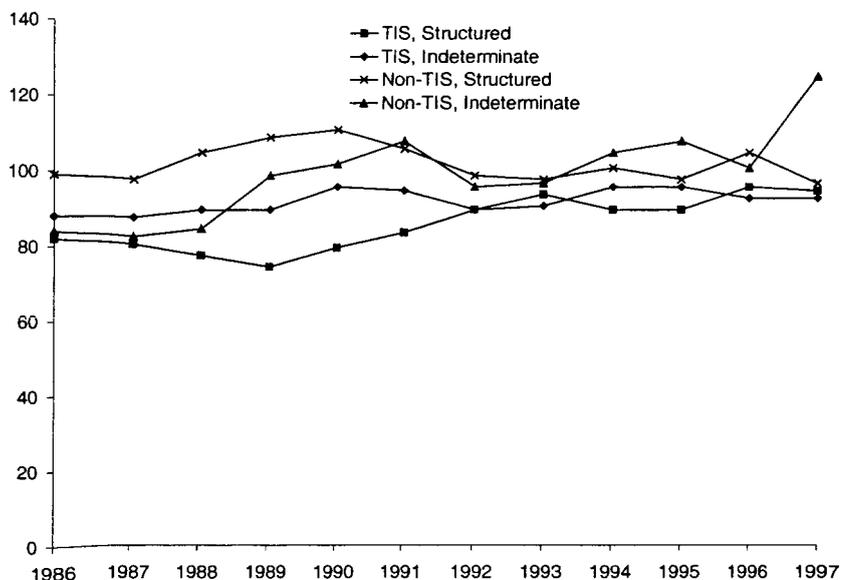


Fig. 9.17 - Sentence Length for Released Prisoners, Violent Offenses, by TIS and Structured Sentencing

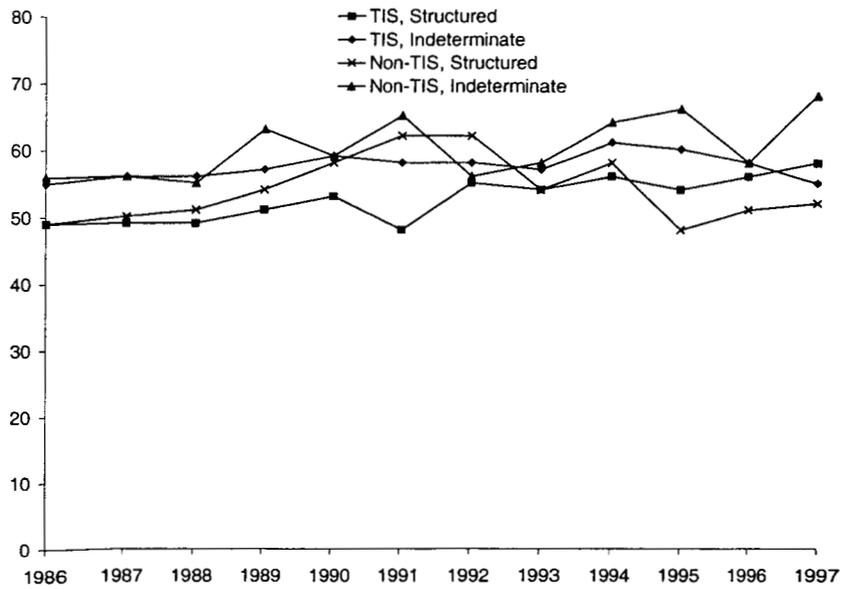


Fig. 9.18 - Sentence Length for Released Prisoners, Property Offenses, by TIS and Structured Sentencing

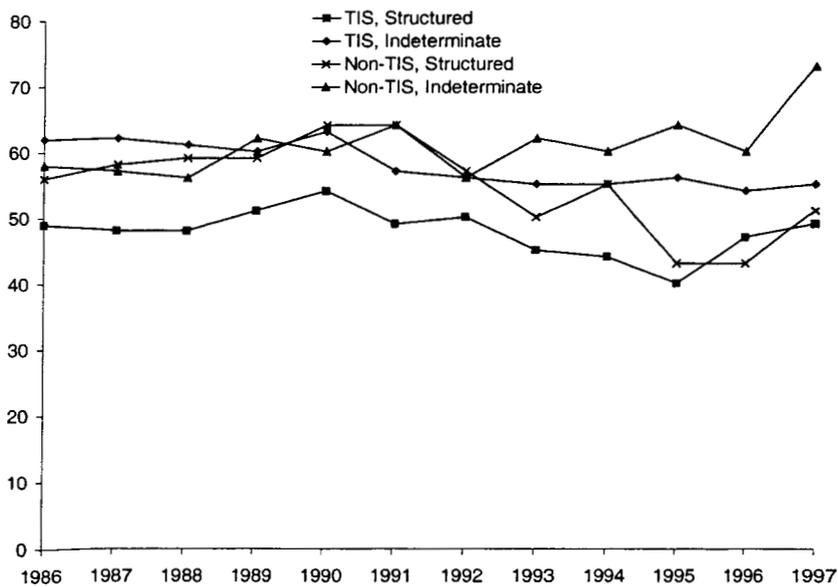


Fig. 9.19 - Sentence Length for Released Prisoners, Drug Offenses, by TIS and Structured Sentencing

Length of Time Served

Figures 9.20, 9.21, 9.22, and 9.23 present the average length of time served between 1986 and 1997 for all offenses, violent, property, and drugs, respectively. Time served for all offenses has been increasing at the national level since 1993. Historically, time served for TIS states has been lower than for non-TIS states. The most dramatic changes in time served are for Texas, which has increased sentences from about 24 months in 1993 to more than 36 months in 1997. Texas has accomplished this goal by increasing the percent of sentence served for all releasees since 1991, from 18.7% to over 50% in 1998, primarily through the use of tougher parole release policies (Criminal Justice Policy Council 2000).

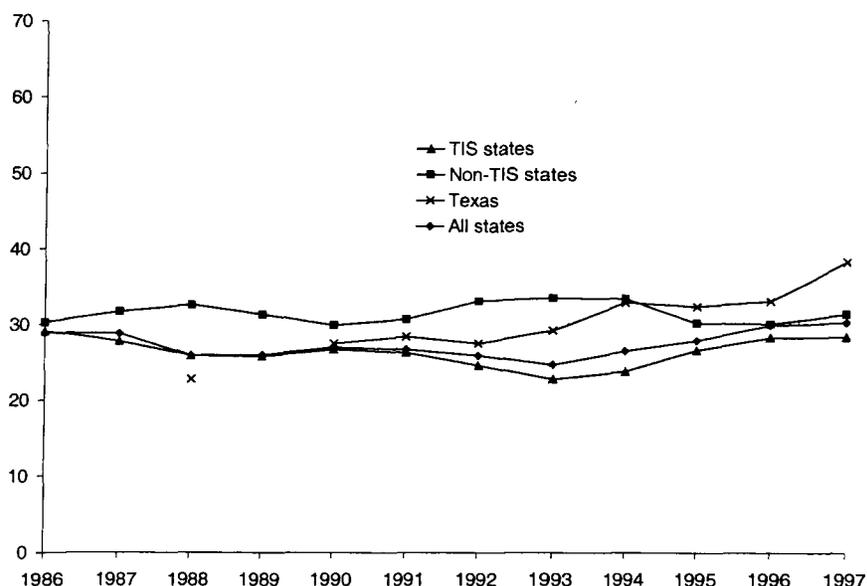


Fig. 9.20 - Time Served for All Offenses

Time served for violent offenses increased nationally from 1994 to 1996; however, 1997 shows a decrease in time served overall, which appears to be the result of reductions in time served for TIS states. But this is exactly what we might expect to see in the early years of TIS on violent crime releases. The most serious violent offenders are staying in prison longer; the less serious offenders with shorter terms

are being released (BJS 1999). However, this chart also shows that increases in time served were occurring in TIS states before TIS could have had much of an impact--TIS states show increases in time served starting in 1993.

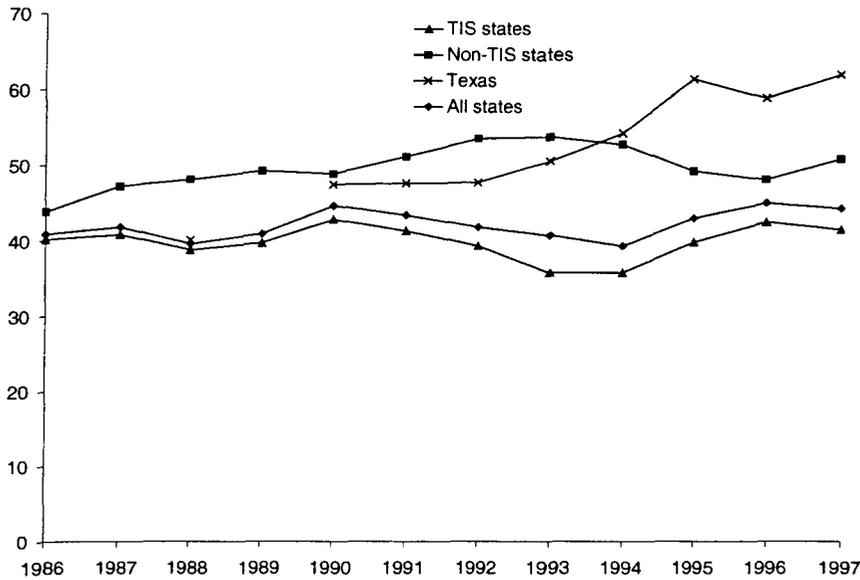


Fig. 9.21 - Time Served for Violent Offenses

Time served for property offenses appears to be increasing, with TIS states gradually increasing terms since 1993; non-TIS states show decreasing terms during the same time period. Overall, however, TIS states serve on average less time for property offenses than do non-TIS states (see Figure 9.22).

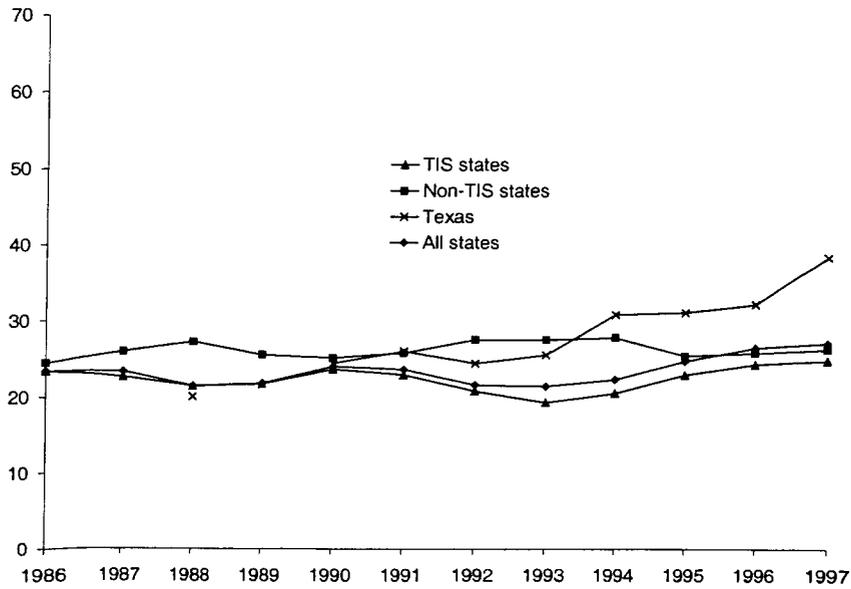


Fig. 9.22 - Time Served for Property Offenses

As Figure 9.23 shows, time served for drug offenses has increased dramatically in Texas since 1993. In TIS states the increase is not as steep, while in non-TIS states, despite small changes from year to year, time served for drug offenses is essentially unchanged since 1993.

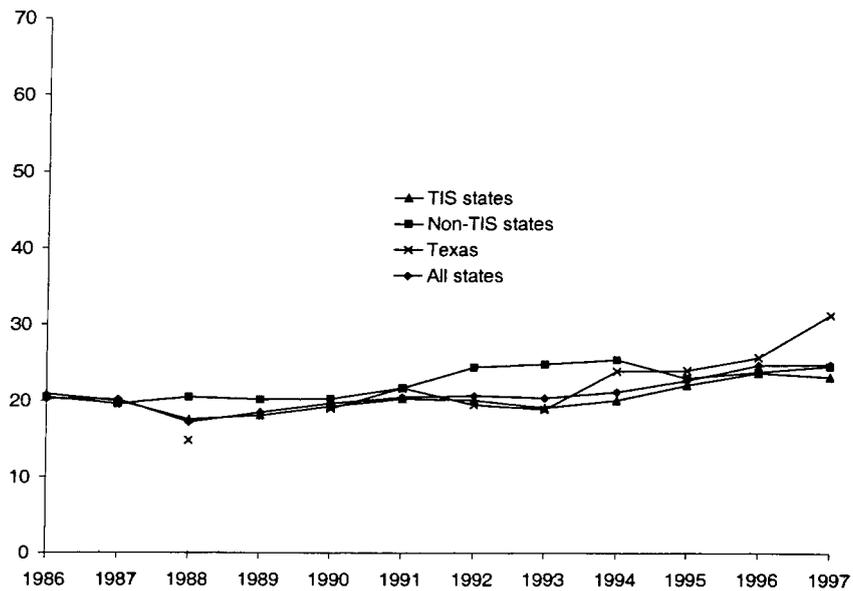


Fig. 9.23 - Time Served for Drug Offenses

When we consider the time served patterns as a function of structured or indeterminate sentencing practices, we find that historically, offenders in TIS states with structured sentencing serve the shortest terms, while those in non-TIS structured states⁸⁶ serve the longest violent, property, and drug offenses (see Figures 9.24, 9.25, and 9.26, respectively).

⁸⁶ Only three states are in this category.

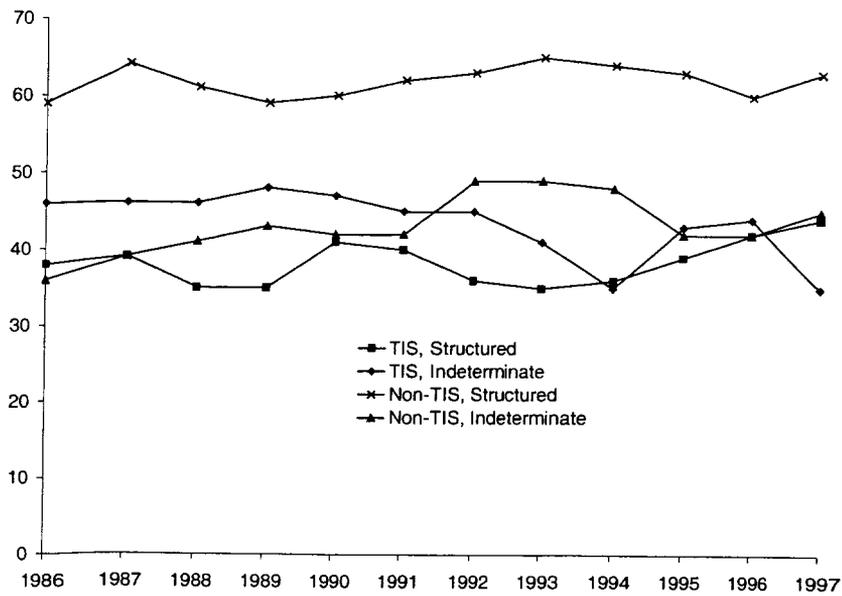


Fig. 9.24 - Time Served for Violent Offenses, by TIS and Structured Sentencing

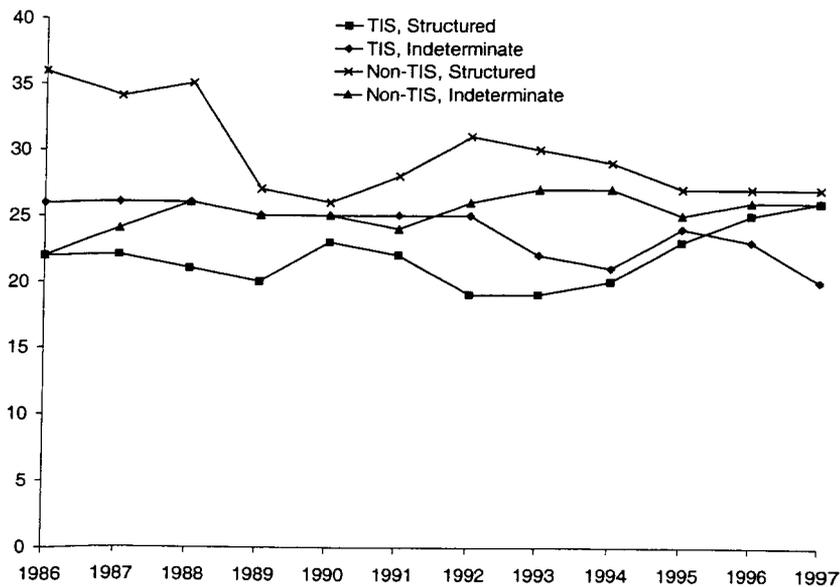


Fig. 9.25 - Time Served for Property Offenses, by TIS and Structured Sentencing

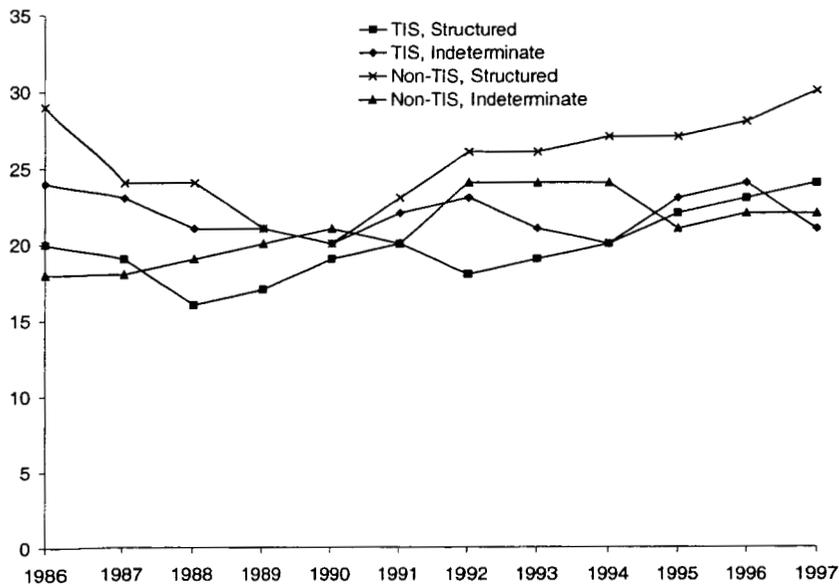


Fig. 9.26 - Time Served for Drug Offenses, by TIS and Structured Sentencing

Percent of Sentences Served

Percent of time served is the ultimate test of whether states are adhering to the 85% TIS requirement. However, as noted earlier, it is too early to gauge whether this is happening, and data projections are not available. Thus, we again base our analyses on release cohorts of offenders. Figures 9.27 through 9.30 show the percent of time served for all offenses, violent, property, and drug, respectively. Similar to the time served figures presented earlier, the most dramatic changes for percent of time served are for Texas, although offenders in this state serve, on average, less than in other non-TIS or TIS states. Nationally, the percent of sentences served has been increasing for all offenses, violent, property, and drugs from about 1993 until 1996. In 1996, the national trend turns downward somewhat for violent and drug offenses. Historically, non-TIS states have served larger percentages of time for violent and property crimes, although not for drug offenses.

