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CLAREMONT MCKENNA COLLEGE

# THREE STRIKES ANALYSIS: URBAN VS. RURAL COUNTIES

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## INTRODUCTION

The Three Strikes Law, originally titled Three Strikes and You're Out, was passed by California voters in 1994 with an overwhelming majority. The law attempted to isolate career criminals by imposing lifetime sentences for conviction of their second or third offenses. Under the law, offenders with one serious or violent felony conviction would face a doubled sentence upon conviction of any second felony, and offenders with two serious or violent felonies would face a mandatory minimum sentence of 25-years-to-life for any subsequent felony offense. In 2012, voters passed Proposition 36, which narrowed the strike zone for the third strike, requiring that also be serious or violent.

Although the law is considered to be mandatory, prosecutors retain limited discretion to forgo the sentencing enhancement if they consider it to be "in the furtherance of justice." In the 1996 case *People v. Superior Court (Romero)*, this same discretion was extended to judges. The ability to shield less deserving offenders from the full effect of the law helped to alleviate some concerns about the harshness of the sentencing measure; nevertheless, it also introduced the possibility that offenders would be treated differently in each state. Some prosecutors and judges might use their discretion sparingly, while others might use it more liberally. Specifically, variation between urban and rural counties may be the most pronounced. Rural counties may be inclined to take a stricter approach to Three Strikes sentencing, whereas urban counties, faced with a higher caseload, may offer more flexibility. Given the immense gravity of a two- or three-strike sentence, it is important to consider how uniformly these sentencing requirements are being applied statewide.

## METHODOLOGY

To examine whether there was an observable difference between offenders sentenced from rural counties and those sentenced from urban areas, we first classified each of California's 58 counties as either "rural" or "urban." This method of

classification is based on the Center for Disease Control and Prevention's 2013 National Center for Health Statistic's Urban-Rural Classification Scheme for Counties. Drawing from 2010 census data, the NCHS Classification Scheme distinguishes from metropolitan (urban) and nonmetropolitan (rural) counties. Specifically, "an urbanized area has a population of at least 50,000 and consists of an urban nucleus with a population density of 1,000 persons per square mile together with adjoining territory with at least 500 persons per square mile." Namely, urban versus rural counties were distinguished more so by population density as opposed to the sheer number of persons within a county. According to the NCHS Scheme, 37 California counties were identified as urban and 20 counties were identified as rural.

Urban Counties: Alameda, Butte, Contra Costa, El Dorado, Fresno, Imperial, Kern, Kings, Los Angeles, Madera, Marin, Merced, Monterey, Napa, Orange, Placer, Riverside, Sacramento, Santa Barbara, San Bernardino, San Benito, Santa Clara, Santa Cruz, San Diego, San Francisco, Shasta, San Joaquin, San Luis Obispo, San Mateo, Solano, Sonoma, Stanislaus, Sutter, Tulare, Ventura, Yolo, and Yuba.

Rural Counties: Amador, Calaveras, Colusa, Del Norte, Glenn, Humboldt, Inyo, Lake, Lassen, Mendocino, Mono, Modoc, Mariposa, Nevada, Plumas, Sierra, Siskiyou, Tehama, Trinity, and Tuolumne.

We then compared the characteristics of second and third strikers convicted and sentenced in rural counties with the characteristics of second and third strikers convicted and sentenced in urban counties. Specifically, we looked at the number of offenders sentenced from each area and compared the types of offenses associated with urban and rural areas.

According to the CDCR classifications, the offense categories are comprised of the following crimes:

- crimes against persons: murder first, murder second, manslaughter, vehicular manslaughter, robbery, assault deadly weapon, other assault/

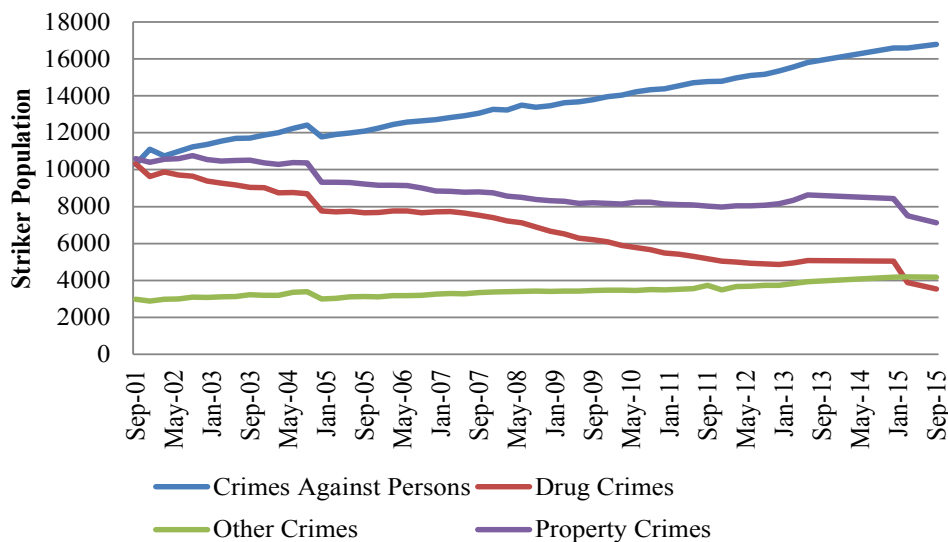
battery, rape, lewd act with child, oral copulation, sodomy, penetration with object, other sex offenses, kidnapping

