

****California, Crime, Prison Population, and “Three Strikes”
By Chuck Poochigian**

When legislators or the voters approve measures to increase criminal penalties, such as “Three Strikes and You’re Out,” One Strike Rape, or 10-20 Life, they believe that it will reduce crime, save lives, and deter would-be criminals. Opponents argued that penalty enhancements cost billions, cause prison populations to explode and have very little deterrent impact on crime.

A detailed look at “Three Strikes,” with over 10 years of data, will help policy makers and the public understand the extent to which criminal penalties make a difference.

Issue Number One – Prison Populations Will Explode:

In the Legislative Analyst’s Office (LAO) estimate on the fiscal effects of Three Strikes, submitted to voters for the November 1994 general election, it was concluded that:

“By the year 2003 the additional costs [associated with the passage of Three Strikes] will reach about \$3 billion and will grow to about \$6 billion by the year 2026. These amounts assume that the changes will add about 270,000 more inmates to the state’s prison population than would have occurred.” (Legislative Analyst Ballot Argument, 1994)

The good news is that a recent Legislative Analyst report acknowledges that the explosion in prison population predicted in 1994 by analysts and trumpeted by opponents of Three Strikes never occurred. In 2005, the LAO acknowledged that “1994 analysts

[the LAO itself] predicted that Three Strikes would result in over 100,000 additional inmates in state prison by 2003. Clearly that rate of growth has not occurred.”

http://www.lao.ca.gov/2005/3_Strikes/3_strikes_102005.pdf Page 15)

California’s prison population has simply not experienced the explosive growth projected by opponents in 1994. Moreover, actual growth has been modest when compared with the growth experienced during the ten years prior to the adoption of Three Strikes.

California’s Prison Population: Pre-Three Strikes Projections:

The history of growth and projected growth in California’s prison population is particularly revealing. In 1994, when Three Strikes became law, California’s prisons housed approximately 125,000 inmates. In the 10 years preceding the passage of Three Strikes, the system had grown 190% (from 42,130 on June 30, 1984, to 124,813 in 1994). On August 30, 1993, seven months before Three Strikes was first signed into law, the California Department of Corrections published its projected population estimates through June 30, 1999, at which point the adult inmate population was expected to grow to 170,834 inmates, a 35% increase.

CA Dept. of Corrections Fall 1993 Population Projections Thru 6/30/99 Published 8/30/93	
6/30/94	126,323
6/30/95	134,981
6/30/96	142,865
6/30/97	151,721
6/30/98	161,144
6/30/99	170,834

Post “Three Strikes” Projections:

The Three-Strikes law, itself an initiative measure, appeared on the November 1994 ballot as Proposition 184 and was approved by 72 percent of the voters. It followed the passage of legislation with identical language (Assembly Bill 971 – Jones) which was passed by a Democratic controlled Legislature that same year. On August 28, 1995, the Department of Corrections published population projections which were adjusted to reflect the explosive growth predicted by academics and other purported experts incident to the passage of Three Strikes. The fall 1995 projection increased the anticipated 1999 mid-year inmate population to 245,554 – more than a 96 % increase.

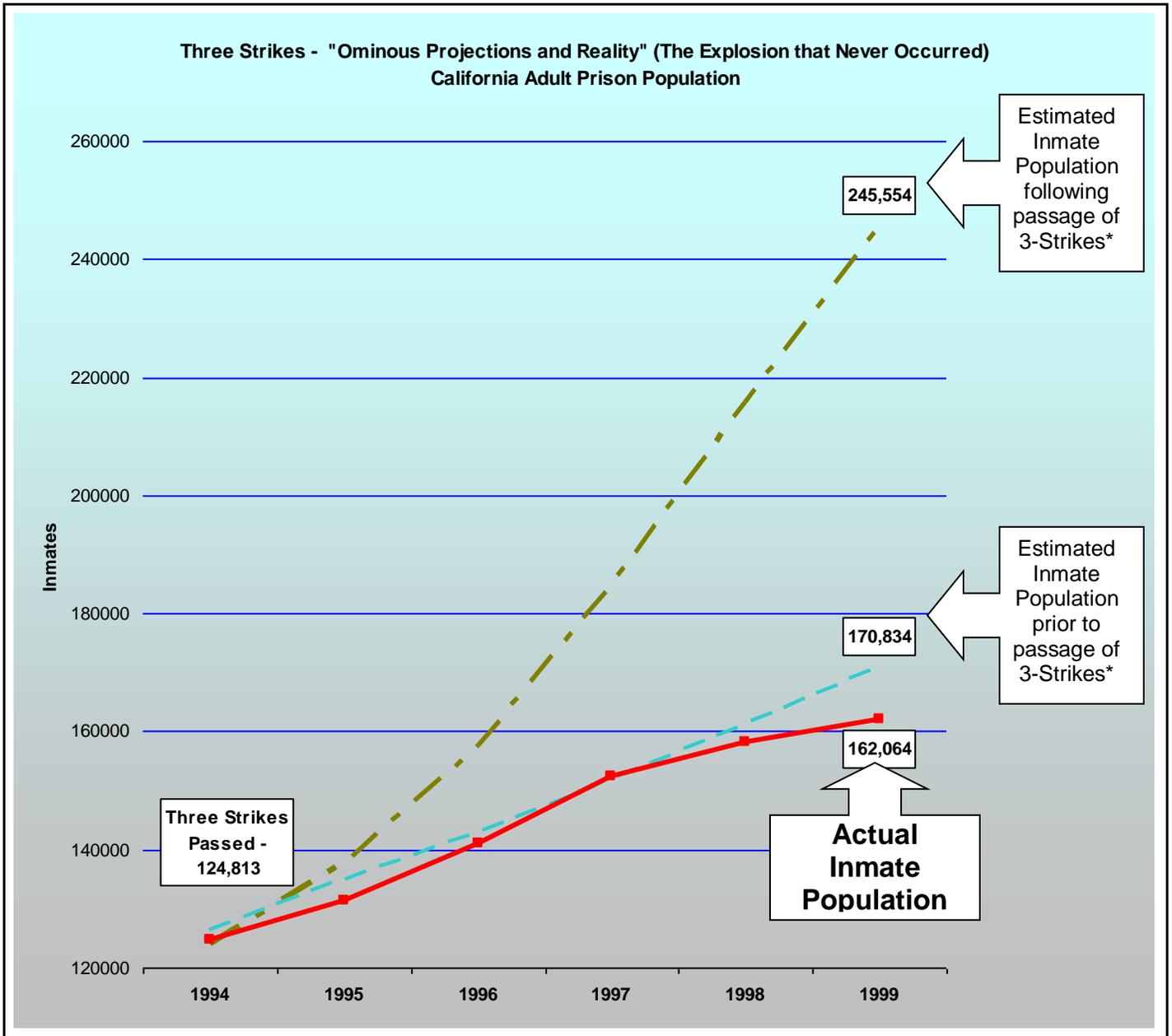
Projected June 30, 1999 Inmate Population Pub. April, 1994	
6/30/99	245,554

