

Striking Out: The Crime Control Impact of "Three-Strikes" Laws

by Vincent Schiraldi and Tara-Jen Ambrosio

There is just no way to ignore the positive impact of the "Three Strikes" law. California's drop in crime is outperforming similar downward trends in other parts of the nation.

California Attorney General Dan Lungren
September 25, 1995

We should demand that political leaders from both parties speak more honestly about crime control. Political rhetoric that promises safe streets and then fails to deliver can only harden cynical attitudes toward government. Instead, we need to engage in a rational dialogue about the role of a variety of strategies in responding to crime..."
Chase Riveland, Secretary of Corrections for Washington

Introduction

On the third anniversary of the passage of California's three-strikes law, politicians are misleading the public as to the effectiveness of three-strikes legislation. After Washington state passed the first three-strikes legislation in 1993, many would-be elected officials ran entire campaigns on the three-strikes issue, promising that three-strikes legislation would reduce violent crime. Now, after at least 22 states have implemented three-strikes legislation, some office holders have extended the laws' virtue far in excess of what the available data allows for. "When something is working, it should not be ignored", stated California Attorney General Dan Lungren, referring to three-strikes law. "It should be acknowledged. And when it is working well, it should be extolled."

This kind of statement is the epitome of political rhetoric. Nationally, crime rates have been dropping since 1992 as baby-boomers "age-out" of their crime prone years and as the crack cocaine epidemic wanes. Many elected officials have misinterpreted these drops as attributable exclusively to the impact of three-strikes. It is too soon to conclude if three-strikes laws work or not. To tell the public that this legislation works after only two years is inappropriate and misleading.

Political Grandstanding

According to the Campaign for an Effective Crime Policy, three-strikes laws have been used very infrequently, with the exception of California. For example, Wisconsin has applied its law only once, and the law has not yet been used in Tennessee, New Mexico, or Colorado. Most states have drafted laws much more narrowly than California and for this reason, or because they have not seen the need, prosecutors nationwide have not extensively applied three-strikes legislation.¹

With this limited data, available over a short period of time on an issue as complex as crime, it is impossible to draw conclusions about any law's effectiveness. Still, the three-strikes law has been used for political grandstanding by many elected officials. California's Attorney General Dan Lungren has been amongst the leaders in three-strikes rhetoric. Since the law passed on March 7, 1994, Mr. Lungren has held several press conferences each year, touting its impact on crime. He used one three-strikes press conference to announce his run for Governor of California and claimed "There is just no way to ignore the positive impact of the three strikes law." Mr. Lungren also noted that when "[crime reduction] coincides with tough laws like Three Strikes, the burden of proof is not on those of us in favor of such policies. The burden of proof is on the non-believers to show that tough laws like this are having no appreciable effect of the falling crime rate."² This report provides such initial proof. The following preliminary findings demonstrate that three-strikes is not as effective as many have claimed.

