



Three Strikes and You're Out

An Examination of the Impact of

3-Strike Laws

10 years after their Enactment

By Vincent Schiraldi, Jason Colburn and Eric Lotke
A Policy Brief from the Justice Policy Institute

Three Strikes and You're Out

An Examination of the Impact of Strikes Laws 10 years after their Enactment

Over the past decade since the inception of the Three Strikes movement, Justice Policy Institute researchers have conducted numerous analyses of the impact of the law in California and nationally. This is the second of three reports the Justice Policy Institute (JPI) will prepare in this, the tenth anniversary year of the Three Strikes and You're Out movement, and the only one that will focus on the trend nationally. *Still Striking Out: Ten Years of California's Three Strikes*, which we released in March, found that nearly two thirds of people sentenced to prison under California's version of Three Strikes were sentenced for nonviolent offenses and that counties within California that used Three Strikes most frequently had no better declines in crime than those that used the law more sparingly.

The Justice Policy Institute is a non-profit organization dedicated to promoting safe, fair, and effective alternatives to incarceration that protect public safety and benefit communities. JPI achieves these objectives through research into the causes and consequences of mass incarceration, advocacy to change public opinion and public policy, and assistance to government agencies and community stakeholders. This report was authored by Vincent Schiraldi, executive director, Jason Colburn, research assistant and Eric Lotke, research director at the Justice Policy Institute. JPI would like to thank the JEHT Foundation, the Open Society Institute, the Tides Foundation, and JPI's donors for their support of our research. JPI specifically wishes to acknowledge Walter Dickey and Pam Stiebs Hollenhurst of the Sentencing Project's Campaign for an Effective Crime Policy and James Austin, John Clark, Patricia Hardyman and D. Alan Henry whose research inspired this research brief. The authors gratefully acknowledge the design work of Malik Russell, JPI's Communications Director, student intern Jay Hathaway, and the many Department of Corrections statisticians and attorneys in Three Strikes states who helped us compile data for this report.

INTRODUCTION

In 1993, the state of Washington passed the nation's first "Three Strikes and You're Out" law by voter initiative. Backed in Washington and later in California by the powerful National Rifle Association and fueled by the highly publicized murders of Polly Klass (in California) and Diane Ballasiotes (in Washington), voter initiatives passed in both states by wide margins. Over the next several years Three Strikes laws spread like wild fire, 23 states and the federal government passed Three Strikes laws. In 1994 when Three Strikes reform was at its height; 10 states and the federal government enacted Three Strikes laws in one year.ⁱ Perhaps most indicative of the Three Strikes movement, President Bill Clinton received lengthy applause during his State of the Union address when he touted the law with the catchy baseball name.

That year was arguably the pinnacle of public concern about crime and the pinnacle of the political response to that concern, capping what was already an extraordinarily punitive period in American history. America's incarceration rate increased more during the 1990s than in any previous decade. Nearly as many people were added to America's prisons and jails during the 1990s as were amassed in the country's entire history up to that decade.ⁱⁱ

Fueled by increasing media coverage, growing public fear, and a new emphasis on crime as a political issue, the 1990s were primed to witness a Three Strikes explosion. For example, despite a 33% decline in homicides from 1990 to 1998, coverage of homicides on the ABC, NBC and CBS evening news increased by 473% during that time period.ⁱⁱⁱ

Not surprisingly, despite several years of declining crime rates, public concern about crime was riding high in 1994. Seventy-three percent of the public thought that crime was on the rise in 1994 versus only 3% who thought crime was decreasing. By comparison, in 1999, after eight years of declining crime, the gap between poll respondents who thought that crime was increasing versus decreasing was a much narrower 38% to 26%.^{iv}

Along with these changes, the percentage of Americans favoring mandatory sentences such as Three Strikes laws declined as the 1990s waned, from 55% in 1995 to only 38% by 2001.^v A Field Poll conducted in July 2004 about an initiative on California's ballot that would reform that state's Three Strikes law found 69% of respondents favoring reform, versus 19% who opposed the reform,^{vi} a startling turnabout from the 72% of Californians voting in favor of Three Strikes in 1994.

Three Strikes was positioned by politicians as the answer to the widespread fear amongst their constituents in the mid-1990s. Elected officials claimed that taking career criminals off the street for life when they had committed multiple crimes would incapacitate the most dangerous predators and deter would-be miscreants. A 1994 ABC *Nightline* special on Crime and Punishment, for example, showed politicians competing to be most punitive. Governor Pete Wilson of California boasted ‘We’re going to start turning career criminals into career inmates’ while Senator Phil Gramm promised, ‘We’re going to grab violent criminals by the throat.’ Senate Minority Leader Bob Dole proposed ‘I say three strikes and you’re in forever,’ and President Bill Clinton reassured voters that Three-Strikes-You’re Out would soon be ‘the law of the land.’

A decade after most of these laws have been enacted and now that the dust has settled, it is appropriate to look back at those states and see if the policy makers made good on their promises that are now ten years in action. This research brief will examine two indicators of Three Strikes’ impact in the jurisdictions that have enacted such laws:

What has been the impact of the respective states' laws on their incarcerated populations?

AND

Have Three Strikes states realized any greater reductions in crime than non-strikes states?

CRIMINAL JUSTICE IMPACT

As Table I reveals (**see Appendix A**), the much ballyhooed Three Strikes laws have had a negligible impact on states' imprisoned populations since their enactment, with the notable exceptions of California, Florida, and Georgia.

Of the 23 strikes states, data on the number of people incarcerated under Three Strikes were available for 21. Of those, 14 states (Arkansas, Colorado, Connecticut, Indiana, Montana, New Jersey, New Mexico, North Carolina, North Dakota, Pennsylvania, South Carolina, Tennessee Vermont and Wisconsin) each had fewer than 100 people incarcerated under Three Strikes; no state outside California, Florida and Georgia has had more than 400 people imprisoned under Three Strikes.