- property crimes: burglary first, burglary second, grand theft, petty theft with prior, receiving stolen property, vehicle theft, forgery/fraud, other property offenses
- drug crimes: hashish possession, marijuana possession for sale, marijuana sales, other marijuana offenses
- other crimes: escape, driving under the influence, arson, possession of weapon, other offenses

Our hypothesis proposes that although property

offenses are generally more numerous than crimes against persons, prosecutors and judges will use their discretion to shield many property offenders, drug offenders, and other offenders from the full effects of the law. As a result, we expect to find that more strike offenders will be sentenced for crimes against persons than for property offenses. Additionally, because prosecutors and judges use their sentencing discretion differently, and because urban prosecutors and judges must prioritize their time and resources for more serious offenses, we expect to find proportionately fewer two- and three-strike offenders sentenced for property offenses and drug offenses from these counties.

**FIGURE 1: URBAN 2ND STRIKER POPULATION**



**ANALYSIS:**

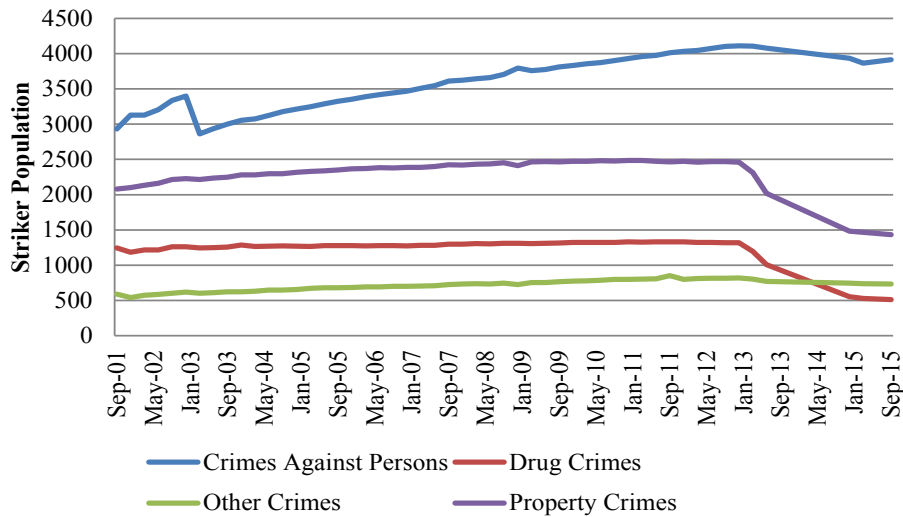
The three strikes law specifies that offenders convicted of a second strike receive twice the usual sentence for that offense. Prior research found that in the early stages of implementation, prosecutors and judges were not likely to use their sentencing discretion for second strike offenders because the sentence was not as severe. Nonetheless, Figure 1 shows that, over time, fewer second strike offenders originating from urban counties receive a doubled sentence for property offenses, drug offenses, and “other” offenses, suggesting that discretion might now be regularly used for these offenders, too.

The distribution of Figure 2 confirms that

prosecutors and judges seem to be prioritizing sentences for three-strike violent offenders and applying the sentence less frequently with other types of offenders. Additionally, the measurable decline in three-strike sentences for property offenders and drug offenders reflects the change in the law that went into effect with Proposition 36, approved by voters in 2012.

Figure 3 reveals that, over time, mandatory sentences under the Three Strikes law are applied in urban counties more often to violent offenders than property offenders or drug offenders. In 2015, violent two- and three-strike offenders were sentenced roughly two-and-a-half times more frequently than for property crimes and more than five times more often than drug crimes.