Methodology

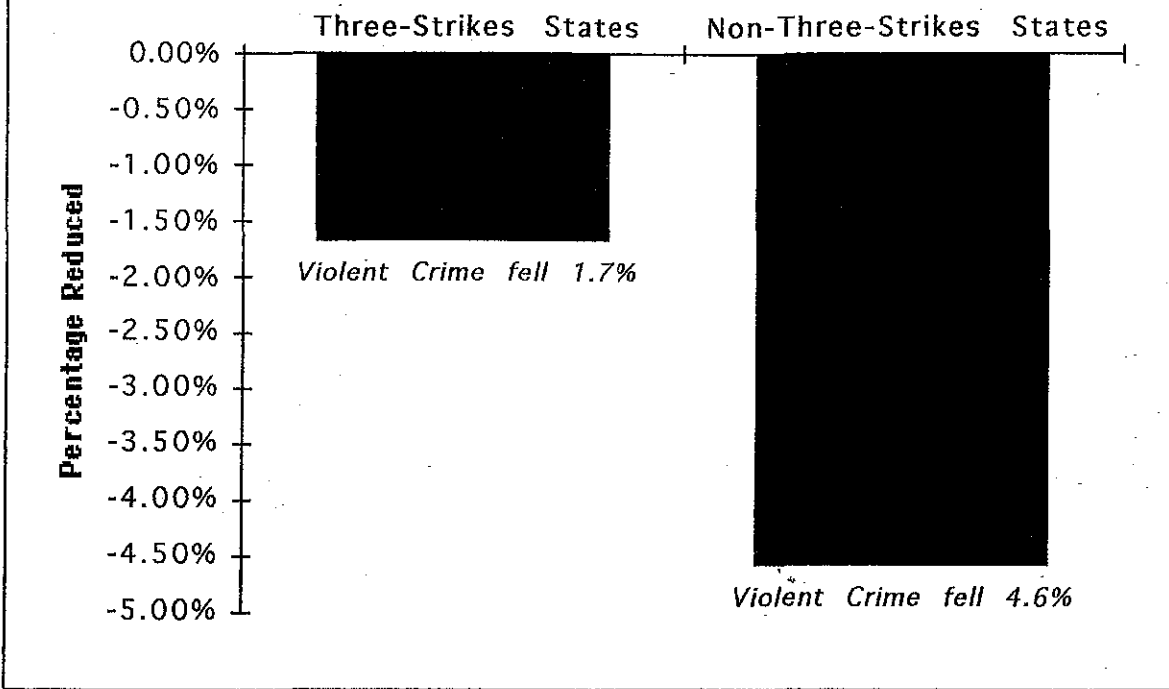
In order to claim that three-strikes, or any other policy, has had a salutary effect on crime, it is not sufficient for a state's or jurisdiction's crime rate to have dropped. A fair analysis of the effectiveness of a policy on one locality is to compare that locality to others which have not adopted such a policy, and analyze the differential outcomes.

Toward that end, this analysis compared 37 states which have either not adopted three-strikes laws or had not adopted the law until 1995 to the 13 states which adopted such laws in 1993 or 1994. The change in the crime rates between 1994 and 1995 were the basis of comparison; therefore, states adopting the law in 1995 or later were considered "non-three-strike" states for this analysis.

Findings

The major finding of this analysis is that both violent crime and nonviolent crime in non-three-strike states fared better than for three strike states. In fact, from 1994-1995, violent crime in non-three-strikes states fell *nearly three times* more rapidly than in three-strikes states. In non-three-strikes states, violent crime fell by 4.6%. In states which have passed three-strikes laws, crime fell by only 1.7%.³ (Figure 1)

Figure 1: Violent Crime Reductions 1994-95



From 1994-1995, violent crime in non-three-strikes states fell nearly three times more rapidly than in three-strikes states.

