

SENATE JUDICIARY COMMITTEE  
JANUARY 27, 2025

SUPPLEMENTARY TESTIMONY OF  
THE OFFICE OF ATTORNEY GENERAL

IN SUPPORT OF  
SENATE BILL 2128

Senator Larson and Members of the Committee:

During the hearings on Senate Bill 2128, as amended by the Attorney General, you heard multiple opponents of the bill claim that longer sentences do not deter crime, increase recidivism, make prisons unsafe, or some combination of these notions. These claims do not withstand scrutiny.

While many agenda-driven groups have made claims like these, the studies they cite are flawed and do not apply to the bill under consideration. When the relevant research is viewed more comprehensively, a different picture emerges. This is especially true when the studies' shortcomings are not hidden.

When inmates spend more time in prison, as they would under a law that requires them to serve a larger percentage of their judge-imposed sentences, they have more time to participate in rehabilitation, treatment, and re-entry programs. They also are unable to commit crimes while in prison and are more likely to be deterred from committing future crimes after release. These are some of the reasons that – contrary to testimony offered by opponents of Senate Bill 2128 – more recent and robust studies often show a reduction in recidivism when inmates are in prison for longer periods of time.

**Opponents of Senate Bill 2128 Presented a Distorted View of the Research**

During the hearing on Senate Bill 2128, opponents of the bill who testified about research findings relied on flawed and inapplicable research. When they extrapolated findings from these studies and tried to project them onto Senate Bill 2128, they were comparing apples to oranges.

For example, the opponents of the bill often conflated truth-in-sentencing with mandatory minimum sentencing. These are very different practices, and studies on them are not interchangeable. Additionally, truth-in-sentencing can mean many things, and not all studies on truth-in-sentencing would be applicable to Senate Bill 2128.

Also, many studies in this area fail to control for variables (such as age, sex, etc.) that distort their results. When those variables are not controlled, it is difficult to account for their effects on the studied population, even if the studies try to do so with mathematical modeling.

Opponents of the bill who testified about research findings should have identified the limitations of that research – why it does not predict the outcomes of Senate Bill 2128 – rather than imply the research is conclusive.

Opponents of the bill also painted an extremely one-sided and inaccurate picture of the research into the effect of incarceration on recidivism and criminal behavior. They neglected to notify the committee that many studies, especially recent studies, demonstrate a reduction in recidivism from longer incarceration times. Studies are not nearly as conclusive and one-sided as opponents of the bill testified.

In June 2022, the United States Sentencing Commission issued a study report titled *Length of Incarceration and Recidivism*. As part of its study, the Commission reviewed preexisting research on this issue and found much of it was flawed. The Commission’s report stated:

Empirical research on the relationship between length of incarceration and recidivism is limited and presents mixed results. Of the studies that have been published, many are dated (*e.g.*, conducted prior to 2000), use less rigorous research designs, or present results on the relationship between incarceration and recidivism as a sub-analysis within a broader study. Further, a number of the prior studies have methodological deficiencies relating to not appropriately controlling for offender age and, therefore, are not considered valid.<sup>1</sup>

Similarly, a detailed and extensive study of existing research by the Criminal Justice Legal Foundation in 2022 noted significant limitations to earlier research on this topic.

Overall, the effect of incarceration length on recidivism appears too heterogeneous to draw universal conclusions, and findings are inconsistent across studies due to methodological limitations. For example, many study samples are skewed toward people with shorter sentences while others include confounds that render results invalid. Of the studies reviewed, some suggested that longer sentences provide additional deterrent benefits in the aggregate, though some studies also had null effects. None suggested a strong aggregate-level criminogenic effect.<sup>2</sup>

The authors identified several specific problems with earlier research on this topic. Randomized controlled trials (the gold standard) would be unethical for prisoners. Controlling for other variables impacting recidivism or violence is almost impossible. Criminals with longer sentences may be more violent, male, and younger than those with shorter sentences, and those factors may influence recidivism rates. Moreover, there are different methods to measure recidivism, so consistency across studies and studied populations is lacking.

Researchers from Loyola University who studied Illinois’ truth-in-sentencing laws also identified some inherent problems in relying on the existing research.

Given the fact that the impact of the law appears to vary from state to state, depending on the offenses covered under [truth-in-sentencing] and the overall sentencing structure and/or courtroom culture in place, it is clear that analyses need to be done on a state-by-state basis to take into account the nuances of each state's [truth-in-sentencing] law and sentencing structure to assess impact on sentence lengths and/or lengths of time to serve.<sup>3</sup>

Conclusory study findings offered to the committee in hearings on Senate Bill 2128 simply painted an inaccurate picture.

### **More Time in Incarceration Has Been Shown to Reduce Recidivism and Reduce Violence in Prison**

There are at least three ways that requiring an inmate to serve more of the sentence imposed by a judge can reduce the risk of recidivism.

1. Deterrence: The inmate will realize the cost of committing a crime is higher than the reward.
2. Incapacitation: The inmate cannot commit new crimes while in prison.
3. Rehabilitation: The inmate will have more time to be rehabilitated through treatment programs, education, re-entry programs, and other services available in prison.

