


# R A C I A L D I V I D E



## **An Examination of the Impact of California's Three Strikes Law on African-Americans and Latinos**

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*October 2004*

Since the passage of California's Three Strikes law over a decade ago, the Justice Policy Institute has conducted numerous analyses of the impact of this controversial law. This is the last of three reports JPI plans to prepare this year, the tenth anniversary of the law. The first report, *Still Striking Out*, released in March, focused on the overall impact of California's Three-Strikes law. The report found that the law had significantly contributed to an increase in California's prison population, and that nearly two thirds of the second or third strikers were incarcerated for nonviolent crimes. JPI's second report examined Three Strikes laws nationally, finding that California had four times as many people incarcerated under Three Strikes as the other 21 Three Strikes states for which there were data, and that there was little link between the use of Three Strikes and declines in crime. This report focuses more narrowly on a single dimension—racial disparities—that was just touched upon in previous studies. We examine rates of incarceration across racial and ethnic groups, with particular emphasis on the impact of Three Strikes at the county level.

J u s t i c e P o l i c y I n s t i t u t e

## Introduction

California's Three Strikes law has been plagued with questions about racial fairness since the beginning. The early case of Jerry DeWayne Williams, the so-called "pizza thief," highlighted the potential application of the law to people convicted of non-violent crimes, and raised awareness of another issue lurking in the background. Williams was African American. The criminal justice system in America is beset with many racial and ethnic disparities, and the early application of California's Three Strikes law appeared to increase existing disproportionality. This research brief is intended to examine the impact of Three Strikes on racial and ethnic minorities. We examine the following questions:

- 1) How has California's Three Strikes law been applied to African Americans and Latinos on a statewide basis?
- 2) How has California's Three Strikes law been applied to African Americans and Latinos on a county-by-county basis?

### **Finding 1: California's Three Strikes law disproportionately impacts African-Americans and Latinos on a statewide basis.**

An analysis of California Department of Corrections' data reveals that African Americans and Latinos are imprisoned under Three Strikes at far higher rates than their white counterparts. African Americans are overrepresented in California's prison population in general, and that overrepresentation is heightened in the state's application of the Three Strikes law. As Figures 1 and 2 show:

- African Americans make up 6.5% of the population, but they make up nearly 30% of the prison population, 36% of second strikers, and 45% of third strikers.
- The proportion of Latinos in California's population is fairly similar to the proportion of Latinos in the prison and striker populations, though both are higher than whites. Although just over 32.6% of the overall population is Latino, almost 36% of the prison population is Latino and 32.6% of strikers are Latino.
- The story is different for white Californians. While they make up 47% of California's population, only 29% of the prison population is white, as is 26% of second strikers, and 25.4% of third strikers.

### **African Americans and Latinos are imprisoned under Three Strikes at far higher rates than their white counterparts.**

The disparities in incarceration become even more vivid when viewed in comparison to the beginning of the criminal justice process, the arrest. Minorities tend to be arrested at higher rates than whites, and then the disproportionality increases as they proceed through the system. As Figures 1 and 2 reveal, African Americans constitute 6.5% of the state population but 21.7% of the felony arrests. Going deeper into the system, they constitute 29.7% of the prison population, 35.8% of the second strikers and 44.7% of the third strikers. On the other hand,

whites constitute 47.1% of the population but only 35.7% of felony arrests and 28.7% of the prison population. Whites constitute 26.1% of second strikers and 25.4% of third strikers. Thus, as cases move through the process into progressively harsher punishment, the proportion of whites diminishes while the proportion of African Americans increases.

Latinos fall in between, making up higher percentages of felony arrests, but relatively lower percentages of second and third strikers compared to African Americans and higher percentages compared to whites. Latinos are arrested more frequently than their share of the population would suggest and they represent a slightly greater share of the prison population, but their share of the striker population evens out – a bit higher for second strikers, somewhat lower for third strikers. Because white incarceration/strike rates decline as we look deeper into the system, Latinos fare progressively worse than their white counterparts.

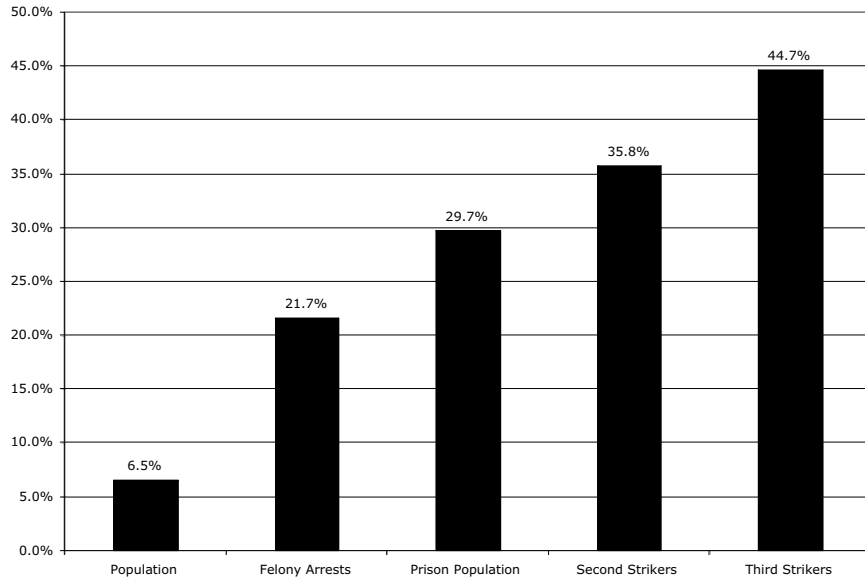
**FIGURE 1: RACE/ETHNICITY OF CALIFORNIA’S POPULATION, FELONY ARRESTS, PRISON POPULATION, AND STRIKERS**

Race/ Ethnicity	Population	Felony Arrests	Prison Population	Second Strikers	Third Strikers	All Strikers
<b>Black</b>	<b>6.5%</b>	<b>21.7%</b>	<b>29.7%</b>	<b>35.8%</b>	<b>44.7%</b>	<b>37.4%</b>
	2,222,816	92,312	46,250	12,700	3,334	16,034
<b>Hispanic</b>	<b>32.6%</b>	<b>37.0%</b>	<b>35.9%</b>	<b>34.1%</b>	<b>25.6%</b>	<b>32.6%</b>
	11,082,985	157,756	55,853	12,081	1,907	13,988
<b>White</b>	<b>47.1%</b>	<b>35.7%</b>	<b>28.7%</b>	<b>26.1%</b>	<b>25.4%</b>	<b>26.0%</b>
	16,047,989	152,099	44,756	9,245	1,896	11,141
<b>Other</b>	<b>13.8%</b>	<b>5.6%</b>	<b>5.7%</b>	<b>4.0%</b>	<b>4.3%</b>	<b>4.1%</b>
	4,689,408	23,658	8,863	1,436	321	1,757
<b>California</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>
	34,043,198	425,825	155,722	35,462	7,458	42,920