Actual June 30, 1999 – June 30, 2005 Inmate Population	
6/30/99	162,064
6/30/00	162,000
6/30/01	161,497
6/30/02	157,979
6/30/03	160,931
6/30/04	163,500
6/30/05	164,179

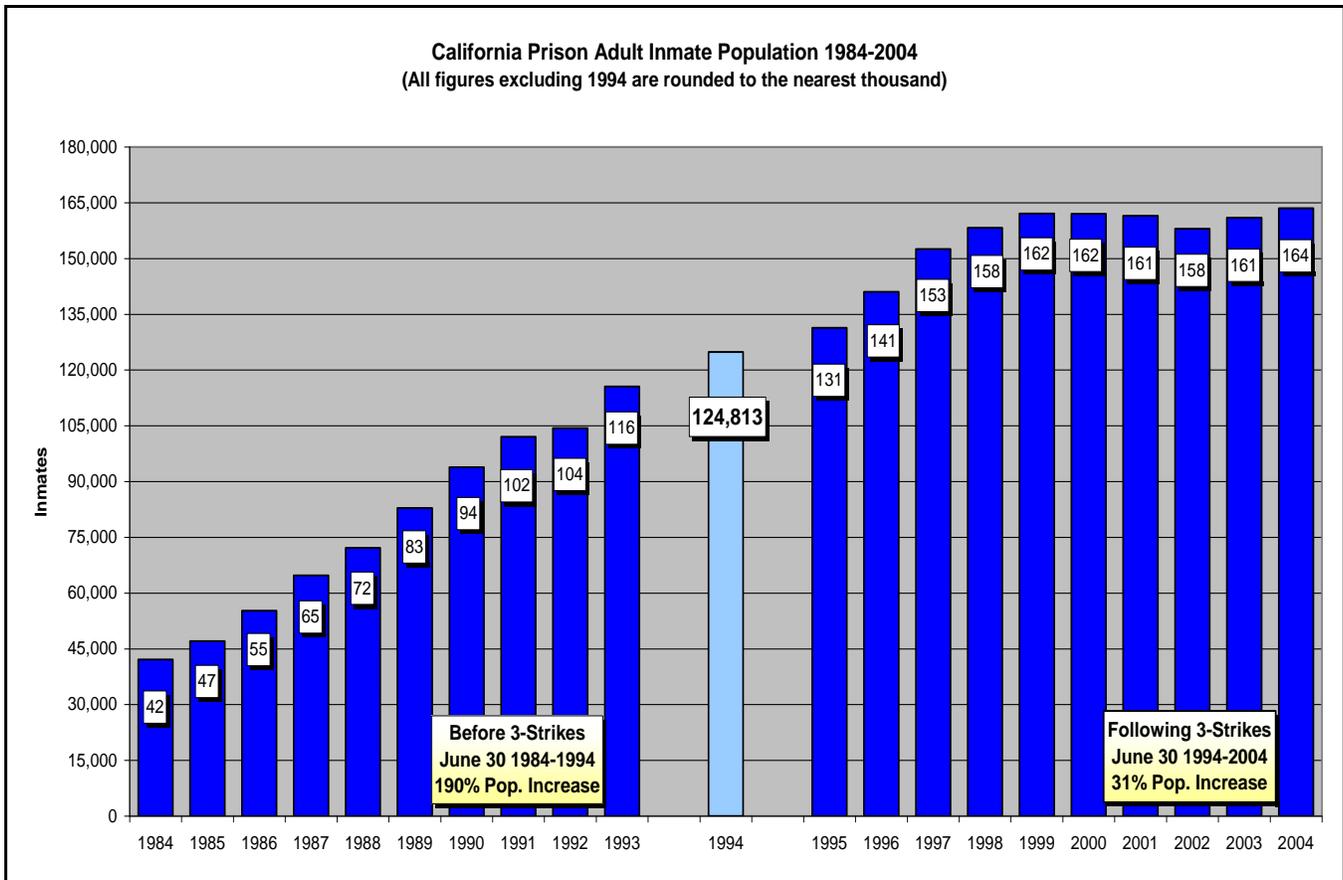
Actual Prison Population:

On June 30, 1999, five years after the passage of Three Strikes, the actual inmate population was 162,064, an increase far less than the two earlier projections. Coincidentally California crime rates dropped to historic (30 year) lows. Three Strikes had not caused the 1999 inmate population to increase to 245,554 as projected or, for that matter, the 170,834 estimated in 1993, the year before “Three Strikes” became law.

Moreover during each of the next three fiscal years California's inmate population declined falling to 157,979 on June 30, 2002 a total more than 87,000 fewer than that projected for the period ending on June 30, 1999.