As Austin et al. have stated, for most states and the federal government, Three Strikes' enactment appears to have been "much ado about nothing."^{vii} Their 1998 analysis of Three Strikes laws points out why this should come as no surprise -- every one of the states that enacted Three Strikes laws already had existing repeat offender laws on the books; and for many of those states, the change effected by Three Strikes was marginal.

The exceptional impact is in California, the only state in which any felony offense can trigger a Three Strikes sentence.^{viii} California Department of Corrections data report that nearly two-thirds (65%) of those sentenced under California's Three Strikes laws are imprisoned for nonviolent offenses.^{ix}

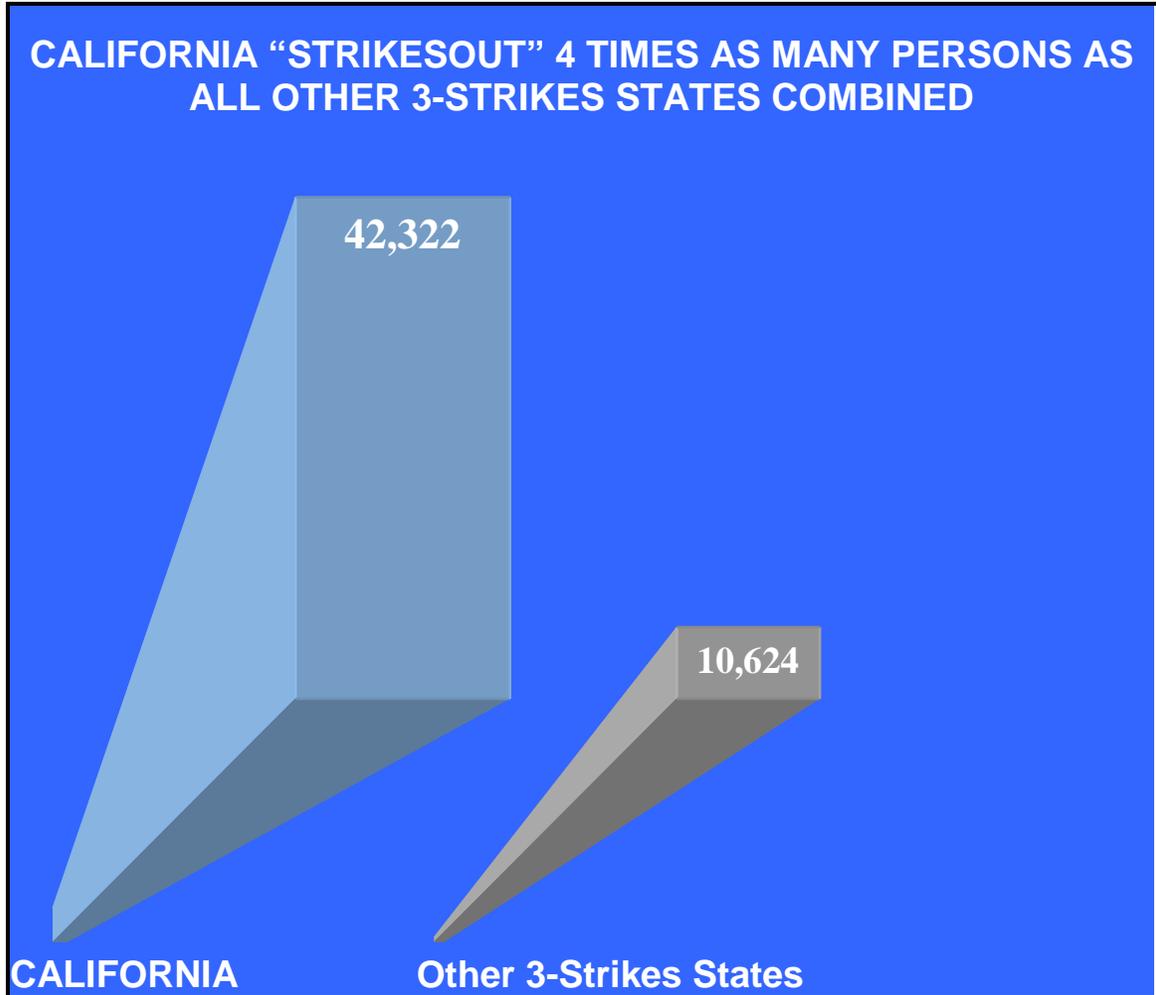
CALIFORNIA IS THE ONLY STATE IN WHICH ANY FELONY OFFENSE CAN TRIGGER A THREE STRIKES SENTENCE. TWO-THIRDS OF CALIFORNIA'S STRIKERS ARE IMPRISONED FOR NONVIOLENT OFFENSES.