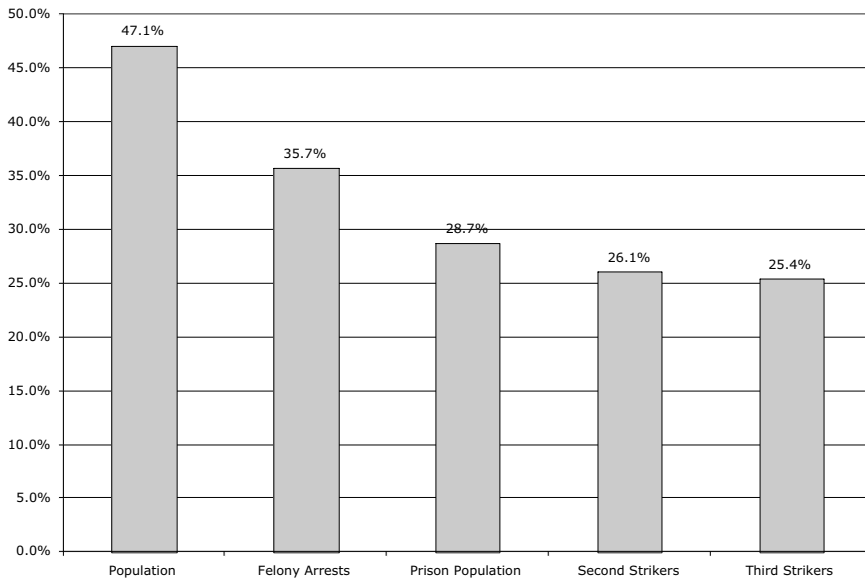
Source: Population: *Population Projections by Race/Ethnicity for California and Its Counties 2000-2050*, State of California, Department of Finance, Sacramento, California, May 2004. Online at: [http://www.dof.ca.gov/HTML/DEMOGRAP/DRU\\_Publications/Projections/P-1\\_Tables.xls](http://www.dof.ca.gov/HTML/DEMOGRAP/DRU_Publications/Projections/P-1_Tables.xls); Felony Arrests: “Adult Felony Arrests” as reported in *California Criminal Justice Profile—2002*, Table 22, California Attorney General, California Criminal Justice Statistics Center. Online at: [http://justice.hdcdojnet.state.ca.us/cjsc\\_stats/prof02/index.htm](http://justice.hdcdojnet.state.ca.us/cjsc_stats/prof02/index.htm); Prison Population: *Prison Census Data: Total Institution Population*, Table 4: Offenders by Ethnicity and Gender as of December 31, 2003, Data Analysis Unit, Estimates and Statistical Analysis Section, Offender Information Services Branch, California Department of Corrections, February 2004; Striker Data: *Second and Third Strikers in the Institution Population*, Table 3, Second and Third Strikers in the Institution Population by Gender, Racial/Ethnic Group and Type of Conviction, Data Analysis Unit, Estimates and Statistical Analysis Section, Offender Information Services Branch, California Department of Corrections, August 2004.

**FIGURE 2: CALIFORNIA'S POPULATION, FELONY ARRESTEES, PRISON POPULATION AND STRIKERS, BY RACE/ETHNICITY**

**FIGURE 2a: AFRICAN AMERICANS**

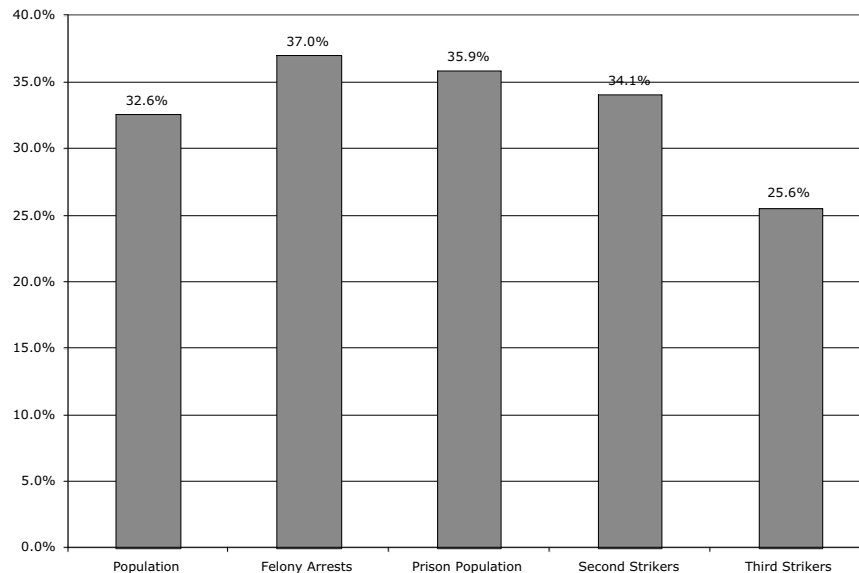


**FIGURE 2b: WHITES**



As cases advance into progressively harsher punishment, the proportion of whites diminishes while the proportion of African Americans increases.

FIGURE 2c: LATINOS



Source: Population: *Population Projections by Race/Ethnicity for California and Its Counties 2000-2050*, State of California, Department of Finance, Sacramento, California, May 2004. Online at: [http://www.dof.ca.gov/HTML/DEMOGRAP/DRU\\_Publications/Projections/P-1\\_Tables.xls](http://www.dof.ca.gov/HTML/DEMOGRAP/DRU_Publications/Projections/P-1_Tables.xls); Felony Arrests: "Adult Felony Arrests" as reported in *California Criminal Justice Profile—2002*, Table 22, California Attorney General, California Criminal Justice Statistics Center. Online at: [http://justice.hdcdojnet.state.ca.us/cjsc\\_stats/prof02/index.htm](http://justice.hdcdojnet.state.ca.us/cjsc_stats/prof02/index.htm); Prison Population: *Prison Census Data: Total Institution Population*, Table 4: Offenders by Ethnicity and Gender as of December 31, 2003, Data Analysis Unit, Estimates and Statistical Analysis Section, Offender Information Services Branch, California Department of Corrections, February 2004; Striker Data: *Second and Third Strikers in the Institution Population*, Table 3, Second and Third Strikers in the Institution Population by Gender, Racial/Ethnic Group and Type of Conviction, Data Analysis Unit, Estimates and Statistical Analysis Section, Offender Information Services Branch, California Department of Corrections, August 2004.