* On August 30, 1993 the Department of Corrections estimated that the adult inmate population on June 30, 1999 would be 170,834. Less than one year later, on April 28, 1994 the Department revised its inmate population projections to, "incorporate the effects of the Three Strikes Law," signed on March 7, 1994. The new estimate for June 30, 1999 was 245,554, an increase of almost 75,000 inmates. On June 30, 1999, the estimates collided with reality. The actual inmate population was far less than both estimates at 162,064.



California’s population growth slowed to nearly a halt within 5 years of the passage of Three Strikes and grew by less than 1% between 1999 and 2004.

California’s Prison Population Compared to Other States:

Because of the vast amount of misinformation disseminated by opponents of the criminal justice system, few in the public know that at least 15 states have a greater incarceration rate than California (per 100,000 population).

When adjusted for the growth in California’s overall population, the state’s rate of incarceration has dropped since 1999. In fact, California’s incarceration rate was greater on June 30, 1997, than eight years later (June 30, 2005) when the adult population stood at 164,179.

State Prison Incarceration Rate* Per 100,000 population as of June 30, 2004

Rank	State	Number
1	Louisiana	814
2	Texas	704
3	Oklahoma	684
4	Mississippi	682
5	South Carolina	555
6	Alabama	554
7	Georgia	551
8	Missouri	536
9	Arizona	506
10	Florida	489
11	Arkansas	487
12	Delaware	487
13	Michigan	480
14	Virginia	474
15	Nevada	468
16	California	457
17	Idaho	454
18	Tennessee	439
19	Colorado	429
20	Maryland	416
Average for all 50 states-		433

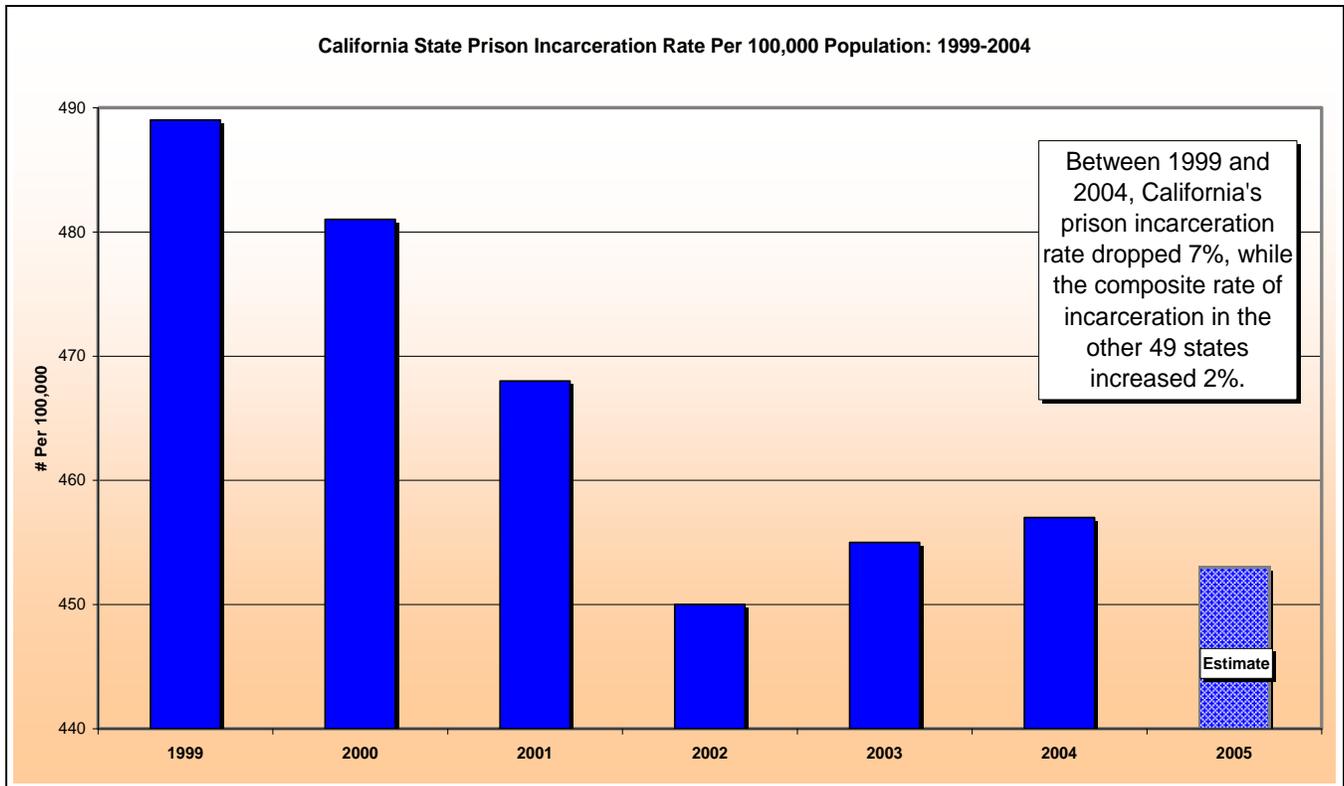
*Inmates sentenced to more than one year.

Source: US Bureau of Justice Statistics Bulletin-“Prison and Jail Inmates at Midyear 2004”

In the ten years following the adoption of Three Strikes, California’s incarceration rate grew more slowly than the composite rate of incarceration for the other 49 states.

Between 1994 and 2004, the national increase in state prison inmate population was 10% higher than in California alone. During the last five of these years, (1999 – 2004)

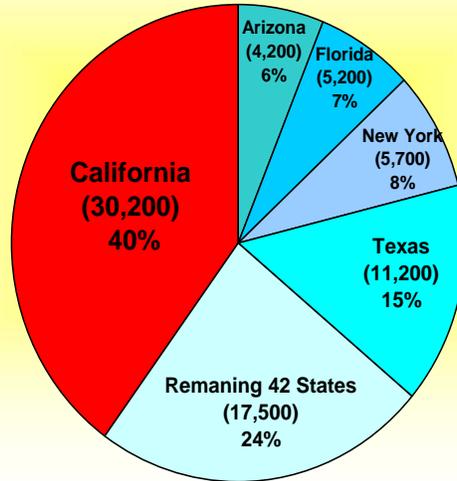
California’s incarceration rate actually *decreased* 7%, while the average incarceration rate for the other 49 states *increased* 2%.