It would be difficult to overstate how much California has been out of step with the other Three Strikes states on this issue. (Note: in this analysis, states were only included if data were available). For example:

California, a state with 35 million residents, incarcerated approximately four times as many people under its three strikes law as all of the other

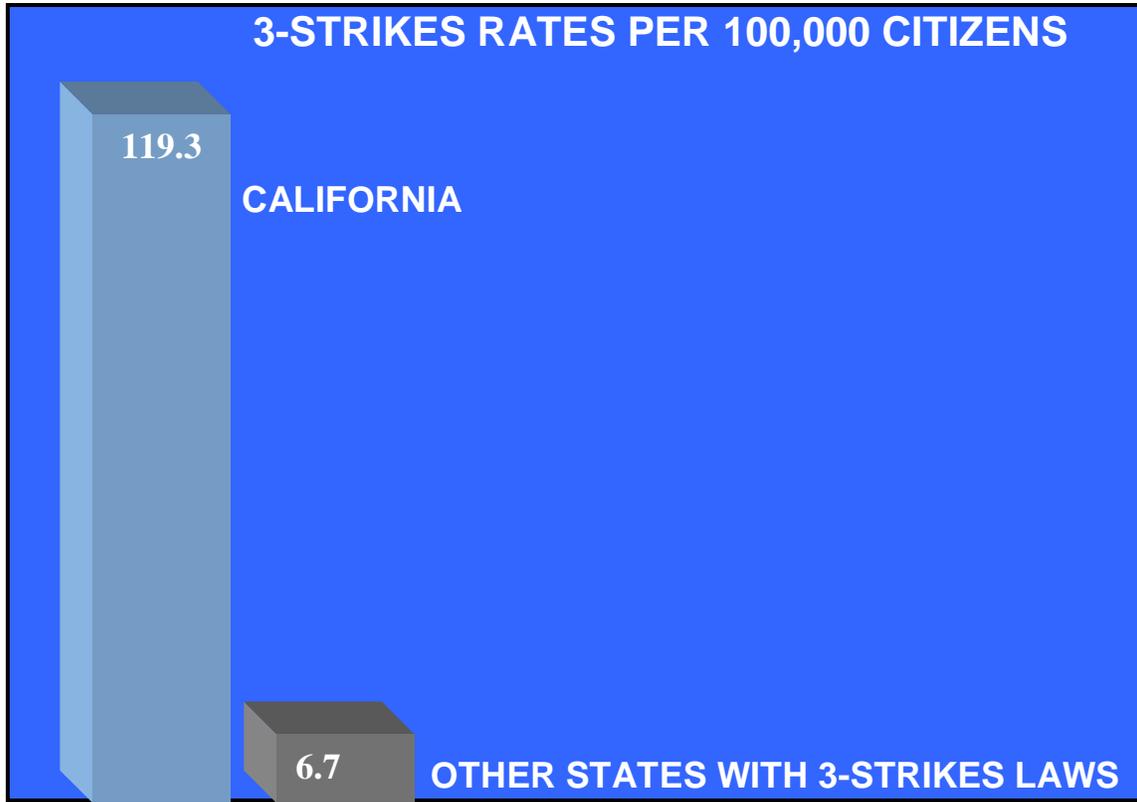
three strikes states, combined, even though those states' combined populations are 112 million.^x

Figure I



- Expressed as a rate per 100,000 residents, California's Three Strikes rate (119.3) is 18 times as great as the average for the other Three Strikes states (6.7). (See Figure II).^{xi}

Figure II



- The 42,322 people incarcerated under California's Three Strikes law exceed the *entire* prison population of each of the other Three Strikes states, except Florida and Georgia.

IT WOULD BE DIFFICULT TO OVERSTATE HOW OUT OF STEP CALIFORNIA IS WITH OTHER THREE STRIKES STATES.

IMPACT ON CRIME

Three Strikes' supporters claimed that the law would reduce crime in two different ways – by incapacitating repeat offenders for lengthy periods and by deterring would-be criminals with prior records from re-offending. Peter Greenwood, former director of the RAND Corporation's Criminal Justice Program, recently summarized research findings about the impact of the California's Three Strikes law on crime rates. He found that the law had little impact:

- “Stolzenberg and D’Alessio (1997) analyzed serious crime trends in California’s ten largest cities, using monthly data for 1985-1995. Their analysis suggests that the three strikes law did not reduce the California Crime Index below the level that would have been expected given the prevailing downward trend that had begun before the implementation of the law.” *Journal of Crime and Delinquency*xii
- “Macallair and Males (1999) and Austin et al. (1999) compared the crime rates of California counties that applied the law at higher and lower rates, expecting that counties with more extensive three strikes enforcement should experience a larger drop in crime than those less likely to invoke the law. Both studies suggest no clear pattern of crime reduction associated with the rate of three strikes application.” *Stanford Law and Policy Review*xiii
- “A simulation study by Auerhahn (2001) suggests that the three strikes law has not made California streets safer. If a selective incapacitation policy is successful, “dangerousness” should be maximized in the incarceration population and minimized in the rest of the population. Her analysis shows that the three strikes law has not been particularly successful in the selective incapacitation of dangerous offenders (a primary motivation for the law); the average dangerousness of the prison population has declined and that of the rest of the population has increased.” *State University of New York Press*.xiv

In JPI's March report on California's Three Strikes law, we again found that counties within California that had higher rates of sending people to prison under Three Strikes had experienced no greater reductions in their crime rates than counties that used Three Strikes less frequently. For example, San Francisco, a county in which the District Attorney publicly announced his opposition to Three Strikes, indicating he would only employ it in cases of violence, and which had the lowest “strike” rate amongst California's large counties, had significantly greater declines in index (serious) crime and violent crime than Fresno, the county in which the Three Strikes movement was born

and most loudly publicized. This despite the fact that Fresno's Three Strikes rate (66.4) was more than five times San Francisco's (12.3) from 1994 to 2002.

In 1997, JPI researchers compared the change in crime amongst states with and without Three Strikes laws and found that non-strikes states had realized a greater reduction in violent crime over the law's first two years than California and other strikes states.^{xv}

In this report, JPI was able to replicate that methodology with ten years of crime data. An analysis of FBI Uniform Crime Report (UCR) data found that, similar to most previous analyses, Three Strikes is producing a disappointing crime-control impact.

AN ANALYSIS OF FBI CRIME DATA REVEALS THAT THREE STRIKES IS PRODUCING A DISAPPOINTING CRIME-CONTROL IMPACT.