Studies have found these impacts increase as the amount of time incarcerated increases.<sup>4</sup> The reduction in recidivism from incapacitation is self-evident. And some researchers have commented on the need for increased incarceration time to have a rehabilitative effect on criminals.<sup>5</sup>

The 2022 Criminal Justice Legal Foundation study report included citations to many research reports that found reductions in recidivism from increases in incarceration time, although fewer studies showed no difference.

The United States Sentencing Commission's 2022 study, which controlled for many of the variables that plague earlier studies, found that "offenders serving longer sentences had a lower likelihood of recidivism and took longer to recidivate."<sup>6</sup> Specifically, offenders who were incarcerated between 60 and 120 months had about an 18% reduction in recidivism compared to those with shorter sentences. Offenders who were incarcerated more than 120 months had about a 29% reduction in recidivism compared to those with shorter sentences.<sup>7</sup>

The Commission's findings were not an outlier. The findings "were almost identical for both the 2010 cohort studied in [the 2022] publication and the 2005 cohort studied in the Commission's previous publication."<sup>8</sup>

Also, in Appendix A of the Commission's report, there is a review of literature on this topic. Many of the studies listed in the appendix demonstrated a reduction in recidivism correlated with longer times in prison.

A study of Illinois' truth-in-sentencing (TIS) law on murderers and sex offenders found that longer sentences correlated to a reduction in violence in prison.

Among the overall sample of murderers included in the analyses of disciplinary incidents, the average number of disciplinary tickets was 22. When multivariate statistical analyses were performed to isolate the influence of TIS on the overall number of disciplinary incidents/tickets, the analyses revealed that murderers subject to TIS *receiving an average of almost 5 fewer tickets*, on average, than non-TIS inmates. Additional analyses revealed that TIS had no statistical relationship with whether or not the inmate received a disciplinary ticket for a *serious* incident: roughly 55 percent of both TIS and non-TIS murderers had a ticket for a serious incident. Serious incidents were defined as any offenses that carry a maximum penalty of one year of loss or restriction of privileges, grade reduction, good time revocation and/or segregation, and included offenses in [sic] such as violent assaults or participation in a security threat group. Similarly, TIS had no statistical relationship with whether or not the inmate received a disciplinary ticket for an assault, against either another inmate or staff, with roughly 19 percent of both TIS and non-TIS murderers receiving a ticket for any assault.<sup>9</sup> ...

Further, the existing literature on inmate disciplinary patterns, particularly for those convicted of murder, appears to suggest that longer lengths of time to serve may actually reduce the incidence and nature of institutional violence by inmates, and that other inmate characteristics, such as age, need to be statistically controlled.<sup>10</sup>

## **Conclusions**

Studies on the relationships among truth-in-sentencing, incarceration time, recidivism, and violence in prison have significant limitations and are not universally applicable.

The research cited by critics of Senate Bill 2128, as amended by the Attorney General, almost certainly is not applicable to the contents of this bill. The limited utility of that research – and the flaws in the methods used in such research – have been highlighted by several major studies in the past few years. The shortcomings of the studies should have been addressed in the testimony to the committee.

Recent research – that attempts to control for confounding variables and is transparent about its applicability – generally shows that longer incarceration times correlate to decreased recidivism (or does not show an impact) and has shown a reduction in violence in prison.

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<sup>1</sup> United States Sentencing Commission, *Length of Incarceration and Recidivism*, p. 3 (June 2022).

<sup>2</sup> Berger, Elizabeth, and Scheidegger, Kent, *Sentence Length and Recidivism: A Review of the Research*, Criminal Justice Legal Foundation, p. 2 (June 2022) (emphasis added).

<sup>3</sup> David E. Olson, Ph.D. et al., *FINAL REPORT: The Impact of Illinois' Truth-in-Sentencing Law on Sentence Lengths, Time to Serve and Disciplinary Incidents of Convicted Murderers and Sex Offenders*, Loyola University Chicago, Department of Criminal Justice, Prepared for The Illinois Criminal Justice Information Authority (June 2009) (emphasis added).

<sup>4</sup> E.g., Wei Long, 2016. *Does Longer Incarceration Deter or Incapacitate Crimes? New Evidence from Truth-in-Sentencing Reform*, Working Papers 1607, Tulane University, Department of Economics. ("We observe statistically significant -7 percent deterrent effect of TIS on growth of violent crime two years after its passage. A series of placebo tests confirm the robustness of the estimates and inferences. In the long-run, additional incapacitative effect also becomes significant, making the treatment effect of TIS even greater in magnitude. Even though insignificant in the first two years after TIS was passed, growth of non-violent property crime rates decreases by 7 percent in the long-run in TIS states, indicating relative greater importance of incapacitative effect which locks up offenders who commit both types of crimes. A rough approximation shows that TIS is an economically efficient method to decrease crimes.")

<sup>5</sup> Al Weswasi, E., Sivertsson, F., Bäckman, O. et al., *Does sentence length affect the risk for criminal recidivism? A quasi-experimental study of three policy reforms in Sweden*, *J Exp Criminal* 19, 971–999 (2023).

<sup>6</sup> United States Sentencing Commission, at p. 19, 20.

<sup>7</sup> United States Sentencing Commission, at p. 19, 20.

<sup>8</sup> United States Sentencing Commission, at p. 22.

<sup>9</sup> Olson, at p. 5-6.

<sup>10</sup> Olson, at p. 17.