Source: US Bureau of Justice Statistics Bulletin-“Prison and Jail Inmates at Midyear 2004”

Additionally, California’s incarceration rate would fall below the average for all states were it not for the number of illegal alien felons housed in its facilities. In 2003, 18% of California’s entire prison population (30,200) were classified as illegal alien felons by the Federal Government Accountability Office. This number represents 40% of the illegal alien felons in the nation and more than the next four states combined. The Governor’s Budget summary for 2003-04 estimated that a more modest 21,000 illegal alien prisoners met this designation. Whichever figure is accurate, it is important to note that this group of offenders are legally the responsibility of the U.S. government but fill the equivalent of 4 to 6 California state prisons at a cost approaching \$1 billion annually.

In 2003 about 75 % of Criminal Aliens Were Incarcerated in Just 5 States:
 California Housed More Alien Offenders Than the Next Four Largest States Combined.
 Source: Federal Government Accountability Office.



Issue Number Two – Increased Penalties Have No Effect on Crime Rates:

Despite a drop of approximately 50% in every major crime category in the period immediately following its adoption, is it possible that Three Strikes had no significant impact on the incidence of crime?

It is a fact that most major crime rates dropped by half between the time Three Strikes was adopted in 1994, and its fifth full year of implementation in 1999, and it remains much lower than before. For example, in 1993 California suffered 4,095 homicides – an all-time high. By 1999, five years after voters approved Three Strikes, the number of California homicides dropped by more than half to 2,006. During the same period, robberies dropped from 126,347 to 60,027 and burglaries from 413,671 to 223,828.

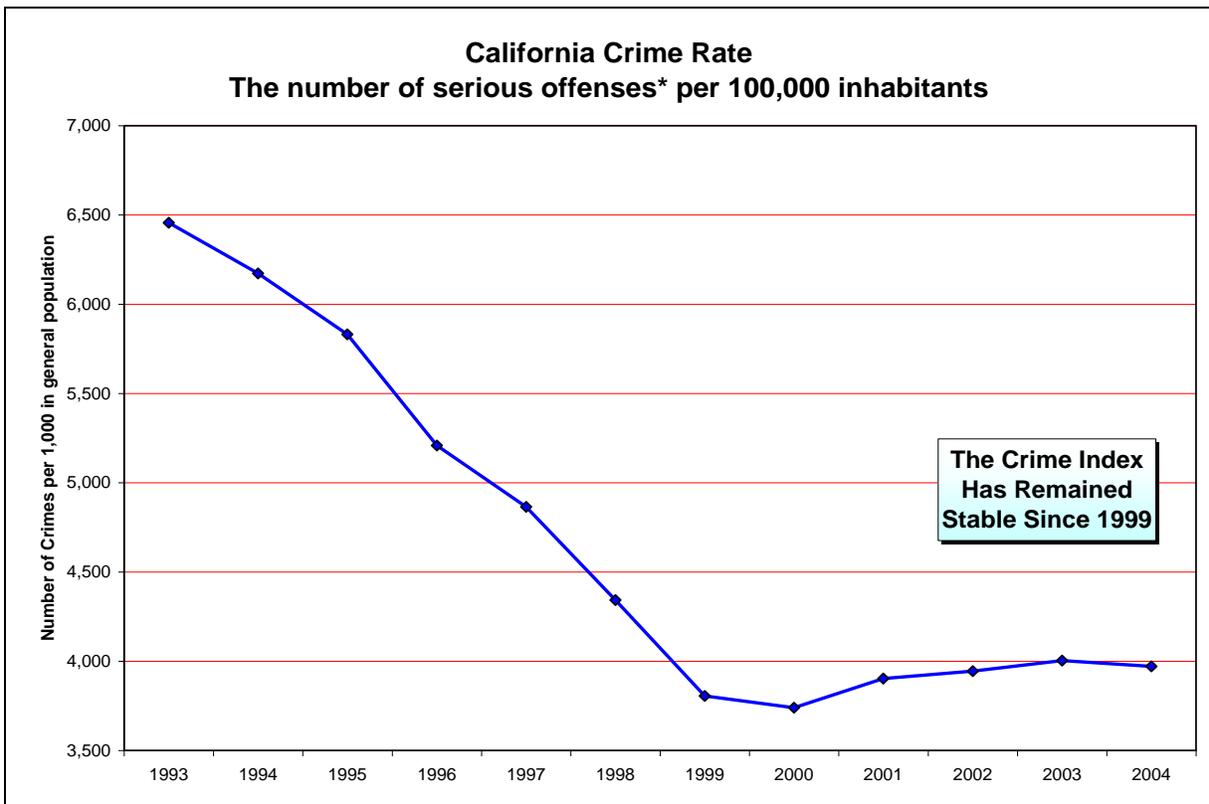
Three Strikes: California Crime Levels After the First Five Years: 1994-1999

Offense*	Murder	Rape	Robbery	Burglary	Auto Theft
1993	4,095	11,754	126,347	413,671	319,225
1999	2,006	9,443	60,027	223,828	168,465
Offense Decrease 1993-1999	(2,089) ↓	(2,311) ↓	(66,320) ↓	(189,843) ↓	(150,760) ↓
**Rate Decrease 1993-1999	54% ↓	25% ↓	56% ↓	50% ↓	51% ↓

* Source of all crime statistics is the California Crime Index.