As Figure III shows, Three Strikes states have fared no better than states that did not adopt strikes laws. Strike states had slightly better declines in index (serious) crime rates (26.8% vs. 22.3%) driven by slightly greater declines in property crime (25.9% vs. 20.4%). Non-strike states had marginally better declines in violent crime (34.3% vs. 33.0%) and greater declines in homicides (43.9% vs. 38.2%). Considering that Three Strikes was a movement largely targeted at violent recalcitrant criminals, with promises of great impact, these findings are disappointing ten years after most strikes laws were enacted.

[FIGURE III]
CHANGE IN CRIME RATES IN STRIKE AND NONSTRIKE STATES, 1993-2002

	Crime Index	Violent crime	Property crime	Homicide
Three-Strikes States	-26.8%	-33.0%	-25.9%	-38.2%
Non-Strike States	-22.3%	-34.3%	-20.4%	-43.9%

The two states that made significant use of their Three Strikes laws other than California – Florida and Georgia– had similarly equivocal results compared to neighboring states.

Florida and Georgia, whose strikes laws are targeted exclusively at people convicted of violent offenses, had a smaller decline in violent crime rates than their non-strike neighbor Alabama, while experiencing greater declines in index crime rates driven by a drop in property offense. Alabama’s drop in violent crime (42.9%) was higher than the decline in Florida (35.9%) or Georgia (36.6%). Alabama experienced a modest decrease in property crime (1.6%) compared to a 34.7% decline in property crime in Florida and a 26.1% property crime reduction in Georgia (**See Table II-Appendix B**).

IRONICALLY, FLORIDA AND GEORGIA, WHOSE STRIKES LAWS ARE TARGETED AT VIOLENT OFFENSES, HAD A SMALLER DECLINE IN VIOLENT CRIME THAN THEIR NON-STRIKE NEIGHBOR, ALABAMA

Nearly half (48.2%) of the decline in index crime amongst the strike states is driven by California, just as half (50.7%) of the decline in index crime amongst the non-strike states is driven by New York. Removing these two states from the equation yields similar results for the remaining states. Figure IV shows the change in crime amongst strike states (excluding California) and non-strike states (excluding New York). Categorically, the results are the same as Figure III.

[FIGURE IV]
CHANGE IN CRIME RATES IN STRIKE AND NONSTRIKE STATES, 1993-2002, CALIFORNIA AND NEW YORK EXCLUDED

	Crime Index	Violent crime	Property crime	Homicide
Three-Strikes States (Excluding CA)	-22.6%	-27.3%	-21.9%	-33.7%
Non-Strike States (Excluding NY)	-17.4%	-28.5%	-15.8%	-38.2%

[FIGURE V]

CRIME RATES	California	New York
Change in Index Crime Rate 1993-2002	-38.8 %	-49.6%
Change in Violent Crime Rate 1993-2002	-44.90%	-53.9%

Figure V shows the change in crime in New York, a large non-strike state that experienced a 5.7% *decline* in its incarceration rate between 1994 and 2002, with California, a large strike state that had a 17.7% *increase* in its incarceration rate during the same period. "Strikeless" New York outperformed strike-heavy California from a crime-control standpoint, with a decline in index crime 28% greater than California's (49.6% vs. 38.8%) and a decline in violent crime 20% greater than California's (53.9% vs. 44.9%) from 1993 to 2002.

STRIKELESS NEW YORK OUTPERFORMED STRIKE-HEAVY CALIFORNIA FROM A CRIME CONTROL STANDPOINT, FROM 1993 – 2002.

One plausible explanation for the reduction in crime in California and New York in the 1990s is the remarkable improvement in both states' job markets, rather than any specific criminal justice policies. At the same time crime was declining sharply in states, unemployment dropped by a significant 35% in California and 24% in New York between 1994 and 2002, compared to a 9% decrease nationally. This suggests a possible area for future research.

DISCUSSION

Much has happened in the ten years since the peak of the Three Strikes movement during the punitive 1990s.

First, crime has been dropping for more than a decade and has reached historically important lows, which eventually reduced the overall climate of fear. The prime reasons for the decline in crime included basic demographics as the baby boom generation aged out of the crime-prone twenties and thirties and into the more sedate forties and fifties; a booming economy with real increases in employment and wages; and the stabilization of the crack trade that swept America in the late 1980's. Law enforcement also played a role in reducing crime, although it was less important than the large scale variables, and different techniques such as improved policing, innovations such as drug courts and mass incarceration all had different effects.^{xvi}

Secondly, public opinion around crime and punishment has shifted significantly. Poll respondents are increasingly supportive of a more balanced approach to crime than in the past. For example, according to a public opinion poll conducted by Hart and Associates (2001), in 1994, 42% of the public felt that we needed a tougher approach to crime emphasizing "stricter sentencing, capital punishment for more crimes and fewer paroles for convicted felons" vs. 48% who felt we needed an emphasis on "improving job and vocational training, providing family counseling, and increasing the number of neighborhood activity centers for young people". By 2001, only 32% favored the more punitive approach compared to 65% who supported attacking the causes of crime. Hart concluded "Public opinion on crime and criminal justice has undergone a significant transformation over the past few years. Support for long prison sentences as the primary tool in the fight against crime is waning, as most people reject a purely punitive approach to criminal justice. Instead, the public now endorses a balanced, multifaceted solution that focuses on prevention and rehabilitation in concert with other remedies".^{xvii}

Legislators of both parties and in states throughout the country have responded to this opinion shift. Crime has virtually vanished as an issue in this year's presidential debate.^{xviii} Meanwhile, more than half of all states have changed sentencing laws, abolished mandatory sentences, or reformed parole policies to ease crowding and reduce their incarceration rates. Connecticut, Delaware, Indiana, Louisiana, Maine, Michigan and

North Dakota have all either abolished or narrowed their mandatory sentencing laws in recent years.^{xix}

PUNITIVE LAWS OFTEN REMAIN ON THE BOOKS WELL PAST THEIR USEFULNESS EITHER AS PUBLIC POLICY OR POLITICAL PROPS.