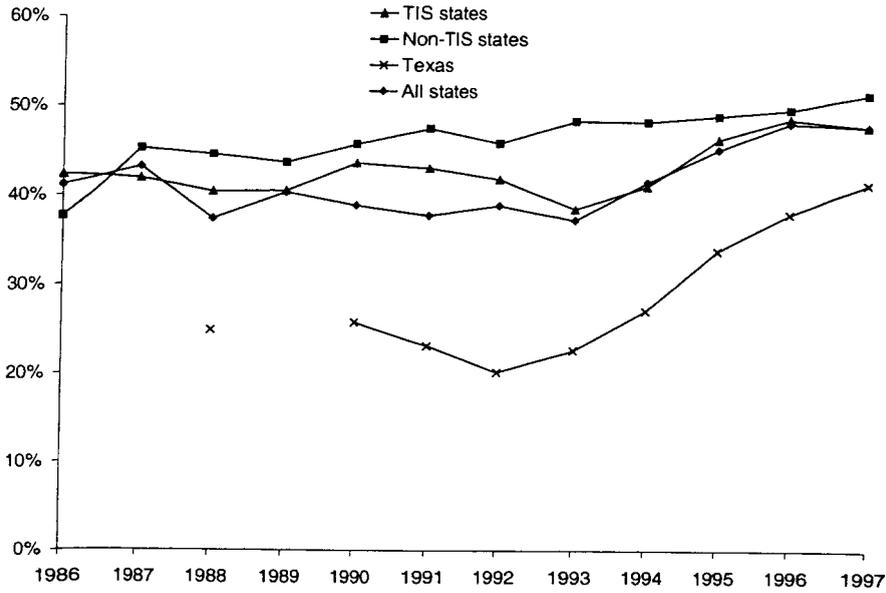


Fig. 9.27 - Percent of Sentence Served for All Offenses

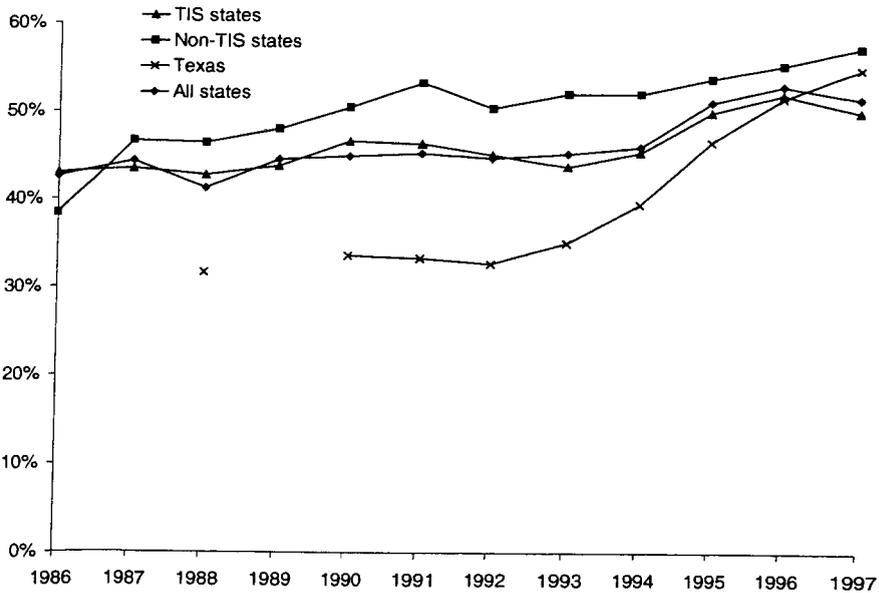


Fig. 9.28 - Percent of Sentence Served for Violent Offenses

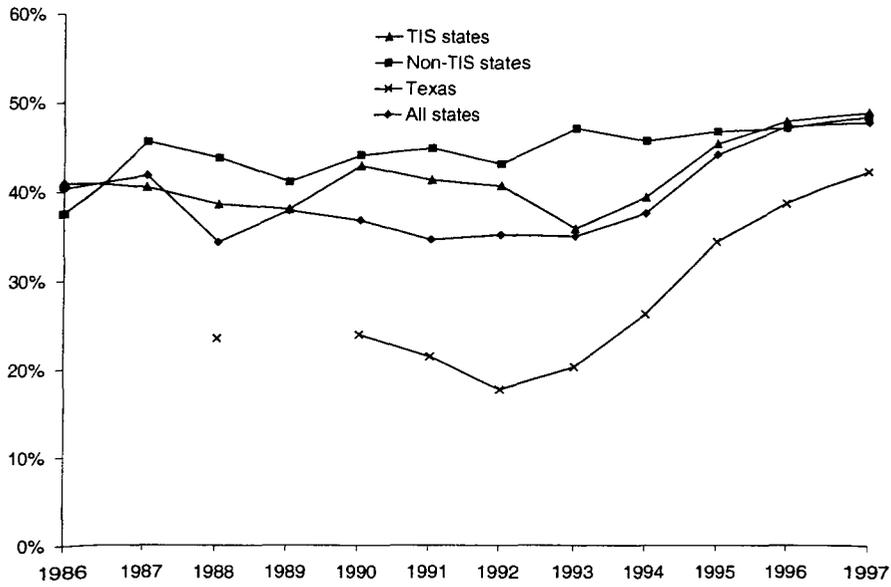


Fig. 9.29 - Percent of Sentence Served for Property Offenses

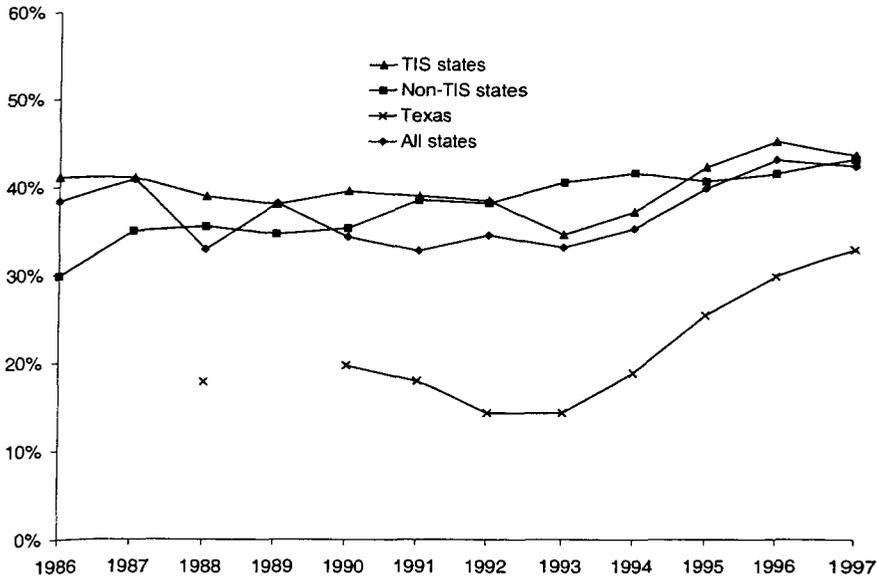


Fig. 9.30 - Percent of Sentence Served for Drug Offenses

The percent of sentence served by structured vs. indeterminate generally parallel those for length of sentence imposed. Offenders in

non-TIS structured states serve the highest percentages of their sentences, particularly for violent offenses, while offenders in TIS structured states serve the lowest percentages.

Time and Sentence Served Reported by States

In addition to the data collected annually for the Bureau of Justice Statistics on releases, all states were required to supply the Corrections Program Office with information on sentences imposed and time served in their application packets (see Chapter 4).⁸⁷ We examined these data to get a second measure of the impact of TIS on sentencing: changes in mean maximum sentence, mean time served, and percent of sentence served.⁸⁸

Table 9.1 presents mean maximum sentence, mean time served, and the percent of sentence served in 1993, 1995 and 1997.

⁸⁷ These data, unlike the NCRP data analyzed above, provide information based only on Part 1 violent crimes or each state's definition of "violent crimes"--recall in Chapter 4 that many states requested and were granted alternative definitions of violent crimes--and thus reflect slightly different offenses.

⁸⁸ Raw data for these analyses, including sample sizes used for weighting, were supplied to RAND by the BJS; these analyses include all 50 states. Thus crimes are not a one-to-one match with the NCRP violent crime definition.

Table 9.1
Sentences Served for Part 1 Violent Releasees, 1993, 1995, 1997

Sentencing policy	1993			1995			1997		
	Maximum sentence	Months served	Percent served	Maximum sentence	Months served	Percent served	Maximum sentence	Months served	Percent served
TIS	90	40	48%	87	43	52%	88	47	55%
Non-TIS	119	54	47%	112	54	50%	107	53	51%
Texas	150	52	35%	142	61	43%	114	59	52%
All states	98	43	47%	95	46	51%	93	49	54%

These results show overall increases in mean time served, up from 43 months in 1993 to 49 months in 1997. This increase appears to be the result primarily of increases in TIS states, where time served has increased from 40 months in 1993 to 47 months in 1997. Non-TIS states have remained fairly flat, with a mean time served of 54 months in 1993 and 1995, and a slight decrease to 53 months in 1997. Percent of sentences served have increased for all states, but most sharply for TIS states, consistent with the intent of TIS. However, increases were occurring by 1995, at a point in time too early to have been the result of TIS legislation in many states. We return to this point in the next chapter.

VOI/TIS IMPACT ON STATE SPENDING

To alleviate some of the pressure placed upon state budgets due to the increased incarceration of violent offenders, states received VOI/TIS funding for the construction--"bricks and mortar" of prison cells. One would expect states with TIS legislation to be spending substantially more public money than states without such legislation. This next analysis examines expenditures for corrections generally, and more specifically for construction, for states with and without TIS.

In order to use a consistent metric across states and time, we chose several measures gathered by the U.S. Census--general expenditures, corrections expenditures (residential adult and juvenile facilities, both jails and prisons), and correctional institution construction expenditures--to measure the percentage of corrections spending within a state's overall budget. Depending on the measure upon which we base our calculations, corrections may appear as a larger or smaller percentage of a state's spending. For example, an often-used statistic in California is that 8% of the state's \$50 billion general fund goes to corrections (California Legislative Analyst 1998). However, California's general expenditures in 1997, including direct expenditures and intergovernmental expenditures, was almost \$120 billion (U.S. Census 1997). After taking this figure into account, corrections assumes a much smaller percentage of California's overall spending. Similarly, the numbers presented below look smaller than those often

cited in policy discussions that are based on state budgets or general fund dollars.

Figure 9.31 presents corrections expenditures as a percentage of general expenditures.⁸⁹ Texas shows the familiar pattern of large increases in the early 1990s. Non-TIS states spend less money than do TIS states. This may reflect the fact that TIS states tend to be those with higher incarceration rates (the correlation between TIS status and high incarceration rate is .25, $p < .08$). Despite the introduction of the new laws primarily in the early nineties, TIS and non-TIS states maintain their basic slopes across the past six or seven years. Corrections expenditures since the early nineties have been highest for non-TIS structured states, and lowest for the non-TIS indeterminate states (see Figure 9.32).

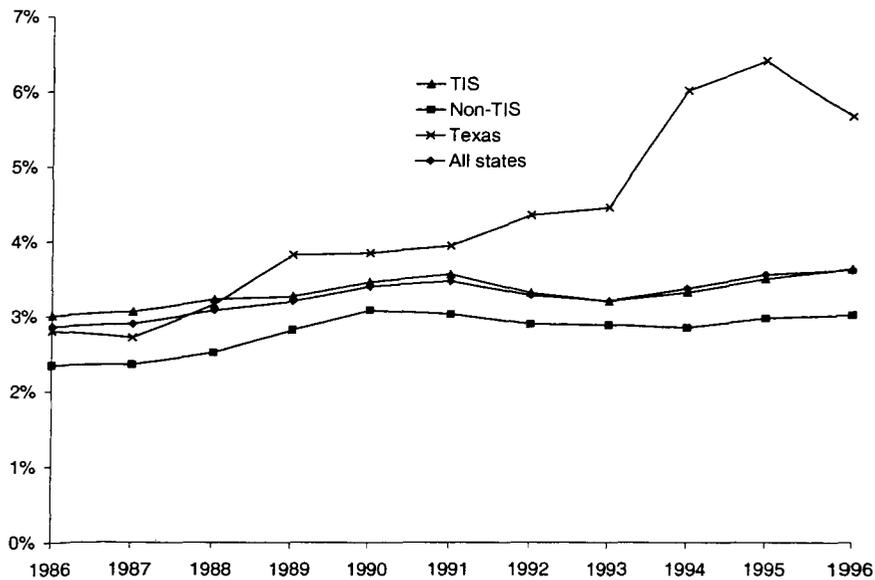


Fig. 9.31 - Corrections Expenditures as a Percentage of General Expenditures

⁸⁹ All expenditures were standardized to 1992 dollars.

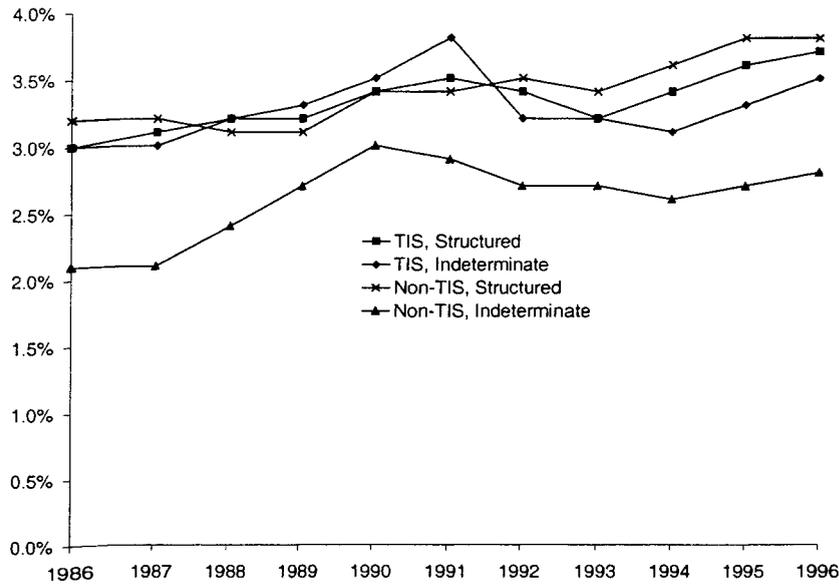


Fig. 9.32 - Corrections Expenditures as a Percentage of General Expenditures, by TIS and Structured Sentencing

Corrections expenditures per 1000 persons, displayed in Figure 9.33, are similar to the results in Figure 9.31. In terms of absolute dollars, corrections expenditures for all states have gone from about \$50 per 1000 persons to almost \$80 per 1000. TIS indeterminate states spend the largest amount of dollars, with non-TIS indeterminate states spending the least (as shown in Figure 9.34). Figure 9.35 breaks down corrections expenditures into institution corrections construction expenditures. Although the average amount spent per 1000 persons is relatively small (less than \$10 with the exception of Texas), the data show that those states with TIS spend more money on construction than those without, until 1996 when non-TIS states experienced a sharp increase. Despite the fact that TIS states overall spend more on correctional institutional expenditures, it is actually non-TIS indeterminate states that spend the most money per 1000 persons on construction of correctional institutions (as shown in Figure 9.36).

