

Preliminary Findings Concerning
the Financial Costs of
Implementing Illinois'
Truth-In-Sentencing Laws.
(2002 - 2004)
January 11, 2011

Prepared by: Joseph Rodney Dole, II¹

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PRELIMINARY FINDINGS CONCERNING THE FINANCIAL COST OF IMPLEMENTING ILLINOIS' TRUTH-IN-SENTENCING LAWS

Prepared By:
Joseph Rodney Dole II¹

INTRODUCTION

**“Our resources are misspent,
our punishments too severe,
our sentences too long.”**

- Justice Anthony M. Kennedy

This report was prepared out of concern for the fact that, after more than a decade after implementation, no review has been conducted to determine what the overall financial costs of enacting Illinois Truth-In-Sentencing Law (TIS) are. The author sought to extrapolate a rough estimate of the cost of implementation by reviewing the limited research, statistical data, and known costs of incarceration that are available. Impeding that goal was a near-total absence of studies or reports analyzing any costs incurred by the state due to implementation of TIS, and a dearth of available statistics on sentences imposed under TIS since 2004. Therefore a secondary objective of this report evolved, which is to encourage additional, more comprehensive studies to be undertaken in coordination with both independent researchers and the Illinois Department of Corrections (IDOC). These preliminary findings concur with the sentiments expressed by United States Supreme Court Justice Anthony Kennedy above.

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BACKGROUND

Since the 1970's Illinois has been steadily increasing the length of sentences available for violent offenses. For instance, in 1978 Illinois passed Public Act 80-1099 which made all life sentences in Illinois "natural-life sentences", meaning life without the possibility of parole (West's, p 769). Prior to its implementation a person sentenced to "life" was eligible for parole in as little as 11 years. Additionally P.A. 80-1099 provided that anyone qualifying as an "Habitual Criminal" could receive a natural-life sentence. Habitual Criminals are defined as those who commit a third or subsequent forcible offense (West's, p.384). The 1978 law also abolished the parole system in Illinois, making all sentences determinate instead of indeterminate. The IDOC found that the impact of determinate sentencing on length of stay in prison added approximately 3.5 years to the average sentence for murder and 1.4 years to the average sentence for a Class X crime (IDOC Stat. Pres. 2004, p. 11, Table 4).

In the 1980's Truth-In-Sentencing Laws became increasingly popular in a number of states. In a study on TIS for the U. S. Dept. of Justice's Bureau of Justice Statistics, Paula M. Ditton and Doris James Wilson report that the state of Washington was the first to enact a TIS (Ditton, p. 2) and others soon followed. Ditton and Wilson describe how these laws came about:

Sentencing reform policies have paralleled the mood of the country on crime and punishment, shifting between requiring a fixed prison time prior to release or allowing discretionary release of offenders by judges, parole boards, or corrections officials. Over the last two decades, sentencing requirements and release policies have become more restrictive, primarily in response to widespread "get tough on crime" attitudes in the Nation (p.2).

TIS...[were] designed to reduce the apparent disparity between court-imposed sentences and the time offenders actually serve in prison (p.18).

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As has already been shown, Illinois switched to having fixed prison times in 1978 when the state did away with indeterminate sentencing.

While many states were enacting TIS in an attempt to address the public's desire for increased punishment for violent offenders others chose a different route to achieve the same objective - they enacted mandatory minimum sentences and increased the sentencing ranges for violent crimes. Illinois initially resisted enacting TIS and instead chose the latter approach. For example, in 1987 Illinois extended the sentencing range for first degree murder from 20-40 years to 20-60 years, and "the extended term was lengthened from 80 to 100 years" (IDOC Stat. Pres. 2003, p. 126).

By 1994 Illinois had still not enacted a TIS. That year though the U. S. Congress passed the Violent Crime Control and Law Enforcement Act ("the Crime Act"). According to the United State Department of Justice Fact Sheet, it was "the largest crime bill in the history of the country and[provided] for 100,000 new police officers, \$9.7 billion in funding for prisons and \$6.1billion in funding for prevention programs". Some of the most significant provisions were the grant programs to encourage the states to enact TIS (Id.).

These monetary incentives influenced Illinois which was in the midst of building "nine new correctional facilities between 1990 and 2000" (LaVigne, et al., p.9). In a paper titled "The Impact of Illinois' Truth-In-Sentencing Law on Sentence Lengths, Time to Serve and Disciplinary Incidents of Convicted Murderers and Sex Offenders," David E. Olson, Ph.D., Magnus Seng, Ph.D., Jordan Boulger, and Mellissa McClure report that "[f]ollowing the passage of the federal TIS grant program, Illinois formed a Truth-In-Sentencing Commission" which "determined the state should adopt its own version of TIS" (p.3.).

