

# **The Effects of Truth-In-Sentencing**

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# 1. Introduction

“Truth-In-Sentencing” (TIS) refers to a broad set of laws first enacted in the United States in 1984 in the state of Washington.<sup>1</sup> Subsequently in 1998, truth-in-sentencing laws were adopted in Illinois. These laws increased the minimum amount of time that incarcerated people must serve before they can be considered for release. Initially, the goal of these laws was to create greater transparency in sentencing as people would be required to serve the exact amount or close to the number of years they received on paper. It was also believed that judges would proportionately balance out the longer prison stay mandated by TIS by giving out shorter sentences in the first place. This did not turn out to be true, as the decrease in sentence length was insignificant so that prisoners stayed in prison longer for the same crimes.<sup>2</sup>

People sentenced are subject to different rules on early release special credits and based on the type of crime committed, which are organized in different categories assigned by the State.

The 1998 Illinois law change completely eliminated sentence-reduction credits for people that qualify under **category 1**. People sentenced to category 1 crimes must serve 100% of their sentences.

Examples of crimes subject to **category 1**:

- First-degree murder
- Terrorism

People convicted of **category 2** “violent” crimes must serve 85% of their sentences.

Examples of crimes subject to **category 2**:

- Kidnapping
- Aggravated battery

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<sup>1</sup> *Truth in Sentencing in State Prisons* - Bureau of Justice Statistics.  
<https://bjs.ojp.gov/content/pub/pdf/tssp.pdf>.

<sup>2</sup> Bloomenthal, Emilu. n.d. Time for Justice: The Urgent Need for Second Chances in Illinois' Sentencing System. N.p.: FAMM; “The Sad Truth About “Truth in Sentencing” Laws in Illinois.” 2020. ACLU of Illinois.  
<https://www.aclu-il.org/en/news/sad-truth-about-truth-sentencing-laws-illinois>

**Category 3** crimes are those that require “judicial finding of great bodily harm”, including but not limited to home invasion and armed robbery. These offenses also require that people serve 85% of their sentences.

People sentenced to **category 4** crimes must serve 50% of their sentence; this is called day-for-day.

**Category 5** offenses committed after August 13, 2007, impose 75% of the sentence on people.<sup>3</sup>

Example of crimes subject to **category 5**:

- Drug offenses
- Weapon offenses

A more in-depth list of crimes that fall within these categories can be found [here](#).

## 2. History of Truth in Sentencing Laws

In response to civil unrest throughout the 1960s and 1970s, a new movement advocating for “law and order” focused on punishment-based solutions to crime and more punitive sanctions began in the United States. Prior to 1970, judges were given complete discretion over court-imposed prison sentences while state parole boards managed the length of time served. As a result, there was little uniformity in sentence length, which legal academics criticized as a “perceived lack of procedural fairness, transparency, and predictability”<sup>4</sup>.

From 1975 to the mid-1980s, a primarily liberal movement sought to make sentencing procedures fairer through stricter guidelines for judges and parole boards. Coming out of this period, from the mid-1980s to 1996, sentence policy started to focus on

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<sup>3</sup> PuravB. “Truth in Sentencing.” *The Law Office of Purav Bhatt*, 17 Dec. 2022, <https://bhattachicagodefenselaw.com/chicago-criminal-defense-attorney/truth-in-sentencing/>.

<sup>4</sup> Tonry, Michael. “Sentencing in America, 1975–2025.” *Crime and Justice* 42, no. 1 (2013): 141–98. <https://doi.org/10.1086/671134>.

instituting longer prison sentences that were harder to reduce. This was accomplished through mandatory minimum sentences, three-strikes laws, truth-in-sentencing laws, and laws allowing for life imprisonment without the possibility of parole (LWOPs).

On August 20, 1995, Illinois Governor Jim Edgar signed in Truth-in-Sentencing (TIS) legislation to “keep violent offenders behind bars where they belong”<sup>5</sup>. This law would later be struck down in 1999 in violation of a state prohibition on bills with multiple unrelated effects, but the Illinois legislature preemptively passed a constitutional version in 1998<sup>6</sup>. TIS laws in particular satisfied a popular critique among the public that initial sentences were not reflective of the amount of time people actually spent incarcerated. Prior to TIS, a policy called Class X allowed a prisoner to be released one day early for every day they exhibited good behavior (day-for-day time). The goal of good conduct initiatives was to provide an incentive to promote good behavior while in prison, reduce prison overcrowding, and prepare people to re-enter society.<sup>7</sup> But, supporters of TIS found sentencing deceiving and instead argued that sentencing should reflect the amount of time that someone would spend in prison, without the possibility for reduction through early release by good conduct credits.<sup>8</sup> Supporters argued that the new law would restore confidence in the criminal legal system by allowing the public to understand the real penalties imposed for crimes.