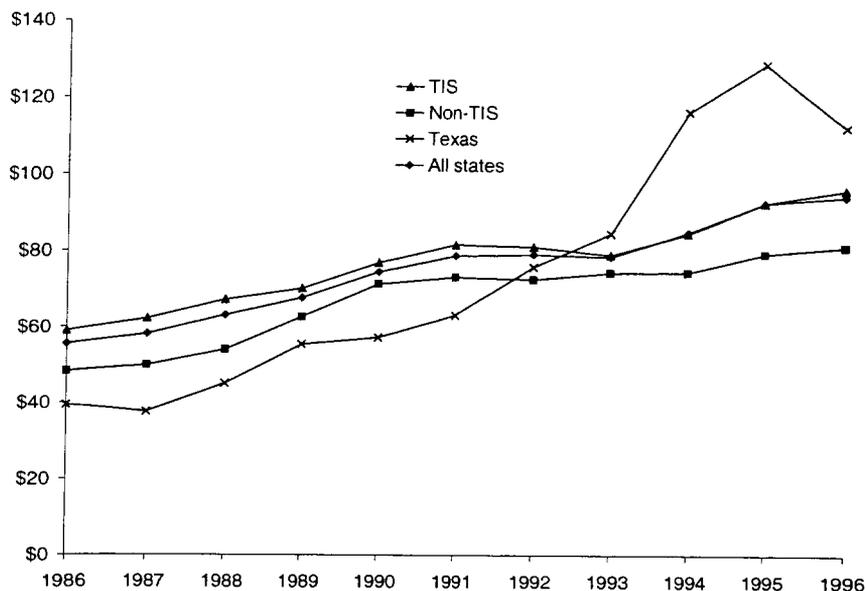


Fig. 9.33 - Corrections Expenditures per 1000 Persons (1992 dollars)

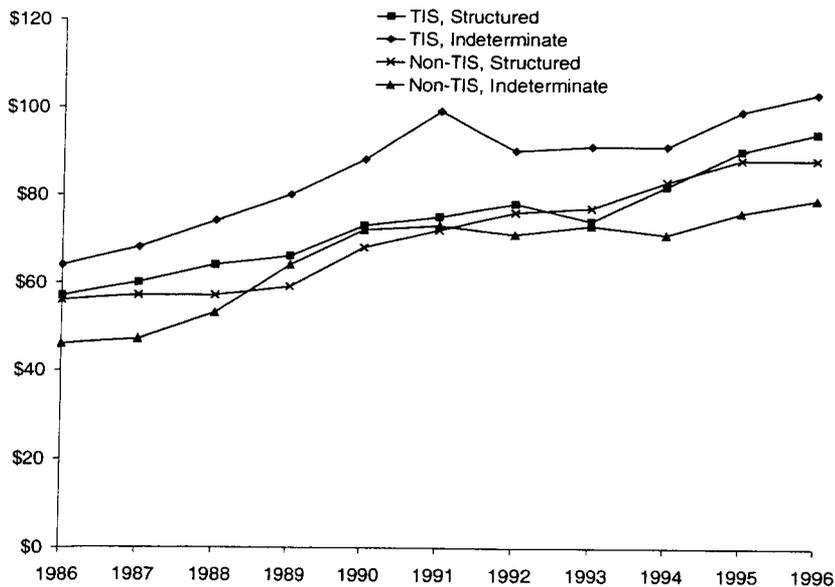


Fig. 9.34 - Corrections Expenditures per 1000 Persons (1992 dollars), by TIS and Structured Sentencing

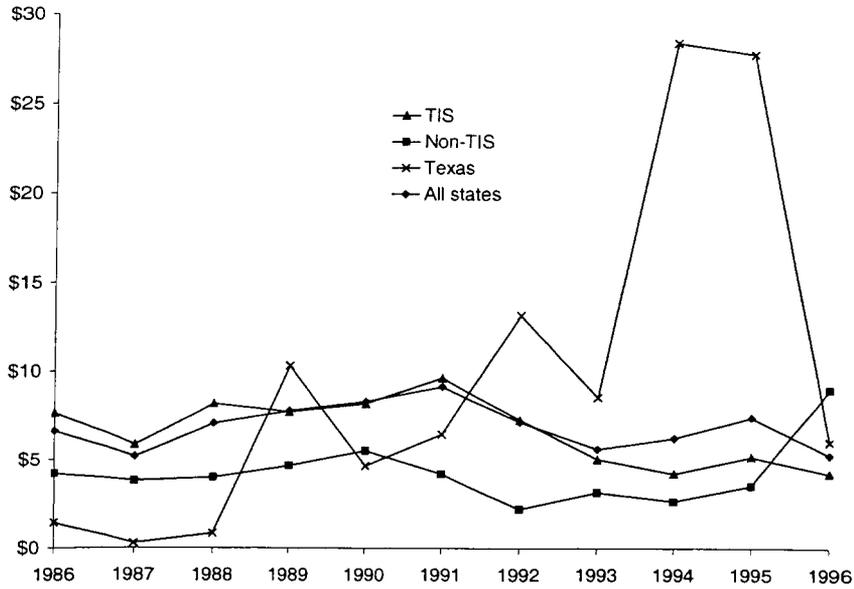


Fig. 9.35 - Correctional Institution Construction Expenditures per 1000 Persons (1992 dollars)

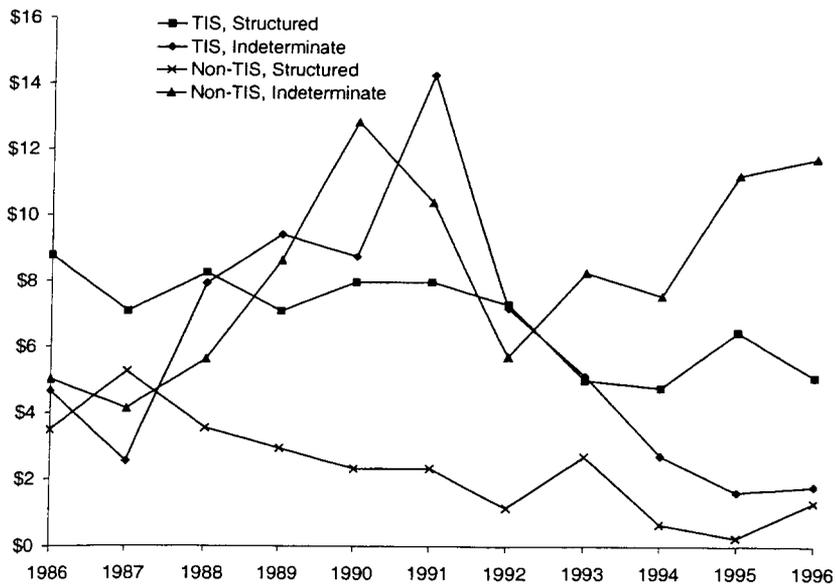


Fig. 9.36 - Correctional Institution Construction Expenditures per 1000 Persons (1992 dollars), by TIS and Structured Sentencing

INDIVIDUAL STATE EXPERIENCES

We turn next to a description of the impacts on our case study states. Table 9.2 below summarizes characteristics states that will be used in the following discussions.

Table 9.2
Characteristics of Seven Case Study States

<i>State</i>	<i>Population Size</i>	<i>Structured/Indeterminate</i>	<i>Date Passed TIS</i>	<i>TIS Grants a Factor</i>
California	Large	Structured	1994	No
Minnesota	Small	Structured	1992	No
New York	Large	Indeterminate	1995	Key
North Carolina	Medium	Structured	1993	No
Oregon	Small	Structured	1995	No
Texas	Large	Indeterminate	N/A	No
Virginia	Medium	Structured	1994	Partial

Despite overall decreases in violent crimes since the early 1990s, not all states have experienced the same degree of decline. Among our seven case study states, the largest declines in violent crime rates from 1990 to 1997 were for New York and Texas. In these two states, the violent crime rates in 1997 were 60% and 80% of the rates in 1990, respectively. On the other hand, violent crime rates actually increased in Minnesota, from 306 crimes per 100,000 to 338, although Minnesota had overall the lowest crime rate of all the case study states. More moderate declines were experienced in the other states. Overall the larger case study states experienced greater reductions than the smaller states. The two largest decreases were also experienced in the two states with indeterminate sentencing--Texas and New York. Recall also that Texas is the only one of the case study states that did not receive TIS funds (although they do have a 50% TIS requirement for violent offenses).

Incarceration and Admissions

Since 1994, all seven states have experienced increases in the number of violent offenders sentenced to prison except for New York and North Carolina. In North Carolina, the slight decrease may be the result of the structured sentencing guidelines, saving prison terms for

the most serious felons and sentencing others to terms of community punishment. In New York, the result may be due to declines in the number of second time violent felony offenders. The largest increases were in Texas and Oregon. Violent prison admissions in Texas increased from 3822 in 1994 to almost 5600, reflecting the "duty to accept" decision in the mid-nineties. In Oregon, the increase is consistent with the intended impact of Measure 11--their TIS law--which mandates prison terms for enumerated violent offenses.

Although there are often large increases in the number of violent offenders admitted to prison, the actual percent of admissions for violent offenders is not as dramatic, given overall growing prison populations. In California, North Carolina, and Virginia, the percent of violent offenders remained constant between 1994 and 1997. The percent of admissions for violent offenders in Minnesota has dropped from 30% to 26%; Oregon experienced the greatest increase, as we might expect given the mandatory prison sentences for Measure 11 offenses.

Sentences

For all seven case study states, mean months served for violent offenses has increased from 1994 to 1997 (the exception is Oregon where the term has remained an average 35 months). The largest increase in mean months served was in North Carolina, where their 1993 law expressly increased the length of terms for the more serious offender (see Wright 1998). In terms of percent of time served, all states except Minnesota have increased the percent of term served for violent offenses between 1994 and 1997,⁹⁰ with North Carolina and Texas showing the largest increases, from 26% to 40%, and 39% to 55%, respectively.

Despite differences in state size, structured vs. indeterminate sentencing, and whether TIS funds were a key factor in passing legislation, the resulting picture is fairly consistent within our case study states. Since 1994, crime rates have gone down, while sentences have toughened for violent offenders. The exception to this is in

⁹⁰ New York increased from 1994 through 1996, then decreased in 1997. Minnesota's TIS law was not expected to change sentence lengths served (see Chapter 6).

Minnesota, the state with the lowest crime rate. What appears to drive differences in the overall pattern of sentences is unique characteristics of the TIS sentencing legislation within particular states. Larger increases in violent offenders being sentenced to prison (in Oregon, for example) and mean sentences served (as in North Carolina) may be the result of major structural reforms of the sentencing practices. At least in our case study states, smaller effects appear in the states that reduced primary parole or time earned credits in their TIS legislation.

SUMMARY OF SENTENCING AND SPENDING IMPACTS

As we surmised at the beginning of the chapter, unless TIS laws have an immediate deterrent effect, we might not expect to see changes in overall crime rates. In fact, we did not. Crime rates have been steadily falling since 1991. Since 1994, non-TIS states have generally shown the lowest crime rates. Our results suggest that, independent of sentencing structures and TIS legislation, historical patterns of crime have played a dominant role. However, as we have indicated throughout the report, it is too early to tell the impact of VOI/TIS and TIS, in particular, on crime rates.

Similarly, our analysis of violent incarcerations, sentences imposed, time served, and percent of time served show a pattern in which historical trends play an important role. Since 1994, non-TIS states have shown the lowest percentages of incarcerations for violent crimes (and the highest for drug crimes); however, they show the "toughest" sentences in terms of sentences imposed, time served, and percent of sentence served. This is particularly true for non-TIS structured sentencing states. However, the latter are few in number--Arkansas, Indiana, Maryland. Structured TIS states show the highest crime rates, and the shortest sentences imposed, time served, and percent of sentence served for violent offenses. TIS laws have not dramatically altered these patterns. Texas has shown dramatic changes over time. Starting with lower time served and percent of time served for offenders, it has increased "toughness" dramatically, especially for violent offenders. The fact that property and drug crimes have similar patterns for TIS and

non-TIS states (e.g., TIS states show shorter sentences, time served, and percent of sentence served) underscores the importance of historical trends for all crime types.

For TIS states, our analyses with NCRP data for Part 1 offenses and a number of other violent crimes, such as kidnapping, simple assault, sexual assault, and reckless endangerment (Ditton and Wilson 1999) showed increasing time served (and percent of sentences served) for violent offenders until 1997. As indicated, we might expect to see this in the early years of TIS on violent crime releases, when releases are most likely for offenders with shorter terms imposed. However, this decline in 1997 is not what we saw in the VOI/TIS data reports from the states (as shown in Table 9.1), which show steady increases from 1993 to 1997 in both the sentences served and percent of time served. The reason for the discrepancy is not clear; however, it is likely to be due to differences in the definitions of "violent" crimes used for NCRP and states' VOI/TIS reports.

Finally, our analyses of correctional expenditures by the states shows increases over the past decade, with TIS states spending more money per 1000 persons on corrections expenditures generally, as well as correctional institution costs (with the exception of 1996). This pattern does not appear to have changed greatly after 1994. Greater spending by TIS states may reflect the fact that TIS states have historically had higher crime and incarceration rates than non-TIS states.

10. SUMMARY AND CONCLUDING COMMENTS

Our evaluation of the Violent Offender Incarceration/Truth-in-Sentencing Incentive Grants Program has examined the legislative process leading up to the passage of VOI/TIS in the 1994 Crime Act and subsequent amendments, how the program was administered, funding awards, TIS legislation adopted by states, use of VOI/TIS funds, and the early impacts VOI/TIS appears to have had on a number of measures related to sentencing and incarceration.

Our methodology included the use of a wide variety of sources and techniques for understanding the implementation and effects of VOI/TIS. Individual state application packages, CPO determination of eligibility, VOI/TIS award amounts and semi-annual reports provided by the CPO, information on truth-in-sentencing legislation supplied by National Conference of State Legislatures, GAO findings, and interviews with state officials were key to understanding the implementation of the program. For analysis of the impacts, we used national data sources, including Uniform Crime Reports (UCR), the National Corrections Reporting Program (NCRP), United States Census Data, and National Prisoner Statistics (NPS). In addition, with our partner agencies, we fielded separate surveys of state correctional administrators, prosecutors, and judges during the course of the study.

Our major research questions include:

- How has the federal government implemented the law? How much money has been made available and what have been the criteria for disbursement?
- How have the states reacted legislatively to the law? Have states adopted truth in sentencing or statutes having equivalent effect?
- How has the state VOI/TIS money has been spent and for what? How much has it increased prison capacities?
- Is the law increasing number of admissions, length of sentences, and terms served for violent offenders?

In addition to these four major areas, we looked at related areas of interest, such as the impact of VOI/TIS and other "get tough" legislation on prosecutorial and judicial attitudes, policies, and practices. We also examined state spending on corrections, particularly for construction.

Before we answer these questions, it is necessary to understand the constraints under which the current evaluation was conducted. First, our evaluation was conducted early in the implementation of VOI/TIS. As we have indicated throughout the report, the full impact of VOI/TIS will not be seen until years from now. This is due to several reasons. States do not have to spend funds during the year in which they are received--they have up to four years from the year in which they are awarded. In addition, the impacts of TIS legislation will not be felt until violent offenders begin to serve the portions of their sentences that are beyond that which was historically served. Second, although we can examine the differential effects of states that did and did not receive TIS funding, we cannot determine the impact of VOI/TIS funds overall. This is because all states received funding from the program. We do not have a set of states, for comparison purposes, that did not participate in the VOI/TIS program. Thus, changes we observe over time may be due to other events, sentencing changes, or national trends not associated with VOI/TIS. We turn now to our major research questions.

SUMMARY OF KEY RESEARCH QUESTIONS

How Has the Federal Government Implemented the Law?

The VOI/TIS program has been administered by the Corrections Program Office (CPO), Office of Justice Programs. This office was established in 1995 to implement the correctional grant programs created by the 1994 Crime Act, as amended. CPO is responsible for reviewing state applications for funding, technical assistance related to program requirements and grants management once grants are awarded, and monitoring the implementation of VOI/TIS. The original VOI/TIS authorizations were for \$10 billion through FY 2000; however, only a

fraction of the authorized amounts have been appropriated. FY96 through FY99 awards totaled over \$1.8 billion. States qualified for federal funding under the two separate components--Violent Offender Incarceration (VOI) and Truth-in-Sentencing (TIS). In order to qualify for funding under VOI, states had to provide data indicating increased "toughening" for violent offenders as defined by various qualifying criteria based on the percentages of violent offenders incarcerated, average time served, and average percentage of sentence served. Three tiers of funding were available, with all states qualifying for the first, least restrictive Tier 1. For TIS funds, states needed to show that they had implemented laws requiring convicted violent offenders serve 85% of their sentence or data that showed that, de facto, offenders were serving on average 85% of their sentences. Forty-one states and the District of Columbia had received TIS funding by 1999. The process of qualification was complicated by several factors, including the definition of "violent" offenses and calculation of the 85% TIS requirement.

How Have the States Reacted to the Law?

It appears that the program did motivate some states to pass TIS laws, but most TIS states would probably have passed TIS legislation anyway. GAO findings suggest that in only four states was the receipt of federal grant funds a major factor in passing TIS laws. Other states were not motivated to pass TIS for financial reasons. For some, TIS was too big a financial commitment for the federal funds that it would bring along.