In August of 1995 Illinois' TIS was enacted under Public Act 89-404 (IDOC Stat. Pres. 2004, p. 129). This law requires that people convicted of murder must now serve 100% of their sentence, and those convicted of other violent crimes must now serve at least 85% (Olson, et al., p.3), rather than the average of 44% that they would have served had Illinois not enacted TIS (Sabol, et al., p. 41, Table 3.3).

So in addition to abolishing discretionary release (i.e. parole) and extending the sentencing ranges for numerous violent crimes, Illinois then nearly doubled or more, the amount of time individuals would actually spend in prison serving those longer sentences. The extension of the sentencing

range for murder in conjunction with TIS is a veritable one-two punch in increasing the

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average length of time served for murder. As the IDOC noted in its Statistical Presentation for 2004:

The average sentence imposed for First Degree Murder continues to be relatively higher than those sentences imposed under the previous statute for Murder. This can be explained to some extent by noting that 37.4% of the First Degree Murder sentences imposed during 2004 were between 41 and 60 years, which would have been the extended range under the previous Murder statute. In addition, a growing number of First Degree Murder Sentences are falling under the Truth-In-Sentencing statute. In 2004, 90.8% of inmates admitted to prison for First Degree Murder must serve 100% of their sentence (p. 61).

SPECULATION PRIOR TO IMPLEMENTING TIS

The probability that, without adjustments to sentences imposed, the length of time spent incarcerated for a violent crime would increase was obvious. Many speculated though that the length of time spent in prison and the associated costs would not double because judges would take TIS into account before sentencing. Olson and his coauthors give the following example:

[T]he average prison sentence imposed on those convicted of murder in Illinois during 1994 (prior to TIS) was 35 years, and the offender would (without Truth-In-Sentencing) serve roughly one-half of that sentence, or 17.5 years. So, if in sentencing the average murderer the judge's intent was for them to spend 17.5 years in prison, under TIS they could impose a sentence of 20 years (with 100% of that time being served) and come close to achieving their goal of 17.5 years "behind bars" (p.20).

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(Notice that the mandatory minimum number of years to be served under TIS for murder (20 years) is 12.5%, or 2 ½ years, higher than the average sentence handed out for murder prior to TIS).

States such as Mississippi successfully adjusted after implementing TIS. That state's judges, prosecutors, and defense attorneys made the adjustment to retain equivalent prison stays (Olson, et al., p. 19). The IDOC was skeptical that this would be the case in Illinois. It had concerns about "the fiscal impact if the law resulted in inmates actually serving longer sentences (Olson, et al., p. 3). Olsen and his colleagues sought to find out if "TIS changed the sentence lengths and lengths of time to serve in prison for murderers and sex offenders, and if so, to what degree" (p.3). What they found was that the IDOC was right to worry, because unlike in Mississippi, in Illinois "the length of court-imposed sentences changed very little as a result" of TIS and subsequently the time to be served "increased dramatically" (p.6).

FINANCIAL IMPACT OF INCARCERATION

The fact that sentences have not been reduced in Illinois to offset TIS is indicative of the fact that judges and prosecutors here are failing to consider the financial impact of the sentences they are seeking or imposing. Illinois law (730 ILCS 5/3-2-9) requires that the IDOC "prepare and submit to the clerk of the circuit court a financial impact statement that includes the estimated annual and monthly cost of incarcerating an individual in a department facility" (West's, p.676). The most recent Financial Impact Statement, based on fiscal year 2009 data, estimated this annual cost as \$24,971.

Illinois law also instructs the courts to "consider the financial impact of incarceration based on the financial impact statement..." (West's, p. 731) as one of several factors when determining a defendant's sentence. (See 730 ILCS 5/5-4-1 (a) (3)).

This failure to adjust for TIS and therefore failure to take into account the financial impact of the sentences being imposed is evidence of an indifference towards one of the main goals of government, which is to carry out the functions of the state in the most economical manner, expending its resources wisely.

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To encourage greater cognizance and consideration of the actual costs incurred by the state associated with carrying out the sentences that judges are imposing, the legislature should enact a law which requires each judge to calculate the minimum and maximum costs that the state will incur from the sentence, prior to imposition. This calculation should be based not only on the figure provided in the most recent Financial Impact Statement, but should also account for the defendant's age since, as will be shown below, elderly inmates cost up to three times as much to incarcerate per year.

COST OF TIS

To calculate the costs of Illinois' TIS one must consider the monetary benefits of enactment as well. As has been shown, one of the deciding factors for Illinois implementing its own TIS was the federal grant program that provided monetary incentives to the states that pass laws guaranteeing that violent offenders serve at least 85% of their sentence.

Katherine J. Rosich and Kamala Mallik Kane found that "among States that received Federal TIS funding, the average annual grant award of \$7.9 million was relatively modest, equivalent to an average of 1percent of the State's annual corrections expenditures" (p.20).