Still, punitive laws often remain on the books well past their usefulness either as public policy or political prop. Three Strikes laws are a case in point.

This analysis is another in a growing body of research that has found that, passed during times of deep public fear, strikes laws are rarely used in most states, and not particularly successful in reducing crime in the few states that use the laws more frequently. As states look to create a more reasonable approach to public safety, balancing rehabilitation and prevention alongside prisons and punishment, Three Strikes appears to be a fad that has outlived its usefulness.

JPI

APPENDIX A

TABLE I

STATE	STRIKE ZONE DEFINED	STRIKES NEEDED TO "STRIKEOUT"	MEANING OF "STRIKING OUT"	NUMBER OF PEOPLE IN PRISON UNDER THREE-STRIKES
Arkansas	Murder, kidnapping, robbery, rape, terrorist act. First degree battery, firing a gun from a vehicle, use of a prohibited weapon, conspiracy to commit: murder; kidnapping; robbery; rape; first degree battery; first degree sexual abuse.	Two Three	Not less than 40 years in prison; no parole. Range of no parole sentences, depending on the offense.	5
California	Any felony if one prior felony conviction from a list of 'strikeable' offenses' (see source detail at end). Any felony if two prior felony convictions from list of 'strikeable' offenses.	Two Three	Mandatory sentence of twice the term for the offense involved. Mandatory indeterminate life sentence, with no parole eligibility for 25 years.	42,322
Colorado	Any Class 1 or 2 felony, or any Class 3 felony that is violent.	Three	Mandatory life in prison with no parole eligibility for 40 years.	4
Connecticut	Murder, attempt murder assault with intent to kill, manslaughter, arson, kidnapping aggravated sexual assault, robbery first degree assault.	Three	Up to life in prison.	1
Florida	Any forcible felony aggravated stalking, aggravated child abuse, lewd or indecent conduct, escape.	Three	Life if third strike involved first degree felony, 30-40 years if second degree felony, 10-15 years if third degree felony.	1,628
Georgia	Murder, armed robbery, kidnapping, rape, aggravated child molesting, aggravated sodomy, aggravated sexual battery. Any felony.	Two Four	Mandatory life without parole. Mandatory maximum sentence for the charge.	7,631

THREE STRIKES AND YOU'RE OUT: AN EXAMINATION OF THE IMPACT OF 3 STRIKE LAWS 10 YEARS AFTER THEIR ENACTMENT

Indiana	Murder, rape, sexual battery with a weapon, child molesting, arson, robbery, burglary with a weapon or resulting in serious injury, drug dealing.	Three	Mandatory life without the possibility of parole.	38
Louisiana	Murder, attempted murder, manslaughter, rape, armed robbery, kidnapping, any drug offense punishable by more than five years, any felony punishable by more than 12 years.	Three	Mandatory life in prison with no parole eligibility.	N/A
	Any four felony convictions if at least one was on the above list.	Four	Mandatory life in prison with no parole eligibility.	
Maryland	Murder, rape, robbery, first or second degree sexual offense, arson, burglary, kidnapping, car jacking, manslaughter, use of a firearm in felony, assault with intent to murder, rape, rob, or commit sexual offense.	Four, with separate prison terms served for first three strikes.	Mandatory life in prison with no parole eligibility.	330 (Approx.)
Montana	Deliberate homicide, aggravated kidnapping, sexual intercourse without consent, ritual abuse of a minor.	Two	Mandatory life in prison with no parole eligibility.	0
	Mitigated deliberate homicide, aggravated assault, kidnapping, robbery.	Three	Mandatory life in prison with no parole eligibility.	
Nevada	Murder, robbery, kidnapping, battery, abuse of children, arson, home invasion.	Three	Life without parole: with parole possible after 10 years; or 25 years with parole possible after 10 years.	304
New Jersey	Murder, robbery, car-jacking.	Three	Mandatory life in prison with no parole eligibility.	10
New Mexico	Murder, shooting at or from a vehicle and causing harm, kidnapping, criminal sexual penetration, armed robbery resulting in harm.	Three	Mandatory life in prison with parole eligibility after 30 years.	0

THREE STRIKES AND YOU'RE OUT: AN EXAMINATION OF THE IMPACT OF 3 STRIKE LAWS 10 YEARS AFTER THEIR ENACTMENT

North Carolina	47 violent felonies; separate indictment required finding that offender is "violent habitual offender".	Three	Mandatory life in prison with no parole eligibility.	22
North Dakota	Any Class A, B, or C felony.	Two	If second strike was for Class A felony, court may impose an extended sentence of up to life; if Class B felony, up to 20 years; If Class C felony, up to 10 years.	10
Pennsylvania	Murder, voluntary manslaughter, rape, involuntary deviate sexual intercourse, arson, kidnapping, robbery, aggravated assault. Same offenses.	Two Three	Enhanced sentence of up to 10 years. Enhanced sentence of up to 25 years.	50 (Approx.)
South Carolina	Murder, voluntary manslaughter, homicide by child abuse, rape, kidnapping, armed robbery, drug trafficking, embezzlement, bribery, certain accessory and attempt offenses.	Two	Mandatory life in prison with no parole eligibility.	14
Tennessee	Murder, especially aggravated kidnapping, especially aggravated robbery, aggravated rape, rape of a child, aggravated arson. Same as above, plus rape, and aggravated sexual battery.	Two, if prison term served fro first strike. Three, if separate prison terms served.	Mandatory life in prison with no parole eligibility. Mandatory life in prison with no parole eligibility for first two strikes.	14
Utah	Violent offenses listed in source detail	Three	Ranges from additional three years to life without parole, with judicial discretion	N/A
Vermont	Murder, manslaughter, arson causing death, assault and robbery with weapon or causing bodily injury, aggravated assault, kidnapping, maiming, aggravated sexual assault, aggravated domestic assault, lewd conduct with child.	Three	Court may sentence up to life in prison.	16