Our case study sites provided us with insights into individual state motivations. Many states had been moving toward increased severity before VOI/TIS funds became available. In several cases, extreme crimes with extensive news coverage served as the rallying cry for truth-in-sentencing legislation (in California and Minnesota). In Oregon, victim's groups were major supporters of the legislation. Even in North Carolina, in which the original TIS legislation was drafted with careful attention to the impact on prison beds, the widely-publicized murder of Michael Jordan's father generated hundreds of new

crime bills after the implementation of their TIS. Thus unique events in individual states appear to be major motivations for passing of TIS and other "get-tough" legislation, apart from federal policy.

How Has the Money Been Spent?

Between 1996 and 1999, over \$1.8 billion in VOI/TIS funds have been allocated to the states. The funds have been used to build prison beds, but most states have added little prison capacity to date with VOI/TIS dollars. By the end of 1999, over 15,000 beds had been constructed; more than 25,000 were under construction. The use of leased beds has been relatively small--just over 2000 beds had been leased with VOI/TIS funds. The median number of beds added was 300 per state.⁹¹ In more than half the states, these beds represented less than 4% increase in capacity. The biggest increases were mostly in small, or less populous, states. Small increases partially reflect the ability of states to hold on to their funds for a period of four years past the award year. As a consequence much of the VOI/TIS bed expansion may occur well after FY 2000.

Are Violent Offenders Serving Tougher Terms?

It is too early to tell definitely the extent to which offenders sentenced under TIS laws are serving longer terms. To date we do not see major increases in the percent of admissions to prison for violent offenses. We do know that nationwide, the imposed maximum sentence length, the average length of prison term, and percent of term served for violent offenses have increased for TIS states between 1993 and 1997. For non-TIS states, sentence lengths have been dropping, and months served have dropped slightly. As a result, for these states the percent of term served has increased several percentage points. But differences we observe between TIS and non-TIS states were evident before the passage of TIS legislation in many states. TIS states with structured sentencing have historically had high violent crime rates and

⁹¹ This median is based on states that added beds. Six states, plus the District of Columbia and two territories, reported building no beds by December 31, 1999.

the shorter sentences, while non-TIS states show lower violent crime rates and longer sentences. Many large states with urban centers are represented among TIS structured states, including California, Florida, Illinois, Michigan, Ohio, Oregon Pennsylvania, Virginia, and Washington. In contrast, smaller, less urban states are among the non-TIS states-- e.g., Alaska, Hawaii, Montana, Nebraska, New Hampshire, and Wyoming.

ADDITIONAL CONSIDERATIONS

As we indicated earlier, it is not possible to directly test the impact of VOI/TIS funds on sentences for violent offenders, since all states received VOI/TIS funding. However, we might expect those states that were able to build more beds with VOI/TIS funds to show greater increases in the percent of term served and sentence lengths for violent offenders. Although the number of beds added to date has been modest, we examined the relationship between the numbers of beds built and 1) sentences served and 2) percent of sentence served for violent offenders. In this analysis, we separate states at the median number of beds built and examine sentences for TIS and non-TIS states.⁹² Figure 10.1 shows that for TIS states, months served for states above and below the median are virtually the same, but they are increasing. Non-TIS states above and below the median show decreasing months between 1993 and 1996, and increases in 1997. In terms of percent of time served (Figure 10.2), TIS states with fewer than the median number beds built show large increases in the percent of time served; those TIS states above the median show increases through 1996, but decreases in 1997. Non-TIS states shown increases for groups above and below the median. These analyses suggest that, to date, it does not appear that those states with more beds have appreciably different sentences served than those with fewer beds. However, as with many other analyses, we will need to wait several years before definitive data are available.

⁹² This analysis includes states that did not build any beds to date.

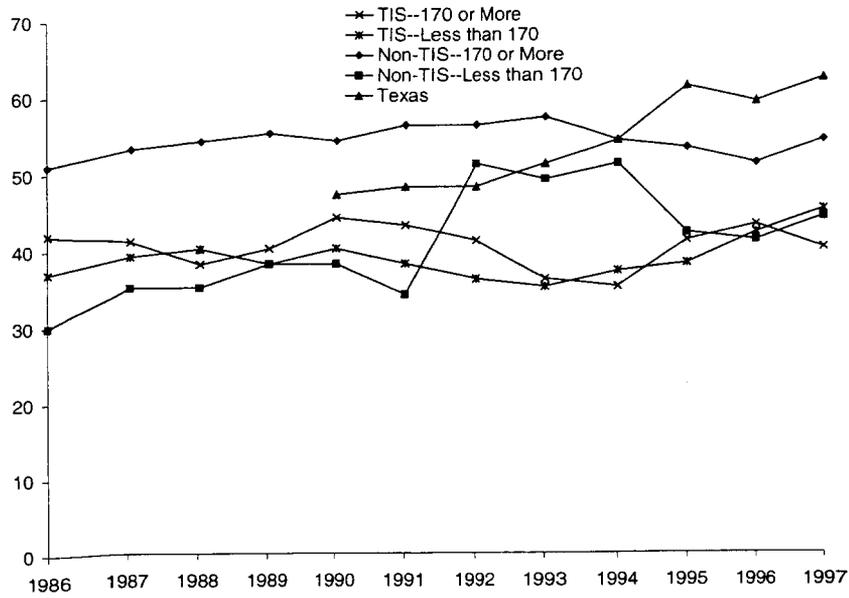


Fig. 10.1 - Time Served for Violent Crime, by TIS and Number of Beds Added

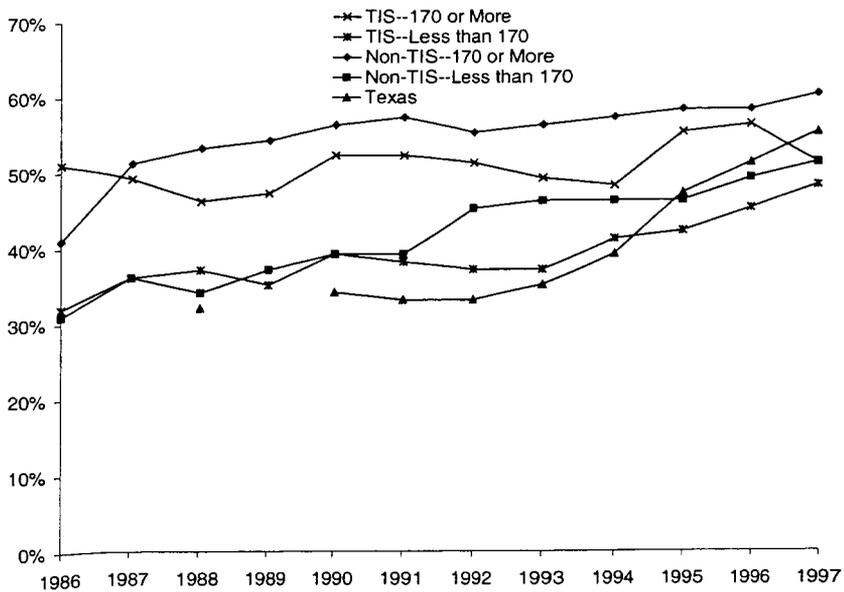


Fig. 10.2 - Percent of Sentence Served for Violent Crime, by TIS and Number of Beds Added

Although preliminary, we may be able to glean some differences between "early" and "later" TIS adopters that might shed light on expected future trends. To test this, we divided TIS states into those with qualifying legislation in 1994 or earlier, and those with qualifying legislation 1995 or later.⁹³ Figures 10.3 and 10.4 show an interesting pattern. Our analysis indicated that time served for early adopters is lower than for later adopters for most years, although the percent of time served is higher for the earlier adopters. This suggests that length of sentences imposed differs for earlier and late adopters. In fact, this is exactly the case, as shown in Figure 10.5. The length of sentence for violent offenses is higher for later adopters (Figure 10.4), resulting in a lower percentage of time served. In addition, time served and percent of sentences served were increasing several years before the later adopters implemented TIS, suggesting, as we have indicated before, sentence practices were changing before VOI/TIS.

⁹³ For these analyses, the "Utah exception" states (Michigan, Pennsylvania, and Utah) are considered pre-1994 adopters.

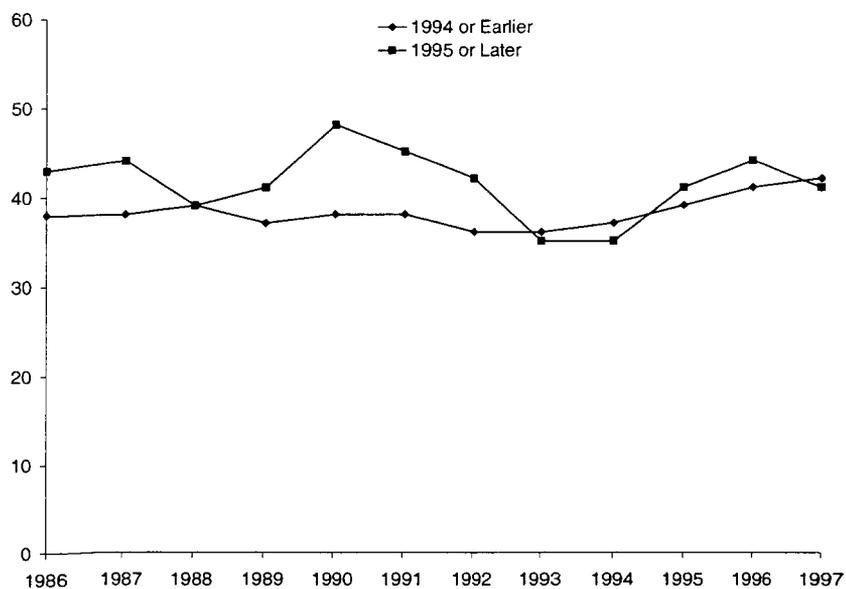


Fig. 10.3 - Time Served for Violent Offenses for TIS States, by Time of Passage of TIS Legislation

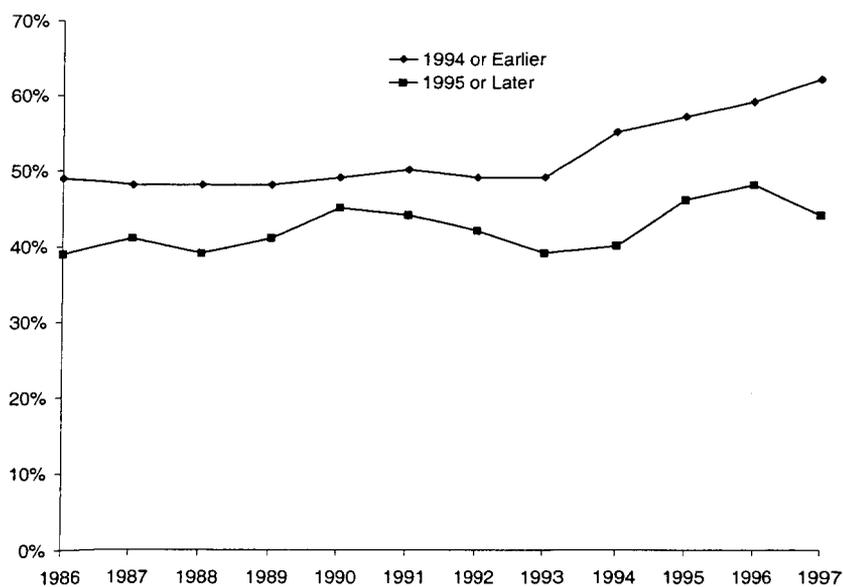


Fig. 10.4 - Percent of Sentence Served for Violent Offenses for TIS States, by Time of Passage of TIS Legislation

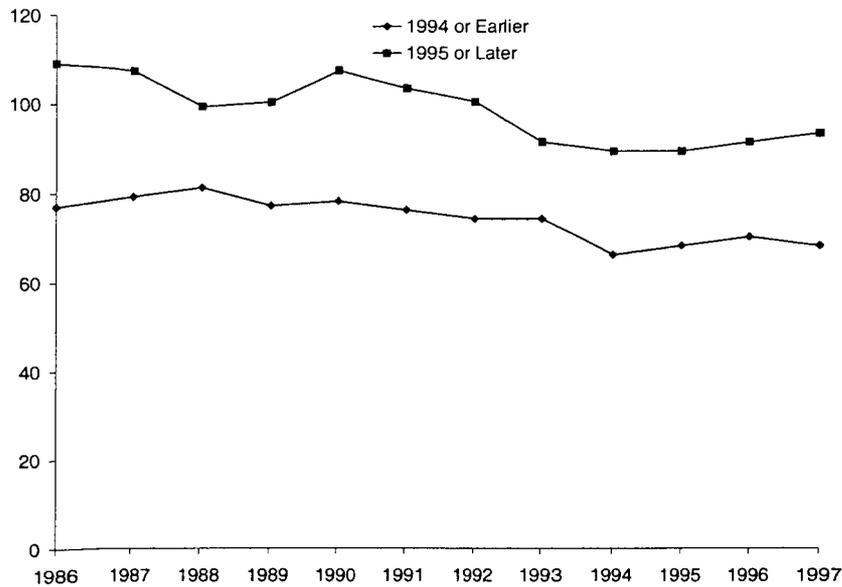


Fig. 10.5 - Length of Sentence for Violent Offenses for TIS States, by Time of Passage of TIS Legislation

FUTURE RESEARCH

The most obvious suggestion for future research is to revisit our research questions several years from now. By the end of 2004, states should have completed construction of beds with funds allocated through FY 2000. Sentences imposed for prison admissions for violent offenses were roughly 60 months in 1994 and 1995 for TIS states. With offenders serving 85% of their terms, we would expect several years of release data by 2004 to document changes in the average terms imposed and served, percent of sentence under TIS, and potential impacts on the crime rate. Unfortunately, policymakers and practitioners need information sooner than this. Our study has provided experiences and impacts based on the early implementation of VOI/TIS and thus may not represent longer term trends that will occur. Nonetheless, these trends do suggest some promising patterns. As we await more definitive results in the future, interim studies can provide us with updates to the current findings.

CONCLUDING OBSERVATIONS

Although we did not know it at the time, VOI/TIS came late in the last cycle of reaction against crime. At the time of the 1994 Crime Act, violent crime rates had been increasing at an alarming rate for three decades, despite a slight decline after 1991. Since 1991, violent crime rates have been falling and prison populations are not increasing as rapidly as feared. In a formal sense, the administration of the VOI/TIS program has been consistent with the Act, as amended. States receive funding in proportion to their violent crimes only to the degree with which they comply with detailed qualifying conditions set down in the law. However, in a practical sense, the outcome may not be what Congress expected. At the time of the 1994 Crime Act, crime was a number one concern of the public, and both the media and public officials were focusing attention on the most sensational aspects of this problem. Now, more than five years later, many states have not spent their VOI/TIS dollars, prison populations have not increased as expected, and the need for prison space may not be as acute as thought.

We raise some questions about the future of VOI/TIS. The VOI/TIS incentive has only been tested in good times, in an era of declining crime and budget surpluses. What will happen when things start to change, as they appear to be, at least in terms of the slowing of the overall economy? Perhaps more immediate, what will happen when crime starts to go up and TIS starts costing the states large amounts of money, especially for prison operating costs (that cannot be paid for with VOI/TIS funds)?

VOI/TIS legislation embodies a one-size-fits-all approach to the very complicated issue of criminal sentencing. All states, no matter how tough their current sentencing practices, were encouraged (by the qualifying conditions of the grants) to increase the fraction of their convicted violent offenders who were sent to prison, the length of their sentences, and the amount of time they served. But individual states differ considerably in their crime rates, the severity of their current sentencing practices, and the conditions of their prisons. By using this approach, VOI/TIS did not recognize pre-existing differences among states as to their current sentencing policies, recent attempts at

reform, and financial needs. The Corrections Program Office dealt with this issue by sponsoring a series of workshops and conferences (as well as more specific technical assistance) designed to help states deal with a number of policy and practical issues.

VOI/TIS, like many other pieces of "get tough" legislation passed in recent years, was based on a few simple hypotheses or beliefs, and not a great deal of serious analysis. The law promotes tougher sentences for violent offenders (no matter how tough they are now), and requires that all violent offenders serve 85% of their sentences. Analyses on the expected returns for increasingly longer sentences were not conducted. The 85% criteria for funding ignores efforts by some states that have been in the spirit of VOI/TIS but do not meet the Act's requirements. For example, in Texas, the public supports what they believe to be their state's tough sentencing policies, under which inmates convicted of aggravated violent offenses must serve 50% of their terms. And, as we have seen, the state has shown major increases in sentences imposed and time served for violent offenders. We suggest that future efforts be subject to more detailed scrutiny and analysis (North Carolina provides a model for such effects) before being passed, or states should be allowed a wider choice of options in pursuing the objectives of the legislation.

Appendix

**A. AMERICAN CORRECTIONAL ASSOCIATION (ACA) SURVEY OF DEPARTMENTS OF
CORRECTIONS**

**RAND / AMERICAN CORRECTIONAL ASSOCIATION EVALUATION
OF VIOLENT OFFENDER INCARCERATION AND TRUTH IN SENTENCING GRANTS**

RAND, a non-profit research organization in Santa Monica, California, is conducting an evaluation for the National Institute of Justice on the Violent Offender Incarceration and Truth in Sentencing (VOITIS) grants awarded as part the 1994 Federal Violent Crime Control and Law Enforcement Act. The grants provide funds to state and local correctional systems to expand their capacity to incarcerate violent offenders with more certainty, and to impose longer and more determinate sentences. As a means of determining how individual states respond, RAND is tracking legislative, policy, and operational changes at the state and local level.

