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Three Strikes, You're Out: Two Years Later

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Three Strikes, You're Out:



Two Years Later

A SUMMARY OF FINDINGS



California Department of Corrections
Office of Planning and Research

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EXECUTIVE SUMMARY

Two years ago this week, Governor Wilson signed into law AB 971, the “Three Strikes, You’re Out” legislation, to target career criminals and dramatically increase the penalties for habitual offenders. California’s “Three Strikes, You’re Out” law imposes an indeterminate term of 25 years to life or three times the sentence for the current felony, whichever is greater, on offenders with two or more prior convictions for violent or serious offenses. The sentence is doubled for the current felony if the offender has one prior conviction for a violent or serious felony.

This study reports on the impact that law has had on repeat felons in California. We found that:

- More than 1,300 repeat violent felons have been sentenced for third strike convictions and more than 14,000 for second strike convictions.
- Attorney General Dan Lungren reports that “Three Strikes, You’re Out” has had the effect of pushing down the state’s crime rate for two years in a row.
- In 1994, for the first time since 1964, the number of parolees seeking to come to California from other states declined, as felons learn about California’s new, tougher attitudes toward violent crime.
- California’s “Three Strikes” law has proven to be the most effective in the nation. The federal “Three Strikes” law by comparison has produced just four third strike convictions since it was signed into law September 13, 1994. That is a fraction in a prison system three-fourths as large as California’s.

Public debate continues about the costs of “Three Strikes, You’re Out”. While it is difficult to put a price tag on increased public safety, this report builds on recent academic research done by The Urban Institute for the U.S. Justice Department’s National Institute of Justice to compare the costs of incarcerating habitual felons under “Three Strikes” with the benefits it provides society through crimes prevented and the resulting lower medical costs, insurance costs, police costs and averted pain and suffering.

- Incarcerating the 1,342 repeat felons sentenced under “Three Strikes, You’re Out” costs \$41 million per year, while savings to society from keeping these felons behind bars is up to \$160 million. Compared to rates of incarceration under prior laws, the net benefit of keeping these “three strikes” felons locked up will be over \$2 billion over the next 25 years.

To finance the costs of “Three Strikes” on the state level, Governor Wilson has increased the states corrections budget by 25 percent since 1994 and has continued a realignment of the California’s trial court system, providing courts greatly flexibility to try cases and saving local governments (figure). In this year’s budget, Governor Wilson has proposed a prison bond initiative to finance both new state and county facilities and funding for 50 trial court judges to help ease the backlog of three-strike cases.

Counties have responded to the challenges of “Three Strikes” in a variety of ways. San Diego County has devoted resources to specifically process three strikes cases. San Joaquin County has held trial court blitzes to process three strikes cases. Ventura County has increased resources for public safety and law enforcement.

II. "THREE-STRIKER" PROFILE

As of January 31, 1996, 1,342 third strike felons have received a sentence of 25 years to life and 14,497 second strike felons have received an automatic doubling of their sentence. Half of all third strike offenders are under the age of 30 and 60 percent of those are under the age of 25. Of the second strike offenders, over half are under the age of 30 and a third of those are under the age of 25.

Of the second and three strike felons sentenced under "Three Strikes", 26 percent were white (compared to 30 percent of the state's entire prison population), 38 percent were black (compared to 31 percent of the state's entire prison population) and 32 percent were Hispanic (compared to 34 percent of the state's prison population).

Third Strike Felons		Second Strike Felons	
7	murder	33	murder
3	manslaughter	27	manslaughter
42	rape and sexual offense	184	rape and sexual offense
53	assault with a deadly weapon	384	assault with a deadly weapon
131	possession of a weapon	1092	possession of a weapon
69	assault/battery	561	assault/battery
8	kidnapping	16	kidnapping
159	robbery	886	robbery
243	burglary	2051	burglary
137	theft	2241	theft
44	vehicle theft	687	vehicle theft
59	receiving stolen property	627	receiving stolen property
280	drug crime	4422	drug crime
14	escape (prison/officer)	114	escape (prison/officer)
9	driving under the influence	136	driving under the influence
14	forgery/fraud	227	forgery/fraud
1	arson	19	arson
9	other property offenses	133	other property offenses
60	other offenses	657	other offenses

Sixty-one percent of these third strike convictions were for serious or violent felonies.