The federal truth-in-sentencing program allocated funding to state governments if the state could prove people convicted of certain offenses served at least 85% of their sentence on average. The result was that the expected time for these crimes increased, which also increased the cost of incarceration. Throughout the 1990s, TIS legislation became more and more popular, and by 1999, 28 states were eligible to receive the federal grant.<sup>9</sup>

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<sup>5</sup> Gregory W. O'Reilly, Truth-in-Sentencing: Illinois Adds Yet Another Layer of Reform to Its Complicated Code of Corrections, 27 Loy. U. Chi. L. J. 985 (1996).

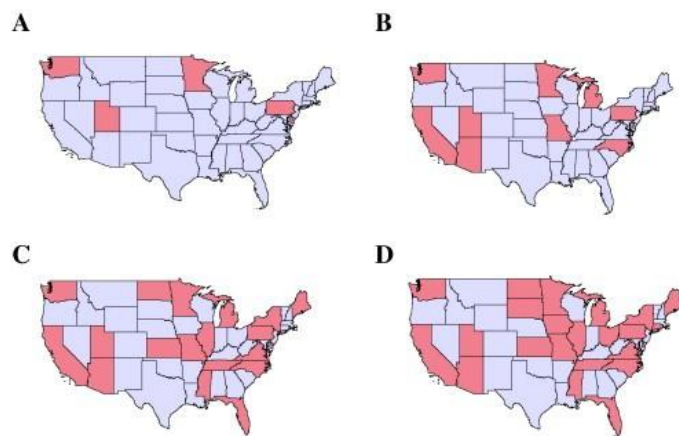
<sup>6</sup> Armstrong, Ken and Long, Ray. “TRUTH-IN-SENTENCING LAW STRUCK DOWN.” *The Chicago Tribune*, 1/23/99. <https://www.chicagotribune.com/news/ct-xpm-1999-01-23-9901230028-story.html>

<sup>7</sup> Gregory W. O'Reilly, Truth-in-Sentencing: Illinois Adds Yet Another Layer of Reform to Its Complicated Code of Corrections, 27 Loy. U. Chi. L. J. 985 (1996).

<sup>8</sup> Interview with Ben Ruddell, Staff Attorney ACLU of Illinois, 10 April 2023.

<sup>9</sup> Amanda Ross, “Crime, police, and truth-in-sentencing: The impact of state sentencing policy on local communities,” *Regional Science and Urban Economics* 42, 1-2 (2012).

In 1996, states received grants from the Corrections Program Office to build or expand correctional facilities to increase bed space for the surplus of offenders. Illinois was initially awarded \$16,362,634 in that year. States were awarded funds based on their proportion of the average annual number of crimes labeled violent for the three years preceding their applications.<sup>10</sup>



[Fig. 1. A. Red states had TIS in 1993. B. Red states had TIS in 1994. C. Red states had TIS in 1995. D. Red states had TIS in 1996.](#)<sup>11</sup>

The original TIS laws came into effect during a time of a relevant punishment-based response wave— however opposition towards TIS laws has grown as many Americans no longer have the same interest in tackling crime through longer prison sentences.

Chicago voters have displayed interest in investing more on *preventative* methods of fighting crime. In accordance with the 2023 mayoral election, 60% of Chicagoans polled supported preventative measures such as better education, mental health and drug treatment, etc. as opposed to the 39% who preferred the tough-on-crime approach<sup>12</sup>. Citizens like those in Chicago have begun advocating for the rolling back of these types of policy, an example of criticism and discussion surrounding TIS laws.