After enactment of Illinois's TIS the state applied for federal funds through the Violent Offender Incarceration and Truth-In-Sentencing (VOI/TIS) Grant Program in Fiscal Year 1996. Between 1996 and 2001 Illinois received a total of \$124,765,470 from the federal government (Report to Congress, p.5)

Fiscal Year	Amount Received
1996	\$1,248,453
1997	\$31,705,171
1998	\$10,224,732
1999	\$29,972,621
2000	\$26,055,262
2001	\$25,559,231
Total	\$124,765,470

(Report to Congress, Appendix A, p.5)

“No funds were appropriated for Fiscal Years 2002-2004” (Report to Congress, p. 2). Nor does it seem that they were appropriated after 2004 either.

“States could enhance their VOI funding by demonstrating that they increased punishment for violent offenders” (Sabol, et al., p.iii) in accordance with a 1996 amendment to the Crime Act (Id, p. 3). Illinois seemingly opted out as “an Illinois official reported that changing the Illinois law to meet the 1996 federal grant requirements... would not have been cost effective for the state” (Id, p. 26).

In January of 1999 Illinois’ TIS “was declared unconstitutional by the Illinois Supreme Court” (IDOC Stat. Pres. 2002, p. 21) for violating the single subject rule of the Illinois Constitution in the case of *People v. Reedy**. Anticipating this, Public Act 90-593 became effective on June 19, 1998, reenacting the original Truth-In-Sentencing provision” (IDOC Stat.Pres.2002, p. 21). Therefore all of the prisoners sentenced during the three years between the initial enactment of Illinois’ TIS (August 1995) and Public Act 90-593 (June 1998) had their sentences reverted back to pre-TIS calculations. Meaning that, except on the rare occasion that they had completed their sentence before January of 1999, these prisoners only had to serve, on average, 44% of those sentences (Sabol, et al., p. 41, Table 3.3) instead of the 85% or 100% they were sentenced to serve under TIS.

So Illinois was awarded over forty-three million dollars in federal funds for making violent criminals serve 85-100% of their sentences for crimes committed during fiscal years 1996-1998, even though for the most part those prisoners only had to serve, on average, 44% of their sentence, and Illinois, therefore, should not have qualified for TIS grant funds until Fiscal Year 1999. Thus the state reaped the federal grant money for 1996-1998 while incurring only negligible costs for the first 3 years after initially implementing its own TIS, and overall received about \$125 million.

- Impediments to an Accurate Calculation -

A number of factors make calculating the costs incurred by enacting Illinois’ TIS difficult.

First and foremost, is the lack of available data needed. The only concrete numbers concerning prisoners sentenced under Illinois’ TIS that

**People v. Reedy*, 186 Ill.2d1,237 Ill. Dec. 74, 708 N.E.2d1114(1999).

this author could locate were in the IDOC Statistical Presentations. Unfortunately the only years which these presentations are available for are 2002, 2003, and 2004. Since 2004 the IDOC has neglected its duties, and has failed to comply with the provisions of 730 ILCS 5/5-5-4.3 which mandates that it create a Statistical Presentation on a yearly basis (West's, p. 747). Therefore this report will concentrate solely on the costs associated with Illinois' TIS for the three-year span of 2002-2004.

This lack of current data also mean that the annual future costs will be much higher due to the fact that, even as late as 2004, not all sentences imposed were under TIS. As shown above, that year almost 10% of murder sentences were imposed under the pre-TIS sentencing scheme (IDOC Stat. Pres. 2004, p.61).

Second, because there was such a prolonged delay in admitting prisoners under TIS, the IDOC has yet to study the implications of these sentences or the related costs. In 2002 the IDOC noted that "[t]he majority of inmates admitted to prison under Truth-In-Sentencing have been admitted since 2000" (IDOC Stat. Pres. 2002, p. 21) and that:

the population impact of Public Act 90-593 will not be felt until additional data are available for Truth In Sentencing inmates who will serve more time than they other wise would have served if the customary determinate sentence had been imposed. A more comprehensive analysis will be conducted in future reports as more offenders are released under this Truth In Sentencing statute (IDOC Stat. Pres. 2002, p. 21).

That was in the 2002 Statistical presentation which the Department published in 2003. The IDOC published 2003 and 2004 Statistical Presentations as well but failed to do the "more comprehensive analysis" in either one, and has been stated, never resumed publishing the yearly Statistical Presentations.

Third, there's also the fact that any generic multiplication of the average yearly cost to incarcerate someone by the length of time he or she must serve, fails to consider one's age which can result in underestimating the true cost.

