

Racial Disparities in the Charging of Los Angeles County's Third "Strike" Cases

by
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Introduction

On Tuesday, September 27, 1994, the Los Angeles Public Defender's Office presented the first and most comprehensive data on the racial and ethnic breakdown of persons charged with third "strike" cases under California's new "three strikes and you're out" law (Assembly Bill 971, identical to Proposition 184 on California's November Ballot). The "three strikes" law provides that persons who are convicted of two or more enumerated felonies ("strikes") must serve a 25 to life sentence on their next felony conviction, no matter what that conviction is for.¹

The data presented by the Public Defenders Office was particularly significant insofar as it was not a prediction, but was instead based on the first six months of actual experience with "three strikes." Assembly Bill 971 became effective on March 7, 1994. The felony filings between then and September 7, 1994 were included in the Public Defenders' analysis.

Data Analysis

This *In Brief* looks at the data presented by the Los Angeles County Public Defender's Office for overall felony and third "strike" filings against African-Americans and Whites. Utilizing data from the California Department of Finance, the general population of White and African-American residents of Los Angeles was compared to the percentage breakdown of all felony filings and third "strike" filings. Dividing the respective third "strike" filings by the number of African-Americans and Whites in those populations rendered a third "strike" filing rate within racial subcategories.

As can be seen from Graph I, Whites make up 36.6% of Los Angeles' general population, 19.7% of the persons charged with felonies in Los Angeles, and only 12.6% of those charged with third "strike" cases in Los Angeles. African-Americans, on the other hand, make up only 10% of the general population of Los Angeles County, 30.5% of L.A.'s felony filings,

1 Data compiled by the Los Angeles County District Attorneys' Office in June 1994 concluded that 75% of the defendants charged under the "three strikes" law would be charged with offenses which were non-serious and non-violent. The District Attorney estimated that these non-serious/non-violent offenders would cost state taxpayers \$48 billion on Los Angeles County defendants alone.

and an astonishing 57.3% of those charged with third "strike" cases in Los Angeles.

Graph II examines rates of third "strike" filings within the respective White and African-American populations. While Whites are accused of their third "strike" at a rate of 2.6 per 100,000, nearly 44 African-Americans out of every 100,000 are charged with third "strike" cases. This means that African-Americans in Los Angeles County are accused of a third "strike" at 17 times the rate of their White counterparts.

Conclusions

There is nothing new to the notion that African-Americans are systematically overrepresented in the criminal justice "net" throughout America, and particularly in California. The Sentencing Project, in their seminal study "Young Black Men and the Criminal Justice System: A Growing National Problem" concluded that one out of four African-American men in their 20's is under some form of criminal justice control in America.

In "Young African-American Men and the Criminal Justice System in California," a statewide study modelled on the Sentencing Project's work, the overrepresentation of young African-American men in the criminal justice system in California was found to be even more dramatic. (Center on Juvenile and Criminal Justice, 1990) One in three young African-American men were found to be under some form of criminal justice control, twice as many as are enrolled in four year degree programs. That study also showed that African-American men are represented in California's criminal justice system at six times the rate of White men.

Furthermore, a comprehensive 1991 analysis of hundreds of thousands of cases statewide prepared by the *San Jose Mercury-News* concluded that, "At virtually every stage of pretrial negotiations, whites are more successful than non-whites. They do better at getting charges dropped. They're better able to get charges reduced to lesser