Counties with third strike convictions			
Alameda - 21	Los Angeles - 516	San Bernardino - 61	Solano - 3
Amador - 2	Madera - 5	San Diego - 191	Sonoma - 2
Butte - 2	Marin - 10	San Francisco - 17	Stanislaus - 11
Colusa - 1	Merced - 2	San Joaquin - 22	Sutter - 3
Contra Costa - 21	Monterey - 8	San Luis Obispo - 5	Tehama - 2
Fresno - 38	Napa - 5	San Mateo - 15	Tulare - 25
Imperial - 1	Orange - 53	Santa Barbara - 17	Tuolumne - 3
Inyo - 1	Placer - 4	Santa Clara - 45	Ventura - 13
Kern - 75	Riverside - 50	Santa Cruz - 3	Yolo - 3
Kings - 8	Sacramento - 69	Shasta - 2	
Lake - 3	San Benito - 2	Siskiyou - 2	

Los Angeles Deputy District Attorney Matt Hardy, a prosecutor for 18 years, described the "Three Strike" defendants he has seen this way:

"There are just some people who are (repeat offenders) who are never going to change and society shouldn't have to wait until they kill someone or hurt someone badly to lock them up. By the time they've been convicted of two felonies, they've probably gotten away with 100 more."

Orange County Register 4/11/94

Ventura District Attorney Michael Bradbury agrees that "Three Strikes" is having an impact on crime in Ventura County.

"Three Strikes" is the most effective crime fighting measure we have seen in California in the last 30 years... Three Strikes is working well in Ventura County; and will work well in any county in which it has the full support of the criminal justice system."

Fresno County District Attorney Edward W. Hunt advocates the effects of "Three Strikes" on California's citizens:

"Through the use of this legislation, law enforcement is able to remove violent criminals from the street and prevent irrevocable injury to California citizens. The citizens of the state are safer today than they were before the Governor signed this measure into law on March 7, 1994."

But much media attention has focused on a handful of cases in which defendants have received 25 years to life under the "Three Strikes" for seemingly minor crimes. We examined three specific cases that received much of the attention.

Bicycle Bandit

Jed Miller was mockingly reported as being locked away at Pelican Bay, a state prison known for housing the worst of the worst, for auto theft and bicycle theft.

An examination of his record, however, shows that Miller is by no means just a nonviolent thief who got caught under "three strikes" for minor offenses. In fact, he has a criminal record that dates back to 1979 including six prior felony convictions. But the most violent offense occurred in 1981, a knife attack that left his victim partially paralyzed.

- Each time Miller was paroled from state prison, he committed a new felony offense within six months of his release.
- The Probation Officer's Report indicates Miller is 36 years of age. However, the criminal arrest records reflect five different dates of birth, 13 known aliases, eight different Social Security numbers and three different California Driver's License numbers.

On March 9, 1994, a week after being paroled from state prison, Miller, drove a stolen truck onto Stanford University, stole two bicycles and fled at a high rate of speed. He did not stop at stop signs, nor for the campus patrol car in pursuit. Miller already had 8 prior convictions for vehicle theft. This incident was the third strike that stopped this habitual offender.

Attorney General Dan Lungren's response to Miller's conviction:

"Think about it: Without "three strikes", Peninsula residents could look forward to the return in a few short years of local "hero" Miller, a knife-wielding thug whose callous disregard for human life could have killed someone."

Sacramento Bee 3/1/96

Secretary Joe Sandoval, Youth and Adult Correctional Agency, said that "three strikes" is having an impact on crime in California and that Miller is now off the street where he can't hurt innocent California residents.

"The way he made it sound, he's being persecuted for being a nonviolent criminal who was unfortunate enough to get caught for a "minor" offense. The fact of the matter is that Miller is a repeat felon with a violent history."

Sacramento Bee 3/1/96

Pizza Man

Jerry Dewayne Williams is the notorious pizza thief who was sentenced on March 3, 1995 to 25 years to life for stealing a slice of pizza. At seven o'clock in the evening, four children whose ages range from seven to 14 were eating pizza when they were approached by Williams and another person. Demanding a piece of pizza, the children told them they could not have any. Drunk on beer, brandy and high on marijuana, Williams took a piece of pizza and left laughing as the children were left frightened.