** Rate comparison per 100,000 population for respective years.

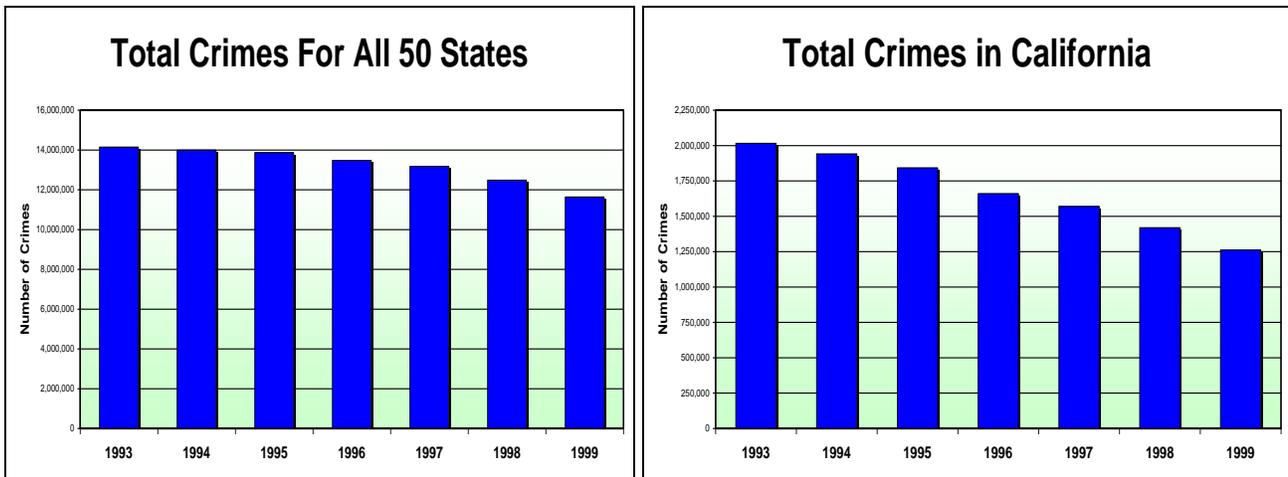
After dropping to the lowest levels experienced in over 30 years (1999), most categories of crime (with the notable exception of vehicle theft) remained stable during the next 5 years (through 2004).



Issue Number Three - The Decline in California Crime Was Just Part of a National Trend:

Faced with the numbers, it is plain to see that crime dropped precipitously following passage of Three Strikes. Opponents, however, hasten to assert that the favorable results can not be attributed to obvious causes like Three Strikes or other tough-on-crime laws, but to more subtle influences including demographics, economic factors or that the decline was just part of a national trend.

Since California has such a large overall population, when major crime categories drop dramatically within the state, it creates changes in the national trend. An examination of the record demonstrates that California was a trendsetter in the 1990s – changing public policy that led to declining crime in California as well as nationally.



The FBI’s U.S. Crime Index reflects approximately 2.5 million fewer crimes in 1999 than in 1993. Over 30% of this entire national decline in crime is attributable to the fact that the number of crimes in California dropped by more than 754,000 during this period. This precipitous decrease in the number of California crimes occurred despite an overall increase of 2 million in the state population. Moreover, 23% of the national decline in homicides between 1993 and 1999 were the result of 2,006 fewer homicides in California during 1999.

Nonetheless, some continue to question whether nationwide trends have greater impact on crime in California than did Three Strikes. The FBI’s annual publication, “*Crime in the United States*,” is particularly instructive. California’s total crime rate in 1993, the year prior to adoption of Three Strikes, was fourth highest among all states, surpassed only by Florida, Arizona, and Louisiana. By 1999, California’s total crime rate dropped to 29th among the states! During the same period California’s homicide rate dropped from fourth highest to 19th among the states.

FBI Total Crime Rate per 100,000 for 1993		
Rank	State	Rate
1	FLORIDA	8,351.03
2	ARIZONA	7,431.73
3	LOUISIANA	6,846.59
4	CALIFORNIA	6,456.91
5	TEXAS	6,383.62
6	HAWAII	6,276.96
7	NEW MEXICO	6,266.09
8	GEORGIA	6,194.75
9	NEVADA	6,180.13
10	MARYLAND	6,106.49
11	WASHINGTON	5,952.29
12	SOUTH CAROLINA	5,903.38
13	OREGON	5,765.57
14	NORTH CAROLINA	5,652.34
15	ILLINOIS	5,617.93
16	ALASKA	5,567.95
17	NEW YORK	5,551.33
18	COLORADO	5,526.78
19	MICHIGAN	5,452.50
20	OKLAHOMA	5,294.27
21	TENNESSEE	5,239.54
22	UTAH	5,237.37
23	MISSOURI	5,095.41
24	KANSAS	4,975.27
25	MASSACHUSETTS	4,893.95
26	ALABAMA	4,878.77
27	DELAWARE	4,872.14
28	INDIANA	4,817.07
29	ARKANSAS	4,811.84
30	NEW JERSEY	4,800.82

FBI Total Crime Rate per 100,000 for 1999		
Rank	State	Rate
1	FLORIDA	6,205.53
2	NEW MEXICO	5,962.07
3	ARIZONA	5,896.50
4	LOUISIANA	5,746.84
5	SOUTH CAROLINA	5,324.42
6	WASHINGTON	5,255.54
7	NORTH CAROLINA	5,175.41
8	GEORGIA	5,148.54
9	TEXAS	5,031.77
10	OREGON	5,001.99
11	UTAH	4,976.48
12	MARYLAND	4,919.18
13	HAWAII	4,837.47
14	DELAWARE	4,835.01
15	TENNESSEE	4,693.89
16	OKLAHOMA	4,683.92
17	NEVADA	4,653.68
18	MISSOURI	4,578.69
19	ILLINOIS	4,506.60
20	ALABAMA	4,412.33
21	ALASKA	4,363.17
22	MICHIGAN	4,324.78
23	MISSISSIPPI	4,269.81
24	NEBRASKA	4,108.28
25	MONTANA	4,069.88
26	COLORADO	4,063.44
27	ARKANSAS	4,042.77
28	OHIO	3,996.45
29	CALIFORNIA	3,804.99
30	INDIANA	3,765.91

Of course California was not the only state to aggressively increase penalties in the 1990s as part of an effort to reduce crime. Early success in California and several other states caused many others to follow.