THREE STRIKES AND YOU'RE OUT: AN EXAMINATION OF THE IMPACT OF 3 STRIKE LAWS 10 YEARS AFTER THEIR ENACTMENT

Virginia	Murder, kidnapping, robbery, car jacking, sexual assault, conspiracy to commit any of above.	Three	Mandatory life in prison with no parole eligibility.	328
Washington	Charges listed in source detail	Three	Mandatory life in prison with no parole eligibility.	209
Wisconsin	Murder, manslaughter, vehicular homicide, aggravated battery, abuse of children, robbery, sexual assault, taking hostages, kidnapping, arson, burglary.	Three	Mandatory life in prison with no parole eligibility.	9

Sources: James Austin, John Clark, Patricia Hardyman and Alan Henry, *Three Strikes and you're Out: The Implementation and Impacts of Strike Laws*, (National Institute of Justice) 1996. The Sentencing Project, *Three Strikes: Five Years Later*, November 1998. The number of people is based on most recent available data, which vary considerably. See detail in source list at end.

APPENDIX B

TABLE II

CHANGE IN CRIME RATE PER POPULATION IN STRIKE AND NONSTRIKE STATES, BY STATE, 1993-2002				
	Crime Index	Violent crime	Property crime	Homicide
States				
Arkansas	-13.5%	-28.4%	-11.4%	-48.5%
California	-38.8%	-44.9%	-37.6%	-48.0%
Colorado	-21.3%	-37.9%	-19.5%	-31.3%
Connecticut	-35.6%	-31.9%	-36.0%	-63.3%
Florida	-34.8%	-35.9%	-34.7%	-38.9%
Georgia	-27.3%	-36.6%	-26.1%	-38.0%
Indiana	-16.1%	-27.1%	-14.8%	-22.0%
Louisiana	-25.6%	-37.7%	-23.4%	-35.1%
Maryland	-22.5%	-23.1%	-22.4%	-26.4%
Montana	-26.7%	-98.1%	-31.5%	-41.0%
Nevada	-27.5%	-27.4%	-27.5%	-20.0%
New Jersey	-36.9%	-40.2%	-36.4%	-26.0%
New Mexico	-18.9%	-20.4%	-18.6%	2.0%
North Carolina	-16.3%	-30.6%	-14.3%	-41.6%
North Dakota	-14.4%	-4.5%	-14.7%	-54.3%
Pennsylvania	-13.3%	-3.9%	-14.7%	-26.1%
South Carolina	-10.4%	-19.8%	-8.4%	-30.0%
Tennessee	-4.3%	-6.5%	-4.0%	-29.2%
Utah	-14.4%	-20.7%	-14.0%	-34.4%
Vermont	-36.5%	-6.9%	-37.4%	-42.4%
Virginia	-23.9%	-22.0%	-24.1%	-36.1%
Washington	-14.3%	-32.9%	-12.5%	-41.3%
Wisconsin	-19.5%	-14.6%	-19.8%	-35.5%
Three-Strikes Total	-26.8%	-33.0%	-25.9%	-38.2%
Non-Strike States				
Alabama	-8.2%	-42.9%	-1.6%	-41.4%
Alaska	-22.6%	-25.9%	-22.1%	-43.1%
Arizona	-12.6%	-21.3%	-11.6%	-16.2%
Delaware	-19.1%	-12.6%	-20.1%	-35.5%

THREE STRIKES AND YOU'RE OUT: AN EXAMINATION OF THE IMPACT OF 3 STRIKE LAWS 10 YEARS AFTER THEIR ENACTMENT

Hawaii	-4.3%	-0.2%	-4.4%	-50.1%
Idaho	-17.5%	-9.5%	-18.1%	-7.8%
Illinois	-28.3%	-35.1%	-26.8%	-33.6%
Iowa	-15.3%	-21.8%	-14.6%	-53.5%
Kansas	-12.1%	-14.0%	-11.9%	-37.4%
Kentucky	-10.8%	-39.6%	-6.0%	-31.5%
Maine	-15.9%	-14.3%	-15.9%	-33.1%
Massachusetts	-36.7%	-39.8%	-36.1%	-30.5%
Michigan	-28.5%	-31.3%	-28.0%	-31.1%
Minnesota	-19.4%	-18.2%	-19.5%	-35.0%
Mississippi	-6.0%	-21.0%	-4.3%	-32.0%
Missouri	-9.6%	-27.5%	-6.5%	-48.2%
Nebraska	3.8%	-7.1%	4.8%	-28.9%
New Hampshire	-23.7%	16.8%	-25.8%	-54.1%
New York	-49.6%	-53.9%	-48.6%	-64.4%
Ohio	-8.5%	-30.4%	-5.7%	-23.5%
Oklahoma	-10.4%	-20.7%	-9.0%	-44.8%
Oregon	-15.5%	-41.8%	-12.9%	-55.7%
Rhode Island	-20.3%	-29.1%	-19.4%	-1.8%
South Dakota	-22.8%	-14.7%	-23.4%	-56.8%
Texas	-19.4%	-24.1%	-18.8%	-49.8%
West Virginia	-1.1%	12.0%	-2.2%	-54.5%
Wyoming	-14.2%	-4.6%	-14.9%	-11.9%
Non Strike Total	-22.3%	-34.3%	-20.4%	-43.9%

Table I Source Detail

Table I presents basic information on each state's Three-Strikes law. The descriptive columns – defining the strike zone and qualifying number of offenses – derive from the Austin report, endnote 1. Data on the number of people in prison derives from the latest available data, and resorts to the 1998 report of the Sentencing Project when more recent data are not available. However, the Austin report includes Kansas as a Three-Strike state and we excluded it based on current analysis. Detail on each state follows:

Arkansas: Data provided by Dina Tyler, Department of Corrections Public Information and Legislative Liaison, Communications 9/2/04. Data is current as of 9/02/04.

