

**Research Brief**

**Striking Out: California's "Three Strikes And You're Out"  
Law Has Not Reduced Violent Crime.  
A 2011 Update.**

by

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## Summary

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- Both direct county comparisons and statewide correlational analysis shows the 1994 “Three Strikes” law has had no demonstrable effect on violent crime levels or trends.
- Analysis of strike sentencing and crime trends by age group and county consistently found no evidence supporting the law’s deterrent or selective incapacitation effect on targeted populations or in the jurisdictions most affected.
- The populations that demonstrated the greatest decline in violent crime rates since 1994 were youths and young adults, which experienced the least strike sentencing, while those ages 40-59, which experienced much heavier strike sentencing, have shown little or no improvement in violent crime rates.
- The eight largest counties that applied the law the most (Kern, Sacramento, Los Angeles, Tulare, San Bernardino, Riverside, San Diego, and Stanislaus), incarcerated strike offenders at a rate averaging 2.2 times greater than the eight major counties that invoked the law least (San Francisco, Contra Costa, Alameda, Ventura, Orange, Santa Clara, San Joaquin, and Fresno). Yet, counties that vigorously enforced the “Three Strikes” law did not experience declines in violent crime relative to counties that used the law sparingly.
- Despite their nearly six-fold greater use of three strikes law, Kern and Sacramento (the highest strike-sentencing counties) experienced lesser reductions in violent crime trends than Contra Costa and San Francisco counties (which rarely use the law).

## Introduction

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In March 1999, the Center on Juvenile and Criminal Justice (CJ CJ) released a report through the Justice Policy Institute (JPI) that investigated the effects of the “Three Strikes” Law. It noted,

In the wake of the widely publicized 1993 kidnapping and murder of 12-year-old Polly Klaas, California Governor Pete Wilson signed into law on March 7, 1994, one of the most punitive sentencing statutes in recent history. The law was dubbed “Three Strikes and You’re Out” because of its provision requiring 25-years-to-life prison terms for defendants convicted of any felony (or misdemeanor such as petty theft reclassified as a felony) after having previously been convicted of two specified “serious” or “violent” felonies. The law was affirmed by three-fourths of California voters through a statewide initiative in November of that year.

The Three Strikes law promised to reduce violent crime by putting repeat violent offenders behind bars for life. The severe nature of the law was intended to maximize the criminal justice system’s deterrent and selective incapacitation effect. Under deterrence theory, individuals are dissuaded from criminal activity through the threat of state-imposed penalties. Selective incapacitation suggests that crime can be reduced by incapacitating the small group of repeat offenders who are responsible for a large portion of serious crime (Males, Macallair, & Taqi-Eddin, 1999).

As of December 31, 2010, 40,998 Californians were behind bars for strike offenses, including 8,727 for third strikes (California Department of Corrections and Rehabilitation, 2011). While the second strike population in prisons actually declined over the 1999-2010 period, the third strike population, due to very lengthy sentences, nearly doubled. At an average of \$46,700 per inmate per year (Legislative Analyst's Office, 2011), a 25-year sentence costs the State \$1.1 million per inmate; a life sentence, assuming incarceration at age 43 (the average third strike commitment age) and death at 82 (the average life expectancy for a male alive at age 43) costs \$1.8 million per inmate, even without adding the higher medical costs of aged prisoners. Thus, just imprisoning the current third-strike population will cost taxpayers at least \$10 billion in 2010 dollars over the next 25 years.

Despite its high costs, candidates of both major parties have credited the "Three-Strikes" law with reducing crime in California. However, national crime trends show that crime has been dropping in every region regardless of incarceration practices since the early 1990s. An earlier JPI (Schiraldi & Ambrosio, 1997) study found that California's declining crime rates were no different than in states without a Three Strikes law, while a CJCJ study found California counties that used the law the least had reductions in crime slightly larger than counties that used the law the most (Males, Macallair, & Taqi-Eddin, 1999). Other early research found similar results (i.e., Stolzenberg & D'Alessio, 1997; Schiraldi, Colburn, & Lottke, 2009), while some other studies have disagreed (i.e., Helland & Tabarrok, undated), and other recent reviews such as by the University of California, Berkeley, School of Law have found only mixed results (Shapiro, 2011).

The crime control impact of the "Three Strikes and You're Out" law is an important subject to analyze. Under deterrence and incapacitation theories, counties that most heavily used the "Three Strikes" law, thereby removing larger proportions of their criminal population from public, should experience greater crime declines than more lenient counties. Because of its broad applications and disparate enforcement, California's "Three Strikes" law provides a rare opportunity to analyze these theories. This report updates the 1999 Center on Juvenile and Criminal Justice report using 2009 and 2010 data to examine crime trends in California counties with widely varying "Three Strikes" imprisonment levels.