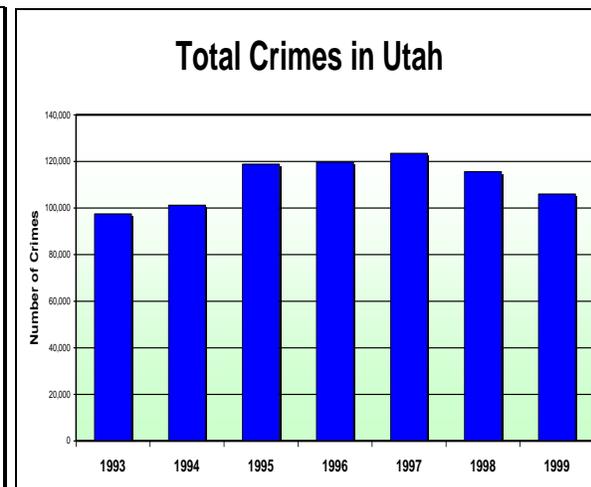
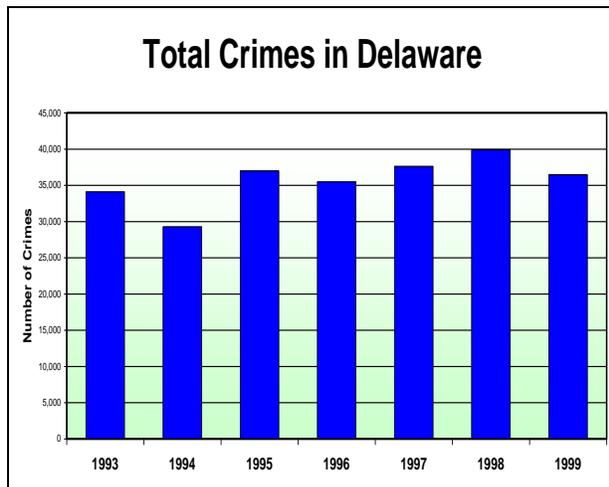
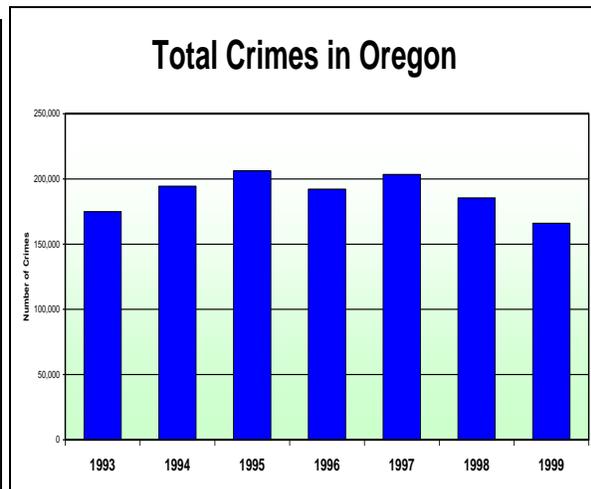
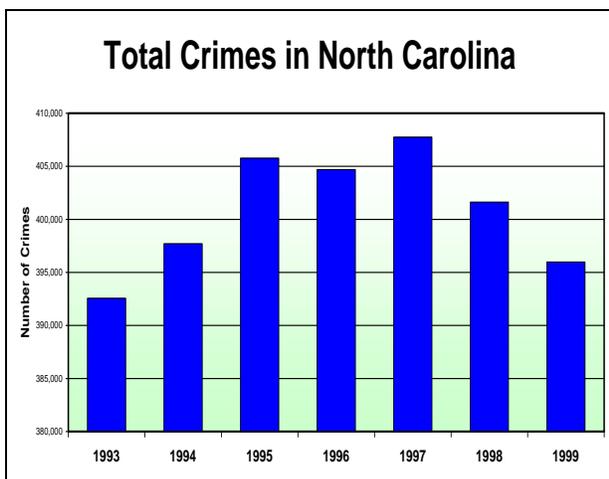
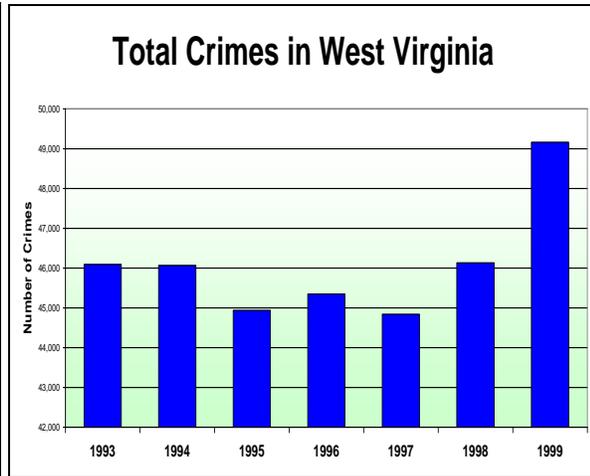
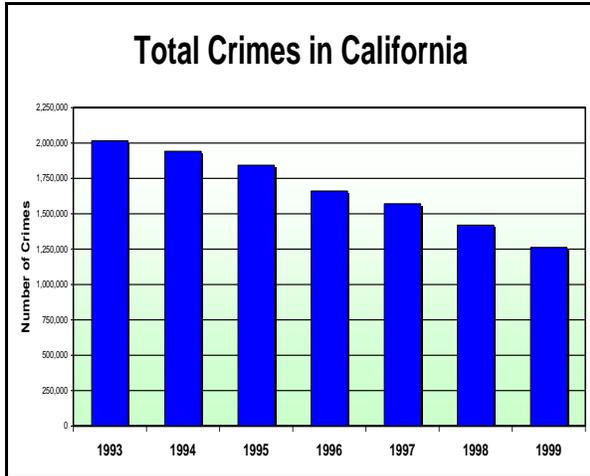
Particular changes in criminal laws, the timing of the changes, and the results all varied widely from state to state. However the consistent decline in crime experienced in California, beginning in 1994 and in the following five years, was not experienced in many other states and simply not reflective of any consistent national or regional pattern.