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<sup>10</sup> Susan Turner; Peter W. Greenwood; Elsa Chen; Terry Fain, "The Impact of Truth-in-Sentencing and Three Strikes Legislation: Prison Populations, State Budgets, and Crime Rates," *Stanford Law & Policy Review* 11, no. 1 (Winter 1999): 75-92

<sup>11</sup> See footnote 7

<sup>12</sup> Bradley, T., & Curi, P. (2023, April 11). Poll: Chicagoans support policies to address the root causes of crime. WGN. Retrieved April 17, 2023, from

[https://wgntv.com/news/chicago-news/poll-chicagoans-support-polices-to-address-the-root-causes-of-crim e/](https://wgntv.com/news/chicago-news/poll-chicagoans-support-polices-to-address-the-root-causes-of-crim-e/)

### 3. Effects of Truth in Sentencing

The Illinois State Commission on Criminal Justice and Sentencing Reform found that Truth in Sentencing increased the time individuals were incarcerated for, often eliminating attempts at rehabilitation and incentives for good behavior<sup>13</sup>. Now, the majority of incarcerated people in Illinois state prisons are subject to TIS laws, increasing the number of people that are in prison for nonviolent crimes.

“TIS took the focus off of rehabilitation and took away the ability of individuals to have a meaningful incentive to engage in rehabilitative activities and put much more of the emphasis on punishment.” -Ben Ruddell, ACLU Illinois Criminal Justice Attorney

This shift from rehabilitation to punishment is crucial to understanding how TIS is used in practice. According to our data analysis, even after controlling for crime type and county, high TIS classifications positively correlate with longer sentence lengths ( $p < 0.01$ ). This correlation does not reflect the direct effect of TIS, which requires inmates to serve a certain percentage of their sentence, regardless of the length.

Instead, it suggests that TIS is used as part of a multifaceted strategy to increase the intensity of punishment for certain crimes.

We found that TIS in Illinois has greatly increased the length of prison sentences, increased the prison population, and placed a higher fiscal responsibility on the state. Our analysis of Illinois DOC data revealed that on average, incarcerated people are only expected to serve 54% of their sentence (CI: [54.2%-55.5%]). TIS requirements of 75, 85, or 100% time served therefore translate to substantially more time in jail.

Moreover, even after controlling for the juridical effect of TIS, higher TIS percentages were strongly correlated with longer projected sentences and a lack of early release ( $p < 0.01$ ). This is especially concerning given testimony from those incarcerated under this system, which points to the lack of good-time incentives as a major contributor to recidivism. At the same time, TIS has been shown not to meaningfully reduce crime or recidivism as it was intended to. For instance, many incarcerated individuals naturally become a lower risk for recommitting

<sup>13</sup> Interview with Ben Ruddell, Staff Attorney ACLU of Illinois, 10 April 2023.

circumstances that led to the crime taking place no longer exist for them<sup>14</sup>. However, there is not a mechanism for these individuals that ‘age out’ of the crime to be released. Since 1978, Illinois has not had discretionary parole, or a parole-for-release program, and therefore, there is no way to accurately measure and assess the risk that a person poses to others.

Instead, the only option to be released early is a grant of clemency from the governor, who solely holds the responsibility and power of granting an act of mercy for an incarcerated person. There is a disincentive for a political actor to grant too many acts of clemency even when deserved because it risks loss of political capital. As a result, few people sentenced under TIS are released early, resulting in a more expensive and resource-draining criminal justice system and a loss in individuals who could become active participants in the economy.

In addition, Families for Justice Reform (FAMM) has conducted a study on the socioeconomic impact of TIS laws, finding that it directly affected three demographic groups disproportionately: communities of color, the elderly, and the young. First, the long sentences mandated by TIS disproportionately impact the Black and Latino population. This led to a significantly disproportionately represented demographic in the prison population, which reinforces systematic racism. Long sentences also resulted in the elderly making up an increasingly significant proportion of the prison population. This is despite the fact that the elderly do not pose as much of a threat to society and require a lot of medical resources, most of which are inadequate within prisons. Lastly, those sentenced under TIS tend to be disproportionately young, which means that they are held up to the same standards as fully mature adults and yet have to bear the consequences for an extremely long period of time without any chance to reduce their sentence. Aside from the impacts of TIS on these groups, in general, those incarcerated are not incentivized to join rehabilitative activities, making it harder for them to reintegrate into society while decreasing the likelihood that society is marginally safer after their release. TIS’ blanket policies also mean that judges are unable to give out individualized sentences based on different circumstances, leading to cases such as women who killed their abusers serving the same sentence as other murder cases, which is unjust. To this extent, TIS reinforces the effects of Illinois’

<sup>14</sup> Interview with Ben Ruddell, Staff Attorney ACLU of Illinois, 10 April 2023.

extreme accountability laws, where one can be convicted of a crime they did not commit or intend and be given sentences as long as an intentional crime<sup>15</sup>. Through TIS, injustice is reinforced for individuals forced to serve long sentences under these laws, and extreme sentences are given out without any chance of being changed, though FAMM notes that an early medical release law passed in 2022 could present new hope for those incarcerated with medical conditions to receive the medical care and environment they need outside of prison<sup>16</sup>.