- Williams had five prior serious felony convictions
- Convictions included robbery and vehicle theft
- Williams had not been out of custody for any significant amount of time during the past nine years
- At the time of booking, it was discovered that Williams had given a false name to police because he had an outstanding warrant.

In an evaluation of Williams after his third strike conviction, it is stated that he has been given numerous opportunities by the courts to change his criminal behavior. He was granted probation and given suspended sentences five times during 1985 to 1990, although he was convicted of two misdemeanor and three felony charges.

Deputy District Attorney Bill Gravlin, who prosecuted Williams:

"Williams is a habitual offender and that is what we are sentencing. The people of California are sick of revolving door justice, they're sick of judges who are soft on crime. It is wrong to focus on the last offense."

Los Angeles Times 3/5/95

Cookie Caper

Kevin T. Weber garnered much attention when he received a 25 years to life sentence for what some in the media described as "burglary with little more than four freshly baked chocolate chip cookies". But Orange County prosecutors said that there was more to the story, and more at stake, than pinching baked goods. Weber broke into a restaurant through a rooftop vent in search of the safe. He tripped the burglary alarm and fled, grabbing some cookies along the way. Weber is no stranger to incarceration.

- On December 28, 1989, Weber broke into a Huntington Beach apartment and pulled out a gun after being surprised by the resident. Weber pleaded guilty and was sentenced to two years in state prison.
- Weber returned to prison for habitual parole violations.

Three Strikes, You're Out: Two Years Later

After his conviction, Weber offered a warning to others who would run afoul of California's unforgiving "Three Strikes" law:

"People better think twice about what they do out there. It ain't funny and (law enforcement officials) are serious about getting us."

Orange County Register 9/16/95

Deputy District Attorney Mike Jacobs reviews Orange County's "Three Strikes" cases, referring to the case on the cookie caper:

"Crime is an abstract until it enters your living room. All those (legal experts) are cavalier about giving criminals breaks until it happens to them. We don't want to have the victims we could have avoided (having) by putting this guy away."

Orange County Register 9/16/95

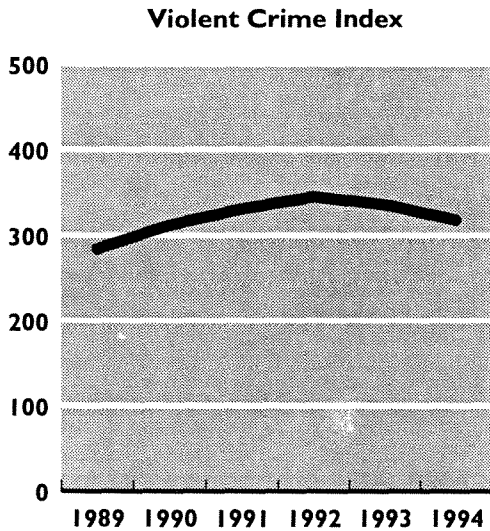
III. THREE STRIKES' EFFECT ON CRIME RATE

A 1994 RAND Study concluded that the "Three Strikes" legislation, if fully implemented, would reduce the number of serious felonies committed by adults in California by an average of 338,000 a year. That would produce a reduction in the crime rate of 28 percent.

Reports of the actual crime rate since "Three Strikes" was passed confirm the RAND study's prediction of a declining crime rate. Attorney General Dan Lungren credits the continued decline in the crime rate to the deterrent value of the "Three Strikes" legislation. The crime rate in California dropped 5.4 percent in 1994 and further plummeted during the first six months of 1995 by 7 percent, with double-digit decreases in homicide, rape and robbery.

From the report "Crime and Delinquency in California" published by the Attorney General's Office, violent crime (homicide, rape, aggravated assault, robbery) was not steadily declining before the enactment of the "three strikes" law.

- 1992-1993 violent crime was up 3.2%
- 1993-1994 violent crime declined by 10.9%



In his "State of the Public Safety" Address on January 16, 1996, The Attorney General released preliminary crime statistics for the first nine months of 1995, indicating a continuation of the downward trend after "three strikes" was enacted.

- Violent Crimes (homicide, rape, aggravated assault, robbery) fell 6.1%
- Property Crime (burglary, motor vehicle theft) fell 8.5%

The 1994 FBI Crime Index shows California's declining crime rate is outpacing that of the U.S. as a whole.