The disparities persist when adjustments are made for rates of arrest and incarceration based on the population sizes of California's racial and ethnic groups. Examining rates per 100,000 California residents in each group, we found that African Americans and Latinos had higher rates of incarceration in general, and under the Three Strikes law in particular. As Figures 3 and 4 reveal:

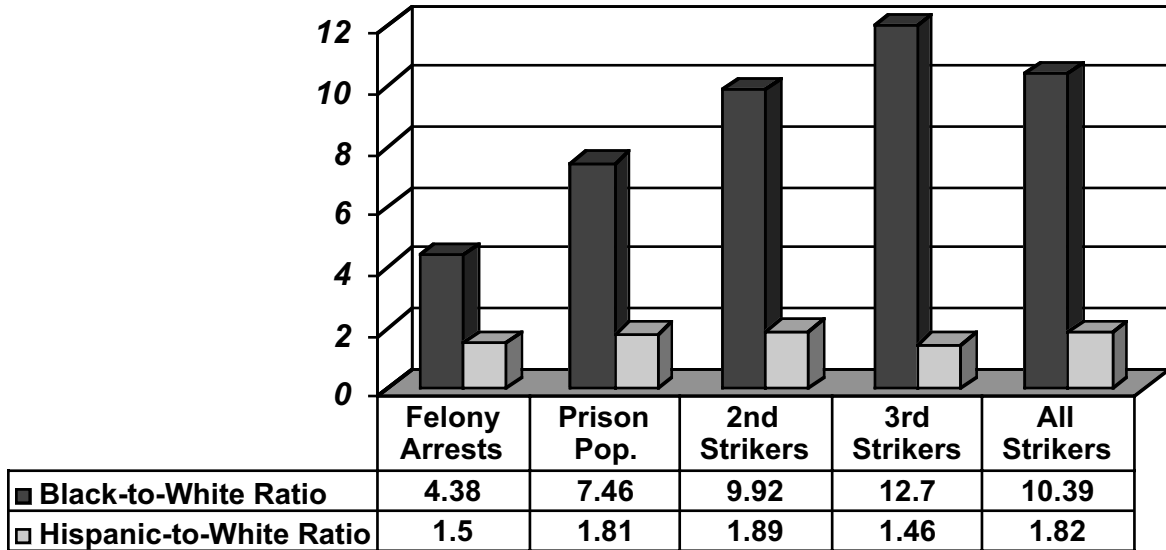
- The rate of felony arrests among African American Californians was 4.4 times higher than for white Californians, but African American's rate of incarceration was 7.5 times higher, and their rate of incarceration for second strikes was 10 times higher. For third strikes, African Americans were incarcerated at a rate almost 13 times higher than whites.
- For Latinos, the arrest rate was 50% higher than whites in California, but their incarceration rate was 81% higher, and their rate of incarceration under the Three Strikes law was 82% higher.

**FIGURE 3: RATES OF ARREST, INCARCERATION, AND SECOND- AND THIRD-STRIKE SENTENCES PER 100,000 RESIDENTS, BY RACE/ETHNICITY**

Race/ Ethnicity	Felony Arrests	Prison Population	Second Strikers	Third Strikers	All Strikers
Black	4152.9	2080.7	571.3	150.0	721.3
Hispanic	1423.4	504.0	109.0	17.2	126.2
White	947.8	278.9	57.6	11.8	69.4
Other	504.5	189.0	30.6	6.8	37.5
California	1250.8	457.4	104.2	21.9	126.1

Source: Population: *Population Projections by Race/Ethnicity for California and Its Counties 2000-2050*, State of California, Department of Finance, Sacramento, California, May 2004. Online at: [http://www.dof.ca.gov/HTML/DEMOGRAP/DRU\\_Publications/Projections/P-1\\_Tables.xls](http://www.dof.ca.gov/HTML/DEMOGRAP/DRU_Publications/Projections/P-1_Tables.xls); Felony Arrests: “Adult Felony Arrests” as reported in *California Criminal Justice Profile—2002*, Table 22, California Attorney General, California Criminal Justice Statistics Center. Online at: [http://justice.hdcdojnet.state.ca.us/cjsc\\_stats/prof02/index.htm](http://justice.hdcdojnet.state.ca.us/cjsc_stats/prof02/index.htm); Prison Population: *Prison Census Data: Total Institution Population*, Table 4: Offenders by Ethnicity and Gender as of December 31, 2003, Data Analysis Unit, Estimates and Statistical Analysis Section, Offender Information Services Branch, California Department of Corrections, February 2004; Striker Data: *Second and Third Strikers in the Institution Population*, Table 3, Second and Third Strikers in the Institution Population by Gender, Racial/Ethnic Group and Type of Conviction, Data Analysis Unit, Estimates and Statistical Analysis Section, Offender Information Services Branch, California Department of Corrections, August 2004.

**FIGURE 4: RATES OF ARREST, INCARCERATION, AND SECOND- AND THIRD-STRIKE SENTENCES FOR AFRICAN AMERICANS AND LATINOS AS COMPARED TO WHITES**



Source: Population: *Population Projections by Race/Ethnicity for California and Its Counties 2000-2050*, State of California, Department of Finance, Sacramento, California, May 2004. Online at: [http://www.dof.ca.gov/HTML/DEMOGRAP/DRU\\_Publications/Projections/P-1\\_Tables.xls](http://www.dof.ca.gov/HTML/DEMOGRAP/DRU_Publications/Projections/P-1_Tables.xls); Felony Arrests: "Adult Felony Arrests" as reported in *California Criminal Justice Profile—2002*, Table 22, California Attorney General, California Criminal Justice Statistics Center. Online at: [http://justice.hdcdojnet.state.ca.us/cjsc\\_stats/prof02/index.htm](http://justice.hdcdojnet.state.ca.us/cjsc_stats/prof02/index.htm); Prison Population: *Prison Census Data: Total Institution Population*, Table 4: Offenders by Ethnicity and Gender as of December 31, 2003, Data Analysis Unit, Estimates and Statistical Analysis Section, Offender Information Services Branch, California Department of Corrections, February 2004; Striker Data: *Second and Third Strikers in the Institution Population*, Table 3, Second and Third Strikers in the Institution Population by Gender, Racial/Ethnic Group and Type of Conviction, Data Analysis Unit, Estimates and Statistical Analysis Section, Offender Information Services Branch, California Department of Corrections, August 2004.

## Finding 2: Racial and ethnic disparities under the Three Strikes law are spread throughout California counties.

Our first report, *Still Striking Out*, compared the Three Strikes rates and changes in crime in California's 12 largest counties. We found significant geographic disparity in the use of the law, and no clear impact on crime. In particular:

- The average rate of incarceration under the Three Strikes law for counties that used the law more heavily (86.91 strikers per 1,000 felony arrests) was more than double the rate of Three Strikes incarceration for counties that used the law less frequently (41.76 strikers per 1,000 felony arrests).
- The six large counties using Three Strikes *least* frequently had a decline in violent crime that was 22.5% greater than was experienced by the six large counties using Three Strikes the *most* frequently, as well as greater declines in homicides. Heavy striking counties had greater declines in index crime, driven by greater declines in property crimes.

This report extends the examination to the racial composition of each county's Three Strikes prison population. We found that California counties mirror California state trends: more African Americans receive the harshest punishments.

### California counties mirror California state trends: more African Americans receive the harshest punishments.

Examining data from the twelve largest counties in California, we found that in every one of these counties, African Americans made up an increasingly larger percentage of the population as the analysis advances from the county population, to felony arrests, to second and third strikers in the prison population. A typical example is **Los Angeles County**, where 9.6% of the population is African American. However, in Los Angeles county, 29% of adult felony arrestees, 45.6% of second strikers, and 55.8% of third strikers are African American.

Latinos typically make up a greater percentage of felony arrestees than they represent in the general county population. In most of the 12 largest counties, Latinos also had a higher percentage of second strikers than they represented in the general population. In **Fresno County**, where 44.3% of the county is Latino, 53.7% of adult felony arrestees were Latino, and almost 46% of second strikers were Latino.