For example, it is widely accepted that it costs around three times as much to keep an elderly person incarcerated. In Tennessee the state found that while it costs \$20,000 to incarcerate the average prisoner, it costs as much as \$60,000 for a sick, aging inmate (Hewitt). Here in Illinois the cost to incarcerate the average prisoner is nearly \$25,000 (IDOC Fin. Imp. St. 2009), so it could conceivably cost \$75,000 per year for a sick, aging inmate. The National Center of Institutions and Alternatives estimates incarceration costs for an elderly inmate are \$69,000 per year (McMahon). John Mills, a researcher at the center for Disease Control and Prevention in Atlanta, puts the number at \$70,000 (Ward). Recently Haley Barbour, the Governor of Mississippi made national headlines when he released two sisters from prison early. He claimed that the reason was because one sister was on dialysis which cost the state \$190,000 per year to administer. (He made the other sister promise to donate a kidney to her sister in exchange for her freedom). How many Illinois prisoners require or will require dialysis as the prison population continues to age due to TIS?

So simply saying that an offender who receives a 50-year prison sentence for murder will cost the state \$1,239,550 ($\$24,971 \times 50$) will more than likely be an underestimation. Even if he or she is a teenager at the beginning of the sentence, some of the years spent in prison will be in the higher range discussed above.

Finally, there's also the problem of inflation. If someone were sentenced in 2005, the average annual cost to incarcerate him or her in the IDOC was \$22,622, but just four years later it had risen to \$24,971 (IDOC Fin. Imp. St., 2009). So simply multiplying by the current average annual costs will also fail to compensate for this natural inflation.

Taking the four factors listed above into account, the extrapolations made for this report will be extremely conservative, and one can safely assume that the actual costs of implementing Illinois' TIS are much higher for 2002-2004 than will be reported.

The one study that this author encountered in his research which even vaguely considered the financial impact of implementing Illinois' TIS since its passage was the 2009 report by Olson, et al., which off-handedly mentioned that:

among those who received a determinate sentence (i.e., excluding natural life and death sentences), TIS was associated with

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an average increase of 18 years of time to

serve compared to pre-TIS. Using current dollar costs of incarceration in Illinois, and not including any construction costs, the average annual costs to incarcerate an adult in prison is \$22,622 (Illinois Department of Corrections, 2005). Thus, the average cost for incarceration in prison per murder sentence pre TIS was roughly \$400,409 (annual cost of incarceration per inmate of \$22,622 multiplied by the average length of time to serve 17.7 years). By comparison, the average cost of incarceration in prison per murder sentence under TIS is roughly \$816,600 (annual cost per inmate multiplied by average length of time to serve of 36.1 years) (p. 34).

So here we have a glancing examination of the costs of Illinois' TIS on a single murder sentence which found that TIS was responsible for more than \$416,000 in additional costs just for this one sentence.

The true costs though are most-likely much higher. Notice that the study was done in 2009, but utilized annual costs of incarceration averages from four years earlier which are nearly 10% less than actual current costs. Also notice that the age of the offender was not taken into account and therefore the added costs of when the prisoner becomes elderly and/or infirm were not considered.

This report will take a similar approach as it only seeks to encourage that a comprehensive study of the costs be undertaken, and this author lacks access to the necessary data to undertake such an endeavor himself. It should be kept in mind though that all of the calculations of costs² will be underestimated and therefore one can be confident that the true costs are much higher.

- Effects of TIS on Sentencing Lengths -

Although Olson and his coauthors claim that there was a 3.9 year decrease in the length of sentence imposed for murder after Illinois' TIS was