Crime rate (all crimes)	California down 4.9%
	U.S. down 2.0%
Violent crime	California down 6.3%
	U.S. down 4.1%
Murder	California down 10.9%
	U.S. down 5.3%

According to a February 1996 report released by the Legislative Analyst's Office, "Three Strikes" has the clear ability to reduce crime by incapacitating offenders who serve long prison sentences, thus eliminating their ability to commit further offenses.

Riverside County Sheriff Larry D. Smith attributes "Three Strikes" for the declining crime rate in Riverside County.

"Crime is down significantly in Riverside County, and we can thank Three Strikes legislation and the Governor's strong support of law enforcement for this. Citizens are saying 'Enough is Enough!', and all levels of government have responded. It takes a team to get the job done, and our team of police officers and prosecutors have been helped immensely by Three Strikes to put criminals in jail where they belong."

A report submitted by the Kern County District Attorney's Office concludes that over time, "Three Strikes" will cause a significant reduction in the adult crime rate in Kern County, absent other factors: the police agencies have not changed their policies. The report also states that the adverse short term fiscal impact will be limited and manageable and in the long term, it should create substantial savings for local government.

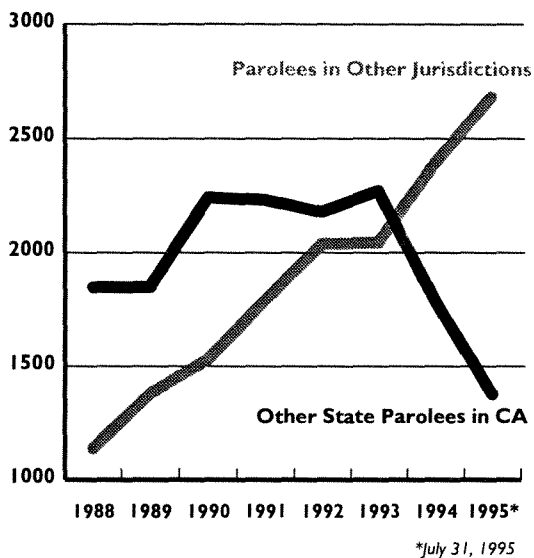
IV. THREE STRIKES' EFFECT ON PAROLEE TRENDS

Traditionally, California has been home to more parolees from other states than other states were the home to California parolees. Since "Three Strikes" was signed into law, however, this trend has been dramatically reversed. California has now become a net exporter of parolees, exporting 1,304 more parolees to other states than we take in.

"People are seeing that the justice system is no longer a revolving door. Instead, career criminals will stay in prison longer or leave our state altogether."

Attorney General Dan Lungren
Fresno Bee 5/13/95

- From 1964 to 1993 the number of parolees from other state seeking to serve their parole in California had increased from 898 to 2,271, a net increase of 1,373. However, in 1994, the first year of the "three strikes" law, the number of parolees seeking to come to California dropped dramatically from the high of 2,271 to 1,789, a net difference of 482. In 1995, the number of parolees seeking to come to California dropped further to 1,378.



- In 1994, the number of California parolees placed in other states jumped a record 347 to 2,392, the largest in the past 31 years. In 1995 the number of California parolees placed in other states grew another 290 to 2,682.

"There may be some deterrent effect from three strikes. Talking to wardens, discussions are going on among inmates that they're very aware of the law and are talking about it."

Dan Carson
Legislative Analyst's Office
San Francisco Examiner 8/15

"I think the three-strikes law...sends a clear message to criminals that repeat criminal conduct will not be tolerated. It's really well-known among career criminals. ...It's an important deterrent."

Police Chief Paul Walters, Santa Ana
Orange County Register 7/8/95

Often asked to give "Three Strikes" lectures in Kern County's eight prisons, District Attorney Ed Jagels has been surprised to hear how much the inmates know about the law, bolstering his belief that the law is deterring repeat criminals:

"They'll be able to tell you every detail and sometimes they confide that their plans have changed in light of the new law. Some say they intend to stay clean. Others say they intend to leave California."

San Francisco Examiner 7/16/95

Convicts are thinking twice about "Three Strikes". A convict sums up his feelings about three strikes during a sentencing hearing in California a year after "Three Strikes" became law:

"I'm hearing Pete Wilson, every time somebody asks me to commit a crime. And it's around me every day. And I hear him. And I hear a rumble in the sky. And I see his face, a little white face, say: 'Man, if you do that, that's strike two.' I know him. He says: 'Man, that's strike two. I'll get you'... Every time somebody asked me to do something I know that strike two was strike three; and Pete Wilson isn't B.S.'ing, man."