California: Data gathered from the Department of Corrections website <http://www.corr.ca.gov/offenderinfoservices/reports/quarterly/Strike1/STRIKE1d0403.pdf>. Data current as of March 31, 2004. California's third strike can be any felony. For the second strike, "strikeable" offenses are: Murder, Voluntary Manslaughter, Rape, Lewd Act on Child Under 14, Continual Sexual Abuse of Child, Forcible Penetration by Foreign Object, Sexual Penetration by Force, Forcible Sodomy, Forcible Oral Copulation, Robbery, Assault with a Deadly Weapon on Peace Officer, Assault with a Deadly Weapon by Inmate, Assault with Intent to Rape or Rob, Any Felony Resulting in Bodily Harm, Arson Causing Bodily Injury, Exploding Device with Intent to Injure or Murder, Kidnapping, Mayhem, Arson, Residential Burglary, Grand Theft with Firearm, Drug Sales to Minors, Any Felony with Deadly Weapon, Any Felony where Firearm Used, Attempt to commit any of these offenses

Colorado: Data provided by Carl Jarrett, Legislative Council Services Liaison, Communications 9/9/04. Data is current as of 10/15/03.

Connecticut: Larry D'Orsi, Court Operations Communications Liaison reported on 9/7/04 that the data were unattainable from Corrections Department database. However, the Sentencing Project report contains data as of August 1998 and it explicitly states in the notes thereof, "There is one known person sentenced but may be others; an exact number is not extractable from the DOC database."

Florida: Data provided by Dina French, Department of Corrections Operations and Management Consultant Manager, Communications 9/1/04. Data is current as of 7/31/04.

Georgia: Data provided by Timothy S. Carr, Ph.D., Department of Corrections Senior Researcher Office of Planning & Analysis, Communications 9/1/04. Data current as of 8/26/04.

Indiana: Pam Pattison, Director of Media and Public Relations, reported on 9/14/04 that the Indiana Department of Corrections was unable to compile data. However, the Sentencing Project report contains data as of 7/1/98.

Kansas: Review of the relevant legislation in collaboration with Julia Butler, Staff Attorney of the Kansas Sentencing Commission, led to the conclusion that Kansas did not have a 3 strikes law, but rather had a sentencing guidelines system that increased sentence severity depending on past violations. 9/14/04.

Louisiana: Pam La Borde, Department of Corrections Communications Director, reported on 9/15/04 that Louisiana was unable to disaggregate the number of people sentenced under the 1995 Three-Strikes amendments to the existing Habitual Offender Law (s. 529.1) from the number of people sentenced under pre-existing provisions.

Maryland: Data provided by Tom Stough, Department of Corrections Chief of Statistics, Communications 9/7/04. Data is current as of 6/30/04.

Montana: Data provided by Sally K. Highlander, Department of Corrections Public/Victim Information Specialist, Communications 9/9/04. Data is current as of 9/9/04.

Nevada: Sheila Holloway, Department of Corrections Statistician Assistant reported on 9/14/04 that the Nevada Department of Corrections was unable to compile data on Three-strike inmates. However, the Sentencing Project report contains data as of August 1998

New Jersey: Data provided by Mathew Schuman, Department of Corrections Public Information Officer, Communications 8/31/04. Data is current as of 8/31/04.

New Mexico: Data provided by Jim Brewster, Department of Corrections Chief Public Information Officer, Communications 9/3/04. Data is current as of 9/3/04.

North Dakota: Data provided by Cathy Jensen, Department of Corrections Records Supervisor, Communications 9/07/04. The data is current as of 9/07/04.

North Carolina: Data provided by Richard Burkhart, Department of Corrections Application Analyst Programmer I, Communications 8/31/04.

Pennsylvania: Bonnie M. Gasswint, Department of Corrections Information Coordinator Office of Planning, Research, Statistics, and Grants, Communications 9/9/04. Data were only available from 1998 to 2000.

South Carolina: Data provided by Jimmy Sligh, Department of Corrections Classification and Inmate Records Division Director, Communications 8/8/04. Data is current as of 9/01/04.

Tennessee: Data provided by Amanda R. Sluss, Department of Corrections Communications Officer, Communications 9/13/04. Data is current as of 9/13/04.

Utah: Ron Gordon, Director of the Utah Sentencing Commission concluded on 9/13/04 that people in Utah prisons are classified under the offense of the underlying conviction, rather than the habitual offender sentencing enhancement, and therefore data are unavailable. (Jack Ford, the Department of Corrections Public Information Officer, was unaware that Utah even had such a law. 8/30/04). Violent felonies under the habitual offender enhancement, s. 76-3-203.5, include aggravated arson, arson, knowingly causing a catastrophe and criminal mischief, aggravated assault, criminal homicide, aggravated kidnapping and kidnapping, rape, rape of a child, object rape, object rape of a child, forcible sodomy, sodomy on a child, forcible sexual abuse, aggravated sexual abuse of a child and sexual abuse of a child, aggravated sexual assault, sexual exploitation of a minor, aggravated burglary and burglary of a dwelling, aggravated robbery and robbery, theft by extortion, tampering with a witness, retaliation against a witness, victim, or informant, tampering with a juror, extortion to dismiss a criminal proceeding with prior use of force, damage or destruction of school or institution of higher education property by explosives or flammable materials, possession, use, or removal of explosive, chemical, or incendiary devices, unlawful delivery of explosive, chemical, or incendiary devices, purchase or possession of a dangerous weapon or handgun by a restricted person, unlawful discharge of a firearm, aggravated exploitation of prostitution, bus hijacking, discharging firearms and hurling missiles into bus terminal. Under the current law, the

judge retains significant discretion in sentencing, with sentences from one year to life all available depending upon the offense and the prior history.