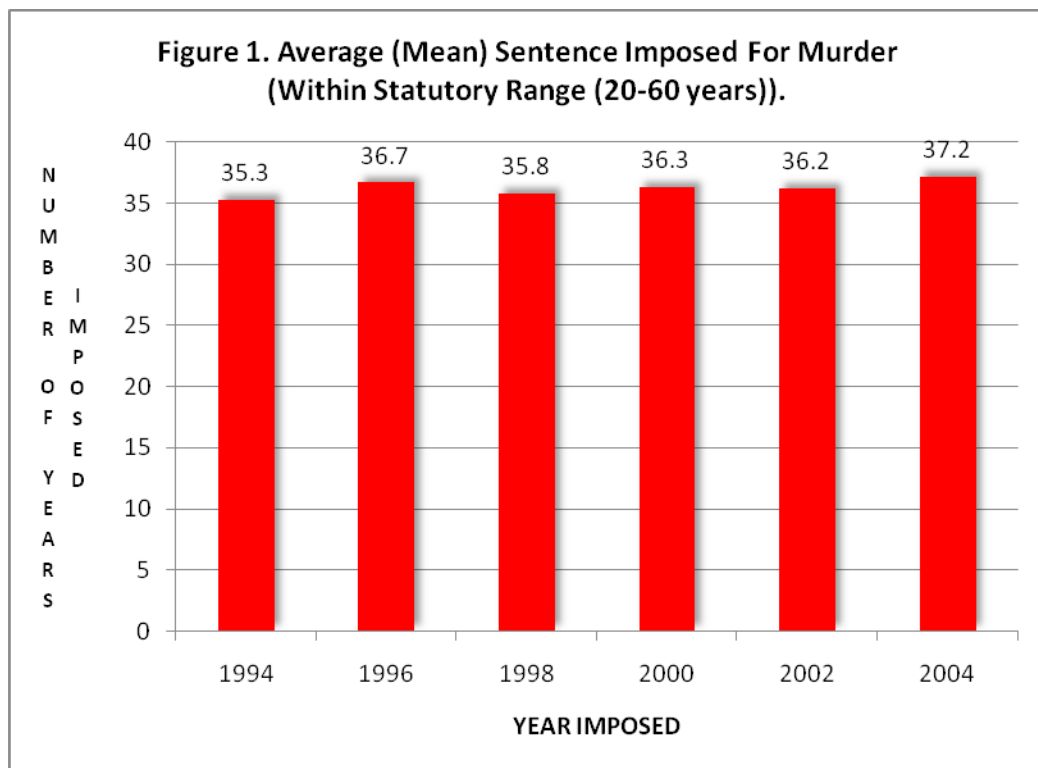
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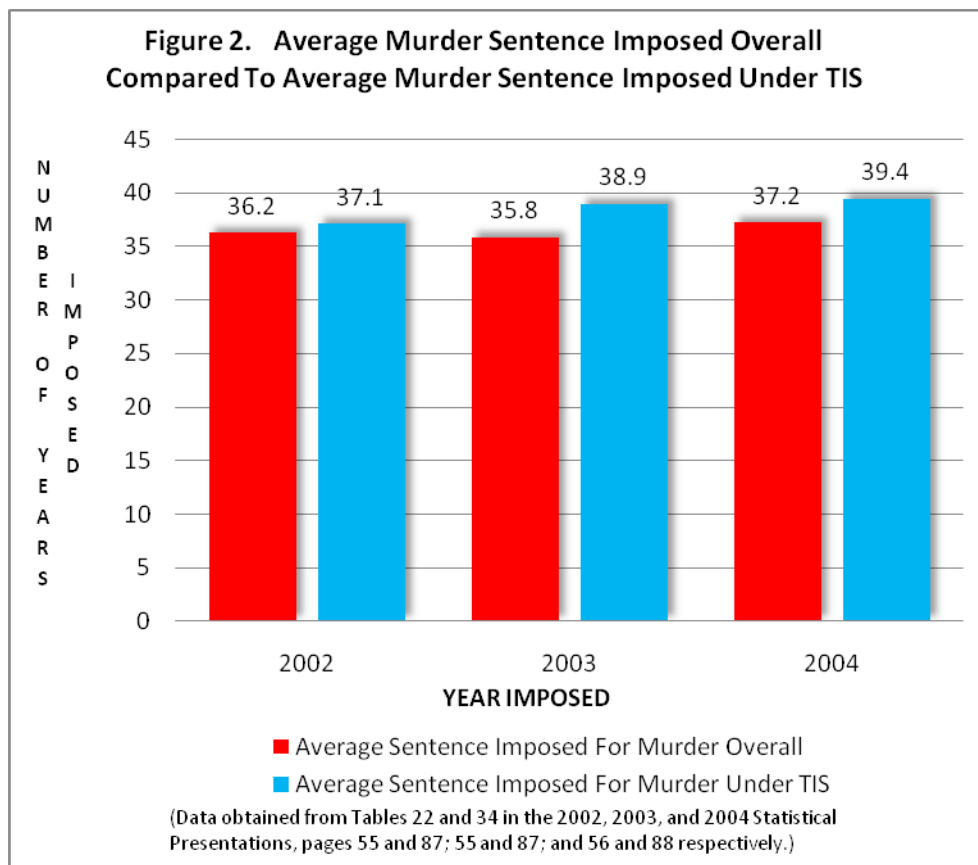
enacted (p.4), this author found no evidence that this was true. On the contrary, the IDOC's Statistical Presentations seem to show that the lengths of sentences that were imposed for violent crimes, murder especially, either remained relatively stable or in the case of murders slightly increased after the enactment of TIS.

Extracting figures from the table provided in the 2002-2004 IDOC Statistical Presentations (Table 22, p. 55 in each) we find that the average mean sentence imposed for murder within range of the statute without extended circumstances was 35.3 years in 1994 (the year before TIS was initially passed). At no point after Illinois' TIS was implemented (either time) does this number decrease. (See Figure 1 below).



Rather a decade later we find that it has actually increased to 37.2 years. So, whereas a person would have served, on average, 44% (Sabol, et al., p. 41, Table 3.3) of that 35.3 year sentence, or approximately 15.5 years for committing a murder in 1994; he or she would, on average be sentenced to 37.2 years for committing that same murder in 2004, and have to serve all 37.2 years in prison. Therefore it was actually a slight increase in the average sentence imposed and much more than a doubling, more like a 150% increase, in the time to be served.

