

The Long Term

**a brief guide to some laws and policies
that create mass incarceration**

Prison + Neighborhood Arts Project
2018

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Credits

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Prison + Neighborhood Arts Project
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The population of incarcerated people jumped from some 6000 people in prison in 1974 to more than 48,000 in 2015—costing communities the loss of family members, wage earners and community resources. The increase in the prison population since 1980 was created by changes in sentencing policy, not crime rates.

1 out of
every 9
people
incarcerated
are serving
life
sentences.

What kinds of sentencing laws or policies lock up so many people for so long?

Before 1978, all sentencing in Illinois was what is known as indeterminate sentencing. An indeterminate sentence fixes a minimum and a maximum term a person may serve in prison. For example, Amanda is convicted of a crime and she receives 14 years to life. After Amanda serves the minimum portion of her sentence of 14 years, she would be eligible for a discretionary parole hearing to determine if parole is justified, or if further imprisonment is required.

After 1978, however, Illinois abolished its parole board and changed all sentencing to determinate sentences. A determinate sentence is a sentence that is definite and not subject to review by a parole board. For example, rather than Amanda receiving a sentence of 14 years to life, she would receive a set sentence of, for example, 40 years.

Before the 1990s, people like Amanda would have served about half of their prison sentence by accruing what is known as ‘good time credit’ and ‘day for day’ credits. The idea at this time was one of ‘corrections’, meaning people who went to prison had access to educational classes and other opportunities, and would be rehabilitated and released. But during the “tough on crime” decades all that changed.

What changed during those years?

In 1994, under the presidency of Bill Clinton, the Violent Crime Control and Law Enforcement Act created the Violent Offender Incarceration and Truth in Sentencing program, what later became known as “Truth in Sentencing” or TIS.

What is Truth in Sentencing?

Truth in Sentencing is a collection of laws and policies that were passed by states that, among other things, dramatically increased the time people had to serve in prison. It was a federal program that incentivized states that adopt its “tough on crime” policy approach. To become eligible for this new federal funding, the states had to adhere to these new sentencing standards in exchange for billions of dollars of funding for prison construction, policing and more. In fact, close to 17 billion dollars was made available to states under this law.

The passage of Truth in Sentencing policies created a dramatic increase in the length of prison sentences and prison populations. In short, Truth in Sentencing significantly contributes to what has come to be called mass incarceration.

Truth in Sentencing called for three significant things:

1. Mandatory minimums and extended or enhanced sentences.
2. Habitual Offenders or “Three Strike” Laws
3. Eliminated good conduct credit and parole

In particular, Truth in Sentencing required people convicted of violent crimes to serve at least 85% of their sentence before becoming eligible for release.

1 out of
every 7
people in
prison are
serving life or
'virtual life'
sentences,
meaning,
they were
sentenced
to 50 years
or more.

When did IL adopt the Truth in Sentencing Act?

Illinois adopted Truth in Sentencing provisions in 1995 but it was repealed and then reinstated in 1998. The changes made in 1998 made the state eligible for federal grant funds that year.

The bill was suspiciously timed because violent crime in Illinois had been declining for several years. The violent crime rate in Illinois has continued to decline since 1991, with the exception of spikes in crimes happening in the four distinct years of 1995, 2005, 2015, and 2016.

Nonetheless, Truth in Sentencing required that Illinois change laws making the amount of time people spent in prison longer and longer. As cited in the case of Amanda, Illinois changed the sentencing policy from people typically serving 50% of their sentence to mandate that they serve 85% of that time for certain offenses. For instance, if Amanda was sentenced to 40 years, she would now have to do 34 years of that time (14 years more than what she would have done prior to the passage of Truth in Sentencing). But if Amanda was convicted murder under Truth in Sentencing she would have to do 100% of her time-- all 40 years.

Since 1998 Illinois has made several changes to these laws but the impacts still stand—people spend far more time in prison for the same convictions than they did before 1998.

What other policies were changed by Truth in Sentencing?

The Illinois Firearm Enhancements, the Habitual Criminal statute and Consecutive sentences are three specific policies that add more and more time and people's sentence in Illinois.

Illinois Firearm Enhancements add 15 years, 20 years, or 25 years to life for anyone who commits a crime involving a firearm. A person convicted of an offense where a firearm was used faces an additional mandatory 15 years, if they personally discharge that firearm they face an additional mandatory 20 years, and if they shoot and kill or seriously injure someone they face a mandatory 25 years to life added onto the sentence they will receive for the actual offense.