In collaboration with RAND, the American Correctional Association is surveying state departments of corrections to gather information about implementation and expectations concerning VOITIS funding, as well as the impact of Truth-in-Sentencing laws, and other recent legislation, on state correctional populations. The survey includes items on recent changes in the types and numbers of prison beds added with VOITIS funds, the length of sentences imposed and served, the effects on jail and prison admissions and population characteristics, inmate activities and programs, prison staffing and prison operations.

The next page gives a summary of VOITIS funding for your state. Please answer the questions on the pages that follow as accurately as possible, as they apply in your state. This survey is being mailed to all fifty states and to U.S. territories. Your answers will be analyzed along with responses from other departments of corrections.

Please fax your completed survey form to (301) 918-1900, to the attention of Bob Levinson. If you prefer to mail your response to us, please send the completed form to:

American Correctional Association
Attention: Bob Levinson
4380 Forbes Blvd
Lanham MD 20706

If you have questions about this survey, please call Bob Levinson at (301) 918-1800 x1876.

YOUR NAME AND ADDRESS	
Name:	
Title:	
Jurisdiction:	
Address:	
Telephone:	
Fax:	

I. VOITIS Budgets and Bed Capacity

Of the total VOITIS funds your state has received since 1996, how much has been spent to date?

\$

How many beds of the following types have been added in your state using VOITIS funds? (Enter the number of beds in the appropriate boxes.)

	Adult	Juvenile	Total
Prison	<input type="text"/>	<input type="text"/>	<input type="text"/>
Minimum security	<input type="text"/>	<input type="text"/>	<input type="text"/>
Medium security	<input type="text"/>	<input type="text"/>	<input type="text"/>
Maximum security	<input type="text"/>	<input type="text"/>	<input type="text"/>
SuperMax facilities	<input type="text"/>	<input type="text"/>	<input type="text"/>
Leased from private companies	<input type="text"/>	<input type="text"/>	<input type="text"/>
Other _____	<input type="text"/>	<input type="text"/>	<input type="text"/>
Local	<input type="text"/>	<input type="text"/>	<input type="text"/>
Jail	<input type="text"/>	<input type="text"/>	<input type="text"/>
Leased from private companies	<input type="text"/>	<input type="text"/>	<input type="text"/>
Other _____	<input type="text"/>	<input type="text"/>	<input type="text"/>
Other _____	<input type="text"/>	<input type="text"/>	<input type="text"/>

How much of the increase in beds was accomplished by VOITIS funds in each of the following ways?

	None	Between 1-49%	About 50%	Between 51-99%	100%
Building new facilities	<input type="checkbox"/>				
Retrofitting existing institutions	<input type="checkbox"/>				
Expanding capacity in existing institutions	<input type="checkbox"/>				
Leasing beds from private companies	<input type="checkbox"/>				
Other _____	<input type="checkbox"/>				

II. Sentencing and Time Served

What is the average prison sentence length imposed today and in 1993?*

Length of sentence (in months)	Overall	1993	Expected 1998
Violent offenses	<input type="text"/>	<input type="text"/>	<input type="text"/>
Property offenses	<input type="text"/>	<input type="text"/>	<input type="text"/>
Drug offenses	<input type="text"/>	<input type="text"/>	<input type="text"/>
Other offenses	<input type="text"/>	<input type="text"/>	<input type="text"/>

What is the prison time actually served today and in 1993?*

Length of sentence (in months)	Overall	1993	Expected 1998
Violent offenses	<input type="text"/>	<input type="text"/>	<input type="text"/>
Property offenses	<input type="text"/>	<input type="text"/>	<input type="text"/>
Drug offenses	<input type="text"/>	<input type="text"/>	<input type="text"/>
Other offenses	<input type="text"/>	<input type="text"/>	<input type="text"/>

* If 1998 data are not available, use the most recent year for which data are available.

III. VOI/TIS Effects on Prison/Jail Admissions

Since 1996 (when VOI/TIS funding first became available to your state), what change has occurred in each of the following areas, and how much of the change do you feel is attributable to VOI/TIS?

	Substantially Decreased	Decreased	No Change	Increased	Substantially Increased	Attributable to VOI/TIS
Number of beds available to <i>state</i> corrections	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____ %
Minimum security	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____ %
Medium security	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____ %
Maximum security	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____ %
SuperMax facilities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____ %
Leased from private companies	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____ %
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____ %
<hr/>						
Number of beds available to <i>local</i> corrections	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____ %
Minimum security	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____ %
Medium security	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____ %
Maximum security	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____ %
Leased from private companies	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____ %
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____ %
<hr/>						
Prisoners newly admitted	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____ %
For violent offenses	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____ %
For property offenses	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____ %
For drug offenses	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____ %
For other offenses	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____ %
Adults	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____ %
Youths sentenced as adults	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____ %
Juveniles	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____ %
Males	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____ %
Females	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____ %
Aged 50 and older	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____ %
With drug or alcohol treatment needs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____ %
With physical health problems	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____ %
With mental health problems	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____ %

IV. VOITIS Effects on Prison Population

Since 1996 (when VOITIS funding first became available to your state), what change has occurred within the overall prison population in each of the following areas, and how much of the change do you feel is attributable to VOITIS?

	Substantially Decreased	Decreased	No Change	Increased	Substantially Increased	Attributable to VOITIS
Violent offenders	<input type="checkbox"/>	_____				
Property offenders	<input type="checkbox"/>	_____				
Drug offenders	<input type="checkbox"/>	_____				
Other offenders	<input type="checkbox"/>	_____				
Adults	<input type="checkbox"/>	_____				
Youths sentenced as adults	<input type="checkbox"/>	_____				
Juveniles	<input type="checkbox"/>	_____				
Males	<input type="checkbox"/>	_____				
Females	<input type="checkbox"/>	_____				
Offenders aged 50 and older	<input type="checkbox"/>	_____				
Offenders with drug or alcohol treatment needs	<input type="checkbox"/>	_____				
Offenders with physical health problems	<input type="checkbox"/>	_____				
Offenders with mental health problems	<input type="checkbox"/>	_____				

V. VOITIS Effects on Prison Inmate Activities and Programs

Since 1996 (when VOITIS funding first became available to your state), what change has occurred in each of the following areas, and how much of the change do you feel is attributable to VOITIS?

	Substantially Decreased	Decreased	No Change	Increased	Substantially Increased	Attributable to VOITIS
Inmates who work regularly	<input type="checkbox"/>	_____				
Inmates being educated regularly	<input type="checkbox"/>	_____				
Inmates with outside recreation (yard privileges)	<input type="checkbox"/>	_____				
Inmates with visitation privileges	<input type="checkbox"/>	_____				
Inmate drug treatment programs	<input type="checkbox"/>	_____				
Inmate drug testing	<input type="checkbox"/>	_____				
Inmates who test positive for drug use	<input type="checkbox"/>	_____				
Inmate gang activity	<input type="checkbox"/>	_____				
Inmate appeals	<input type="checkbox"/>	_____				
Inmates housed in secure units	<input type="checkbox"/>	_____				
Inmates double-bunked	<input type="checkbox"/>	_____				
Inmates triple-bunked	<input type="checkbox"/>	_____				
Inmate infractions	<input type="checkbox"/>	_____				
Inmate assaults on staff	<input type="checkbox"/>	_____				

VI. VOI/TIS Effects on Prison Staffing

Since 1996 (when VOI/TIS funding first became available to your state), what change has occurred in each of the following areas, and how much of the change do you feel is attributable to VOI/TIS?

	Substantially Decreased	Decreased	No Change	Increased	Substantially Increased	Attributable to VOI/TIS
Number of staff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Male staff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Female staff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Staff qualifications	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Hours worked by staff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Hours of staff training	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Security training	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Physical training	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Other training _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

VII. VOI/TIS Effects on Operations

Since 1996 (when VOI/TIS funding first became available to your state), what change has occurred in each of the following areas, and how much of the change do you feel is attributable to VOI/TIS?

	Substantially Decreased	Decreased	No Change	Increased	Substantially Increased	Attributable to VOI/TIS
Use of good time/gain time	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Use of parole	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Post-release supervision (other than parole)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Inmate classification	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
For risk	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
For programming needs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
For prison management	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

VIII. Additional Comments

Please list any obstacles or issues that have arisen in your state in the implementation of VOI/TIS: _____

What changes in your state's response(s) to VOI/TIS would you like to see?

Thank you!

<< You may elaborate your reply to any question >>

States Responding to the ACA Survey

TIS	Non-TIS	Texas
Arizona	Alabama	Texas
California	Arkansas	
Connecticut	Colorado	
Florida	District of Columbia	
Illinois	Idaho	
Iowa	Indiana	
Kansas	Kentucky	
Louisiana	Massachusetts	
Maine	Montana	
Minnesota	Nebraska	
Mississippi	Nevada	
Missouri	New Hampshire	
New York	Rhode Island	
North Carolina	South Dakota	
Ohio	Vermont	
Oklahoma	Wisconsin	
Tennessee	Wyoming	
Utah		
Virginia		
Washington		

B. AMERICAN PROSECUTORS RESEARCH INSTITUTE (APRI) SURVEY OF PROSECUTORS

Prosecutor Perceptions and Experiences with "Get Tough" Legislation and Policies

The purpose of this study is to obtain information on "Get Tough" legislation/policies, and their influence on the prosecution process and selected aspects of the criminal justice system. In this survey, "Get Tough" refers to *any legislation enacted or policies adopted whose purpose is to increase incarceration rates, sentence length for violent offenders, and/or time actually served by all offenders*. "Get Tough" also includes Violent Offender Incarceration/Truth in Sentencing (VOI/TIS) legislation.

Please answer the following questions as accurately as possible, as they apply in your jurisdiction. Your answers will be analyzed along with responses from other selected prosecutors' offices. All responses will be reported in aggregate or average numbers. No responses will be directly attributed to you or your jurisdiction.

Please mail or fax your completed survey form to: **APRI Research Unit**
99 Canal Center Plaza, Suite 510
Alexandria, VA 22314
Fax Number: (703) 836-3195

If you have questions about this survey, please call Dr. Jane Nady Sigmon at (703) 519-1675.

Has your state adopted any "Get Tough" approaches to sentencing reform in the last five years?

Yes, start at Section I **No, skip to Section V.**

I. "Get Tough" Legislation/Policies in Your State

1. Please indicate "Get Tough" legislation/policies enacted in your state and the year enacted.

	Year First Enacted	Not Yet Enacted		Year First Enacted	Not Yet Enacted
a. Truth in sentencing (TIS)- including reduction/elimination of parole and/or good time	19__	<input type="checkbox"/>	c. Reduction/elimination of age for mandatory waivers of juveniles to adult court	19__	<input type="checkbox"/>
b. Three Strikes Legislation	19__	<input type="checkbox"/>	d. New mandatory sentence minimums	19__	<input type="checkbox"/>
Other (e.g. prior record, use of firearm, violent offender, please specify):	19__	<input type="checkbox"/>			

2. In your opinion, how likely are "Get Tough" legislation/policies to achieve the following goals?

	Very unlikely	Somewhat unlikely	No Effect	Somewhat likely	Very likely
a. Ensure lengthy incarceration for repeat violent offenders?	<input type="checkbox"/>				
b. Provide certainty that offenders will serve significant portion of the sentence imposed?	<input type="checkbox"/>				
c. Deter others from committing violent offenses?	<input type="checkbox"/>				

3. Have there been any unanticipated or negative consequences of your jurisdiction's "Get Tough" legislation/policies? Yes No

If yes, please explain: _____

- | | Never | Infrequently | Sometimes | Frequently | Always |
|---|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| 4. Does your office review cases to determine whether "Get Tough" legislation/policies apply? | <input type="checkbox"/> |
| 5. Which, if any, of the following results do you expect from "Get Tough"? (check all that apply): | | | | | |
| <input type="checkbox"/> Lower crime rates for violent offenses | | | | | |
| <input type="checkbox"/> Allow civilians to better understand the criminal justice sentencing structure | | | | | |
| <input type="checkbox"/> Allow corrections to more accurately predict their populations | | | | | |
| <input type="checkbox"/> Increase prison populations | | | | | |
| <input type="checkbox"/> Other, please (specify): _____ | | | | | |
| 6. Approximately what percent of cases processed by your office: | 0% | 25% | 50% | 75% | 100% |
| a. Are eligible for prosecution under "Get Tough" legislation/policies? | <input type="checkbox"/> |
| b. Are sentenced under "Get Tough" legislation/policies? | <input type="checkbox"/> |
| | Not At All | Very Little | Some what | Quite a Lot | Extensively |
| 7. To what extent did your office consult/participate in the development of "Get Tough" legislation/policies? | <input type="checkbox"/> |
| 8. To what extent has passage of this legislation helped accomplish your offices' goals? | <input type="checkbox"/> |
| 9. To what extent are charging decisions viewed as 'even more important' in cases where "Get Tough" policies apply? | <input type="checkbox"/> |

II. Effects on Budget and Resources

- | 10. To the best of your knowledge, please indicate the impact of "Get Tough" legislation/policies on | Substantially Decreased | Decreased | No Effect | Increased | Substantially Increased |
|--|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| a. Demands on your budget | <input type="checkbox"/> |
| b. Caseload size | <input type="checkbox"/> |
| c. Case processing time | <input type="checkbox"/> |
| d. Resources needed for case screening/charging | <input type="checkbox"/> |
| e. Resources needed for trial preparation | <input type="checkbox"/> |

III. Effects on Sentencing/Corrections

- | 11. To the best of your knowledge, please indicate the impact of "Get Tough" legislation/policies on | Substantially Decreased | Decreased | No Effect | Increased | Substantially Increased |
|--|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| a. Length of sentences imposed by the court for violent offenders | <input type="checkbox"/> |
| b. Use of sentencing alternatives to prison | <input type="checkbox"/> |
| c. Proportion of probation sentences received by violent offenders | <input type="checkbox"/> |
| d. Actual prison time served by violent offenders | <input type="checkbox"/> |

IV. Effects on the Criminal Justice Process

12. To the best of your knowledge, please indicate the impact of "Get Tough" legislation/policies on

Substantially Decreased Decreased No Effect Increased Substantially Increased

- | | | | | | |
|---|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| a. Number of violent crime cases your office takes to trial | <input type="checkbox"/> |
| b. Cooperation between your office and law enforcement | <input type="checkbox"/> |
| c. Violent crime arrests in your jurisdiction | <input type="checkbox"/> |
| d. Number of plea bargains | <input type="checkbox"/> |
| e. Number of trials | <input type="checkbox"/> |
| f. Number of dismissals | <input type="checkbox"/> |
| g. Number of juveniles waived to adult court | <input type="checkbox"/> |
| h. Number of cases appealed | <input type="checkbox"/> |
| i. Offenses to be prosecuted as violent crimes | <input type="checkbox"/> |
| j. Prosecutorial discretion within your office | <input type="checkbox"/> |
| k. Victim participation in the justice process | <input type="checkbox"/> |
| l. Victim satisfaction with the justice process | <input type="checkbox"/> |
| m. The scrutiny given to charging decisions | <input type="checkbox"/> |

V. Background Information on Your Jurisdiction

13. What is the approximate population of the jurisdiction your office serves?

- Less than 20,000
 20,001-50,000
 50,001-100,000
 100,001-250,000
 250,001-500,000
 more than 500,000

14. Your current staffing: Number of full-time attorneys _____ Number of all other support staff _____

Name:	_____	
City/State:	_____	Telephone: _____

Thank you for your time and cooperation.

c. **JUSTICE MANAGEMENT INSTITUTE (JMI) SURVEY OF JUDGES**

JUDICIAL PERCEPTIONS AND EXPERIENCES WITH "GET TOUGH" LEGISLATION AND POLICES

Use blue or black ink only. Circle only one response per question unless otherwise indicated. If you are unclear as to which option to circle please write in a response near the question. It is important that every question be answered.

1.) Has your state adopted any "Get Tough" legislation or polices in the past 10 years? No
(go to Q. 12) Yes
(go to Q. 2)

2.) Please indicate if the following "Get Tough" legislation or polices have been enacted in your state and the year enacted, if known.

	Not Enacted	Enacted	Year
Truth in sentencing	0	1	19__
Violent offender sentence enhancement	0	1	19__
Other sentence enhancements (e.g. prior record, use of firearm)	0	1	19__
Three strikes legislation (including reduction or elimination of parole & good time credits)	0	1	19__
New mandatory sentence minimums	0	1	19__
Reduction/elimination of age for mandatory waivers of juveniles to adult court	0	1	19__
Others: (specify) _____	0	1	19__

3.) Please rate the following "Get Tough" legislation or policies (as they apply to your jurisdiction) according to their effect on the efficiency of case processing.

	Very Negative	No Effect	Very Positive	Not Applicable
Truth in sentencing	1	2	3	4
Violent offender sentence enhancement	1	2	3	4
Other sentence enhancements (e.g. prior record, use of firearm)	1	2	3	4
Three strikes legislation (including reduction or elimination of parole & good time credits)	1	2	3	4
New mandatory sentence minimums	1	2	3	4
Reduction/elimination of age for mandatory waivers of juveniles to adult court	1	2	3	4
Others: (specify) _____	1	2	3	4

4.) Was the enactment of "Get Tough" legislation or policies a stand-alone measure as opposed to a package of legislation highlighting crime reduction or crime prevention? No Yes

5.) What was the formal position of your state Judicial Council or other judicial governing body on the enactment of "Get Tough" legislation or policies?