Even the 37.2 number is misleading though. If one isolates the amount of time imposed on people sentenced for murder who fall solely under Illinois' TIS it becomes clear that sentences imposed for murder in 2004 were even higher (39.4 years). Figure 2 below makes clear that murder sentences imposed under TIS are not lower than those imposed under all sentencing schemes and nor are they lower than the average number of years imposed prior to implementation of TIS (35.3 years in 1994, versus 39.4 under TIS in 2004).



The cost to the state associated with incarcerating someone for 39.4 years at the current estimate of \$24, 971 per years, without taking into consideration the higher age-related costs or inflation, is \$983,857.40 (compared to only \$432,897.26 (39.4 x 44% x \$24,971) if TIS had not been enacted). So we can see, at the very least, an increase of well over a half of a million dollars in additional costs incurred by the state for every murder sentence imposed under TIS. Table 2 on the following page shows the costs of sentencing all offenders who were sentenced under TIS between 2002 and 2004.

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A YEAR	B TIS CATEGORY ¹	C AVERAGE SENTENCE IMPOSED ¹ (YEARS)	D AVERAGE TIME TO BE SERVED ² (YEARS)	E ESTIMATED COST TO INCARCERATE A PERSON FOR THE DURATION OF THEIR SENTENCE ³	F NUMBER OF PEOPLE SENTENCED ¹	G ESTIMATED COST TO INCARCERATE EVERYONE IN THIS CATEGORY FOR THE DURATION OF SENTENCE, SENTENCED THAT YEAR ⁴
2002	Murder (100%)	37.1	37.1	\$926,424.10 *	289	\$ 267,736,564.90 *
	Automatic 85%	11.4	9.69	\$241,968.99 *	646	\$ 156,311,967.54 *
	85% due to great bodily harm to victim	13.6	11.56	\$288,664.76 *	45	\$ 12,989,914.20 *
	85% due to reckless homicide	7.8	6.63	\$165,557.73 *	47	\$ 7,811,213.31 *
	85% due to aggravated arson	9	7.65	\$191,028.15 *	6	\$1,146,168.90 *
2003	Murder (100%)	38.9	38.9	\$971,371.90 *	314	\$ 305,010,776.60 *
	Automatic 85%	10.7	9.095	\$227,111.25 *	712	\$ 161,703,210.00 *
	85% due to great bodily harm to victim	16.5	14.025	\$350,218.28 *	51	\$ 17,861,132.28 *
	85% due to reckless homicide	6.9	5.865	\$146,454.92 *	44	\$ 6,444,016.48 *
	85% due to aggravated arson	7.4	6.29	\$157,067.59 *	14	\$ 2,198,946.26 *
2004	Murder (100%)	39.4	39.4	\$983,857.40 *	360	\$ 354,188,664.00 *
	Automatic 85%	11.1	9.435	\$235,601.39 *	733	\$ 172,695,818.87 *
	85% due to great bodily harm to victim	16.2	13.77	\$343,850.67 *	45	\$ 15,473,280.15 *
	85% due to reckless homicide	7	5.95	\$148,577.45 *	41	\$ 6,091,675.45 *
	85% due to aggravated arson	10.1	8.585	\$214,376.04 *	22	\$ 4,716,272.88 *

Total Estimated Cost To Incarcerate All Offenders Sentenced Under TIS During 2002-2004⁵

\$1,492,379,621.82 *

- Notes :
1. Figures in Columns B, C, and F were obtained from Table 34 of the 2002, 2003, and 2004 IDOC Statistical Presentations, pages 87, 87, and 88 respectively.
 2. Figures in Column D were reached by multiplying the percentage in Column B by the number of years in Column C.
 3. Figures in Column E were reached by multiplying Column D by \$24,971.
 4. Figures in Column G were reached by multiplying Column E by Column F.
 5. Total Estimated Costs To Incarcerate All Offenders Sentenced Under TIS During 2002-2004 was reached by adding all figures in column G.
- * All estimates of dollar amounts were reached using the 2009 Financial Impact Statement of the IDOC estimate of \$24,971 per year per prisoner without adjusting for future inflation or accounting for additional age-related costs.

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Table 3 below shows what costs the state would have incurred had it imposed those same sentences had Illinois not enacted TIS.