Opponents have never disclosed what national phenomena, demographic shift, or financial factors caused California's total crime index to decline from fourth worst to 29th among all states in just five years following the adoption of Three Strikes.

Could it be that what went right in California was a California phenomenon?

(Continued on next page)

If California's unprecedented decline in crime was a product of some nationwide trend, why weren't all states told?



Source: Crime in the United States, FBI Index.

The Tale of Two Felony Offenses:

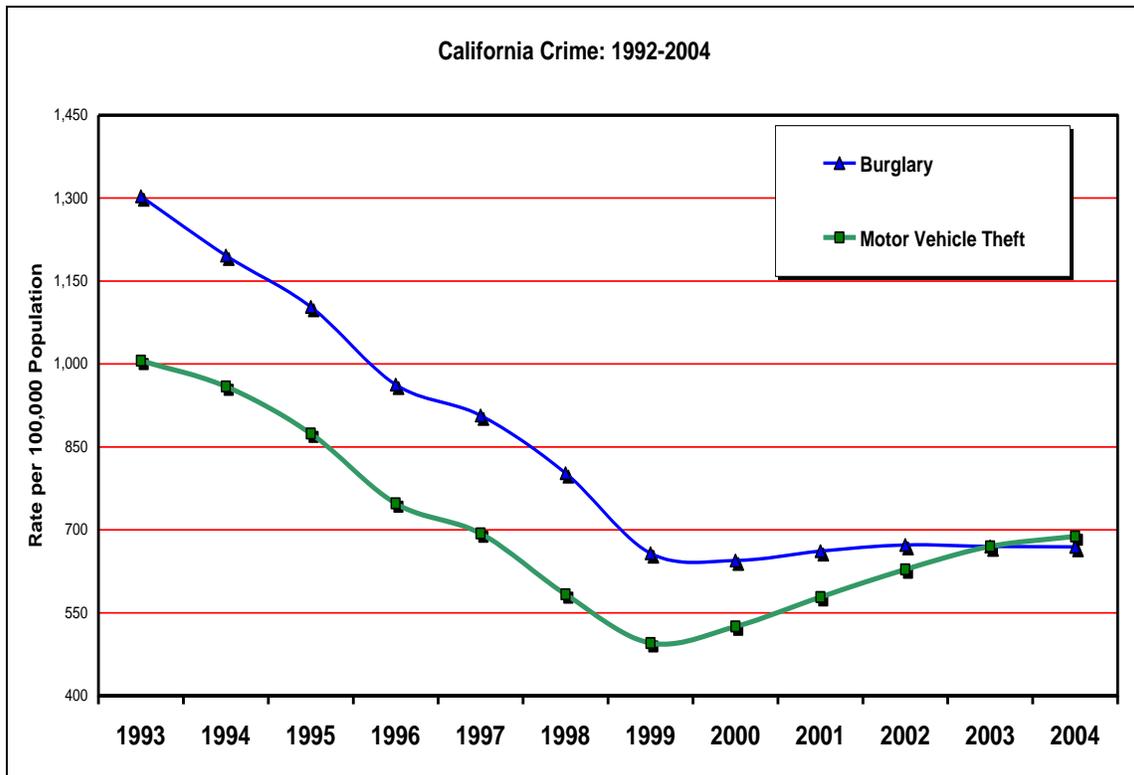
More proof that criminal conduct has been deterred by Three Strikes can be found in California's Crime Index. Published since 1952, the California Crime Index (CCI) chronicles the annual number and rate of occurrence of both violent and property crimes. For each of its first fifty-one years, the CCI reported more burglaries than vehicle thefts. In 2003 and 2004, vehicle thefts exceeded burglaries.

In 1993, the year before adoption of Three Strikes, there were approximately 100,000 more burglaries than car thefts in California. In 1994, the Three Strikes initiative designated burglary a "strike;" an offense that can be a predicate to a 25-year-to-life sentence. In the ten years since, the incidence of vehicle theft has surpassed burglary. Vehicle theft is not a strike.

Since 1999, informed criminals have made vehicle theft the fastest growing felony reported in the CCI. Between 1999 and 2004, the number of vehicle thefts in California increased by 83,000, four times the increase in burglaries during the same period. The incidence of vehicles stolen in 2004 represents a 49% increase over 1999 and a 39% increase in rate per 100,000. The burglary rate from 1999 to 2004 increased 1.8% per 100,000.

For critics who might contemplate that the accelerated increase in car theft versus burglary is part of a national trend – it is not. While the rate of vehicle theft increased 39% in California, the national rate actually declined slightly during the period from 1999-2004.¹ Moreover, unlike California, the rate of burglary remains higher – almost 75% higher than vehicle theft on a national basis.

Sometimes things are simply what they appear to be. California's rate of vehicle theft has increased dramatically relative to burglary in large part because burglary is a "strike" offense with corresponding penalties, while vehicle theft is not.



According to the California Department of Justice, the trend has continued. In the first half of 2005, the incidence of vehicle theft in California increased 6.3% while burglary increased a more modest 1.2%. [Half-year figures are unadjusted for increases in state population.]

Three Strikes and the Future Growth of California's Prison Population

While most rational observers acknowledge that "Three Strikes" has not caused the explosive growth in prison population predicted in 1994, many still insist it has cost billions of dollars, and will cause California's inmate population to balloon in the future.

There is however no factual basis upon which past increases in prison population may be attributed to Three Strikes and therefore there is no basis upon which to attribute any incremental prison costs to the application of Three Strikes.

Simply Stated, The implementation of Three Strikes could have increased the cost of running California's prisons only if the inmate population grew at a rate greater than it would have in the absence of Three Strikes.