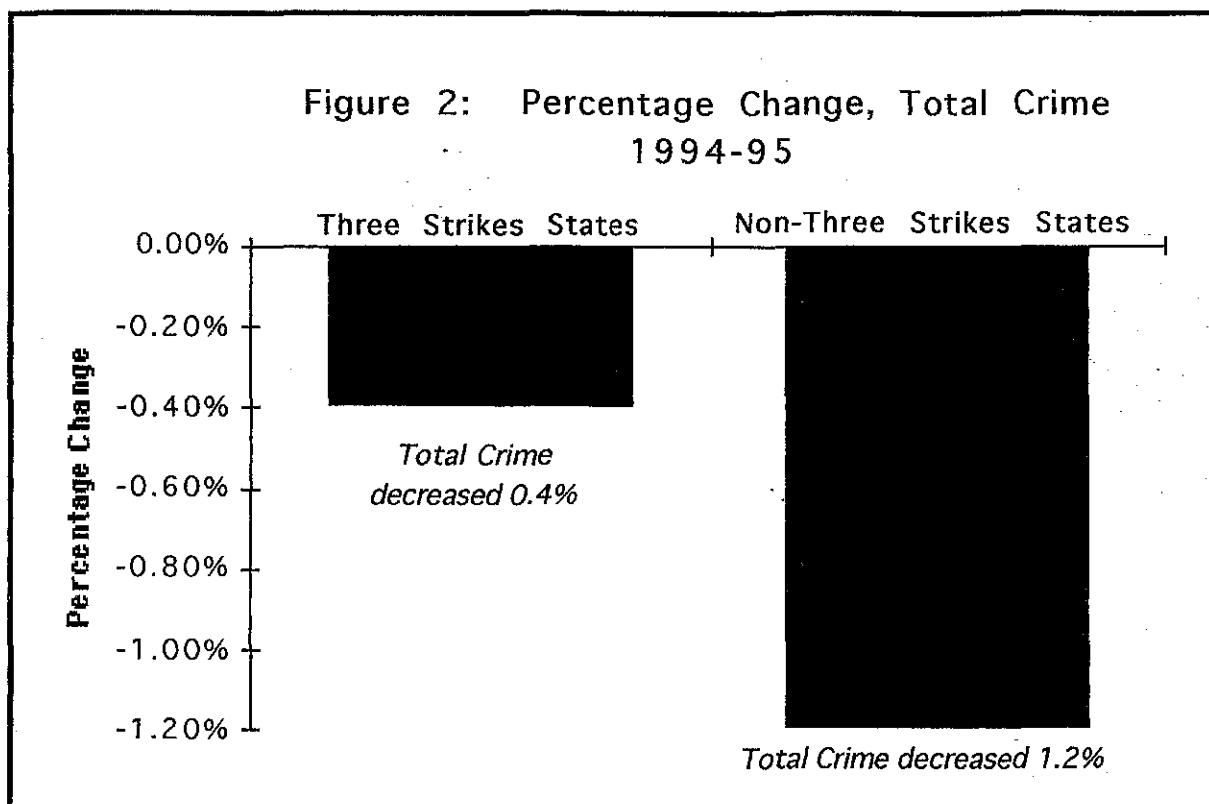
Source: Federal Bureau of Investigation. Uniform Crime Reports, 1994 and 1995.

A recent analysis by the Campaign for An Effective Crime Policy noted that the state of California has the broadest and most frequently used three-strike law in the nation, imprisoning over 15,000 offenders under the law in just two years, far outpacing all other three-strikes states combined.⁴ As such, California's drop in violent crime warrants special attention. From 1994-1995, violent crime fell by 4.2% in California, as compared to 4.6% in non-three-strikes states. California voters were told that three-strikes legislation must be implemented to control violent crime. And yet, the California Department of Corrections reports that only 19% of those being sent to state prison under "three strikes" are violent offenders.⁵

In California, African Americans are being imprisoned for a third "strike" at over 13 times the rate of whites. While blacks make up 7% of the state's population, they make up 20% of felony arrests in California, 31% of state prisoners, and 43% of those imprisoned for a third "strike".

Likewise, the state of Washington, which was the first state to implement three-strikes in 1993 and whose use of the law is secondary to California, has had disappointing results from the law. From 1994-95, violent crime fell in Washington by 3.7%, compared to the 4.6% violent crime drop in non-three-strikes states.

An examination of *total* crime data from 1994 to 1995 also demonstrates that for this short time period, on average, non-three-strikes states were more successful at controlling overall crime. From 1994-95, total crime decreased by an average of 0.4% in the three-strike states and decreased by an average of 1.2% in states which have not implemented the three-strikes law.⁶ (Figure 2)