Table 3. Estimated Costs To Incarcerate Violent Offenders Sentenced From 2002 Through 2004 Had Illinois Not Enacted Truth-In-Sentencing Legislation.							
A YEAR	B TIS CATEGORY ¹	C AVERAGE % OF SENTENCE SERVED W/O TIS ²	D AVERAGE SENTENCE IMPOSED (YEARS)	E AVERAGE TIME TO BE SERVED ³ (YEARS)	F ESTIMATED COST TO INCARCERATE A PERSON FOR THE DURATION OF THEIR SENTENCE W/O TIS ⁴	G NUMBER OF PEOPLE SENTENCE D ¹	H ESTIMATED COST TO INCARCERATE EVERYONE IN TIS CATEGORY FOR THE DURATION OF SENTENCE, SENTENCED THAT YEAR W/O TIS ⁵
2002	Murder (100%)	44%	37.1	16.324	\$407,626.60 *	289	\$117,776,086.40 *
	Automatic 85%	44%	11.4	5.016	\$125,254.54 *	646	\$ 80,914,432.84 *
	85% due to great bodily harm to victim	44%	13.6	5.984	\$149,426.46 *	45	\$ 6,724,190.70 *
	85% due to reckless homicide	44%	7.8	3.432	\$ 85,700.47 *	47	\$ 4,027,922.09 *
	85% due to aggravated arson	44%	9	3.96	\$ 98,885.16 *	6	\$ 593,310.96 *
2003	Murder (100%)	44%	38.9	17.116	\$427,403.64 *	314	\$134,204,742.96 *
	Automatic 85%	44%	10.7	4.708	\$117,564.47 *	712	\$ 83,705,902.64 *
	85% due to great bodily harm to victim	44%	16.5	7.26	\$181,289.46 *	51	\$ 9,245,762.46 *
	85% due to reckless homicide	44%	6.9	3.036	\$ 75,811.96 *	44	\$ 3,335,726.24 *
	85% due to aggravated arson	44%	7.4	3.256	\$81,305.58 *	14	\$ 1,058,278.12 *
2004	Murder (100%)	44%	39.4	17.336	\$432,897.26 *	360	\$155,843,013.60 *
	Automatic 85%	44%	11.1	4.884	\$121,958.36 *	733	\$ 89,395,477.88 *
	85% due to great bodily harm to victim	44%	16.2	7.128	\$177,993.29 *	45	\$ 8,009,698.05 *
	85% due to reckless homicide	44%	7	3.08	\$ 76,910.68 *	41	\$ 3,153,337.88 *
	85% due to aggravated arson	44%	10.1	4.444	\$110,971.12 *	22	\$ 2,440,364.64 *
Total Estimated Cost To Incarcerate All Offenders Sentenced Under TIS During 2002-2004 Had TIS Not Been Enacted							\$ 700,456,248.46 *
Notes : 1. Figures in Columns B, D, and G were obtained from Table 34 of the 2002, 2003, and 2004 IDOC Statistical Presentations, pages 87, 87, and 88 respectively. 2. Estimate of 44% as average percentage of sentence served pre-TIS was obtained from Table 3.3, Sabol, et al., p. 41.							

3. Figures in Column E were reached by multiplying the percentage in Column C by figures in Column D
 4. Figures in Column F were reached by multiplying Column E by \$24,971.
 5. Figures in Column H were reached by multiplying figures in Column F by figures in Column G.
 6. Total estimated costs for 2002-2004 had TIS not been implemented were reached by adding together all amounts in Column G
- * All estimates of dollar amounts were reached using the 2009 Financial Impact Statement of the IDOC estimate of \$24,971 per year per prisoner without adjusting for future inflation or accounting for additional age-related costs.

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In 2004 alone the state imposed 360 of these murder sentences. The total additional costs incurred by Illinois just to sentence these murderers under TIS in just that single year is \$198,345,650.40 (\$354,188,664.00 (TIS) minus \$155,843,013.60 (pre-TIS). See Tables 2 and 3), seventy-five million dollars more than Illinois received in federal grant funds for fiscal years 1996-2001 combined. Remember, this 198-million-dollar estimate is extremely conservative and represents the additional costs incurred in just a single year for a single offense class.

In the 3 years looked at (2002-2004) it cost the state over a half of a billion dollars extra to impose sentences for murder under TIS than if Illinois had not enacted its own TIS (See Table 4 below).

Table 4. Additional Costs Incurred During 2002-2004 For Murder Sentences, Due To Enacting TIS.				
YEAR	NUMBER OF MURDER SENTENCES IMPOSED UNDER TIS	COST TO CARRY OUT THOSE SENTENCES AT \$24,971 PER YEAR	COST IF TIS HAD NOT BEEN ENACTED, AT \$24,971 PER YEAR	INCREASED COSTS DUE TO TIS ENACTMENT
2002	289	\$267,736,564.90	\$117,776,086.40	\$149,960,478.50
2003	314	\$305,010,776.60	\$134,204,742.96	\$170,806,033.64
2004	360	\$354,188,664.00	\$155,843,013.60	\$198,345,650.40
Total Additional Costs Incurred During 2002-2004 For Murder Sentences Due to TIS =				\$519,112,162.
				54

If one considers the sentences of all offenders sentenced under TIS during 2002-2004, it's more than three-quarter of a billion dollars (\$791,923,373.36). So by repealing Illinois' TIS the state could conservatively save a quarter of a billion dollars per year. Even if one considers all of the money received from the federal government and disregards all costs

incurred during years 1998-2001, the state incurred additional net costs of a minimum of \$667 million just up until 2004 and incurred and continues to incur hundreds of millions of dollars in additional costs every year after 2004.