When we compared the racial/ethnic make-up of these 12 largest counties' populations to their overall striker populations, **Santa Clara County** stood out as the county with the largest over-representation of African Americans and Latinos. While 2.7% of Santa Clara's population is African American, 27% of its striker population is African American, or 10 times greater. The percentage of the county's Latino striker population, 38.4%, is 60% higher than the Latino make-up of the county as a whole, which is 24.2%.

Even when we took the higher felony arrests for African Americans into consideration, we found that their make-up of the striker population was consistently greater. **Contra Costa County** had the highest differential, with 3 times as many African American strikers as felony arrests on a percentage basis.



**FIGURE 5: RACIAL/ETHNIC BREAKDOWN OF CALIFORNIA'S TWELVE LARGEST COUNTY POPULATIONS, FELONY ARRESTEES, AND STRIKERS**

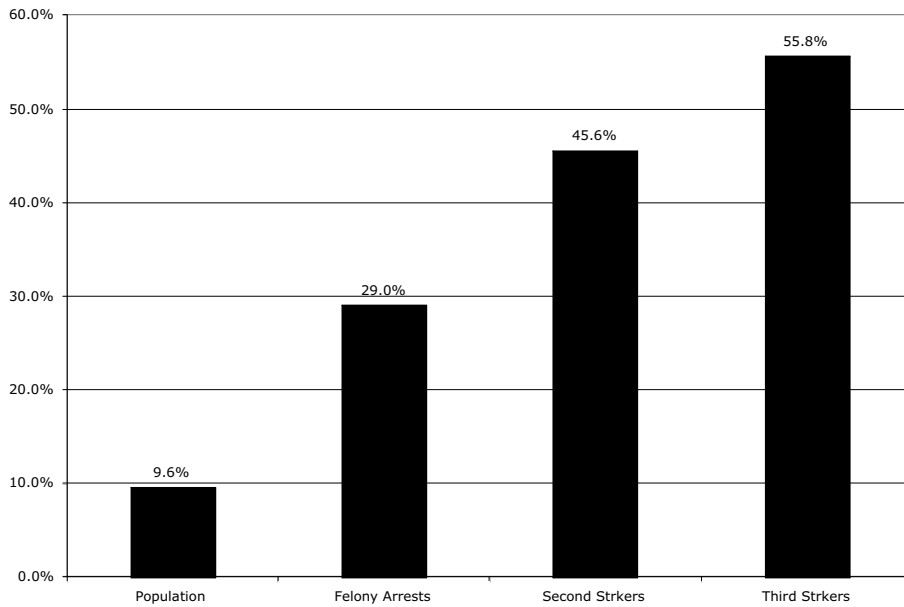
Race/Ethnicity	Population	Felony Arrests	Second Strikers	Third Strikers	All Strikers	Ratio of Third Strikers % to Population %	Ratio of All Strikers % to Population %	Ratio of All Strikers % to Felony Arrests %
<b>CALIFORNIA</b>						<b>CALIFORNIA</b>		
Black	6.53%	21.68%	35.81%	44.70%	37.36%	6.85	5.72	1.72
Hispanic	32.56%	37.05%	34.07%	25.57%	32.59%	0.79	1.00	0.88
White	47.14%	35.72%	26.07%	25.42%	25.96%	0.54	0.55	0.73
<b>ALAMEDA</b>						<b>ALAMEDA</b>		
Black	14.61%	52.85%	75.00%	81.65%	76.18%	5.59	5.21	1.44
Hispanic	19.26%	17.30%	9.33%	6.42%	8.81%	0.33	0.46	0.51
White	41.00%	22.46%	11.51%	10.09%	11.26%	0.25	0.27	0.50
<b>CONTRA COSTA</b>						<b>CONTRA COSTA</b>		
Black	9.28%	17.71%	51.93%	62.34%	53.86%	6.72	5.81	3.04
Hispanic	17.94%	31.10%	11.57%	6.49%	10.63%	0.36	0.59	0.34
White	58.22%	42.07%	31.75%	27.27%	30.92%	0.47	0.53	0.73
<b>FRESNO</b>						<b>FRESNO</b>		
Black	5.14%	14.88%	24.23%	45.14%	27.61%	8.77	5.37	1.86
Hispanic	44.30%	53.66%	45.93%	33.14%	43.86%	0.75	0.99	0.82
White	40.00%	27.11%	27.20%	17.14%	25.58%	0.43	0.64	0.94
<b>LOS ANGELES</b>						<b>LOS ANGELES</b>		
Black	9.58%	29.03%	45.63%	55.76%	47.36%	5.82	4.94	1.63
Hispanic	44.61%	46.72%	36.82%	26.48%	35.05%	0.59	0.79	0.75
White	31.97%	19.64%	14.36%	13.56%	14.23%	0.42	0.44	0.72
<b>ORANGE</b>						<b>ORANGE</b>		
Black	1.53%	5.59%	12.81%	23.38%	14.53%	15.26	9.48	2.60
Hispanic	30.86%	43.92%	47.11%	31.55%	44.59%	1.02	1.44	1.02
White	51.76%	42.94%	34.35%	39.72%	35.22%	0.77	0.68	0.82
<b>RIVERSIDE</b>						<b>RIVERSIDE</b>		
Black	6.07%	14.10%	28.12%	40.06%	29.76%	6.60	4.90	2.11
Hispanic	36.41%	43.35%	37.49%	28.26%	36.23%	0.78	1.00	0.84
White	51.28%	39.38%	31.77%	28.57%	31.33%	0.56	0.61	0.80
<b>SACRAMENTO</b>						<b>SACRAMENTO</b>		
Black	9.82%	31.41%	49.69%	52.23%	50.24%	5.32	5.12	1.60
Hispanic	16.21%	17.19%	14.22%	12.95%	13.95%	0.80	0.86	0.81
White	58.01%	45.35%	32.11%	31.70%	32.02%	0.55	0.55	0.71
<b>SAN BERNADINO</b>						<b>SAN BERNADINO</b>		
Black	8.95%	20.09%	31.55%	41.32%	33.61%	4.61	3.75	1.67
Hispanic	39.71%	40.21%	35.82%	28.34%	34.25%	0.71	0.86	0.85
White	43.90%	37.25%	30.86%	28.14%	30.29%	0.64	0.69	0.81
<b>SAN DIEGO</b>						<b>SAN DIEGO</b>		
Black	5.60%	19.09%	33.88%	44.06%	35.34%	7.87	6.32	1.85
Hispanic	27.18%	32.90%	31.13%	21.29%	29.72%	0.78	1.09	0.90
White	55.10%	41.24%	29.42%	29.54%	29.44%	0.54	0.53	0.71
<b>SAN FRANCISCO</b>						<b>SAN FRANCISCO</b>		
Black	7.44%	49.64%	64.65%	78.13%	66.52%	10.51	8.95	1.34
Hispanic	14.06%	0.20%	4.55%	9.38%	5.22%	0.67	0.37	26.28
White	44.47%	41.49%	23.23%	6.25%	20.87%	0.14	0.47	0.50
<b>SANTA CLARA</b>						<b>SANTA CLARA</b>		
Black	2.68%	11.30%	25.24%	32.78%	27.00%	12.23	10.07	2.39
Hispanic	24.19%	46.91%	39.78%	33.73%	38.36%	1.39	1.59	0.82
White	44.65%	28.70%	25.82%	26.84%	26.06%	0.60	0.58	0.91
<b>VENTURA</b>						<b>VENTURA</b>		
Black	1.81%	5.29%	13.23%	25.00%	14.79%	13.83	8.18	2.79
Hispanic	34.06%	48.07%	50.67%	35.29%	48.64%	1.04	1.43	1.01
White	56.17%	43.49%	32.96%	33.82%	33.07%	0.60	0.59	0.76