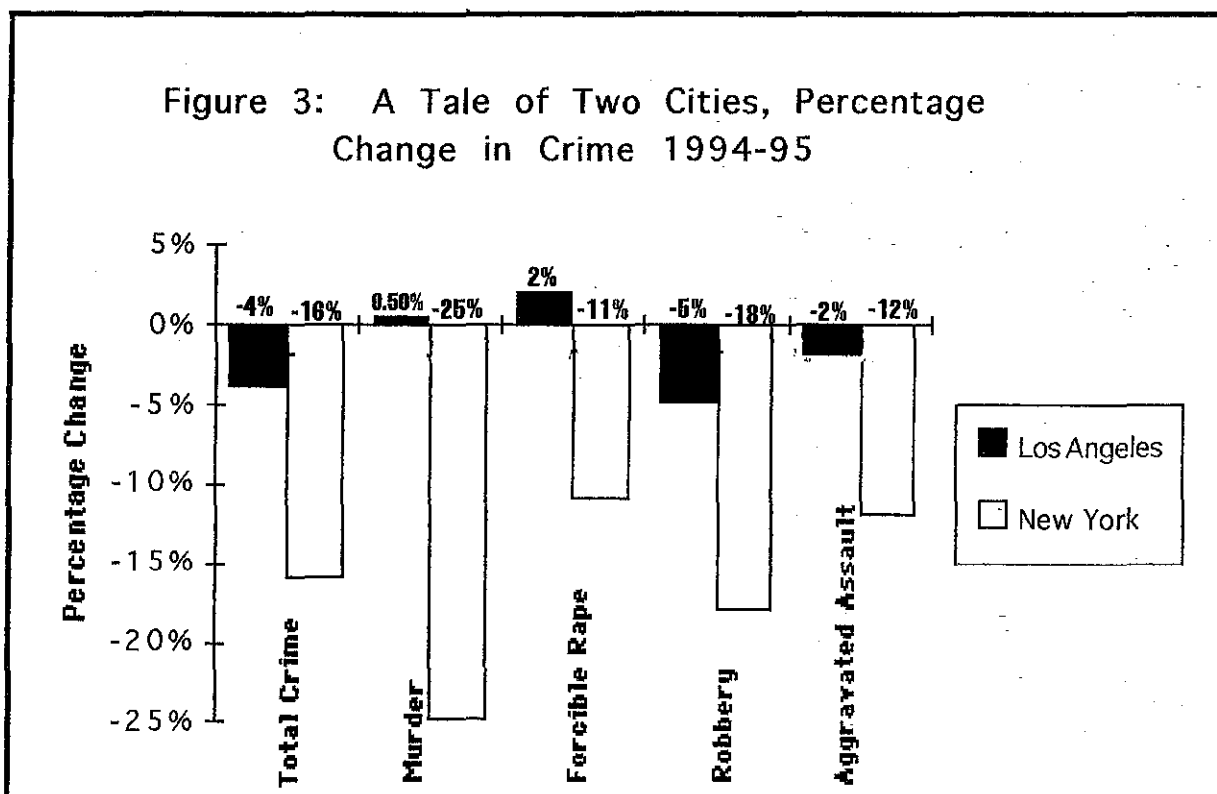
Source: Federal Bureau of Investigation. Uniform Crime Reports, 1994 and 1995.

Clearly, the data analyzed from 1994 to 1995 is extremely preliminary. It is entirely too early to conclude if three-strikes legislation is working or not. These early figures do show, however, that any politician running another campaign on the effectiveness of three-strikes is blatantly misleading the public. If anything, the initial data demonstrates that three-strikes legislation is not as successful as legislatures had hoped. The data is inconclusive at best.

A Tale of Two Cities

New York City is experiencing a dramatic reduction in crime. Experts are clamoring to find out how New York City, once plagued with the highest crime rates in the country, is reducing its crime rates so dramatically. Many are surprised to discover that New York's crime reduction strategy does not include a three-strikes law.

Los Angeles, on the other hand, has utilized the three-strikes law since 1994 and reduced its violent crime by 3.5%, *one-fourth* of New York city's violent crime reduction of 15.7%. In fact, murder and forcible rape actually *increased* in Los Angeles from 1994-95, while murder rates declined by 25% in New York City. From 1994-95, all violent crime significantly decreased in New York City without the costly implementation of a three-strikes law. (Figure 3) According to Los Angeles' County Administrator, Los Angeles paid \$169 million to administer three-strikes in 1996, while Los Angeles taxpayers reaped few, if any, benefits.⁷



Source: Federal Bureau of Investigation. Uniform Crime Reports, 1994 and 1995.