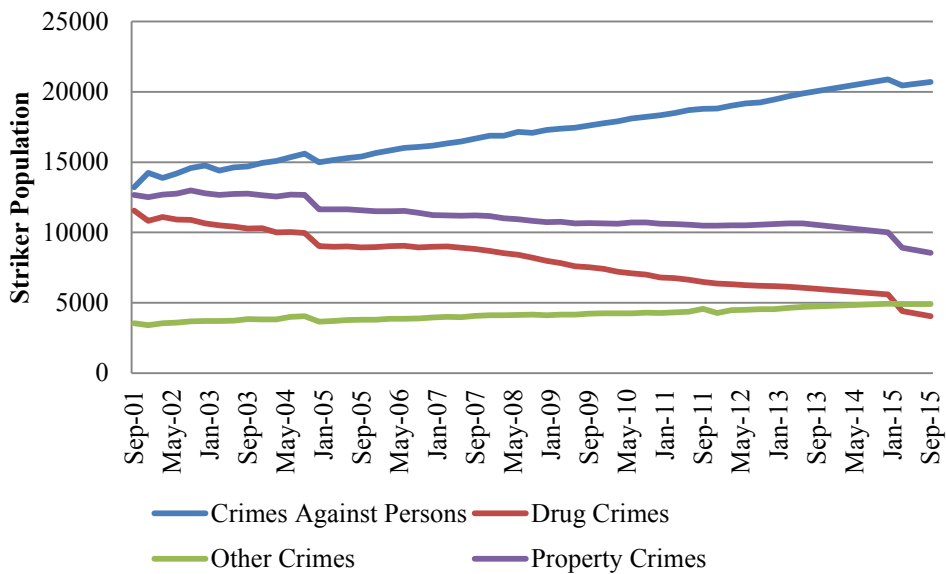
**FIGURE 2: URBAN 3RD STRIKER POPULATION**



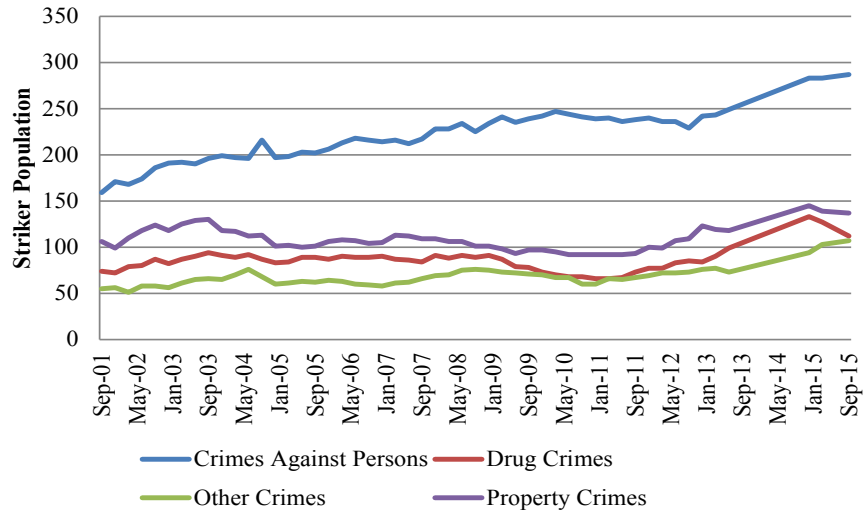
As in urban counties, rural counties sentence more strike offenders for crimes against persons than for property crimes, drug crimes, or miscellaneous “other” crimes. Similarly, Figures 4 and 5 show a steady increase in the number of sentences over time. This is expected for three strike offenders, since the minimum prison sentence is 25 years; the cumulative total is expected to increase over time. However, this trend is seen also with second strikers, some of who have presumably been eligible

for release over the fourteen-year timespan represented in these graphs. This could mean that prosecutors and judges are using sentencing discretion less frequently for violent offenders than other offenders, and/or it could mean that violent offenses have been increasing in these counties over this same time period. A future study could compare these trend lines with crime rates in these counties over the same period of time to see if this is responsible for the steady increase.