Source: Population: Population Projections by Race/Ethnicity for California and Its Counties 2000-2050, State of California, Department of Finance, Sacramento, California, May 2004. Online at: [http://www.dof.ca.gov/HTML/DEMOGRAP/DRU\\_Publications/Projections/P-1\\_Tables.xls](http://www.dof.ca.gov/HTML/DEMOGRAP/DRU_Publications/Projections/P-1_Tables.xls); Felony Arrests: "Adult Felony Arrests" as reported in California Criminal Justice Profile—2002, Table 22, California Attorney General, California Criminal

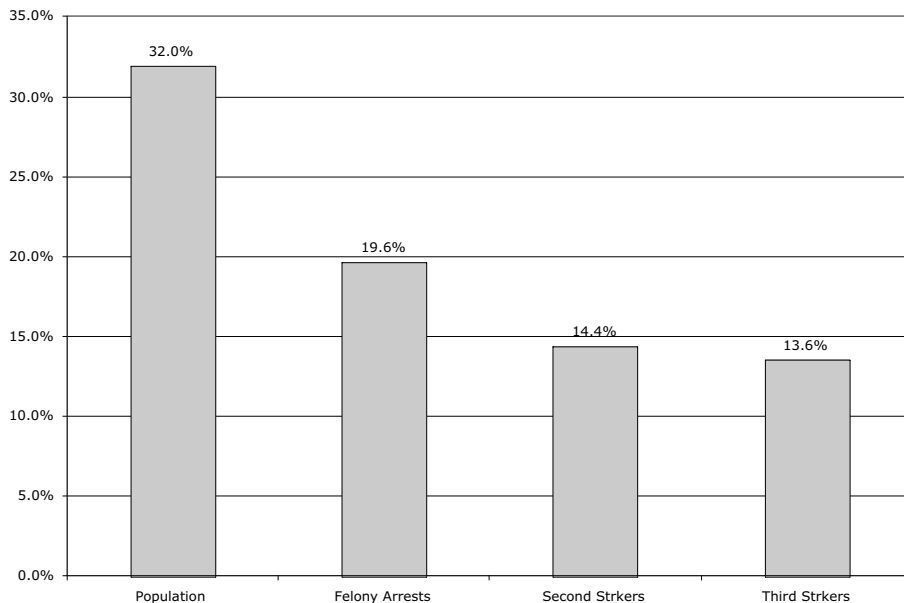
Justice Statistics Center. Online at: [http://justice.hdcdojnet.state.ca.us/cjsc\\_stats/prof02/index.htm](http://justice.hdcdojnet.state.ca.us/cjsc_stats/prof02/index.htm); Striker Data: Second and Third Strikers in the Institution Population, Table 4, Second Strikers in the Institution Population by Gender, County of Commitment, and Racial/Ethnic Group, Table 5, Third Strikers in the Institution Population by Gender, County of Commitment, and Racial/Ethnic Group, Data Analysis Unit, Estimates and Statistical Analysis Section, Offender Information Services Branch, California Department of Corrections, August 2004.

**FIGURE 6: RACIAL/ETHNIC BREAKDOWN OF LOS ANGELES COUNTY'S POPULATION, ADULT FELONY ARRESTEES, AND STRIKERS**

**FIGURE 6a: AFRICAN AMERICANS**



**FIGURE 6b: WHITES**



**FIGURE 6c: LATINOS**

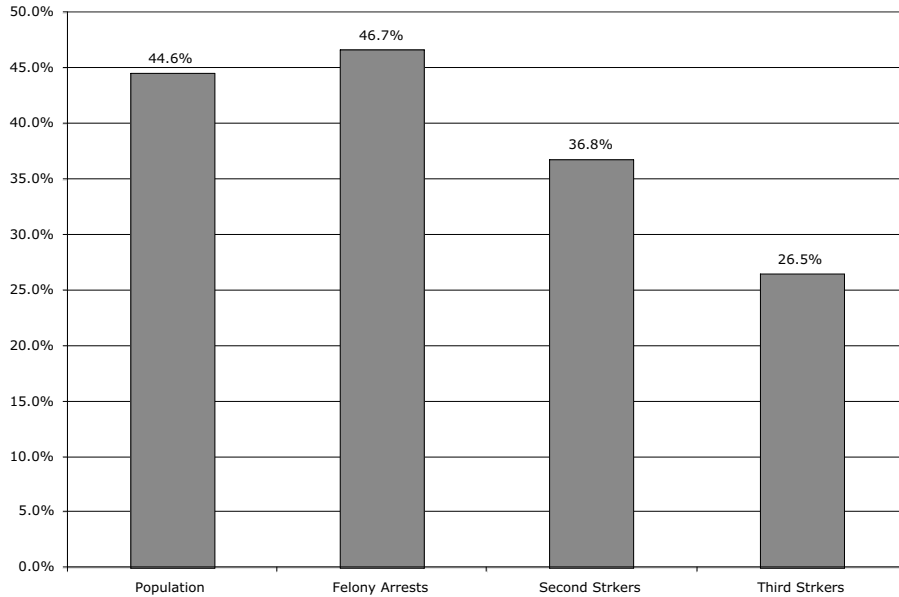


Figure 6a-c Sources: See sources for Figure 5.

In order to accommodate the great difference in size between California counties, we also examined the rate of incarceration under Three Strikes per 100,000 county residents for each racial and ethnic group. As figure 7 reveals, a familiar pattern emerged. Except in some very small counties where the African American population is too small to make meaningful comparisons, the incarceration rate under the Three Strikes law is much higher for African Americans than whites or Latinos.

Among the larger counties, **San Mateo** had the largest African American-to-white disparity. In that county, the Three Strikes incarceration rate for African Americans was almost 28 times greater than the white incarceration rate. The highest disparity between Latinos and whites occurred in **Mariposa County**, where the rate of incarceration for Latinos (214.7 per 100,000 Latino residents) under the Three Strikes law was over 3 times higher than the white incarceration rate (69.2 per 100,000 white residents). Among larger counties, **Santa Clara** had the highest disparity, with the Latino incarceration rate under the law (168.39) 2.7 times higher than the white incarceration rate (61.98).

As figure 8 indicates, the disparity is greatest in the context of the third strike. In the vast majority of counties, African Americans were incarcerated at the highest rate for a third strike. In every county where any African Americans were incarcerated, their rate of incarceration was higher than whites or Latinos. The third strike rates for Latinos tended to fall in between whites and African Americans.

In every county where any African Americans were incarcerated, their rate of incarceration was higher than whites or Latinos.