Parolees Moving Out-of-State: More Political Rhetoric

Elected officials are also perpetuating the myth that parolees have "gotten a message" from the three-strikes law and are fleeing three-strikes states. In California, the state with the broadest three strikes measure in the country, the same percentage of parolees, 2-3%, have requested out-of-state transfers in the years since the law as had prior to its enactment.⁸

In Washington, the state with the country's oldest three-strikes law, Peggy Smith, Research Director for the Washington Department of Corrections, states that "there is no evidence that there is an increasing number of post-release inmates attempting to move out of Washington."⁹

The Future of Three-Strikes

The effectiveness of three-strikes is inconclusive. It can be concluded, however, that in some states three-strikes will cost taxpayers significantly more money to build more prisons to house more three-strike offenders. A study of California's law found that three-strikes will ultimately triple California's prison population over the next 25 years and cost an average of \$5.5 billion more each year for the next 25 years, totaling \$137.5 billion.¹⁰ The Rand Corporation estimates that the effect on future California budgets of funding the three-strikes law is that corrections will consume 18 percent of California state spending by the year 2002 -- double the 1994 percentage.¹¹ Absent a significant tax increase, this will drain resources from vital programs such as education, the researchers concluded.

Ultimately, three-strikes legislation and other quick-fix panaceas point out the futility of piecemeal approaches to achieving a safer society. States grappling with the thorny problems of crime should implement a more balanced approach. This would include comprehensive reexamination of their penal codes, abolition of mandatory sentencing schemes like three strikes, and creation of systems which guide, but do not eliminate, judicial discretion.

As the country has tripled its prison population since the 1980s -- with the majority of that growth coming from increased nonviolent prisoner populations -- states would do well to pause and evaluate the costs and benefits of prison population growth. A moratorium on prison construction should be enacted, and states should develop gradual plans to reduce their nonviolent prisoner population by 50%.

To effect such an end and ensure public safety, the currently skewed system of incentives evident in most state-county justice system relationships must be addressed. Right now, if a judge in Buffalo, San Diego, or Chicago places a nonviolent offender on probation and community service, the county pays the entire bill for treatment and supervision. When a judge sentences an offender to prison, however, the state picks up the whole tab. This has resulted in state prison systems drawing resources into the most expensive and debilitating sentencing option -- prison -- at the expense of all other alternatives.

Minnesota (and 14 other states around the country), have tackled this skewed incentive system with a Community Corrections Act. In such a system, when a county chooses not to send an offender to state prison, it receives a portion of the funds the state would have otherwise expended. With it, counties can develop locally controlled sentencing options which fit the needs of their communities.

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Most importantly, we must remember that prisons should be the backstop, not the backbone, of our approach to crime. A recent report by the Rand Corporation found that a graduation incentive program is five times more effective at reducing crime than three-strikes legislation.¹² Early intervention into abusive homes and after-hours recreation programs have shown similarly positive results in reducing criminality. Yet programs like these, which hold hope for the future of our children, must go begging while funds are lavished on prisons.

The true test of our political leadership is whether they can see beyond their rush to judgment to create a system which holds offenders accountable, imprisons the truly dangerous, and leaves sufficient funds to point future generations down a more hopeful path.

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The Justice Policy Institute is a policy development and research body which promotes effective and sensible approaches to America's justice system.

**Appendix: Tables 1-3: State By State Analyses:
Percentage Change in Crime 1994-95**

**Table 1: Three-Strikes States:
Thirteen States implemented three-strikes in 1993 or 1994**

Three-Strike States	Percentage Change from 1994 to 1995	
	Total Crime	Violent Crime
California	-5.0%	-4.2%
Colorado	+4.0%	-11.5%
Connecticut	-1.0%	-10.9%
Georgia	+2.0%	+0.5%
Indiana	+1.7%	+0.8%
Louisiana	+7.7%	+3.2%
Maryland	+3.6%	+4.8%
New Mexico	+5.8%	-6.1%
North Carolina	+2.0%	+4.4%
Tennessee	+6.4%	+4.8%
Virginia	-0.5%	+2.1%
Washington*	+5.7%	-3.7%
Wisconsin	-0.7%	+4.7%
AVERAGE	-0.4%	-1.7%