## **Method**

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Since California counties use the "Three Strikes" law in radically different ways, it was initially hypothesized that counties that applied the law the most would experience the highest levels of crime reduction. It was also hypothesized that certain populations (especially the over-30 age group) most targeted by the "Three Strikes" law would show greater decreases in crime relative to age groups less affected by the law.

To test these theories, CJCJ examined law enforcement-reported crime and arrest statistics. Annual county-by-county statistics for violent crime, property crime, and all index offenses along with arrests for felony and violent offenses were obtained from the California Department of Justice's Criminal Justice Statistics Center (2011) for the 1990-2009 period. Cumulative county-by-county "Three Strikes" sentencing statistics were obtained from the Data Analysis Unit, California Department of Corrections and Rehabilitation (2011) for the latest period available (December 31,

2010) at the time of this publication. Annual populations by county, including 2010 Census tabulations, were available from the Department of Finance (2011).

California's 58 counties ranked by cumulated strike imprisonment rates per 100,000 population (2010) and per 1,000 felonies (2009) are shown in the Appendix. Two analyses were performed. First, a simple correlation compared the rate of strike sentencing with changes in violent, property, and all felony rates for the 1994-2009 period (using rates for 1993, the last full year before the law took effect, as the base) for all counties, the 40 most populous counties, and the 16 largest counties. Second, to avoid radical values produced by small-population counties, the 16 counties with 2,000 or more adult felony arrests in 2010 were targeted for further study. These counties account for 83% of the state's population, 90% of its felony violent crimes, and 88% of its strike sentencings. Crime trends for the eight populous counties with the highest rates of strike sentencing were compared to those for the eight populous counties with the lowest strike sentencing rates. Finally, crime trends by age were compared, using Criminal Justice Statistics Center (2011) violent crime arrest statistics and Department of Finance (2011) population estimates.

### **Did counties enforcing "Three Strikes" have greater reductions in crime?**

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California counties have radically different rates of sentencing under the "Three Strikes" law. At the end of 2010, the sentencing rate ranged from 13 "strikers" (2<sup>nd</sup> or 3<sup>rd</sup> strike offenders) in prison per 1,000 annual adult felony arrests in San Francisco to 301 "strikers" per 1,000 annual adult felony arrests in Kings County. The highest strike-sentencing counties invoked the law at rates 10 times<sup>1</sup> to 25 times<sup>2</sup> more than the lowest-sentencing counties.

Simple correlation analysis shows that for all 58 counties, higher rates of imprisonments for all strikes or third strikes were not associated with any significant reductions in all felonies or violent felonies. This was also true for the 40 counties with more than 1,000 annual adult felony arrests and for the 16 counties with 2,000 or more adult felony arrests annually. In fact, the correlations were very near to zero in all cases,<sup>3</sup> indicating strike sentencing levels have no measurable effect on crime trends.

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<sup>1</sup> Based on sentencing per 100,000 population.

<sup>2</sup> Based on sentencing per 1,000 felony arrests.

<sup>3</sup> Ranging from -0.09 to +0.04 depending on the type of strike sentence and offense category, which is far from statistically significant.

Table 1. Strike imprisonments per 100,000 population through 2010 and change in violent crime rates, 1994-2010, in highest and lowest strike-sentencing major counties.