No Position Taken	In Favor	Opposed To	Don't Know
1	2	3	4

6.) What was the formal position of your Judges Association on the enactment of "Get Tough" legislation or policies?

No Position Taken	In Favor	Opposed To	Don't Know
1	2	3	4

7.) Did you have input prior to enactment of the "Get Tough" legislation or policies?

No	Yes
----	-----

8.) Did other judges have input prior to enactment of the "Get Tough" legislation or policies?

No	Yes
----	-----

9.) In your opinion, how likely are "Get Tough" legislation/policies to achieve the following objectives?

Ensure lengthy incarceration for repeat violent offenders.

Very Unlikely	Somewhat Unlikely	No Effect	Somewhat Likely	Very Likely	Don't Remember
1	2	3	4	5	6

Provide certainty that offenders will serve a significant portion of the sentence imposed.

1	2	3	4	5	6
---	---	---	---	---	---

Deter others from committing violent offenses.

1	2	3	4	5	6
---	---	---	---	---	---

Increase the use of community corrections (i.e.; day treatment, electronic monitoring, etc.) and other alternatives to incarceration.

1	2	3	4	5	6
---	---	---	---	---	---

10.) Which, if any, of the following results do you expect?

Lower crime rates for violent offenses

No	Yes
----	-----

Allow citizens to better understand the criminal justice sentencing structure

No	Yes
----	-----

Allow the correctional system to more accurately manage their populations

No	Yes
----	-----

Increase in prison populations

No	Yes
----	-----

Other: _____

No	Yes
----	-----

11.) To the best of your knowledge please indicate the impact of "Get Tough" legislation and policies on the following:

Caseloads

Substantially Decreased	Decreased	No Effect	Increased	Substantially Increased
1	2	3	4	5

Case processing time

1	2	3	4	5
---	---	---	---	---

Proportion of cases going to jury trial

1	2	3	4	5
---	---	---	---	---

Number of plea bargains

1	2	3	4	5
---	---	---	---	---

Number of dismissals

1	2	3	4	5
---	---	---	---	---

Your discretion in sentencing

1	2	3	4	5
---	---	---	---	---

Length of sentences imposed for violent offenses

1	2	3	4	5
---	---	---	---	---

Number of juvenile cases waived to adult court

1	2	3	4	5
---	---	---	---	---

Use of community corrections or other alternatives to incarceration

1	2	3	4	5
---	---	---	---	---

Actual prison time served by violent offenders	1	2	3	4	5
Victim participation in the justice process	1	2	3	4	5
Victim satisfaction with the justice process	1	2	3	4	5
Number of offenses prosecuted as violent crimes	1	2	3	4	5

The remainder of the questions are being asked in order to gather accurate data on the courts involved in this survey. Please be reminded that all responses are confidential and will not be directly attributed to you or your jurisdiction.

12.) How many years experience do you have on the bench? _____ Years

13.) What proportion of your caseload involves criminal cases?

None	0
1-24%	1
25-49%	2
50-74%	3
75-100%	4

14.) What types of cases do you currently handle (circle all that apply)?

Civil	1
Criminal	2
Family Law/Domestic Relations	3
Juvenile	4
Other	5

15.) What is the approximate population of the jurisdiction of your court services?

Less than 20,000	1
20,001 through 50,000	2
50,001 through 100,000	3
100,001 through 250,000	4
250,001 through 500,000	5
More than 500,000	6

Thank you for taking time to fill out this survey. We greatly appreciate your time, effort, and honesty. Please mail this survey back to The Justice Management Institute in the enclosed envelope. Again, many thanks.

States Responding to the JMI Survey

TIS	Non-TIS	Texas
Arizona	Alabama	Texas
California	Arkansas	
Connecticut	Colorado	
Delaware	Idaho	
Florida	Indiana	
Georgia	Kentucky	
Illinois	Maryland	
Iowa	Montana	
Kansas	Rhode Island	
Michigan	South Dakota	
Minnesota	Wisconsin	
Mississippi	West Virginia	
Missouri		
New York		
North Carolina		
Ohio		
Pennsylvania		
South Carolina		
Tennessee		
Utah		
Virginia		
Washington		

D. 1994 CRIME ACT, AS AMENDED--RELEVANT PORTIONS FOR VOI/TIS GRANTS

**SUBCHAPTER I--PRISONS
PART A--VIOLENT OFFENDER INCARCERATION
AND TRUTH IN SENTENCING INCENTIVE GRANTS
[TITLE II -- SUBTITLE A]**

42 USC § 13701

[Sec. 20101] DEFINITIONS

Unless otherwise provided, for purposes of this subtitle--

(1) the term 'indeterminate sentencing' means a system by which--

(A) the court may impose a sentence of a range defined by statute; and

(B) an administrative agency, generally the parole board, or the court, controls release within the statutory range;

(2) the term 'part 1 violent crime' means murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports; and

(3) the term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

42 USC § 13702

[Sec. 20102] AUTHORIZATION OF GRANTS

(a) **IN GENERAL.**--The Attorney General shall provide Violent Offender Incarceration grants under section 20103 and Truth-in-Sentencing Incentive grants under section 20104 to eligible States--

(1) to build or expand correctional facilities to increase the bed capacity for the confinement of persons convicted of a part 1 violent crime or adjudicated delinquent for an act which if committed by an adult, would be a part 1 violent crime;

(2) to build or expand temporary or permanent correctional facilities, including facilities on military bases, prison barges, and boot camps, for the confinement of convicted nonviolent offenders and criminal aliens, for the purpose of freeing suitable

existing prison space for the confinement of persons convicted of a part 1 violent crime; and

(3) to build or expand jails.

(b) REGIONAL COMPACTS.--

(1) IN GENERAL.--Subject to paragraph (2), States may enter into regional compacts to carry out this subtitle. Such compacts shall be treated as States under this subtitle.

(2) REQUIREMENT.--To be recognized as a regional compact for eligibility for a grant under section 20103 or 20104, each member State must be eligible individually.

(3) LIMITATION ON RECEIPT OF FUNDS.--No State may receive a grant under this subtitle both individually and as part of a compact.

(c) APPLICABILITY.--Notwithstanding the eligibility requirements of section 20104, a State that certifies to the Attorney General that, as of the date of enactment of the Department of Justice Appropriations Act, 1996, such State has enacted legislation in reliance on subtitle A of title II of the Violent Crime Control and Law Enforcement Act, as enacted on September 13, 1994, and would in fact qualify under those provisions, shall be eligible to receive a grant for fiscal year 1996 as though such State qualifies under section 20104 of this subtitle.

42 USC § 13703

[Sec. 20103] VIOLENT OFFENDER INCARCERATION GRANTS

(a) ELIGIBILITY FOR MINIMUM GRANT.--To be eligible to receive a minimum grant under this section, a State shall submit an application to the Attorney General that provides assurances that the State has implemented, or will implement, correctional policies and programs, including truth-in-sentencing laws that ensure that violent offenders serve a substantial portion of the sentences imposed, that are designed to provide sufficiently severe punishment for violent offenders, including violent juvenile offenders, and that the prison time served is appropriately related to the determination that the inmate is a violent offender and for a period of time deemed necessary to protect the public.

(b) ADDITIONAL AMOUNT FOR INCREASED PERCENTAGE OF PERSONS SENTENCED AND TIME SERVED.--A State that received

a grant under subsection (a) is eligible to receive additional grant amounts if such State demonstrates that the State has, since 1993--

(1) increased the percentage of persons arrested for a part 1 violent crime sentenced to prison; or

(2) increased the average prison time actually served or the average percent of sentence served by persons convicted of a part 1 violent crime.

Receipt of grant amounts under this subsection does not preclude eligibility for a grant under subsection (c).

(c) ADDITIONAL AMOUNT FOR INCREASED RATE OF INCARCERATION AND PERCENTAGE OF SENTENCE SERVED.--A State that received a grant under subsection (a) is eligible to receive additional grant amounts if such State demonstrates that the State has--

(1) since 1993, increased the percentage of persons arrested for a part 1 violent crime sentenced to prison, and has increased the average percent of sentence served by persons convicted of a part 1 violent crime; or

(2) has increased by 10 percent or more over the most recent 3-year period the number of new court commitments to prison of persons convicted of part 1 violent crimes.

Receipt of grant amounts under this subsection does not preclude eligibility for a grant under subsection (b).

42 USC § 13704

[Sec. 20104] TRUTH-IN-SENTENCING INCENTIVE GRANTS

(a) ELIGIBILITY.--To be eligible to receive a grant award under this section, a State shall submit an application to the Attorney General that demonstrates that--

(1) such State has implemented truth-in-sentencing laws that--

(A) require persons convicted of a part 1 violent crime to serve not less than 85 percent of the sentence imposed (without counting time not actually served, such as

administrative or statutory incentives for good behavior);
or

(B) result in persons convicted of a part 1 violent crime serving on average not less than 85 percent of the sentence imposed (without counting time not actually served, such as administrative or statutory incentives for good behavior);

(2) such State has truth-in-sentencing laws that have been enacted, but not yet implemented, that require such State, not later than 3 years after such State submits an application to the Attorney General, to provide that persons convicted of a part 1 violent crime serve not less than 85 percent of the sentence imposed (without counting time not actually served, such as administrative or statutory incentives for good behavior); or

(3) in the case of a State that on the date of enactment of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996, practices indeterminate sentencing with regard to any part 1 violent crime--

(A) persons convicted of a part 1 violent crime on average serve not less than 85 percent of the prison term established under the State's sentencing and release guidelines; or

(B) persons convicted of a part 1 violent crime on average serve not less than 85 percent of the maximum prison term allowed under the sentence imposed by the court (not counting time not actually served such as administrative or statutory incentives for good behavior).

(b) EXCEPTION.--Notwithstanding subsection (a), a State may provide that the Governor of the State may allow for the earlier release of--

(1) a geriatric prisoner; or

(2) a prisoner whose medical condition precludes the prisoner from posing a threat to the public, but only after a public hearing in which representatives of the public and the prisoner's victims have had an opportunity to be heard regarding a proposed release.

(a) SHARING OF FUNDS WITH COUNTIES AND OTHER UNITS OF LOCAL GOVERNMENT.--

(1) RESERVATION.--Each State shall reserve not more than 15 percent of the amount of funds allocated in a fiscal year pursuant to section 20106 for counties and units of local government to construct, develop, expand, modify, or improve jails and other correctional facilities.

(2) FACTORS FOR DETERMINATION OF AMOUNT.--To determine the amount of funds to be reserved under this subsection, a State shall consider the burden placed on a county or unit of local government that results from the implementation of policies adopted by the State to carry out section 20103 or 20104.

(b) ADDITIONAL REQUIREMENT.--To be eligible to receive a grant under section 20103 or 20104, a State shall provide assurances to the Attorney General that the State has implemented or will implement not later than 18 months after the date of the enactment of this subtitle, policies that provide for the recognition of the rights and needs of crime victims.

(c) FUNDS FOR JUVENILE OFFENDERS.--Notwithstanding any other provision of this subtitle, if a State, or unit of local government located in a State that otherwise meets the requirements of section 20103 or 20104, certifies to the Attorney General that exigent circumstances exist that require the State to expend funds to build or expand facilities to confine juvenile offenders other than juvenile offenders adjudicated delinquent for an act which, if committed by an adult, would be a part 1 violent crime, the State may use funds received under this subtitle to build or expand juvenile correctional facilities or pretrial detention facilities for juvenile offenders.

(d) PRIVATE FACILITIES.--A State may use funds received under this subtitle for the privatization of facilities to carry out the purposes of section 20102.

(e) **DEFINITION.**—For purposes of this subtitle, "part 1 violent crime" means a part 1 violent crime as defined in section 20101(3), or a crime in a reasonably comparable class of serious violent crimes as approved by the Attorney General.

42 USC § 13706

[Sec. 20106] **FORMULA FOR GRANTS**

(a) **ALLOCATION OF VIOLENT OFFENDER INCARCERATION GRANTS UNDER SECTION 20103.**—

(1) **FORMULA ALLOCATION.**—85 percent of the amount available for grants under section 20103 for any fiscal year shall be allocated as follows (except that a State may not receive more than 9 percent of the total amount of funds made available under this paragraph):

(A) 0.75 percent shall be allocated to each State that meets the requirements of section 20103(a), except that the United States Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands, if eligible under section 20103(a), shall each be allocated 0.05 percent.

(B) The amount remaining after application of subparagraph (A) shall be allocated to each State that meets the requirements of section 20103(b), in the ratio that the number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made, bears to the average annual number of part 1 violent crimes reported by all States that meet the requirements of section 20103(b) to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made.

(2) **ADDITIONAL ALLOCATION.**—15 percent of the amount available for grants under section 20103 for any fiscal year shall be allocated to each State that meets the requirements of section 20103(c) as follows:

(A) 3.0 percent shall be allocated to each State that meets the requirements of section 20103(c), except that the United States Virgin Islands, American Samoa, Guam,

and the Commonwealth of the Northern Mariana Islands, if eligible under such subsection, shall each be allocated 0.03 percent.

(B) The amount remaining after application of subparagraph (A) shall be allocated to each State that meets the requirements of section 20103(c), in the ratio that the number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made, bears to the average annual number of part 1 violent crimes reported by all States that meet the requirements of section 20102(c) to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made.

(b) ALLOCATION OF TRUTH-IN-SENTENCING GRANTS UNDER SECTION 20104.—The amounts available for grants for section 20104 shall be allocated to each State that meets the requirements of section 20104 in the ratio that the average annual number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made bears to the average annual number of part 1 violent crimes reported by States that meet the requirements of section 20104 to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made, except that a State may not receive more than 25 percent of the total amount available for such grants.

(c) UNAVAILABLE DATA.—If data regarding part 1 violent crimes in any State is substantially inaccurate or is unavailable for the 3 years preceding the year in which the determination is made, the Attorney General shall utilize the best available comparable data regarding the number of violent crimes for the previous year for the State for the purposes of allocation of funds under this subtitle.

(d) REGIONAL COMPACTS.—In determining the amount of funds that States organized as a regional compact may receive, the Attorney General shall first apply the formula in either subsection (a) or (b) and (c) of this section to each member State of the compact. The States organized as a regional compact may receive the sum of the amounts so determined.

42 USC § 13707

[Sec. 20107] ACCOUNTABILITY

(a) **FISCAL REQUIREMENTS.**—A State that receives funds under this subtitle shall use accounting, audit, and fiscal procedures that conform to guidelines prescribed by the Attorney General, and shall ensure that any funds used to carry out the programs under section 20102(a) shall represent the best value for the State governments at the lowest possible cost and employ the best available technology.

(b) **ADMINISTRATIVE PROVISIONS.**—The administrative provisions of sections 801 and 802 of the Omnibus Crime Control and Safe Streets Act of 1968 shall apply to the Attorney General under this subtitle in the same manner that such provisions apply to the officials listed in such sections.

42 USC § 13708

[Sec. 20108] AUTHORIZATION OF APPROPRIATIONS

(a) **IN GENERAL.**—

(1) **AUTHORIZATIONS.**—There are authorized to be appropriated to carry out this subtitle—

- (A) \$997,500,000 for fiscal year 1996;
- (B) \$1,330,000,000 for fiscal year 1997;
- (C) \$2,527,000,000 for fiscal year 1998;
- (D) \$2,660,000,000 for fiscal year 1999; and
- (E) \$2,753,100,000 for fiscal year 2000.

(2) **DISTRIBUTION.**—

(A) **IN GENERAL.**—Of the amounts remaining after the allocation of funds for the purposes set forth under sections 20110, 20111, and 20109, the Attorney General shall, from amounts authorized to be appropriated under paragraph (1) for each fiscal year, distribute 50 percent for incarceration grants under section 20103, and 50 percent for incentive grants under section 20104.

(B) DISTRIBUTION OF MINIMUM AMOUNTS.—The Attorney General shall distribute minimum amounts allocated for section 20103(a) to an eligible State not later than 30 days after receiving an application that demonstrates that such State qualifies for a Violent Offender Incarceration grant under section 20103 or a Truth-in-Sentencing Incentive grant under section 20104.

(b) LIMITATIONS ON FUNDS.—

(1) USES OF FUNDS.—Except as provided in section 20110 and 20111, funds made available pursuant to this section shall be used only to carry out the purposes described in section 20102(a).

(2) NONSUPPLANTING REQUIREMENT.—Funds made available pursuant to this section shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources.

(3) ADMINISTRATIVE COSTS.—Not more than 3 percent of the funds that remain available after carrying out sections 20109, 20110, and 20111 shall be available to the Attorney General for purposes of—

(A) administration;

(B) research and evaluation, including assessment of the effect on public safety and other effects of the expansion of correctional capacity and sentencing reforms implemented pursuant to this subtitle;

(C) technical assistance relating to the use of grant funds, and development and implementation of sentencing reforms implemented pursuant to this subtitle; and

(D) data collection and improvement of information systems relating to the confinement of violent offenders and other sentencing and correctional matters.

(4) CARRYOVER OF APPROPRIATIONS.—Funds appropriated pursuant to this section during any fiscal year shall remain available until expended.

(5) **MATCHING FUNDS.**--The Federal share of a grant received under this subtitle may not exceed 90 percent of the costs of a proposal as described in an application approved under this subtitle.