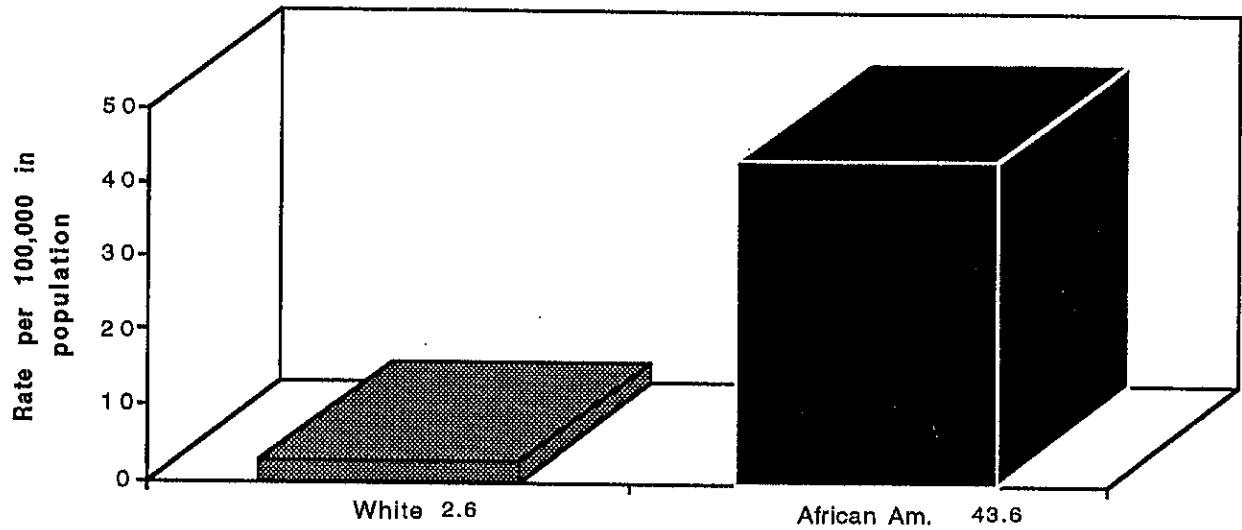
offenses. They draw more lenient sentences and go to prison less often. They get more chances to wipe their records clean." This was found to be the case even when offense severity and prior record were taken into account. For example, the *Mercury-News* reported that, while six out of 10 rapes, robberies and assaults are committed by white defendants, six out of 10 defendants arrested for rape, robbery, and assault are non-white.

Still, in none of the studies analyzed by the Center on Juvenile and Criminal Justice is the overrepresentation of African-Americans so stark as in the data compiled in this *In Brief*. These data corroborate the disturbing specter raised by other researchers that, not only are African-Americans systematically overrepresented at every stage of the criminal justice system, but they are very effectively singled out for the system's most draconian punishments.

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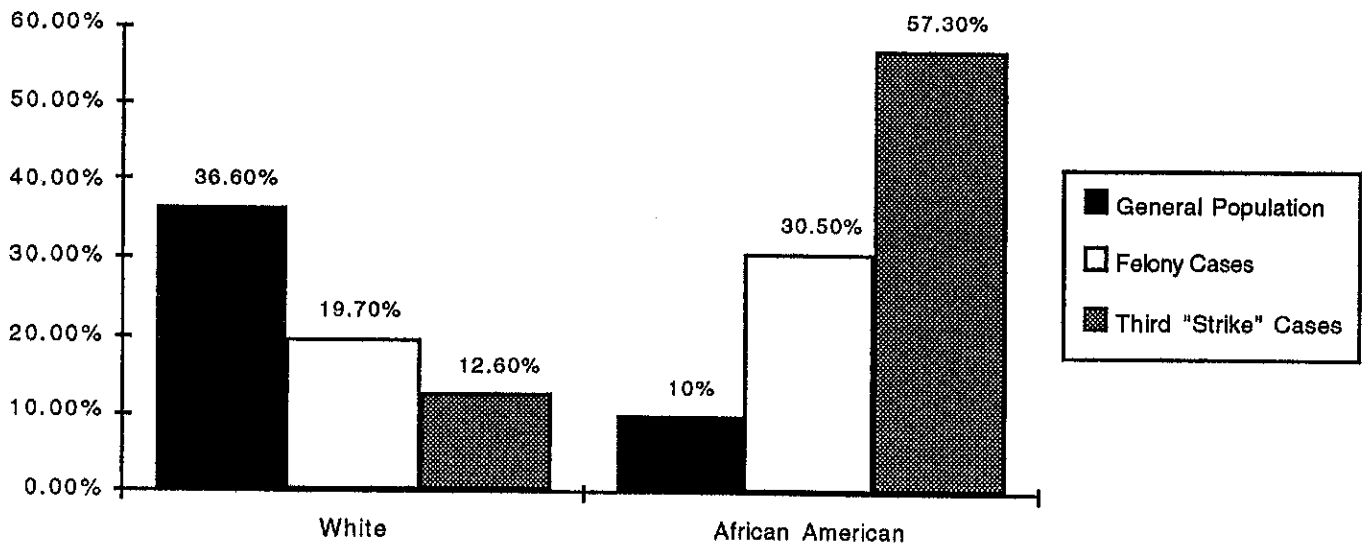
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GRAPH I

**Los Angeles' Third "Strike" Cases
by Race and Ethnicity**

Source: State Dept. of Finance, L.A. County Public Defenders Office

GRAPH II

**Representation of Whites and African American in
Los Angeles' General Population, Felony, & Third "Strike" Cases**

Sources: CA Dept. of Justice, State Dept. of Finance, LA County Public Defenders Office

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The Center on Juvenile and Criminal Justice is a public policy organization which engages in research and provides technical assistance on criminal and juvenile justice issues.