Despite having one of the lowest third strike incarceration rates in the state, **San Francisco** had the highest disparities between third strike incarceration rates for African Americans, Latinos, and whites. This was largely a reflection of the fact that its white incarceration rate was practically non-existent at 0.58 whites incarcerated per 100,000 white residents (2 third strikers). The African American rate was just over 43 per 100,000, also one of the lowest (25 third strikers). Nevertheless, this means that San Francisco's African American third strike incarceration rate is nearly 75 times higher than its white incarceration rate. The Latino third strike incarceration rate (2.73) was 4.7 times higher than the white rate.

In comparison, **Kern County** had a lower disparity between African American and white third strike incarceration *rates* (7.7 times higher), but nonetheless locked up many more African Americans (and others) on third strikes. In fact Kern County had the highest third strike incarceration rate in the state, with almost 59 third strikers per 100,000 residents. Its African American third strike incarceration rate was nearly 7 times higher than San Francisco's. Its Latino third strike incarceration rate (53.7 per 100,000 Latino residents) was the highest in the state.

**FIGURE 7: ALL STRIKERS PER 100,000 RESIDENTS IN CALIFORNIA COUNTIES, BY RACE/ETHNICITY**

(Ranked from top to bottom by total striker rate)

County	Total	White	Hispanic	Black	Black-to-White Ratio	Hispanic-to-White Ratio
Kern	253.2	181.2	228.0	1210.5	6.7	1.3
Trinity	198.8	222.6	0.0	0.0	0.0	0.0
Kings	184.1	110.7	189.3	570.9	5.2	1.7
Los Angeles	179.3	79.8	140.9	885.9	11.1	1.8
Shasta	175.4	167.5	149.7	1525.6	9.1	0.9
Tulare	168.1	139.1	168.8	1195.2	8.6	1.2
Sacramento	167.3	92.3	143.8	855.8	9.3	1.6
Merced	152.7	122.8	129.8	982.4	8.0	1.1
Riverside	151.2	92.4	150.4	741.0	8.0	1.6
San Diego	149.4	79.8	163.4	943.9	11.8	2.0
San Joaquin	149.3	99.8	122.5	840.0	8.4	1.2
Stanislaus	143.6	121.1	131.7	1066.4	8.8	1.1
San Bernardino	138.1	95.2	119.1	518.3	5.4	1.3
Lake	137.6	114.3	29.0	1258.9	11.0	0.3
Fresno	134.8	86.2	133.5	723.4	8.4	1.5
Tehama	121.3	129.5	67.1	1562.5	12.1	0.5
Tuolumne	109.2	115.7	22.0	86.3	0.7	0.2
Santa Clara	106.2	62.0	168.4	1069.9	17.3	2.7
Siskiyou	102.9	94.4	28.2	166.7	1.8	0.3
Madera	101.3	71.8	110.2	347.5	4.8	1.5
Amador	98.8	89.0	93.6	209.4	2.4	1.1
Lassen	96.9	66.4	146.6	192.9	2.9	2.2
Placer	95.0	82.9	86.3	1717.2	20.7	1.0
Modoc	95.0	79.1	0.0	0.0	0.0	0.0
Mariposa	93.1	69.2	214.7	0.0	0.0	3.1
Yolo	93.0	64.5	121.4	1005.2	15.6	1.9
Yuba	89.2	108.3	47.5	323.5	3.0	0.4
Orange	76.7	52.2	110.8	727.4	13.9	2.1

Monterrey	71.8	42.2	78.2	411.7	9.8	1.9
Ventura	67.9	40.0	97.0	555.1	13.9	2.4
San Luis Obispo	67.7	49.0	100.4	641.8	13.1	2.0
Santa Barbara	66.9	35.4	87.0	609.2	17.2	2.5
Napa	66.4	69.4	46.8	488.7	7.0	0.7
Del Norte	65.1	51.7	25.6	510.2	9.9	0.5
Butte	62.1	53.1	54.7	831.3	15.7	1.0
Solano	61.0	37.5	27.3	229.8	6.1	0.7
San Mateo	59.8	30.7	43.6	856.3	27.9	1.4
El Dorado	58.0	55.0	59.8	720.3	13.1	1.1
Colusa	47.6	66.6	33.9	0.0	0.0	0.5
Glenn	44.9	47.9	37.8	0.0	0.0	0.8
Marin	44.7	28.0	28.9	529.0	18.9	1.0
Humboldt	44.0	37.4	11.7	91.8	2.5	0.3
Contra Costa	43.4	23.0	25.7	251.9	10.9	1.1
Santa Cruz	43.2	32.5	44.6	781.9	24.1	1.4
Alameda	42.2	11.6	19.3	220.2	19.0	1.7
Sutter	40.3	39.8	44.8	272.7	6.8	1.1
Mendocino	39.1	32.2	41.5	175.7	5.5	1.3
Nevada	35.7	34.7	56.5	362.3	10.5	1.6
Sonoma	33.4	24.9	39.6	403.8	16.2	1.6
Inyo	32.9	36.8	0.0	0.0	0.0	0.0
San Francisco	29.4	13.8	10.9	263.4	19.1	0.8
Sierra	27.5	0.0	418.4	0.0	0.0	0.0
Calaveras	24.5	22.4	0.0	277.8	12.4	0.0
San Benito	24.2	16.0	23.3	575.8	36.0	1.5
Mono	23.2	20.3	0.0	0.0	0.0	0.0
Imperial	23.0	10.4	21.2	129.2	12.5	2.0
Plumas	9.6	10.9	0.0	0.0	0.0	0.0
Alpine	0.0	0.0	0.0	0.0	0.0	0.0
California	126.1	69.4	126.2	721.3	10.4	1.8

Source: See source for Figure 5.

**FIGURE 8: THIRD-STRIKERS PER 100,000 RESIDENTS  
IN CALIFORNIA COUNTIES, BY RACE/ETHNICITY**  
(Ranked by total Third-Strike rate)

County	Total	White	Hispanic	Black	Black-to-White Ratio	Hispanic-to-White Ratio
Kern	59.0	38.8	53.7	299.4	7.7	1.4
Kings	57.8	36.3	52.6	209.3	5.8	1.4
Trinity	38.2	44.5	0.0	0.0	0.0	0.0
Sacramento	36.4	19.9	29.1	193.7	9.7	1.5
Lassen	32.3	16.6	20.9	128.6	7.7	1.3
Los Angeles	30.6	13.0	18.2	178.1	13.7	1.4
San Bernardino	29.1	18.7	20.8	134.4	7.2	1.1
Tulare	27.6	24.4	27.1	189.7	7.8	1.1
Shasta	25.5	24.6	10.7	152.6	6.2	0.4
Tehama	25.0	27.3	11.2	312.5	11.5	0.4
Santa Clara	24.9	15.0	34.7	304.4	20.3	2.3
Fresno	21.8	9.3	16.3	191.1	20.5	1.7
San Diego	21.4	11.5	16.8	168.5	14.7	1.5
Stanislaus	21.1	17.3	15.9	216.9	12.5	0.9
Madera	20.9	15.4	18.1	81.8	5.3	1.2
Riverside	20.7	11.5	16.1	136.8	11.8	1.4
Merced	19.9	14.9	15.6	168.0	11.3	1.0
Yuba	18.2	22.7	9.5	53.9	2.4	0.4
Butte	18.1	14.6	18.2	277.1	18.9	1.2
San Joaquin	18.0	12.2	9.1	125.7	10.3	0.7
Mariposa	17.5	20.8	0.0	0.0	0.0	0.0
Marin	17.3	12.2	10.8	167.1	13.7	0.9
San Luis Obispo	16.5	12.7	12.2	227.7	18.0	1.0
Santa Barbara	16.0	9.2	16.7	167.2	18.2	1.8
Colusa	15.9	33.3	0.0	0.0	0.0	0.0
Mono	15.5	10.1	0.0	0.0	0.0	0.0
Napa	15.2	16.2	13.4	61.1	3.8	0.8
Del Norte	14.5	10.3	0.0	170.1	16.4	0.0