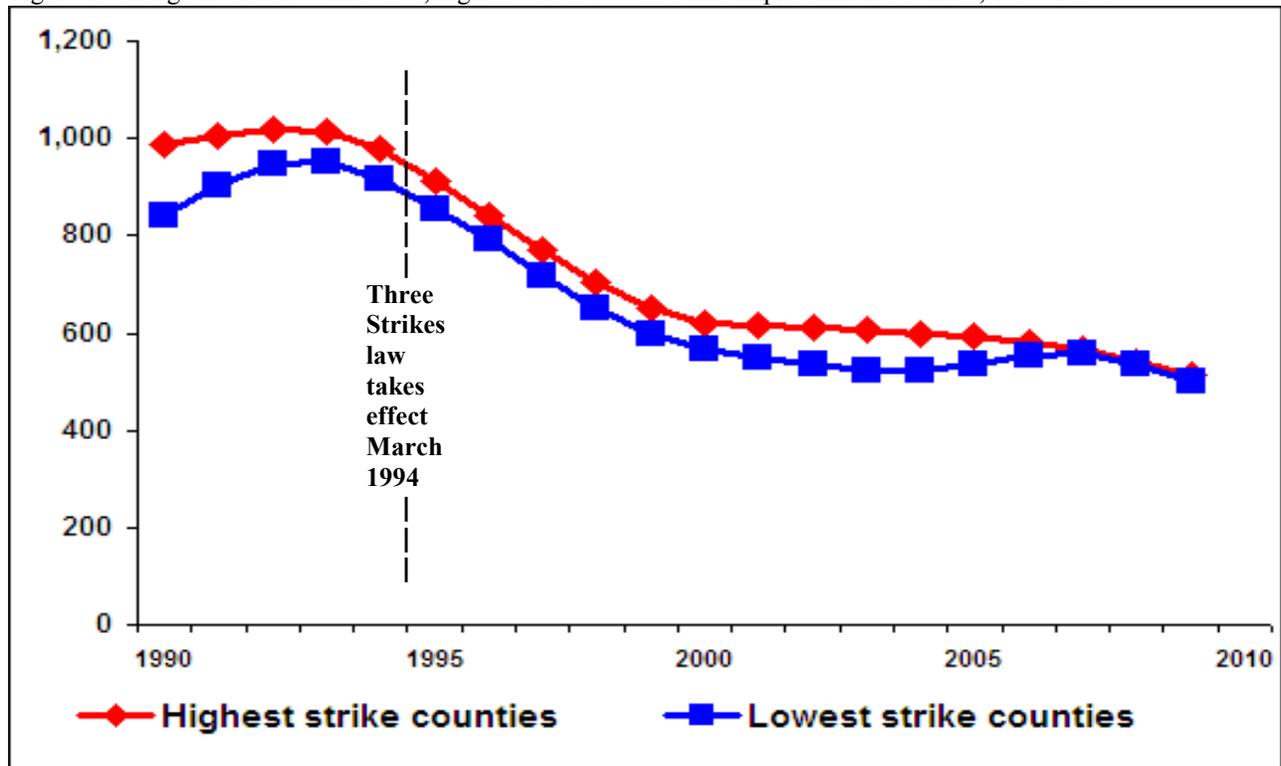
	Strike imprisonments per 100,000 population*			Change in violent crime rate, 2009 vs. 1993
	All strikes	2 <sup>nd</sup> strikes	3 <sup>rd</sup> strikes	
<u>Highest</u>				
Kern	160.7	111.6	49.1	-31%
Sacramento	158.6	119.3	39.3	-33%
Los Angeles	155.3	122.9	32.5	-63%
Tulare	149.0	124.8	24.2	-33%
San Bernardino	136.1	105.6	30.5	-48%
Riverside	133.9	111.0	23.0	-69%
San Diego	123.0	101.1	21.9	-54%
<u>Stanislaus</u>	<u>115.5</u>	<u>93.9</u>	<u>21.6</u>	<u>-45%</u>
Average, 8 highest	141.5	111.3	30.2	-47%
<u>Lowest</u>				
Fresno	105.5	84.5	21.1	-59%
San Joaquin	98.1	82.2	15.9	-23%
Santa Clara	91.2	62.1	29.1	-51%
Orange	60.2	47.1	13.1	-55%
Ventura	52.7	43.6	9.1	-48%
Alameda	40.7	31.6	9.1	-39%
Contra Costa	30.1	21.6	8.5	-45%
<u>San Francisco</u>	<u>25.3</u>	<u>20.0</u>	<u>5.3</u>	<u>-49%</u>
Average, 8 lowest	63.0	49.1	13.9	-46%

\*Number imprisoned for strike offenses through December 31, 2010, divided by 2010 county population.

Sources: Criminal Justice Statistics Center (2011); California Department of Corrections and Rehabilitation (2011).

The lack of relationship between strike imprisonments and crime is shown in Table 1, which ranks the 16 large counties with 2,000 or more annual adult felony arrests by rate of strike sentencing over the 1994-2010 period. Kern and Sacramento counties had lesser reductions in violent crime than San Francisco and Contra Costa counties, whose strike sentencing levels were only one-fifth to one-sixth as high. In particular, San Francisco experienced a 68% decline in homicides, a 49% decline in all violent crimes, and a 38% decline in index crime rates—among the largest drops in the state (Criminal Justice Statistics Center, 2011). This compares to Kern, a similarly populated large county, which had the highest rate of third strike commitments, yet experienced only a 25% decline in homicides, a 30% decline in violent crimes, and a 24% decline in index crime rates, improvements considerably behind the state average (Criminal Justice Statistics Center, 2011).

Figure 1. Change in violent crime rates, highest versus lowest strike imprisonment counties, 1994-2009.