**Table 2:
"Late" Three-Strike States
which implemented three-strikes law in 1995 or later**

"Late" Three-Strike States	Percentage Change from 1994 to 1995	
	Total Crime	Violent Crime
Alaska (1996)	+0.5%	+0.3
Arkansas (1995)	-1.0%	-5.9%
Florida (1995)	-5.2%	-5.2%
Kansas (1995)	+3.3%	-11.7%
Montana (1995)	+7.4%	-2.1%
Nevada (1995)	+3.5%	-0.9%
New Jersey (1995)	+1.4%	-1.8%
Pennsylvania(1995)	+3.0%	+3.3%
S. Carolina (1995)	+1.3%	-4.5%
Utah (1995)	+17.5%	+10.4%
Vermont (1995)	+6.6%	+23.1%
AVERAGE	-0.6%	-3.5%

*Washington is the only state which implemented three-strikes in 1993.

**Table 3:
Non-Three-Strikes States**

Three-Strike States	Percentage Change from 1994 to 1995	
	Total Crime	Violent Crime
Alabama	-0.3%	-6.8%
Arizona	+7.3%	+5.0%
Delaware	+26.3%	+31.2%
D.C.	+6.7%	-2.9%
Hawaii	+8.5%	+13.5%
Idaho	+10.8%	+15.7%
Illinois	-2.4%	+4.3%
Iowa	+12.7%	+13%
Kentucky	-3.4%	-39.2%
Maine	+0.4%	+1.2%
Massachusetts	-1.7%	-2.4%
Michigan	-4.3%	-9.7%
Minnesota	+4.6%	+0.1%
Mississippi	-5.7%	+2.9%
Missouri	-2.7%	-9.9%
Nebraska	+3.2%	-1.1%
New Hampshire	-2.2%	-1.1%
New York	-10.2%	-13%
North Dakota	+5.3%	+6.5%
Ohio	-0.8%	-0.2%
Oklahoma	+1.1%	+2.6%
Oregon	+6.1%	+2.1%
Rhode Island	+2.3%	-2.7%
South Dakota	-0.2%	-7.8%
Texas	-1.4%	-4.3%
West Virginia	-2.5%	-2.3%
Wyoming	+1.6%	-5.9%
AVERAGE	-1.4%	-5.0%

Endnotes

¹Campaign for An Effective Crime Policy. (September 1996). *The Impact of "Three Strikes and You're Out" Laws: What Have We Learned*. Washington DC.

²Lungren, Dan. (January 29, 1997). Press Conference. Sacramento, CA.

³Note: if those 11 "late" three-strike states were eliminated from the non-three-strike category the results would have been more dramatic -- violent crime for non-three strike states would have dropped by 5%. Violent crime includes murder, forcible rape, robbery and aggravated assault.

Federal Bureau of Investigation. *Uniform Crime Reports, 1994 and 1995*. Table 5.

⁴Campaign for An Effective Crime Policy. (September 1996). *The Impact of "Three Strikes and You're Out" Laws: What Have We Learned*. Washington DC.

⁵California Department of Corrections, Data Analysis Unit. (February 10, 1997). Estimates and Statistical Analysis Section, Offender Information Services Branch.

⁶Federal Bureau of Investigation. *Uniform Crime Reports, 1994 and 1995*. Table 5.

⁷(March 12, 1996). Lawyer Urges Review of Three-Strikes. *Los Angeles Daily News*.

⁸(February 1997). Analysis of Parolee Movement by the Office of the President Pro Tem of the California Senate.

⁹Phone Interview by Vincent Schiraldi with Peggy Smith. February 28, 1997.

¹⁰Greenwood, Peter, et al. (1994). *Three Strikes and You're Out: Estimated Benefits and Costs of California's New Mandatory Sentencing Law*. Santa Monica, CA: Rand Corporation.

¹¹Ibid.

¹²Greenwood, Peter, et al. (May 1996). *Diverting Children from a Life of Crime: Measuring Costs and Benefits*. Santa Monica, CA: Rand Corporation.