A report published by ACLU Illinois points out other problems with TIS laws: Mandatory Supervised Release (MSR) allows someone to still be under supervision after their release despite having served their sentence under TIS. MSR is also unable to be individualized, as the length of the period for supervision depends on the crime instead of the risk an individual poses to society. MSR also entails supervision policies such as using an ‘electronic monitoring shackle’ for supervision and the permission for inspections at any time. Should any of these be violated, one can be sent back to prison on a ‘technical violation’ though their sentence has already been served. Ultimately, this leads to too many people being sent back to prison on a charge that is unreasonable, which yet again increases the prison population and disproportionately affects communities of color.

These studies also found no link between public safety and increased sentence length. In fact, ACLU Illinois remarks that “increased incarceration has a marginal and diminishing effect on decreasing community crime, but instead comes at a heavier social and economic cost that can even cause crime to increase” and that it disproportionately affects “segregated, low-income urban neighborhoods already reeling from decades of disinvestment, and exacerbate the social problems that lead people to commit crimes in the first place<sup>17</sup>.”

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<sup>15</sup> Restore Justice Illinois. n.d. “HB 2324: Ensure Real Accountability.” Restore Justice Illinois. Accessed April 29, 2023. <https://restorejusticeillinois.org/legislation/hb2324/>.

<sup>16</sup> Bloomenthal, Emilu. n.d. *Time for Justice: The Urgent Need for Second Chances in Illinois' Sentencing System*. N.p.: FAMM.

<sup>17</sup> “The Sad Truth About “Truth in Sentencing” Laws in Illinois.” 2020. ACLU of Illinois. <https://www.aclu-il.org/en/news/sad-truth-about-truth-sentencing-laws-illinois>.



## 4. Stories

Interviews took place over video call and generally lasted around 30 minutes. The interviewee was given time to tell their story and/or their expertise before we asked them questions regarding their experiences. Here are the stories of two interviewed formerly-incarcerated individuals:

### **JAMES SWANSEY**

James Swansey received a life sentence without the possibility of parole for a crime that happened when he was 17, but he was released from prison after his sentence was reviewed after *Miller v Alabama*, which outlawed life sentences for juveniles. In his time in prison, Swansey witnessed the impacts of TIS on other incarcerated people. With no way to receive credit for the work that they have accomplished along with the reduced ability to earn good time, those sentenced under TIS had no incentive to ‘do the right thing.’ Swansey saw many of those incarcerated under TIS lose hope and give up on themselves, neglecting opportunities to improve themselves while in prison. This was in contrast to those sentenced without TIS, who were incentivized to work hard on bettering themselves and contribute to society. Swansey highlights the injustice this mere difference timing facilitated— for the same crime, different people sentenced mere months apart, before and after the passing of TIS, had different opportunities to earn good time and make different paths for their lives.

Swansey originally received life without any chance of parole, but his new sentence allowed him to earn good time. While Swansey had always been hopeful about an early release from prison and worked hard to engage himself in meaningful activities, having his sentence reviewed gave him certainty in something to look forward to and helped him to look to do something more meaningful after his release, something which is not possible for those sentenced under TIS. Swansey emphasized the significance of one’s mentality in prison— he felt ready for reintegration when his sentence was reduced, and his positive attitude helped him cope while incarcerated. Swansey pointed out that in maximum security institutions where people serve 25 years or more, support systems were inadequate, despite it being where support was needed the most. Having been in a maximum security prison, Swansey attested to the lack of programming, work and educational opportunities to help incarcerated people

reintegrate into society, which further discouraged those incarcerated to get involved in meaningful activities while in prison.

Upon release, Swansey has used the skills and motivation he cultivated in prison to enjoy the world while advocating for justice in his community. Able to return to his family, he is grateful for the luck he had and believes that the current legal system has some work to do before it can truly reduce recidivism effectively and humanely.