<b>Amador</b>	14.1	10.3	0.0	69.8	6.8	0.0
<b>Siskiyou</b>	13.4	10.8	0.0	0.0	0.0	0.0
<b>Orange</b>	12.4	9.5	12.7	189.9	19.9	1.3
<b>Placer</b>	12.4	12.5	4.1	202.0	16.2	0.3
<b>Lake</b>	11.9	8.5	0.0	157.4	18.6	0.0
<b>San Mateo</b>	11.4	7.0	4.5	170.4	24.4	0.6
<b>El Dorado</b>	10.7	11.9	0.0	120.0	10.1	0.0
<b>Ventura</b>	9.0	5.4	9.3	124.2	23.0	1.7
<b>Contra Costa</b>	8.1	3.8	2.9	54.2	14.3	0.8
<b>Sutter</b>	7.6	8.4	5.6	68.2	8.1	0.7
<b>Alameda</b>	7.5	1.8	2.5	42.0	22.7	1.4
<b>Glenn</b>	7.5	12.0	0.0	0.0	0.0	0.0
<b>San Benito</b>	7.4	4.0	7.8	191.9	48.0	1.9
<b>Tuolumne</b>	7.3	6.4	22.0	0.0	0.0	3.4
<b>Imperial</b>	7.0	6.9	3.8	73.8	10.7	0.6
<b>Monterrey</b>	6.9	4.7	4.3	69.7	14.7	0.9
<b>Nevada</b>	6.5	7.2	0.0	0.0	0.0	0.0
<b>Yolo</b>	6.5	3.0	13.5	60.9	20.2	4.5
<b>Solano</b>	6.0	2.0	0.0	34.0	16.8	0.0
<b>Santa Cruz</b>	5.1	4.7	2.9	86.9	18.4	0.6
<b>Sonoma</b>	4.8	3.5	3.7	77.7	22.3	1.1
<b>San Francisco</b>	4.1	0.6	2.7	43.0	74.8	4.7
<b>Mendocino</b>	3.5	3.1	0.0	0.0	0.0	0.0
<b>Humboldt</b>	3.1	3.8	0.0	0.0	0.0	0.0
<b>Alpine</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>Calaveras</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>Inyo</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>Modoc</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>Plumas</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>Sierra</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>California</b>	21.9	11.8	17.2	150.0	12.7	1.5

Source: See sources for Figure 5.



**Counties with Populations Over 100,000**

In figures 9 to 11, we highlight the counties with populations over 100,000. As opposed to some of the smaller counties that do not have any strikers of certain races or ethnicities, all of these counties have strikers of all ethnicities.

Figure 9 shows the counties with the highest rates of incarceration for African Americans under the Three Strikes law. Comparing these counties with those with much lower rates of incarceration, serious disparities become apparent in the rate of incarceration of African Americans. **Placer County** incarcerates African Americans under the Three Strikes law at a rate 18 times greater than **Humboldt County**. **Los Angeles County's** rate of incarceration for African Americans under the law is over three times higher than **San Francisco County's**, and over four times higher than **Alameda County's**.

**FIGURE 9: COUNTIES OVER 100,000 POPULATION WITH THE TEN HIGHEST RATES OF INCARCERATION OF AFRICAN AMERICANS UNDER THE THREE STRIKES LAW**

County	White	Hispanic	Black	Total
<b>Placer</b>	82.88	86.29	1717.17	95.00
<b>Shasta</b>	167.50	149.65	1525.55	175.42
<b>Kern</b>	181.17	228.00	1210.46	253.20
<b>Tulare</b>	139.14	168.76	1195.22	168.13
<b>Santa Clara</b>	61.98	168.39	1069.93	106.20
<b>Stanislaus</b>	121.12	131.65	1066.43	143.63
<b>Yolo</b>	64.49	121.42	1005.18	93.01
<b>Merced</b>	122.81	129.85	982.42	152.70
<b>San Diego</b>	79.83	163.38	943.90	149.44
<b>Los Angeles</b>	79.76	140.87	885.89	179.26

Source: See sources for Figure 5.

**FIGURE 10: COUNTIES OVER 100,000 POPULATION WITH THE TEN LOWEST RATES OF INCARCERATION OF AFRICAN AMERICANS UNDER THE THREE STRIKES LAW**

County	White	Hispanic	Black	Total
<b>Humboldt</b>	37.42	11.74	91.83	44.03
<b>Imperial</b>	10.35	21.17	129.22	22.97
<b>Alameda</b>	11.60	19.32	220.22	42.24
<b>Solano</b>	37.47	27.26	229.79	60.99
<b>Contra Costa</b>	23.03	25.70	251.88	43.37
<b>San Francisco</b>	13.82	10.92	263.42	29.44
<b>Madera</b>	71.75	110.19	347.51	101.31
<b>Sonoma</b>	24.92	39.63	403.79	33.38
<b>Monterrey</b>	42.15	78.19	411.73	71.85
<b>Napa</b>	69.44	46.76	488.70	66.43

In Figures 11 and 12 we examine the counties with the highest rates of incarceration for Latinos. **Kern County**, with the highest rate, has a Latino incarceration rate that is over 20 times higher than **San Francisco's**. **San Diego** and **Santa Clara** both incarcerate Latinos at twice the rate of whites under Three Strikes.

**FIGURE 11: COUNTIES OVER 100,000 POPULATION WITH THE TEN HIGHEST RATES OF INCARCERATION OF LATINOS UNDER THE THREE STRIKES LAW**

County	White	Hispanic	Black	Total
<b>Kern</b>	181.17	228.00	1210.46	253.20
<b>Kings</b>	110.74	189.34	570.88	184.10
<b>Tulare</b>	139.14	168.76	1195.22	168.13
<b>Santa Clara</b>	61.98	168.39	1069.93	106.20
<b>San Diego</b>	79.83	163.38	943.90	149.44
<b>Riverside</b>	92.36	150.43	741.00	151.17
<b>Shasta</b>	167.50	149.65	1525.55	175.42
<b>Sacramento</b>	92.33	143.85	855.82	167.25
<b>Los Angeles</b>	79.76	140.87	885.89	179.26
<b>Fresno</b>	86.19	133.46	723.38	134.80

Source: See sources for Figure 5.