While inmate population projections are, of necessity, a matter of considerable speculation, it is incumbent upon those who attribute billions in cost to the implementation of Three Strikes to demonstrate that the initiative has caused some incremental growth in California's correctional system. They have failed to do so.

If, in the years since 1994, California's prison population had grown faster than anticipated prior to the adoption of Three Strikes a good case might be made for attributing the increased population and associated cost to Three Strikes. This of course did not happen, as California's adult inmate population on June 30, 1999, (five years after adoption of Three Strikes) was more than 8000 inmates fewer (162,064) than projected (170,8xx) for that date (in 1993) prior to the advent of Three Strikes. Moreover the states inmate population did not grow appreciably during the next six years when on June 30, 2005 it stood at 164,179 still thousands lower than the pre Three Strikes projection for June 30, 1999 and more than 81,000 fewer than projected for the same date following passage of Three Strikes (See Chart on next page___).

Notwithstanding the miscalculations following passage of Three Strikes that projected the June 30, 1999 inmate population at an astonishing 245,179 , critics of Three Strikes could plausibly base their assertions of increased cost on other comparative analysis. Opponents could compare California's inmate population growth before and

after the implementation of Three Strikes and attribute any acceleration in growth to the new initiative. Of course the growth in California's inmate population did not accelerate following passage of Three Strikes. In the years immediately following passage of Three Strikes the growth of inmate population first decelerated and then for several years stopped. In the 10 years prior to passage of Three Strikes California's adult inmate population increased 190%; in the ten years that followed total inmate population increased 31%. (See chart on page)

Ultimately if one were truly determined to attribute incremental costs to Three Strikes relief might be found by comparing California's inmate population to that of other states. Once again however in the years following approval of Three Strikes (June 30,1994 thru June 30, 2005) California's inmate population has grown 10% more slowly than the composite rate of growth for the other 49 states. ()

Despite all of their rhetoric opponents have not presented a scintilla of evidence that California's inmate population is greater now than it would have been but for Three Strikes. In the absence of such evidence any calculation of cost attributable to Three Strikes is illusory. The assertion of such costs is all the more gratuitous when made by proponents who refuse to calculate any cost avoidance attributable to the hundreds of thousands of fewer crimes suffered by Californians during the ten years following implementation of Three Strikes when compared to the ten years prior.

WHERE DID THE ANALYSTS GO WRONG?

One of the faulty assumptions made by some analysts and liberal academics is that Three Strikes would have no deterrent effect. Under this premise there are an

undiminishing number of miscreants willing to commit certain crimes whether the penalty for the particular is imprisonment for 5 years, or 10 years, or 20 years.

Accordingly in a simplified penal model if a state had only one crime, robbery, and only one penalty, five years certain in state prison, the state prison system would fill after five years. If the state population was static, all other variables were stable, and approximately 5,000 robbers were sent to prison each year inmate population would grow from 5,000 to 10,000 and increase in intervals of 5,000 until it reached a total of 25,000 after 5 years. In the sixth year the system would achieve equilibrium with the first 5,000 offenders released and 5,000 new inmates committed leaving the population stable at approximately 25,000.

For those who subscribe to the no deterrent theory of sentencing increasing the penalty for robbery from 5 to 10 years would not reduce the number of robberies or the number of robbers sent to prison each year but simply cause robbers to accumulate in prison for ten years before the first group of 5,000 were released. Were this the case the number of robber inmates would increase in intervals of 5,000 a year until reaching 50,000 after 10 years. In the eleventh year 5,000 inmates would be released and replaced with 5,000 new offenders thus creating a prison system that was twice as large and expensive but no more effective in providing public. California's record following Three Strikes tells a different story.

While Three Strikes is somewhat more complicated than a simply doubling of sentences it did in fact double many sentences, impose life terms in other instances and made tens of thousands felons eligible for the enhanced terms. Because it dramatically increased sentences many analysts and academics opined that inmates would quickly accumulate in much the same way that robbers would if their sentences were doubled.

With the benefit of more than 10 years of records it is evident that a significant number of felons do not think like academics and that a significant number of academics do not know how felons think. The following chart recording the number of male inmates committed to California State Prisons in the year before (1993) and the years following implementation of Three Strikes is instructive.

WHAT FUTURE IMPACT WILL THREE STRIKES HAVE ON INMATE POPULATION GROWTH?

Conclusion:

Simply stated, many public perceptions about Three Strikes and our prison system are plain wrong. California's prison population has not exploded in years following adoption of Three Strikes and actually declined in three of the last six fiscal years.

California's incarceration rate is not the highest among the states or even among the top fifteen states. This is so, even though California is burdened with 40% (30,200) of all illegal aliens incarcerated in U.S. state prisons – far more than the next four states combined: Texas, New York, Florida, and Arizona. In the absence of this disproportionate number of illegal alien inmates, California's incarceration rate would be below the national average. While perplexing problems persist, during the last decade California has experienced both an unprecedented drop in crime and a decline in its incarceration rank among states. California's incarceration rate was lower in 2005 than in 1999 (see chart on page 7).

Much of this experience is attributable to Three Strikes. Like all laws, Three Strikes can always be improved. It is essential, however, that a rational debate be based

upon the available facts. Those who insist that Three Strikes has had little impact on crime are resisting or ignoring the facts. Currently, at least 23 states have some sort of Three Strikes sentencing law with 10 states adopting statutes in 1995, the year after voters approved California's Prop 184. Not surprisingly, these states have also experienced reductions in crime. If the reduction in crime experienced following the adoption of Three Strikes was part of a national trend, it was a trend of increasing criminal penalties with California at its forefront. A 2005 Forbes magazine article entitled "Lock Em' Up" summarized the premise explaining, "[T]here's a stunningly simple explanation for the huge drop in crime rates: The villains are behind bars."

¹ In 1999, 422.5 cars were stolen per 100,000 inhabitants. In 2004 the rate was 421.3 from "Crime in the United State 1985-2004".