42 USC § 13709

[Sec. 20109] PAYMENTS FOR INCARCERATION ON TRIBAL LANDS

(a) **RESERVATION OF FUNDS.**--Notwithstanding any other provision of this subtitle other than section 20108(a)(2), from amounts appropriated to carry out sections 20103 and 20104, the Attorney General shall reserve, to carry out this section--

(1) 0.3 percent in each of fiscal years 1996 and 1997; and

(2) 0.2 percent in each of fiscal years 1998, 1999, and 2000.

(b) **GRANTS TO INDIAN TRIBES.**--From the amounts reserved under subsection (a), the Attorney General may make grants to Indian tribes for the purposes of constructing jails on tribal lands for the incarceration of offenders subject to tribal jurisdiction.

(c) **APPLICATIONS.**--To be eligible to receive a grant under this section, an Indian tribe shall submit to the Attorney General an application in such form and containing such information as the Attorney General may by regulation require.

42 USC § 13710

[Sec. 20110] PAYMENTS TO ELIGIBLE STATES FOR INCARCERATION OF CRIMINAL ALIENS

(a) **IN GENERAL.**--The Attorney General shall make a payment to each State which is eligible under section 242(j) of the Immigration and Nationality Act in such amount as is determined under section 242(j), and for which payment is not made to such State for such fiscal year under such section.

(b) **AUTHORIZATION OF APPROPRIATIONS.**--Notwithstanding any other provision of this subtitle, there are authorized to be appropriated to carry out this section from amounts authorized under section 20108, an amount which when added to amounts appropriated to carry out section 242(j) of the Immigration and Nationality Act for fiscal year 1996 equals \$500,000,000 and for each of the fiscal years 1997 through 2000 does not exceed \$650,000,000.

(c) **ADMINISTRATION.**—The amounts appropriated to carry out this section shall be reserved from the total amount appropriated for each fiscal year and shall be added to the other funds appropriated to carry out section 242(j) of the Immigration and Nationality Act and administered under such section.

(d) **REPORT TO CONGRESS.**—Not later than May 15, 1999, the Attorney General shall submit a report to the Congress which contains the recommendation of the Attorney General concerning the extension of the program under this section.

42 USC § 13711

**[Sec. 20111] SUPPORT OF FEDERAL PRISONERS IN
NON-FEDERAL INSTITUTIONS**

(a) **IN GENERAL.**—The Attorney General may make payments to States and units of local government for the purposes authorized in section 4013 of title 18, United States Code.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—Notwithstanding any other provision of this subtitle other than section 20108(a)(2), there are authorized to be appropriated from amounts authorized under section 20108 for each of fiscal years 1996 through 2000 such sums as may be necessary to carry out this section.

42 USC § 13712

[Sec. 20112] REPORT BY THE ATTORNEY GENERAL

Beginning on October 1, 1996, and each subsequent July 1 thereafter, the Attorney General shall report to the Congress on the implementation of this subtitle, including a report on the eligibility of the States under sections 20103 and 20104, and the distribution and use of funds under this subtitle.

E. VOI/TIS AWARDS BY FISCAL YEAR, BY STATE

Table E.1
TIS and VOI Funding by State, FY 1996

	TIS ⁹⁴	VOI Tier 1	VOI Tier 2	VOI Tier3 ⁹⁵
Alabama		\$1,248,453	\$1,611,865	
Alaska		\$1,248,453	\$252,625	\$895,788
Arizona	\$4,144,752	\$1,248,453	\$1,584,082	\$972,354
Arkansas		\$1,248,453	\$778,823	\$926,047
California	\$45,789,751	\$1,248,453	\$16,376,762	
Colorado		\$1,248,453	\$1,009,171	\$939,294
Connecticut	\$2,058,686	\$1,248,453	\$786,809	\$926,507
Delaware	\$665,908	\$1,248,453	\$254,503	\$895,896
District of Columbia		\$1,248,453	\$853,369	\$930,334
Florida	\$22,739,227	\$1,248,453	\$8,690,699	
Georgia	\$6,889,904	\$1,248,453	\$2,633,251	
Hawaii		\$1,248,453	\$176,129	\$891,389
Idaho		\$1,248,453	\$183,767	
Illinois	\$16,362,634	\$1,248,453	\$6,253,631	
Indiana		\$1,248,453	\$1,615,202	\$974,144
Iowa	\$1,342,501	\$1,248,453	\$513,090	
Kansas	\$1,697,302	\$1,248,453	\$648,691	\$918,564
Kentucky		\$1,248,453	\$998,578	\$938,684
Louisiana	\$6,282,717	\$1,248,453	\$2,401,190	
Maine		\$1,248,453	\$87,508	
Maryland		\$1,248,453	\$2,675,455	
Massachusetts		\$1,248,453	\$2,422,538	\$1,020,570
Michigan	\$10,181,903	\$1,248,453	\$3,891,419	
Minnesota	\$2,270,145	\$1,248,453	\$867,626	
Mississippi	\$1,822,374	\$1,248,453	\$696,493	\$921,313
Missouri	\$5,416,082	\$1,248,453	\$2,069,971	
Montana		\$1,248,453	\$81,838	\$885,967
Nebraska		\$1,248,453	\$328,612	\$900,158
Nevada		\$1,248,453	\$751,386	\$924,470
New Hampshire		\$1,248,453	\$76,424	\$885,656
New Jersey		\$1,248,453	\$2,654,162	\$1,033,889
New Mexico		\$1,248,453	\$793,700	\$926,903
New York	\$24,970,018	\$1,248,453	\$9,543,284	
North Carolina	\$6,677,873	\$1,248,453	\$2,552,214	\$1,028,027
North Dakota	\$76,322	\$1,248,453	\$29,169	
Ohio	\$7,806,005	\$1,248,453	\$2,983,375	
Oklahoma		\$1,248,453	\$1,157,789	
Oregon	\$2,276,727	\$1,248,453	\$870,142	\$931,299
Pennsylvania	\$7,312,870	\$1,248,453	\$2,794,904	\$1,041,983
Rhode Island		\$1,248,453		

(continued on next page)

⁹⁴ Includes 9/30/97 escrow award.

⁹⁵ Includes 9/30/97 escrow award.

Table E.1 (cont'd)
TIS and VOI Funding by State, FY 1996

	TIS ⁹⁶	VOI Tier 1	VOI Tier 2	VOI Tier3 ⁹⁷
South Carolina	\$5,299,787	\$1,248,453	\$2,025,524	\$997,739
South Dakota		\$1,248,453	\$84,664	\$886,129
Tennessee	\$5,643,092	\$1,248,453	\$2,156,732	
Texas		\$1,248,453	\$7,138,485	\$1,291,762
Utah	\$850,225	\$1,248,453	\$324,947	\$899,947
Vermont		\$1,248,453	\$34,857	\$883,265
Virginia	\$3,411,490	\$1,248,453	\$1,303,836	\$956,238
Washington	\$3,847,430	\$1,248,453	\$1,470,448	
West Virginia		\$1,248,453	\$210,858	\$893,386
Wisconsin		\$1,248,453		
Wyoming		\$1,248,453	\$70,408	\$885,310
American Samoa		\$83,230	\$6,180	
Guam		\$83,230		
Northern Mariana Islands		\$83,230		
Puerto Rico		\$1,248,453	\$1,352,203	\$959,020
Virgin Islands		\$83,230	\$78,502	\$13,327
Totals	\$195,835,725	\$65,252,476	\$101,207,890	\$29,375,359

⁹⁶ Includes 9/30/97 escrow award.

⁹⁷ Includes 9/30/97 escrow award.

Table E.2
TIS and VOI Funding by State, FY 1997

	TIS	VOI Tier 1	VOI Tier 2	VOI Tier 3
Alabama		\$1,502,767	\$1,805,247	\$955,138
Alaska		\$1,502,767	\$309,931	
Arizona	\$5,379,028	\$1,502,767	\$1,959,207	\$955,138
Arkansas		\$1,502,767	\$937,679	\$955,138
California	\$55,740,321	\$1,502,767	\$19,712,770	\$955,138
Colorado		\$1,502,767	\$1,143,042	\$955,138
Connecticut	\$2,586,755	\$1,502,767	\$942,175	\$955,138
Delaware	\$868,724	\$1,502,767	\$316,416	\$955,138
District of Columbia		\$1,502,767	\$979,072	\$955,138
Florida	\$28,726,509	\$1,502,767	\$10,463,074	\$955,138
Georgia	\$8,770,736	\$1,502,767	\$3,194,571	\$955,138
Hawaii		\$1,502,767		
Idaho		\$1,502,767	\$229,562	\$955,138
Illinois		\$1,502,767	\$7,586,139	
Indiana		\$1,502,767	\$2,079,207	\$955,138
Iowa	\$1,659,781	\$1,502,767	\$604,543	
Kansas	\$2,088,064	\$1,502,767	\$760,537	\$955,138
Kentucky		\$1,502,767	\$1,122,775	\$955,138
Louisiana	\$7,849,531	\$1,502,767	\$2,859,040	\$955,138
Maine	\$297,453	\$1,502,767	\$108,342	
Maryland		\$1,502,767	\$3,263,665	
Massachusetts		\$1,502,767	\$2,792,928	\$955,138
Michigan	\$12,368,459	\$1,502,767	\$4,504,971	\$955,139
Minnesota	\$3,014,541	\$1,502,767	\$1,097,988	
Mississippi	\$2,481,235	\$1,502,767	\$903,742	\$955,139
Missouri	\$6,590,986	\$1,502,767	\$2,400,639	
Montana		\$1,502,767	\$99,755	\$955,139
Nebraska		\$1,502,767	\$446,403	
Nevada		\$1,502,767	\$950,400	\$955,139
New Hampshire		\$1,502,767	\$90,718	\$955,139
New Jersey	\$8,601,321	\$1,502,767	\$3,132,865	\$955,139
New Mexico		\$1,502,767	\$969,560	\$955,139
New York	\$28,555,605	\$1,502,767	\$10,400,826	
North Carolina	\$8,429,425	\$1,502,767	\$3,070,255	\$955,139
North Dakota	\$100,433	\$1,502,767	\$36,581	
Ohio	\$9,654,038	\$1,502,767	\$3,516,296	
Oklahoma	\$3,889,841	\$1,502,767	\$1,416,799	
Oregon	\$2,934,952	\$1,502,767	\$1,068,999	
Pennsylvania	\$9,624,634	\$1,502,767	\$3,505,586	\$955,139
Rhode Island		\$1,502,767	\$244,565	\$955,139

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Table E.2 (cont'd)
TIS and VOI Funding by State, FY 1997

	TIS	VOI Tier 1	VOI Tier 2	VOI Tier 3
South Carolina	\$6,867,037	\$1,502,767	\$2,501,185	
South Dakota		\$1,502,767	\$100,569	\$955,139
Tennessee	\$7,470,690	\$1,502,767	\$2,721,054	
Texas		\$1,502,767	\$8,527,479	\$955,139
Utah	\$1,170,147	\$1,502,767	\$426,203	\$955,139
Vermont		\$1,502,767	\$44,466	\$955,139
Virginia	\$4,351,063	\$1,502,767	\$1,584,790	
Washington	\$4,806,020	\$1,502,767	\$1,750,500	\$955,139
West Virginia		\$1,502,767	\$262,302	\$955,139
Wisconsin		\$1,502,767	\$930,584	\$955,139
Wyoming		\$1,502,767	\$84,007	
American Samoa		\$100,184	\$9,490	\$9,551
Guam		\$100,184		
Northern Mariana Islands		\$100,184		
Puerto Rico		\$1,502,767	\$1,536,031	\$955,139
Virgin Islands		\$100,184	\$94,626	\$9,551
Totals	\$234,877,329	\$78,544,620	\$121,600,156	\$32,493,812

Table E.3
TIS and VOI Funding by State, FY 1998

	TIS	VOI Tier 1	VOI Tier 2	VOI Tier 3
Alabama		\$1,622,484	\$1,994,390	\$26,518
Alaska		\$1,622,484	\$352,783	\$1,156,055
Arizona	\$6,119,176	\$1,622,484	\$2,286,204	\$1,241,611
Arkansas		\$1,622,484	\$1,062,739	\$1,204,251
California	\$59,297,157	\$1,622,484	\$17,847,321	\$1,848,141
Colorado		\$1,622,484	\$1,218,759	\$1,209,015
Connecticut	\$2,800,291	\$1,622,484	\$1,046,055	\$1,203,743
Delaware	\$1,061,629	\$1,622,484	\$396,726	\$1,183,914
District of Columbia	\$2,741,471	\$1,622,484	\$1,027,521	\$1,203,177
Florida	\$32,063,579	\$1,622,484	\$11,978,635	\$1,537,574
Georgia	\$9,885,846	\$1,622,484	\$3,693,371	\$26,518
Hawaii		\$1,622,484	\$267,833	\$1,153,461
Idaho		\$1,622,484	\$265,163	\$26,517
Illinois		\$1,622,484	\$8,602,248	
Indiana		\$1,622,484	\$2,432,335	\$26,518
Iowa	\$1,888,283	\$1,622,484	\$705,487	
Kansas	\$2,268,645	\$1,622,484	\$847,468	\$26,517
Kentucky		\$1,622,484	\$1,028,843	\$1,203,217
Louisiana	\$8,593,285	\$1,622,484	\$3,210,161	\$1,269,824
Maine	\$331,495	\$1,622,484	\$123,843	
Maryland		\$1,622,484	\$3,704,555	\$1,258,404
Massachusetts		\$1,622,484	\$3,179,941	\$26,518
Michigan	\$13,045,260	\$1,622,484	\$4,872,655	\$1,320,588
Minnesota	\$3,398,697	\$1,622,484	\$1,269,761	\$1,184,056
Mississippi	\$2,804,494	\$1,622,484	\$1,047,774	\$26,517
Missouri	\$6,951,094	\$1,622,484	\$2,596,366	
Montana		\$1,622,484	\$107,345	\$1,175,077
Nebraska		\$1,622,484	\$547,299	
Nevada		\$1,622,484	\$1,080,348	\$1,204,789
New Hampshire		\$1,622,484	\$106,155	\$1,175,041
New Jersey	\$9,179,390	\$1,622,484	\$3,428,817	\$1,276,501
New Mexico		\$1,622,484	\$1,135,976	\$1,206,487
New York	\$29,010,047	\$1,622,484	\$10,834,383	
North Carolina	\$9,528,796	\$1,622,484	\$3,560,010	\$1,280,507
North Dakota	\$117,181	\$1,622,484	\$43,784	
Ohio	\$10,644,549	\$1,622,484	\$3,976,539	
Oklahoma	\$4,249,429	\$1,622,484	\$1,587,432	
Oregon	\$3,231,365	\$1,622,484	\$1,207,152	\$1,182,144
Pennsylvania	\$11,091,820	\$1,622,484	\$4,144,219	\$1,298,346
Rhode Island		\$1,622,484	\$274,231	\$1,180,173

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Table E.3 (cont'd)
TIS and VOI Funding by State, FY 1998

	TIS	VOI Tier 1	VOI Tier 2	VOI Tier 3
South Carolina	\$7,796,975	\$1,622,484	\$2,913,033	
South Dakota		\$1,622,484	\$112,818	\$26,516
Tennessee	\$8,782,234	\$1,622,484	\$3,281,495	
Texas		\$1,622,484	\$9,642,487	\$1,466,237
Utah	\$1,410,210	\$1,622,484	\$526,967	\$1,187,890
Vermont		\$1,622,484	\$55,814	\$1,173,503
Virginia	\$3,439,233	\$1,622,484	\$1,283,139	
Washington	\$3,626,477	\$1,622,484	\$1,352,702	\$26,516
West Virginia		\$1,622,484	\$307,995	\$26,516
Wisconsin		\$1,622,484	\$1,095,286	\$26,516
Wyoming		\$1,622,484	\$96,399	
American Samoa		\$108,166		\$12,115
Guam		\$108,166		
Northern Mariana Islands		\$108,166		
Puerto Rico		\$1,622,484	\$1,644,330	\$1,222,010
Virgin Islands		\$108,166	\$111,284	\$266
Totals	\$255,358,108	\$84,801,832	\$131,516,376	\$35,509,804