**FIGURE 12: COUNTIES OVER 100,000 POPULATION WITH THE TEN LOWEST RATES OF INCARCERATION OF LATINOS UNDER THE THREE STRIKES LAW**

County	White	Hispanic	Black	Total
<b>San Francisco</b>	13.82	10.92	263.42	29.44
<b>Humboldt</b>	37.42	11.74	91.83	44.03
<b>Alameda</b>	11.60	19.32	220.22	42.24
<b>Imperial</b>	10.35	21.17	129.22	22.97
<b>Contra Costa</b>	23.03	25.70	251.88	43.37
<b>Solano</b>	37.47	27.26	229.79	60.99
<b>Marin</b>	27.99	28.89	529.03	44.67
<b>Sonoma</b>	24.92	39.63	403.79	33.38
<b>San Mateo</b>	30.72	43.62	856.34	59.82
<b>Santa Cruz</b>	32.49	44.64	781.93	43.21

Source: See sources for Figure 5.

## Discussion

Analysis of the data revealed two underlying inequalities. First, similarly situated individuals may receive extremely different sentences depending upon where they live. Some county prosecutors opt to use Three Strikes frequently while others use it rarely. Los Angeles County confines six times as many people per 100,000 as San Francisco County. Thus, the Three Strikes law did not deliver the simple uniformity that initial promoters promised. Rather, the power to determine sentences shifted from the judge in the context of a sentencing decision to the prosecutor in the context of charging decisions or plea negotiations. Those decisions have been applied at dramatically different rates throughout the state.

The second inequality is in the race and ethnicity of people subject to the law. In the state as a whole and most localities in particular, minorities are treated more harshly at every stage of the system—beginning at arrest and ending, for some of them, with a sentence under Three Strikes.

Of course, the racial disparities in the criminal justice system are the result of many causes. Minority communities often experience higher rates of poverty or unemployment; individuals may have less money and more trouble making bail or hiring private attorneys who can advocate on their behalf for better treatment under the law. However, the present system appears to exacerbate rather than ameliorate these underlying inequalities. Attention needs to be paid to ensure that the justice system of California reaches as near as possible to the aspiration of equal justice under law. The Three Strikes law, as it is currently structured, does not appear to be meeting that aspiration.

## Appendix

Source: *Second and Third Strikers in the Institution Population*, California Department of Corrections, August 2004

### Second Strikers in the California Prison Population as of June 30, 2004

County	White	Hispanic	Black	Other	Total
Alameda	58	47	378	21	504
Alpine	0	0	0	0	0
Amador	23	3	2	2	30
Butte	63	8	16	3	90
Calaveras	8	0	1	1	10
Colusa	3	3	0	0	6
Contra Costa	107	39	175	16	337
Del Norte	8	1	4	1	14
El Dorado	58	9	5	3	75
Fresno	247	417	220	24	908
Glenn	6	3	0	1	10
Humboldt	35	1	1	15	52
Imperial	1	18	3	1	23
Inyo	5	0	0	1	6
Kern	469	448	350	24	1,291
Kings	41	78	38	7	164
Lake	50	2	14	8	74
Lassen	12	6	2	2	22
Los Angeles	2,041	5,232	6,484	453	14,210
Madera	33	51	13	3	100
Marin	31	5	26	6	68
Mariposa	7	3	0	3	13
Mendocino	19	6	1	5	31
Merced	94	110	63	13	280
Modoc	6	0	0	3	9
Mono	1	0	0	0	1
Monterrey	63	136	54	9	262
Napa	46	10	7	1	64
Nevada	23	3	1	0	27
Orange	630	864	235	105	1,834
Placer	147	20	30	9	206
Plumas	2	0	0	0	2
Riverside	644	760	570	53	2,027
Sacramento	517	229	800	64	1,610
San Benito	3	4	2	0	9
San Bernardino	578	671	591	33	1,873
San Diego	1,067	1,129	1,229	202	3,627
San Francisco	46	9	128	15	198
San Joaquin	237	199	267	43	746
San Luis Obispo	69	36	20	2	127
San Mateo	85	61	165	33	344
Santa Barbara	60	97	37	10	204
Santa Clara	355	547	347	126	1,375
Santa Cruz	47	29	16	6	98
Shasta	203	13	18	13	247
Sierra	0	1	0	0	1
Siskiyou	31	1	1	7	40
Solano	70	19	115	14	218
Sonoma	74	29	21	8	132
Stanislaus	270	167	94	20	551
Sutter	15	7	3	1	26
Tehama	45	5	4	0	54
Trinity	20	0	0	1	21
Tulare	179	267	53	20	519
Tuolumne	51	0	1	4	56
Ventura	147	226	59	14	446
Yolo	61	48	31	7	147
Yuba	34	4	5	0	43
<b>California</b>	<b>9,245</b>	<b>12,081</b>	<b>12,700</b>	<b>1,436</b>	<b>35,462</b>

**Third Strikers in the California Prison Population as of June 30, 2004**

County	White	Hispanic	Black	Other	Total
Alameda	11	7	89	2	109
Alpine	0	0	0	0	0
Amador	3	0	1	1	5
Butte	24	4	8	1	37
Calaveras					
Colusa	3	0	0	0	3
Contra Costa	21	5	48	3	77
Del Norte	2	0	2	0	4
El Dorado	16	0	1	0	17
Fresno	30	58	79	8	175
Glenn	2	0	0	0	2
Humboldt	4	0	0	0	4
Imperial	2	4	4	0	10
Inyo					
Kern	128	138	115	11	392
Kings	20	30	22	3	75
Lake	4	0	2	1	7
Lassen	4	1	4	2	11
Los Angeles	397	775	1,632	123	2,927
Madera	9	10	4	3	26
Marin	24	3	12	4	43
Mariposa	3	0	0	0	3
Mendocino	2	0	0	1	3
Merced	13	15	13	1	42
Modoc	0	0	0	0	0
Mono	1	0	0	1	2
Monterrey	8	8	11	1	28
Napa	14	4	1	0	19
Nevada	6	0	0	0	6
Orange	141	112	83	19	355
Placer	26	1	4	0	31
Plumas	0	0	0	0	0
Riverside	92	91	129	10	322
Sacramento	142	58	234	14	448
San Benito	1	2	1	0	4
San Bernardino	141	142	207	11	501
San Diego	179	129	267	31	606
San Francisco	2	3	25	2	32
San Joaquin	33	16	47	6	102
San Luis Obispo	24	5	11	1	41
San Mateo	25	7	41	8	81
Santa Barbara	21	23	14	6	64
Santa Clara	113	142	138	28	421
Santa Cruz	8	2	2	1	13
Shasta	35	1	2	4	42
Sierra	0	0	0	0	0
Siskiyou	4	0	0	2	6
Solano	4	0	20	0	24
Sonoma	12	3	5	2	22
Stanislaus	45	23	24	3	95
Sutter	4	1	1	0	6
Tehama	12	1	1	0	14
Trinity	5	0	0	0	5
Tulare	38	51	10	3	102
Tuolumne	3	1	0	0	4
Ventura	23	24	17	4	68
Yolo	3	6	2	0	11
Yuba	9	1	1	0	11
California	1,896	1,907	3,334	321	7,458

## Acknowledgements

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 Scott Ehlers, the research consultant who co-authored *Still Striking Out*, along with Vincent Schiraldi, executive director, 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. The authors gratefully acknowledge the design work of Malik Russell, JPI's communications director and Julie Laudenslager of InHouseGraphics.

A copy of this research brief can be found online at [www.justicepolicy.org](http://www.justicepolicy.org).

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