Even though the IDOC had yet to feel the full impact of these longer sentences in 2003 (due to enactment being so recent), “[b]etween fiscal years 1995 and 2003, total appropriations for IDOC increased 35 percent (as adjusted for inflation), rising from \$755,369,300 to \$1.2 billion” (LaVigne, et al., p. 9). There is little doubt that Illinois has incurred much higher costs than it expected when it enacted its Truth-In-Sentencing Law. What is still unclear is: 1) Exactly how much?; and 2) What can be done about it? Every day that goes by another person is convicted of murder and the state incurs an additional half of a million dollars in costs that it wouldn’t have, had Illinois’ TIS not been enacted.

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- Community Safety -

Proponents of extremely lengthy sentences often argue that those who commit murder need to be kept in prison forever to keep society safe. Such a sentiment ignores the goal of “corrections” espoused both in Illinois law (730 ILCS 5/1-1-2(d) (West’s, p.668) and the Illinois Constitution (Article 1, Section II), which is to return the offender to “useful citizenship”. Furthermore, the fact of the matter is that those who commit murder have the lowest recidivism rates out of any class of offenders (IDOC Stat.Pres.2004, p.47). “State prison officials [in New York] studying inmates released between 1985 and 2002 found [that just] 3 percent of murderers were returned to prison for new crimes after 3 years” (Hill).

Moreover, the wisdom of expending \$75,000 per year to keep an elderly or infirm prisoner incarcerated under the guise of community safety, is nonexistent. Doing so serves little purpose other than punishment. It certainly isn’t a cost-effective way to protect society. As the Pew Center on the States reports:

[S]tatistics have long shown crime is an occupation of the young, so imprisoning offenders beyond the age at which they would have likely given up their criminal ways brings little benefit – but big expenses...

The graying of the nation’s prisons suggests that policy makers have not paid much heed to this well-established criminological fact. Rather many have embraced longer sentences...(p. 19).

This has been the case in Illinois where sentences were lengthened time and time again, without any regard for costs, to the point where there are now more prisoners who will never get out of prison due to being unable to outlive their release date than there are who were sentenced to natural-life. Olson, et al., also found that TIS actually doubled the percentage of murderers, from 15% to 30%, that won't ever be released due to having sentences that outlast their life expectancy (p.4).

At some point these prisoners will cease to pose a threat to society. More than doubling sentences for violent crimes to keep society safe lacks evidentiary support when statistics and studies consistently conclude that the threat is minimal at most. When one considers the astronomical costs of these TIS-enhanced sentences, can anyone still, with a straight face say that those minimal benefits, if any, are worth the costs?

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CONCLUSION

Illinois has clearly incurred drastic financial costs due to implementing TIS while receiving negligible financial aid from the federal grant program. Unlike other states, Illinois failed to adjust for TIS by reducing sentencing ranges or encouraging judges to adjust sentences accordingly. Rather Illinois increased sentencing ranges prior to implementation and increased sentences imposed after implementation. The costs of implementation surpass even the highest predictions that were made prior to enactment, and these costs were not offset by the federal funds which encouraged overhauling Illinois' sentencing laws with TIS in the first place.

At the very least Illinois is absorbing over a billion dollars in additional liabilities every four years due to TIS. Proponents of TIS will likely argue that it has saved money by reducing crime. There is little evidence that that is the case, but it should be closely examined in a more comprehensive cost/benefit analysis.

RECOMMENDATIONS

1. Ensure that the IDOC complies with 730 ILCS 5/5-5-4.3 and publishes a Statistical Presentation on a yearly basis.
2. Ensure that the IDOC complies with 730 ILCS 5/3-2-9 and publishes a Financial Impact Statement on a yearly basis.
3. Fund an in-depth study of both the costs and benefits of Illinois' Truth-In-Sentencing Laws.

4. Pass legislation requiring judges to calculate the fiscal costs the state will incur due to the sentence being imposed, taking into account the defendant's age and the increased cost of incarcerating an individual when he or she is elderly.
5. Amend sentencing laws to either abolish TIS, or reduce maximum sentences for violent crimes and abolish extended term sentences.
6. Expand the use of executive clemency; pass a compassionate release law; transition elderly inmates to home confinement; and pass an elderly sentence adjustment law which is retroactive to clear out some of the deserving elderly inmates from prison.

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NOTES

1. Potential Bias - The author of this report, Joseph Rodney Dole, II, is an inmate at Tamms Correctional Center (Inmate No. K84446), 8500 Supermax Road, Tamms, IL 62988, and is serving a sentence that does not fall under Illinois' Truth-In-Sentencing Laws. Therefore this report was not written out of self interest or in the hope that TIS would be repealed, freeing him. It was written out of concern for the seeming waste of limited state funds.
2. Accuracy of Calculations - All calculations made in this report were made by hand as the author lacks access to a calculator. If there are any errors made they were made unintentionally.

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