Table E.4
TIS and VOI Funding by State, FY 1999

	TIS	VOI Tier 1	VOI Tier 2	VOI Tier 3
Alabama		\$1,532,819	\$1,833,658	
Alaska		\$1,532,819	\$328,859	\$1,083,354
Arizona	\$5,217,991	\$1,532,819	\$2,158,167	\$1,090,941
Arkansas		\$1,532,819	\$1,007,031	\$1,086,167
California	\$47,728,052	\$1,532,819	\$16,861,013	\$1,163,862
Colorado		\$1,532,819	\$1,154,968	\$1,086,780
Connecticut	\$2,395,225	\$1,532,819	\$990,668	\$1,086,099
Delaware	\$1,018,459	\$1,532,819	\$421,236	\$1,083,737
District of Columbia	\$2,072,411	\$1,532,819	\$857,151	
Florida	\$27,628,100	\$1,532,819	\$11,427,013	
Georgia	\$8,521,755	\$1,532,819	\$3,524,608	\$1,096,608
Hawaii		\$1,532,819	\$247,693	\$1,083,017
Idaho		\$1,532,819	\$252,483	
Illinois	\$19,076,673	\$1,532,819	\$7,890,133	\$1,114,714
Indiana		\$1,532,819	\$2,251,631	
Iowa	\$1,597,986	\$1,532,819	\$660,929	
Kansas	\$2,017,576	\$1,532,819	\$834,472	
Kentucky		\$1,532,819	\$932,415	
Louisiana	\$6,994,067	\$1,532,819	\$2,892,754	\$1,093,987
Maine	\$289,075	\$1,532,819	\$119,562	\$1,082,486
Maryland		\$1,532,819	\$3,398,366	\$1,096,085
Massachusetts		\$1,532,819	\$3,022,050	
Michigan	\$11,240,046	\$1,532,819	\$4,648,896	\$1,101,271
Minnesota	\$2,896,067	\$1,532,819	\$1,197,817	\$1,086,958
Mississippi	\$2,339,326	\$1,532,819	\$967,548	
Missouri	\$5,826,751	\$1,532,819	\$2,409,951	
Montana		\$1,532,819	\$98,306	
Nebraska		\$1,532,819	\$568,396	\$1,084,347
Nevada		\$1,532,819	\$974,616	\$1,086,032
New Hampshire		\$1,532,819	\$102,810	
New Jersey	\$7,377,037	\$1,532,819	\$3,051,151	\$1,094,644
New Mexico	\$2,870,778	\$1,532,819	\$1,187,357	\$1,086,915
New York	\$23,349,507	\$1,532,819	\$9,657,382	
North Carolina	\$8,254,214	\$1,532,819	\$3,413,952	\$1,096,149
North Dakota	\$104,538	\$1,532,819	\$43,237	
Ohio	\$8,590,237	\$1,532,819	\$3,552,932	
Oklahoma		\$1,532,819	\$1,458,222	
Oregon	\$2,693,377	\$1,532,819	\$1,113,984	\$1,086,610
Pennsylvania	\$9,749,540	\$1,532,819	\$4,032,421	\$1,098,714
Rhode Island		\$1,532,819	\$254,062	

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Table E.4 (cont'd)
TIS and VOI Funding by State, FY 1999

	TIS	VOI Tier 1	VOI Tier 2	VOI Tier 3
South Carolina	\$6,807,902	\$1,532,819	\$2,815,756	
South Dakota		\$1,532,819	\$100,791	\$1,082,408
Tennessee	\$7,661,667	\$1,532,819	\$3,168,874	\$1,095,133
Texas		\$1,532,819	\$9,112,417	\$1,119,783
Utah	\$1,259,146	\$1,532,819	\$520,784	\$1,084,150
Vermont		\$1,532,819	\$52,997	\$1,082,210
Virginia	\$4,265,760	\$1,532,819	\$1,764,323	\$1,089,307
Washington	\$4,567,167	\$1,532,819	\$1,888,985	
West Virginia		\$1,532,819	\$318,710	\$1,083,312
Wisconsin	\$2,506,148	\$1,532,819	\$1,036,546	
Wyoming		\$1,532,819	\$93,645	\$1,082,378
American Samoa		\$102,188	\$20,764	\$10,906
Guam		\$102,188		\$10,977
Northern Mariana Islands		\$102,188		
Puerto Rico		\$1,532,819	\$1,454,545	\$1,088,023
Virgin Islands		\$102,188	\$111,536	
Totals	\$240,442,250	\$80,115,340	\$124,260,573	\$36,066,337

F. VOI/TIS CONFERENCES IN FY1998

The objective of the conferences sponsored by CPO is to motivate people to affect policy by means of networking and education. The following were some of the conferences and workshops were organized by the Corrections Program Office for FY 1998. Participation in CPO conferences is by invitation and CPO usually pays for participant from each of the states and territories to attend (descriptions below are from the CPO Technical Assistance Plan for FY 1998; *Corrections Update*, the CPO website, and review of program evaluation documents compiled by CPO.)

- VOI/TIS Drug Testing Requirements Workshop, in Washington, DC. This meeting was designed to ensure that departments of corrections and VOI/TIS Grant Program administrators were fully aware of the Drug Testing Requirements attached to the VOI/TIS Program. States that did not have a fully implemented policy for drug testing, sanctioning, and treatment in place by September 1, 1998, would be ineligible for VOI/TIS funds in FY 1999 and beyond. Invitees included State correctional administrators responsible for developing policies for institutional populations and those under post-release supervision, and a representative from the VOI/TIS grant administrative agency.
- Truth-In-Sentencing Workshop, in Washington, DC. The Workshop brought together representatives from States interested in exploring truth-in-sentencing to learn from the experiences of those States that have implemented sentencing reform. The truth-in-sentencing States discussed: how truth-in-sentencing was implemented in their State, the benefits to crime victims and the criminal justice system from the restoration of integrity in sentencing, the impact and expected impact on their prison population, graduated community-based sanctions that were instituted for non-violent offenders to free space for violent offenders, and the estimated costs of program implementation to the State. Invitees are key policymakers in

States without truth-in-sentencing, to include: the Governor, legislative leadership, judiciary, and Attorney General.

- Prison Population Forecasting and Projection Workshop, in Washington, DC. This Workshop, sponsored by CPO, the National Institute of Justice, and the Bureau of Justice Statistics, provided participants with technical information about using forecasting models to project prison population and capacity needs. The purpose of the workshop was to assist the States in making informed decisions about sentencing policies and prison construction. Invitees were representatives from State departments of corrections who have primary responsibility for preparing prison population forecasts and projections.
- Workshop on Assessing the Effectiveness of Corrections Programs, in New Orleans. This training was designed to assist correctional program managers to develop data collection and analysis skills needed to conduct on-going assessments of the effectiveness of their programs in reducing criminal activity and drug use among offenders who participate in the program. The training also explored other program outcomes, such as improved educational levels and job placement that can be used to measure effectiveness. Participants learned how to use the information to improve program operations and to provide results to policymakers. Invitees included administrators, research directors, and program managers from adult and juvenile corrections agencies and State criminal justice planning agencies with responsibility for evaluation of corrections programs.
- National Workshop on Privatization,. This workshop was designed to help correctional administrators and other key policymakers in the States make informed decisions about privatization of correctional operations and support services and to effectively manage these activities, if the State decided to pursue privatization. Invitees include Commissioners/administrators of adult and juvenile corrections agencies and their designees, and other State policymakers.

- Corrections Grants Management Workshop, Washington DC This workshop was designed to provide the VOI/TIS and RSAT grant program managers and financial managers with guidance on grants management issues and administrative requirements related to the implementation of these programs. This annual workshop addressed such topics as: allowable and unallowable uses of grant funds, matching funds, supplanting, reporting requirements, and audits and inspections. Invitees include the individuals within the VOI/TIS and RSAT administrative agency(s) who are directly responsible for the administration and financial management of the formula grant program.
- National Workshop on Violent Juvenile Offenders, . This workshop brought together representatives from adult and juvenile corrections to explore issues related to the growing number of juveniles tried as adults. Workshop topics included: housing, security, and programs to meet the needs of violent juvenile offenders transferred to adult corrections; security and program issues related to juveniles housed in juvenile facilities until they are old enough under State law to be transferred to the adult system; and violent juvenile offenders who remain in the juvenile system, but for much longer periods of time. Invitees included administrators from State adult and juvenile corrections agencies and other State policymakers.
- Training on Planning and Designing Juvenile Correctional Institutions, Longmont, Colorado. The VOI/TIS funds may be used to build or expand juvenile correctional facilities for violent offenders or, under exigent circumstances, facilities for nonviolent offenders, including detention centers and boot camps. This week-long training was designed to assist State juvenile corrections agencies and local jurisdictions in planning and designing correctional facilities and detention centers that meet their needs. Topics addressed included: the facility development process, planning team role clarification and decision making process, mission statement, using data for facility planning, building in space for programs and services,

new facility staffing, development of a space program, direct supervision, site evaluation, and transition and activation. Participating jurisdictions were required to bring a team of key decision makers to gain hands-on knowledge through a combination of lectures, exercises, case studies, peer sharing, and a facility tour. Invitees include teams from State juvenile corrections agencies and local jurisdictions which were planning a new facility.

- National Workshop on Sentencing and Corrections, St. Petersburg, Florida. The workshop was designed to assist key policymakers in the States to examine issues related to crime, sentencing, and corrections. This workshop was co-sponsored by CPO and the National Institute of Justice. Invitees included representatives from the governor's office, legislative leadership, the judiciary, the department of corrections, State budget office, and State juvenile corrections agency.
- National Corrections Conference on Enhancing Public Safety by Reducing Substance Abuse, Los Angeles, CA.. This conference brought together State policymakers and corrections officials to share up-to-date information on effective implementation and management of substance abuse control, testing, intervention, and treatment efforts in the institutions and community. The conference targeted key State policymakers, including representatives from State legislatures, from across the nation to participate in teams that would address the barriers to implementing policies to reduce substance abuse.

CONFERENCE RATINGS

Every conference sponsored by CPO includes a conference evaluation component, where the participants rate the relevance of the conference, the quality of the speakers, and the usefulness of the information. The table below summarizes the conference evaluation results from eight of the conferences. (Source: CPO)

<i>Event</i>	<i>Evaluation Results</i>
VOI/TIS Drug Testing Requirements Workshop	96.9% felt the event was relevant 98.4% felt that the speakers were excellent or very good 93.9% felt that the information was useful
Truth in Sentencing Workshop	95.6% felt the event was relevant 90.8% felt that the speakers were excellent or very good 90.0% felt that the information was useful
Workshop on Assessing the Effectiveness of Corrections Programs	Average 4.3 rating out of a possible 5 point Likert scale for the three major areas
National Workshop on Privatization	99.3% felt the event was relevant 98.4% felt that the speakers were knowledgeable 89.8% felt that the information was useful
Training on Developing Comprehensive Approaches to Substance Abuse Treatment	Atlanta: 4.7 rating out of a possible 5 point Likert scale for the three major areas; Dallas: 4.4 rating Denver: 4.58 rating
National Workshop on Violent Youth	4.18 rating out of a possible 5 point Likert scale for the three major areas
National Workshop on Controlling Illegal Drugs in Correctional Institutions	4.42 rating out of a possible 5 point Likert scale for the three major areas
National Corrections Conference on Enhancing Public Safety by Reducing Substance Abuse	4.4 rating out of a possible 5 point Likert scale for the three major areas

EXAMPLES OF TECHNICAL ASSISTANCE ACTIVITIES 1998

Between September 1996 and February 1998, CPO received over 150 requests for technical assistance⁹⁸. The majority of requests were assigned to outside agencies. Requests for substance abuse treatment and training were provided by the Center for Substance Abuse Treatment (CSAT) and Johnson, Bassin and Shaw (JBS) requests for management of violent offender incarceration and truth-in-sentencing, were assigned to the Criminal Justice Institute (CJI) and the National Institute of Corrections (NIC).

⁹⁸ Specific information on technical assistance was obtained from *Corrections Update* issues in 1998.

Examples of initiatives in April 1998, include the following:

- A CPO sponsored consultant visited the New Hampshire Department of Corrections to assist in the development of a client tracking and evaluation system for a therapeutic community program. Managers and supervisors who were responsible for the Department's substance abuse treatment attended the meeting.
- CPO sponsored consultants met with New Mexico Department of Public Safety and the Department of Corrections to conduct therapeutic community (TC) training. The visit was designed to train staff on the TC model and was a follow-up to a previous site visit
- CPO sponsored consultants met with the Oklahoma Department of Corrections to conduct cross-discipline team building training for security and treatment staff of the State's three Mental health component facilities.
- A CPO- sponsored consultant with the Kentucky Department of Juvenile Justice to conduct TC development assistance in an effort to improve youth treatment services in the development of a youth TC program. Further training for the start up of the program was to be conducted during subsequent visits (CPO, *Corrections Update*, April 20, 1998, p. 4).

G. TRUTH IN SENTENCING LAWS IN THE STATES

TRUTH IN SENTENCING LAWS IN THE STATES⁹⁹

STATE	DESCRIPTION OF LAW
Arizona (1993)	Requires inmates to serve 85% of their sentence, with 15% 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% of the sentence imposed.
California (1994)	Requires offenders in prison for violent felonies to serve 85% of the sentence imposed. Limits worktime credits to 15% of the sentence.
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."

⁹⁹ Sources: *National Conference Of State Legislatures, "1993-1997 State Laws Related To 'Truth In Sentencing'"* (1997); *Truth-in-Sentencing* (1999), *"1993-1998 State Laws Related to 'Truth-in-Sentencing,'"* (1999); *General Accounting Office, Truth in Sentencing: Availability of Federal Grants Influenced Laws in Some States* (1998); *Ditton and Wilson* (1999); state applications to Corrections Program Office for funding through Violent Offender Incarceration / Truth-in-Sentencing Incentive Grants. This table does not include states that did not receive TIS funding or states with requirements less than 85%, or 100% requirements of minimum sentences. Indiana, Maryland, Nebraska, Texas, Idaho, Nevada, New Hampshire, Alaska, Arkansas, Colorado, Kentucky, Massachusetts, and Wisconsin have less stringent TIS requirements (see *Ditton and Wilson, 1999*).

STATE	DESCRIPTION OF LAW
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.
District of Columbia (1993)	Law enacted 4/98 became law in 6/98.
Florida S 1522 (1998)	Prohibits shortening of a sentence if a defendant would serve less than 85% of term of imprisonment.
Florida H 1371 (1997)	The Prison Release Reoffender Punishment Act requires mandatory minimum sentences and that 100% 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% of sentence served. Also limits gain time for felonies involving weapon or firearm; and includes drug, sex offender, juvenile provisions.

STATE	DESCRIPTION OF LAW
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 17-10-6.1 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% of the court-imposed sentence. Offenders convicted of voluntary manslaughter, attempted rape, or aggravated battery are required to serve 50% of their sentences for a first offense, and 75% for a second offense before parole consideration.
Illinois H 3500 (1998)	Eliminates good conduct credits and requires entire sentence imposed to be served by prisoners sentenced for first degree murder and to natural life terms. Reduces good conduct credits to require 85% of sentence served for many other serious and violent felonies. Requires judicial statement in sentencing as to the approximate time a defendant will serve.
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 2002 (1998)	Adds attempted murder to crimes for which persons convicted must serve at least 85% of the sentence imposed

STATE	DESCRIPTION OF LAW
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% 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% 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% 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%. 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.

STATE	DESCRIPTION OF LAW
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.
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 ¹⁰⁰ 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 serves may be extended for violations of disciplinary rules or conditions of supervised release.

¹⁰⁰ 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 LAW
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%, 80%, or 85% of a sentence. Retains parole release after those minimum sentences are served.
New Jersey S 855 (1997)	Requires a fixed, minimum term of 85% 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.
New Mexico (1999)	Truth-in-sentencing legislation passed and signed into law 7/1/99. Restricts the amount of good time that can be earned by inmates convicted of violent felonies.
New York S 7820 (1998)	Eliminates parole, requiring a determinate sentence for all violent felony offenders (including first such offense).

STATE	DESCRIPTION OF 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% 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.

STATE	DESCRIPTION OF LAW
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% of the sentence be served by serious, violent offenders. Non-violent offenders are required to serve 75% 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.
Pennsylvania (1911)	Part 1 offenders are required to serve 100% 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.

STATE	DESCRIPTION OF LAW
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.
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.
Washington (1990)	No more than 15% 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% early release time: Murder 1, 20 years; Rape 1, 5 years; Assault 1, 5 years.
Wisconsin (1998) A351	Creates new sentencing structure for felony offenses, increasing the maximum imprisonment time imposed. Abolishes parole, requiring 100% of sentence for all felony offenders plus a term post-prison extended supervision equal to at least 25% of the prison term.
Utah (1985)	The Utah District Judges Association, currently called the Board of District Court Judges, adopted sentencing guidelines. The Utah Judicial Council adopted the guidelines that same year. Although Utah's guidelines are not statutory, it is the policy of both sentencing and release authorities to consider them in their decisions.

STATE	DESCRIPTION OF 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.

H. STATE-SPECIFIC ISSUES IN THE NATIONAL CORRECTIONS REPORTING PROGRAM
(NCRP) DATA FOR PRISON RELEASES

State and Years	Issues and Resolution
Missouri 1986-89, 1992-97	High percentage of releases (55-65% in 1993-97, fewer in other years) are coded as parole violations. This causes fairly wide fluctuations from year to year in the sample size for Missouri--these were treated as new admissions.
New York 1993, 1995-97	In 1993 time served is unknown. In 1990-93 admission type is unknown for everyone; in 1994 it is coded as parole violator for everyone. Each year, BJS assumes all NY records are new court commitments. In 1995, 20% of admissions are coded as parole revocations. In 1996, this climbs to 28%, and in 1997 it's 30%. The net result is a 40% drop in new admissions between 1994 and 1995. Most likely the truth is that many records counted as new court commitments in years prior to 1995 were actually some other type, inflating numbers for pre-1995. Following BJS's practices, we accepted New York data at face value.
Georgia 1987, 1991-96	Like Missouri, numbers tend to fluctuate widely from year to year. In 1987 we have 1,400 cases; in 1988 15,000. In Georgia this seems to be related to confusion between total sentence and sentence for most severe offense, resulting in missing data in roughly half the cases. We dropped 1987 data and took all other Georgia numbers at face value.
Alaska 1994	We have data only for 1994, 358 cases with very short sentences and times served.
Delaware	We have data only for 1986-88, about 500 cases per year.
Oklahoma 1990-97	Sentence length is unknown for about 80-90% of cases every year.
Rhode Island	We have data only for 1986-87, fewer than 250 cases per year.
Wyoming	We have 21 cases in 1986, nothing in other years.

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