Sources: Criminal Justice Statistics Center (2011); California Department of Corrections and Rehabilitation (2011).

Overall, the eight counties with the highest rates of strike imprisonment—more than twice the level of the eight counties with the lowest rates—had nearly identical trends in violent crime rates. Note also that crime declines began approximately three years before “Three Strikes” took effect, as shown in Figure 1. Data clearly show that counties that vigorously and strictly enforced the “Three Strikes” law did not experience a decline in violent crime relative to counties that used the law sparingly. The absence of any difference in violent crime trends over the 1994-2010 period occurred despite the fact that the eight largest counties that applied the law the most, incarcerated strike offenders at a rate averaging 2.2 times greater than the eight major counties that invoked the law least.

Even more remarkable, the nearly six-fold greater use of “Three Strikes” in the highest strike-sentencing counties, Kern and Sacramento, was associated with considerably more disappointing violent crime trends than in Contra Costa and San Francisco counties, which rarely use the law. Overall, both direct county comparisons and statewide correlational analysis shows the “Three Strikes” law has had no demonstrable effect on violent crime levels or trends.

### Strike commitments and crime trends by age

According to deterrence and incapacitation theories, a “Three Strikes” law should reduce violent crime among older ages more than younger ones. First, strikes accumulate over criminal careers, so that the median age at time of commitment to prison for second strike offenders is 38-years, and for third strikers, 43-years (California Department of Corrections and Rehabilitation, 2011). The latest, 2010 figures show that ages over 40 now represent a record 53% of the strike population,

including 87% of third strikers. On the other hand, those over age 60 or under age 30 have very low rates of strike sentencing (at least for now), and those under 18, no strike commitments to date. Thus, we would expect that a “Three Strikes” law would most reduce serious crime among ages 40-59, since a larger proportion of the population of that age group than any other is being incarcerated, especially for third strikes, and because those receiving enhanced sentences under strike laws at younger ages remain in prison into older age.

However, since the implementation of the “Three Strikes” law in 1994, older ages have shown little or no improvement in violent crime rates, with declines of only 3% for ages 40-59 (Table 2). The population that showed the greatest decline was under age 18, which did not experience any strike sentencing, followed by young adults, who were less affected by the law than older ages.

Table 2. Strike sentencing and violent crime trends by age group.

<u>Age</u>	<u>&lt;18</u>	<u>18-39</u>	<u>40-59</u>	<u>60+</u>
Strike commitment rate per 100,000 population, 2010				
3rd strike	0.0	9.9	64.3	22.2
All strikes	0.0	161.3	191.8	45.5
Violent crime rate per 100,000 population				
1993	610.1	952.1	256.5	64.9
<u>2009</u>	<u>339.0</u>	<u>672.0</u>	<u>249.7</u>	<u>64.8</u>
Change	-44%	-29%	-3%	0%
Strike imprisonments (raw numbers), 2010				
3rd strike	0	1,177	6,849	701
All strikes	0	19,132	20,427	1,439
Violent crime arrests (raw numbers)				
1993	21,590	109,690	17,317	1,338
2009	15,387	79,728	26,594	2,047

Note: arrest rates per 100,000 population are adjusted to reflect changes in populations by age from 1993 to 2009 and 2010. The population used for “<18” is 10-17, and for “60+” is 60-69, consistent with Department of Justice definitions of juvenile and adult.

Sources: Criminal Justice Statistics Center (2011); California Department of Corrections and Rehabilitation (2011); Department of Finance (2011).

## **Conclusion**

The draconian nature of the “Three Strikes and You’re Out” law offers a unique opportunity to test the selective incapacitation effect of massive incarceration. The results of this 2011 analysis, updated from the original 1999 report, continue to present a startling departure from traditional assumptions about crime and crime control.

The effects of more imprisonments for lengthier terms should be greatest in counties and within population groups where the “Three Strikes” law was most invoked. However, analyses of strike sentencing and crime trends by age group and county consistently showed this was not the case. Virtually no evidence could be found supporting the law’s deterrent or selective incapacitation effect on targeted populations or in the jurisdictions most affected. Further, many counties use the “Three Strikes” law to sentence mainly non-violent offenders, which is possible given the flaws in the current law but is not consistent with its intent as publicized by advocates. Among the major counties, the proportion of non-violent strike prisoners ranges from 25% in Alameda and San Francisco to 71% in Placer (see Appendix).

This study suggests that researchers examining recent declines in crime rates across the country must broaden their analysis to include non-criminal justice related causes. Based on these findings, the Center on Juvenile and Criminal Justice continues to recommend that the “Three Strikes” law be amended to require that the third strike must be a serious violent crime and that the legislature research the crime control impact of the “Three Strikes” law and its financial impact on California’s budget.