## **MAURICE HUGHES**

Maurice Hughes served 27 years in prison prior to truth-in-sentencing laws. Due to serving a longer period of time, he earned good time and ultimately served 50 percent of his sentence. He earned day-to-day sentence credit for schooling, behavioral modification programs, etc., and did what he could to improve himself.

Throughout his sentence, Maurice noted a divide in attitude and treatment between people sentenced before truth-in-sentencing and those sentenced after the law was passed. Hughes wanted to be mindful of the fact that others could not earn sentence reductions and avoided discussing them in front of others; he noted a subsequently bitter attitude from people sentenced after 1998 surrounding the notion that the work they were doing went toward reducing his sentence. During prison lockdowns in maximum-security facilities, guards would have to create a list of people that could go to industries for work. More often than not, guards picked people who could earn good time, causing people that could not earn good time to stay in their cell. Educational and rehabilitation classes served as an avenue for people to escape their cell and relax, however, prison guards made it increasingly inaccessible for non-TIS inmates to join these classes. People incarcerated under TIS would bully those that could earn good time (those sentenced before TIS). For example, only three phones were available to wings of 120 people. As a result, people under TIS would bully those sentenced before TIS to not use the phone. People who could earn good time had the incentive to be on their best behavior and not react so as to earn good time and reduce their sentence. Therefore, they were often the subject of relentless bullying. The phone was one of several examples that signified the divide between people sentenced before and people sentenced after TIS.

Hughes noted that it “changed a lot to know you could not get credit.”

People would often calculate how far their release date was and what their age would be following their release. Younger people would lose hope knowing their life would fade, prompting many to begin a reliance on certain drugs in order to enjoy themselves while they were young. As more hope was lost, no one was present to preach self-improvement to the younger people. In essence, Hughes firmly believes there are no benefits with truth-in-sentencing laws. He cites the increase in prison populations furthering congestion and creating a backlog. If people are serving long sentences *without* opportunity to work towards their release, it defeats the legislative goals of reducing recidivism and having incarcerated people work on themselves.

Ultimately, Hughes' sentence was reduced from 80 down to 30 years through re-sentencing and credits. Hughes told us his main motivation for working for those credits was being able to come home to his two daughters. He was granted the option to get out three years earlier through hard work. Being able to see his family, even three years earlier, made him proud. Hughes was allowed the ability for self-improvement and therefore understood how important it was for him to rehabilitate. He earned his GED and Associate's Degree and returned home to his family after serving his sentence

## 5. Cross-State Comparison

The implementation of truth-in-sentencing laws have also resulted in similar effects in other states. For example, a study that focused on individuals convicted of felonies in Kansas City, Missouri, data on people convicted of felonies in Kansas City, Missouri found evidence that those sentenced to prison had higher rates of recidivism than those placed on probation. The study also found that people who recidivate tended to do so at a much faster rate than those placed on probation.<sup>18</sup>

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<sup>18</sup> Spohn, C. and Holleran, D. (2002), The Effect of Imprisonment on Recidivism Rates of Felony Offenders: A Focus on Drug Offenders. *Criminology*, 40: 329-358.  
<https://doi.org/10.1111/j.1745-9125.2002.tb00959.x>

Research from states like Iowa, Maine, Minnesota, and Mississippi that adopted truth in sentencing laws show similar rates of violent crime, murder, and property crime as states which did not adopt the same laws, like Alabama, Hawaii, Rhode Island, West Virginia, and Wyoming.<sup>19</sup>

**Table 1. Truth-in-sentencing requirements, by State**

Meet Federal 85% requirement	50% requirement	100% of minimum requirement	Other requirements
Arizona	Missouri	Indiana	Alaska <sup>e</sup>
California	New Jersey	Maryland	Arkansas <sup>d</sup>
Connecticut	New York	Nebraska	Colorado <sup>g</sup>
Delaware	North Carolina	Texas	Kentucky <sup>f</sup>
District of Col.	North Dakota		Massachusetts <sup>g</sup>
Florida	Ohio		Wisconsin <sup>h</sup>
Georgia	Oklahoma <sup>b</sup>		
Illinois <sup>a</sup>	Oregon		
Iowa	Pennsylvania		
Kansas	South Carolina		
Louisiana	Tennessee		
Maine	Utah		
Michigan	Virginia		
Minnesota	Washington		
Mississippi			

<sup>a</sup>Qualified for Federal funding in 1996 only.