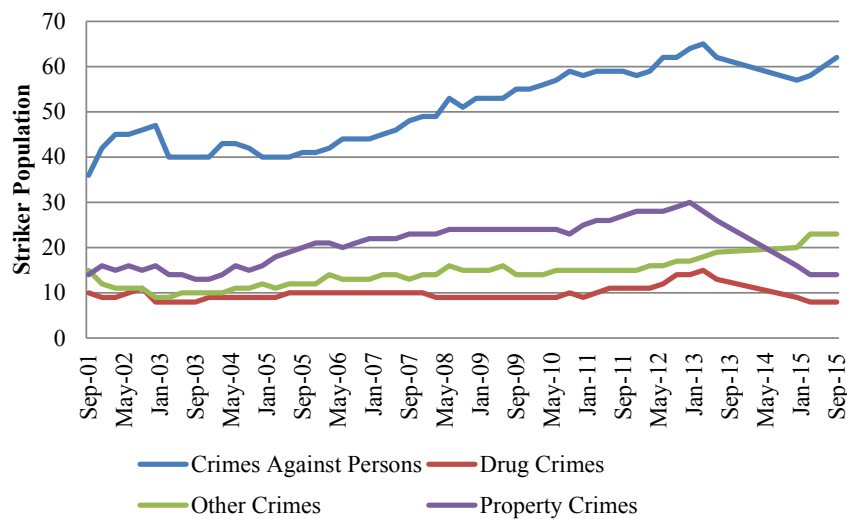
**FIGURE 3: URBAN TOTAL STRIKER POPULATION**



**FIGURE 4: RURAL SECOND STRIKER POPULATION**



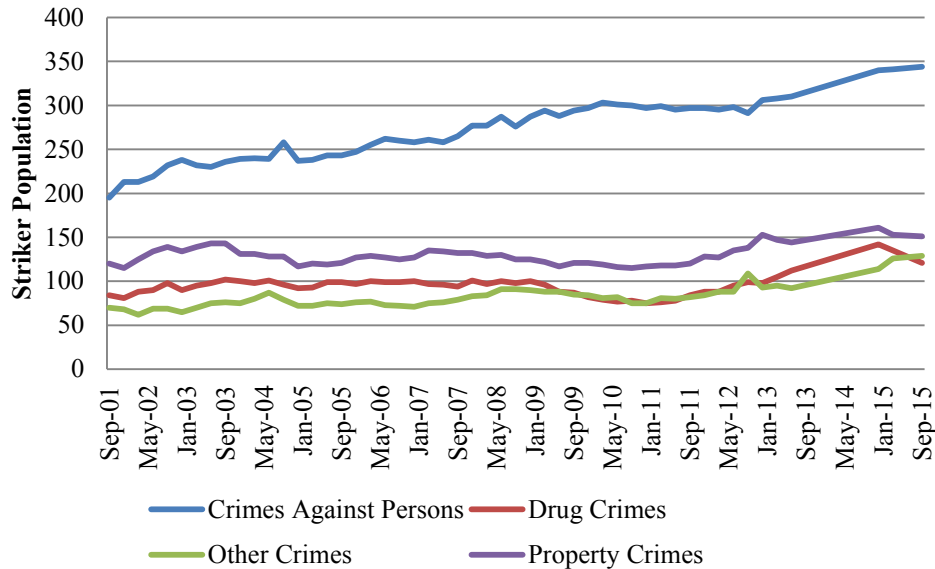
**FIGURE 5: RURAL 3RD STRIKER POPULATION**



As can be seen in Figures 3 and 6, strike offenders in urban and rural counties are sentenced more often for crimes against persons than they are for property crimes, drug crimes, and miscellaneous “other crimes.” Over time, there have been two- to two-and-a-half times more sentences in rural counties for crimes against persons than sentences for property crimes, and this ratio is similar to what was observed in urban counties (Figure 3). However,

the difference between the number of strike offenders sentenced for violent offenses and the number of drug offenders is much smaller than the difference observed in urban counties. This could be attributed to the very few cases originating in those counties (in September 2015, the cumulative number was only 129), or it could be attributed to a difference in the way that those counties process strike cases or criminal cases altogether.

**FIGURE 6: RURAL TOTAL STRIKER POPULATION**



## CONCLUSION

Although the trends in strike offense sentences observed in urban counties and rural counties had observable differences, there were a number of consistencies, too. In both urban and rural counties, priority seemed to be given to sentences for offenders who committed crimes against persons. Urban counties and rural counties sentenced more two- and three-strike offenders for violent crimes than any other type of crime. This should reassure those who were concerned that the law was targeting the wrong type of offender that the implementation of the sentencing measure did indeed focus on those who presented an ongoing threat to public safety. Far fewer strike offenders received lengthy sentences for property offenses and drug offenses, and this was seen consistently across time. Since overall crime data reveal that property offenses and drug offenses occur far more often than violent offenses, this should also reassure critics of the law that prosecutors and judges are using their discretion to shield lesser offenders from the full effects of the law and, instead, prioritize resources for those who have a clear record of harming others.