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Appendix. Counties, ranked by strike sentencing rate per 100,000 population as of December 31, 2010

County	Strike sentencings per		Percent for violent crimes	Number of strikes		Change, violent crime, 1994-2009
	100,000 pop	1,000 felonies		Second	Third	
<u>Counties with 1,000 or more adult felony arrests, 2009</u>						
Kings	252.3	300.6	42.5%	259	127	-37%
Shasta	224.0	235.7	37.0%	320	77	30%
Kern	160.7	98.8	37.8%	937	412	-31%
Sacramento	158.6	128.1	50.8%	1,693	557	-33%
Los Angeles	155.3	135.9	46.0%	12,063	3,190	-63%
Tulare	149.0	95.4	39.3%	552	107	-33%
Tehama	137.1	80.4	47.1%	67	20	-39%
San Bernardino	136.1	92.1	40.5%	2,150	620	-48%
Riverside	133.9	141.0	40.5%	2,430	503	-69%
Yolo	128.5	119.3	36.0%	231	27	-56%
San Diego	123.0	139.7	43.1%	3,129	678	-54%
Lake	116.0	73.6	50.7%	63	12	-54%
Stanislaus	115.5	72.4	33.8%	483	111	-45%
Fresno	105.5	74.9	51.9%	786	196	-59%
Madera	103.4	116.1	42.3%	116	40	-43%
San Joaquin	98.1	70.9	54.3%	563	109	-23%
Merced	91.9	62.9	42.6%	194	41	23%
Santa Clara	91.2	113.8	49.9%	1,106	518	-51%
Placer	89.5	96.2	29.2%	261	51	-49%
Monterey	88.9	94.5	51.5%	331	38	-33%
Yuba	81.8	51.5	66.1%	46	13	-76%
Butte	74.5	83.7	51.2%	122	42	-12%
Santa Barbara	73.4	86.6	46.0%	223	88	-5%
San Luis Obispo	69.7	91.8	54.3%	131	57	-60%
Napa	65.2	67.5	44.9%	68	21	-16%
Orange	60.2	82.4	40.3%	1,418	395	-55%
Solano	58.3	52.1	69.7%	205	36	-41%
San Mateo	55.4	83.6	51.0%	308	90	-43%
Ventura	52.7	55.5	47.0%	359	75	-48%
El Dorado	45.3	43.6	51.2%	65	17	-21%
Sonoma	43.8	45.4	54.7%	185	27	-18%
Marin	43.6	72.8	40.9%	62	48	-41%
Alameda	40.7	38.5	75.1%	477	138	-39%
Mendocino	38.7	23.3	55.9%	32	2	5%
Santa Cruz	37.4	36.1	50.0%	85	13	-34%
Humboldt	31.2	20.7	54.8%	40	2	-26%
Sutter	30.6	27.6	44.8%	22	7	-46%
Contra Costa	30.1	30.5	67.4%	227	89	-45%
Imperial	27.5	20.4	47.9%	35	13	-53%
San Francisco	25.3	13.1	74.5%	161	43	-49%
<u>Counties with fewer than 1,000 adult felony arrests in 2009</u>						
Amador	133.9	116.7	49.0%	38	13	23%
Tuolumne	124.6	86.3	37.7%	63	6	-14%
Siskiyou	109.1	78.7	49.0%	41	8	80%
Lassen	88.8	122.0	64.5%	17	14	-43%
Trinity	72.5	42.7	50.0%	6	4	-30%
Mariposa	71.2	70.7	61.5%	8	5	-80%
Del Norte	62.9	43.8	72.2%	12	6	-26%
Sierra	61.7	50.0	50.0%	1	1	40%
Glenn	53.3	39.0	53.3%	13	2	-54%
Plumas	45.0	29.3	55.6%	9	0	117%
Mono	42.2	38.5	50.0%	4	2	-35%
Modoc	41.3	33.6	100.0%	4	0	-80%
Colusa	32.7	27.3	71.4%	4	3	-46%
Inyo	32.4	29.9	83.3%	5	1	11%
San Benito	30.8	33.9	47.1%	11	6	-35%
Calaveras	28.5	30.0	61.5%	13	0	-30%
Nevada	23.3	34.8	69.6%	17	6	-19%
Alpine	0.0	0.0	100.0%	0	0	38%
Statewide	110.1	100.5	45.7%	32,271	8,727	-54%

Sources: Criminal Justice Statistics Center (2011); California Department of Corrections and Rehabilitation (2011); Department of Finance (2011).

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