Vermont: Data provided by John Perry, Department of Corrections Director of Planning, Communications 9/1/04. Data is current as of 8/31/04.

Virginia: Data provided by Larry Traylor, Department of Corrections Communications Officer, Communications 9/3/04. Data is current as of 12/31/04.

Washington: Data provided by Clint D. Catron, Department of Corrections Communications Research Analyst, Communications 9/3/04. Data is current as of 9/15/04. Strikeable offenses: Any class A felony, Conspiracy or solicitation to commit class A felony, Assault in the second degree, Child molestation in the second degree, Controlled substance homicide, Extortion in the first degree, Incest against a child under age fourteen, Indecent liberties, Kidnapping in the second degree, Leading organized crime, Manslaughter in the first or second degree, Promoting prostitution in the first degree, Rape in the third degree, Robbery in the second degree, Sexual exploitation, Vehicular assault, Vehicular homicide when caused by impaired or reckless driver, Any other class B felony with sexual motivation, Any other felony with deadly weapon.

Wisconsin: Data provided by Nicole Post, Department of Corrections Data Analyst, Communications 9/13/04. Data is current as of January 2003.

Endnotes

- ⁱ Austin, James, John Clark, Patricia Hardyman, and D. Alan Henry. 1998. *Three Strikes and You're out: The Implementation and Impact of Strike Laws*. Washington DC: National Institute of Justice-U.S. Department of Justice.
- ⁱⁱ Schiraldi, Vincent and Jason Ziedenberg. 2000. *The Punishing Decade: Prison and Jail Estimates at the Millennium*. Washington, DC: Justice Policy Institute.
- ⁱⁱⁱ Dorfman, Lori and Vincent Schiraldi. 2001. *Off Balance: Youth, Race and Crime in the News*. Washington, DC: Building Blocks for Youth Initiative.
- ^{iv} Belden, Russonello and Stewart Research and Communications. 1999. *Americans Consider Juvenile Crime, Justice and Race*. Washington, DC.
- ^v Peter D. Hart Research Associates, Inc. 2002. *Changing Public Attitudes toward the Criminal Justice System*. Washington, DC.
- ^{vi} The Field Poll. August 14, 2004. *Proposition 66 and 64: Voters Appear Disposed to Put Limits on State's "Three Strikes" Law. Tort Reform Proposal Trailing*. Downloaded from <http://field.com/fieldpollonline/subscribers/RLS2129.pdf> on September 3, 2004.
- ^{vii} Austin, et al. 1998.
- ^{viii} Austin, et al. 1998.
- ^{ix} Table 1: "Second and Third Strikers in the Institution Population by Offense Category, Offense Group and Admission or Return Status as of September 30, 2003," *Second and Third Strikers in the Institution Population*, Data Analysis Unit, Estimates and Statistical Analysis Section, Offender Information Services Branch, California Department of Corrections (September 30, 2003).
- ^x Projected 2003 Census Data gathered from the Census Bureau. Accessed September 2004 at http://www.census.gov/popest/national/files/2003_nat_st_dataset.csv.
- ^{xi} Ibid.
- ^{xii} Stolzenberg, Lisa, and Stewart J. D'Alessio. "Three Strikes and You're Out: The Impact of California's New Mandatory Sentencing Law on Serious Crime Rates," *Crime and Delinquency*. (1997) vol. 43, pp. 457-469. As quoted in Greenwood and Hawken *An Assessment of the Effects of California's Three Strikes Law*, pp. 3-4.
- ^{xiii} Macallair, Dan, and Mike Males. *Striking Out: The Failure of California's "Three Strikes and You're Out Law*. (1999) San Francisco, CA: Justice Policy Institute; Austin, James et al. (1999), "The Impact of Three Strikes and You're Out," *Punishment and Society*, vol. 1, no. 2, pp. 131-162. As quoted in Greenwood and Hawken *An Assessment of the Effects of California's Three Strikes Law*, pp. 4.
- ^{xiv} Auerhahn, Kathleen. *Incapacitation, Dangerous Offenders, and Sentencing Reform*. (2001) Albany, NY: State University of New York Press. As quoted in Greenwood and Hawken, p. 4.
- ^{xv} Schiraldi, Vincent and Tara Jen Ambrosio. 1997. *Striking Out: The Crime Control Impact of Three Strikes Laws*. Washington, DC: Justice Policy Institute.
- ^{xvi} In general, see e.g., Blumstein, Alfred and Wallman, Joel, ed., *THE CRIME DROP IN AMERICA*, Cambridge University Press, (2000).
- ^{xvii} Hart Research Associates. 2002.
- ^{xviii} Lichtblau, Eric. July 17, 2004. *For Voters, Osama Replaces the Common Criminal*. New York, NY: *New York Times, Week in Review*. P. 4.
- ^{xix} See Greene, Judith and Vincent Schiraldi. 2002. *Cutting Correctly*. Washington, DC: Justice Policy Institute or Wool, Jon and Don Stemen *Changing Fortunes or Changing Attitudes? Sentencing and Corrections Reforms in 2003*. New York, NY: Vera Institute of Justice.