For example, a minimum sentence for someone convicted of murder using a firearm could be a minimum of 45 years. In Illinois, a murder charge carries 20-60-year sentence while the firearm would add another 25 years. And because they would be sentenced under Truth in Sentencing policies, they would have to do 100% of that time.

Illinois also has the Habitual Criminal statute that is much like the "3 strikes law". This statute allows a person to be sentenced to an extended term or life in prison for a third conviction for certain crimes.

Finally, Consecutive Sentences are sentences that must be served one after the other. Consecutive sentences can be imposed in a number of different ways and can dramatically raise the number of years a person spends in prison.

For instance, if Amanda is convicted of several different charges using a firearm, she can receive a sentence

for each crime, plus a sentence for each time the firearm was used. If Amanda is convicted of a crime where two people were shot, she could receive 30 years per injured person, plus two 25 years sentences for the use of the firearm, making her eligible a sentence of 110 years.

How does Truth in Sentencing impact young people convicted of crimes?

Truth in Sentencing targeted juveniles by directing states to prosecute juveniles charged with certain crimes as adults. Some 200,000 youth are prosecuted as adults each year, and 95,000 are held in adult jails or prisons across the nation. In Illinois, some 1100 people in prisons are serving sentences for offenses committed as children. Almost half of these people are serving sentences longer than 20 years.

The amount
of people
serving life
sentences
has
quadrupled
since 1984.

Does spending more time in prison prevent or deter crime? Or does it repair harm caused by crime?

No. Communities most impacted by violence are also impacted by over policing and mass incarceration. Prisons do not create community safety because prisons cannot offer the resources needed to curb violence like high quality education, jobs, mental health services or violence prevention. Instead, resources that go to locking people up creates a cycle of violence that hurts communities and creates trauma.

Further, prisons are not equipped to help people who have experienced trauma and experience of prison itself often compounds this trauma and interferes with recovery.

While some public officials might push for longer prison sentences to supposedly deter crime, extensive evidence shows that the severity of punishment does not make the change needed to prevent harm or crime. Long-term incarceration only punishes past actions, it does not prevent new harm. Communities impacted by violence and incarceration lose when more and more community members and public resources are disappeared into the prison system. In fact, long prison terms have been shown to have diminishing returns for public safety, not more positive ones.

Do long prison sentences hold people accountable for the harm they caused?

No. Long prison sentences are a form of punishment, not accountability. Accountability is when people accept responsibility for the harm they have caused and work toward not causing that harm again. But in the U.S., courts and prisons prohibit people from having contact with survivors of their crimes and discourage people from discussing their crimes openly. Instead accountability work is done on an individual's own terms, sometimes with the help of family or friends.

Do long prison sentences impact women differently?

For women serving long or life sentences, 49% were survivors of physical abuse and 20% were survivors of sexual abuse. Also, many women are heads of households, making their absence from home even more difficult on families and children.

Are long prison sentences distributed evenly across race?

No. The racial disparities of long term sentences are shocking. Black people make up two thirds of the people sentenced to life sentences or de facto life sentences in Illinois.

How does Truth in Sentencing affect Illinois residents?

Since Illinois enacted its Truth in Sentencing the prison sentences for violent crimes have more than doubled and the prison population has increased to over 48,000 today (this does not include people in jails, juvenile prisons, or immigrant detention centers).

Since 1998, the average amount of time a person spends in prison for a violent offense has doubled, and in some cases even tripled or quadrupled and appears to be steadily rising. These staggering numbers are costing the Illinois tax payers a whopping \$1.5 billion a year (\$38,268 per year per incarcerated person). This figure does not consider other outside costs, such as capital expenses and employee pensions.

17,000
people
serving life
or virtual life
were
convicted of
non-violent
crimes.

Why should you care about Truth in Sentencing or how long people spend locked up in prison?

First and foremost, long term sentencing is inhumane. People convicted of crimes are being sentenced to essentially spend the rest of their lives in prison. Instead they should have access to resources and have a second chance at life.

Also, long sentences assume that people can't or don't change. This is a harmful assumption. In fact, research shows that people 'age out' of crime. Meaning, that people grow and mature in prison and develop more adult behaviors.

Then there is also the monetary toll that Truth in Sentencing is putting on the state. With the federal government reversing its stance on mass incarceration, and pulling its funding for the Truth in Sentencing grants, states are being forced to foot the bill for incarcerating the massive number of people convicted under Truth in Sentencing laws.

Illinois is already in dire straits financially and hundreds of millions, or even billions, of dollars more could put the state in even more of a financial bind, leaving taxpayers to foot the bill thereby raising taxes and/or cutting services in much needed areas.

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