<sup>b</sup>Effective July 1, 1999, offenders will be required to serve 85% of the sentence.

<sup>c</sup>Two-part sentence structure (2/3 in prison; 1/3 on parole); 100% of prison term required.

<sup>d</sup>Mandatory 70% of sentence for certain violent offenses and manufacture of methamphetamine.

<sup>e</sup>Violent offenders with 2 prior violent

convictions serve 75%; 1 prior violent conviction, 56.25%.

<sup>f</sup>Effective July 15, 1998, offenders are required to serve 85% of the sentence.

<sup>g</sup>Requires 75% of a minimum prison sentence.

<sup>h</sup>Effective December 31, 1999, two-part sentence: offenders serve 100% of the prison term and a sentence of extended supervision at 25% of the prison sentence.

Source: <https://bjs.ojp.gov/content/pub/pdf/tssp.pdf>

<sup>19</sup> *Truth-in-Sentencing Laws and Crime Rates in the U.S. States.*

<https://eco-pol-305.pages.tcnj.edu/files/2016/03/305.Felton.Fall-2015-Templated.pdf>

## Data Analysis

The statistical conclusions discussed above were drawn from the Illinois Department of Corrections IDOC prison records drawn from the last two decades at 6-month intervals. These records were cleaned, de-duplicated, and combined into an effective database of prisoners. Each incarcerated person was associated with a sentence date and a projected release date based on expected good-time credits that was used to deduce a projected time served. This metric, alongside sentencing data, was then used in OLS regression analysis. Due to the extremely large size of the dataset, it was possible to one-hot encode and control for all crime-type and county variables simultaneously while retaining statistical significance. After Bonferroni correction (accounting for the number of counties tested on the same data set), most counties did not demonstrate a significant effect on time served, but Champaign, Kankakee, Peoria, and McLean counties, as well as prisoners sentenced out of state, all had significantly longer sentence lengths after controlling for crime type

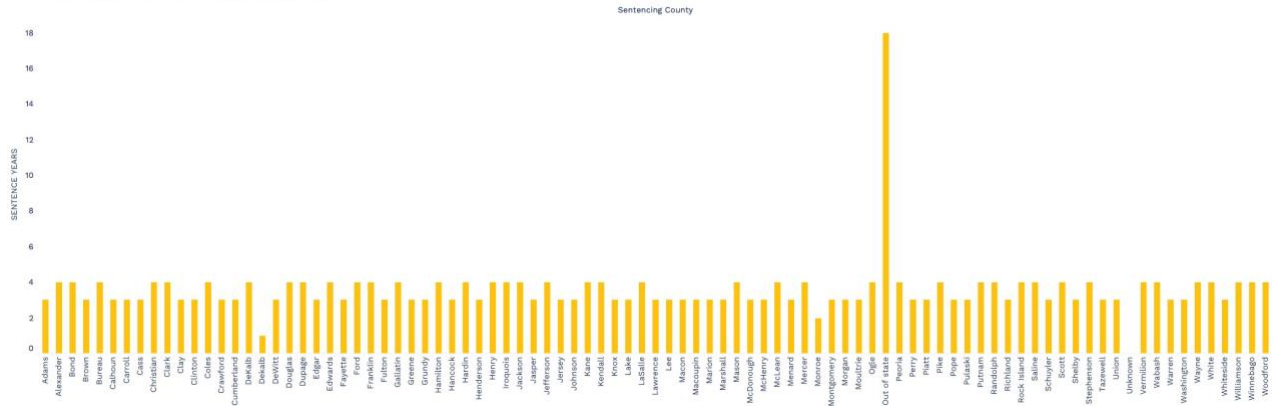
# Data Graphics

## TIS EFFECT ON PROJECTED SENTENCE



This graph shows the effect of truth-in-sentencing requirements on time served: lower requirements result in far fewer years served for any given sentence length. Our research found that this effect went beyond the required lower limit, meaning that higher TIS percentages were correlated with longer stays in prison even after the TIS requirement elapsed.

SENTENCE LENGTH BY SENTENCING LOCATION



This graph shows the relationship between county and sentence length. The main finding displayed is that, with a few exceptions, most counties had similar average sentence length, but out of state defendants tended to be sentenced to dramatically longer stays in prison.