KCRA Channel 3 11/10/95

Here's what a group of inmates being paroled from Folsom Prison had to say about "Three Strikes" a year after it became law.

Inmate:

"Every day you always hear them, 'Man if I come back here on another beat, they're gonna strike me up'."

Inmate:

"Oh, I'm eventually gonna leave California. This is...this is a scary state to be three strikes... to be out... this is it."

Inmate on why he's leaving California:

"Laws are too tough here."

Frank Colino, a Folsom Prison Security Officer, responded to the effect of "Three Strikes":

"I saw a very big change when the three strikes came out. A lot of them are starting to think about, you know, staying out instead of just saying, 'Oh, when I get out, I'm going to get high on drugs and go out and rob somebody else'...and go somewhere else where it's easier and they don't have a three strikes."

KCRA Channel 3 11/10/95

V. COSTS AND BENEFITS OF “THREE STRIKES”

Recent debates regarding the fiscal impact of “three strikes” have focused on the cost of incarcerating more criminals for longer terms, but have ignored the costs to society when repeat felons are **not** incarcerated and allowed to continue their criminal activity. We examined recent academic research to calculate these costs for three-strikes repeat felons.

Most studies show that a criminal allowed to remain on the street will commit a median of between 12 and 21 crimes per year. We calculated our costs based upon the more conservative figure of 12 crimes per year, which is the figure generated by the most recent research of Princeton professor John DiIulio.¹

The costs to society of these crimes come in many forms, including higher medical costs, insurance premiums, police budgets, private security costs and pain and suffering to victims when felons are returned to the street and allowed to continue a pattern of criminal activity. A February 1996 study by the US Department of Justice’s National Institute of Justice² estimated that crime costs the United States \$450 billion annually. This amounts to a “crime tax” of roughly \$1,800 per person.

Based upon this research, we found the following:

- Although it cost \$41 million a year to arrest, prosecute and incarcerate the 1,342 “three strikers” already convicted, keeping them locked up prevents them from committing an estimated 16,000 crimes at a savings to society of \$160 million a year. The net benefit of incarcerating this population, therefore, is \$119 million.
- Prior to “Three Strikes, You’re Out,” the average felon served only 22 months³ in state prison. “Three Strikes” will keep them behind bars far longer. So even considering the costs of arrest, prosecution and incarceration for recidivism and benefits from incarceration under prior laws, the net savings to society from locking up 1,342 career criminals already convicted instead of letting them cycle through the revolving door system that existed prior to “three strikes” will be over \$2 billion over the next 25 years.⁴
- Spending one dollar to incarcerate a “Three Strikes” felon saves society almost four dollars from crimes not committed by these career criminals.
- The “three strikes” law also insures that the 14,155 incarcerated “second strikers” are prevented from committing \$1.7 billion in crime each year. Accounting for incarceration costs, recidivism and incarceration benefits received under prior law, net benefits of incarceration “second strikers” amount to more than \$300 million annually⁵.

¹ DiIulio, John J. and Anne Morrison Piehl, “Does Prison Pay?” and “Does Prison Pay?: Revisited” *Brookings Review*, Fall 1991 and Winter 1995.

² Miller, Teri R., Mark A. Cohen and Brian Wiersema, *Victim Costs and Consequences: A New Look*. National Institute of Justice, February, 1996.

³ Department of Corrections, Offender Information Services.

⁴ Net benefits assume the benefits of incarcerating a three strikes criminal less the benefits of incarcerating a criminal without the “three strikes” law. Annual net benefits are derived from total benefits of 20 years of incarceration minus total benefits of 22 months of incarceration with a 50% recidivism rate, distributed over a twenty year period. Data from the Department of Corrections, Offender Information Services.

⁵ Net benefits assume the benefits of incarcerating a second strike criminal less the benefits of incarcerating a criminal without the “three strikes” law. Annual net benefits are derived from total benefits of incarceration minus half the benefits, for time served under the prior laws, and a recidivism rate of 50%. Data from the Department of Corrections, Offender Information Services.