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Research Paper

Three Strikes in California

Polly Klass was a Petaluma, California, girl who was kidnapped and murdered October 1, 1993 by a convicted child molester (Wood 2). Klass's murderer was also convicted of two other felonies prior to this homicide. California legislators were fed up with felons who repeatedly committed serious crimes, so they tried to think of a way to punish three-time felons that would be constitutionally suitable for the state of California. That's when they developed with the controversial idea of the "three strikes" law. When they enacted three strikes, they thought about the resume of Klass's murderer, which is why they created something that would put career criminals like him behind bars for a long period, possibly for life.

Three strikes is a law that has created controversy and concerns in California. Introduced in 1994, by both popular initiative and legislative action, the law "requires a defendant convicted of a felony to serve an indeterminate life sentence when it is proved that he has committed two or more previous felonies defined as "violent" or "serious" (Lungren 1). Felons given a life sentence qualify for parole only after serving twenty-five years or three times the term that the current conviction would ordinarily warrant, whichever is greater (Lungren 1). Although this law has made repeat felons pay their debt

to society, it violates the amendment against cruel and unusual punishment, is too expensive, causes prison overcrowding, and has put witnesses, police, and courthouses in danger of getting harmed by these convicted felons. Because of this law, police work has become more dangerous; a courthouse got blown up; California is facing its biggest debt in years; and convicted inmates can be charged with their “third strike,” even if they commit a simple misdemeanor such as a petty theft or possession of a small bag of marijuana. Three strikes has caused a lot of problems and commotion in California, which is why it needs to be rectified.

Three strikes is dangerous and has put the lives of police officers and witnesses in danger. Felons convicted under three strikes sometimes tend to feel that they have nothing to lose if they are going to serve a 25-year to life sentence, meaning that they are willing to kill police, witnesses, innocent bystanders, and blow up courthouses just to “max out” their sentence. For example, a bomb exploded in front of the county courthouse in Vallejo, California (“It Needed” 1). According, to an article titled “It Needed,” the suspect “was a man with two felony convictions who, it was said, intended to avoid a third trial by demolishing the courthouse where his trial was to take place” (1). Also, according to Daniel Wood, staff writer of the “Christian Science Monitor”, Los Angeles Police Department Lt. Anthony Alba states, “ You might compare a possible third-striker to a cornered animal.... If he knows he is going to get life in jail, he is definitely going to ante in eluding his captors” (Wood 1). Because of this law, police had no other choice but to shoot and murder three suspects and injured a fourth in four separate cases almost 48 hours apart in Southern California’s San Fernando Valley (Wood 1). Why make an officer’s job more complicated than it already is? However,

according to Wood, there have been other assaults on officers by repeat felons. Wood believes that, by the LAPD's statistics, "the number of assaults on officers has dropped nearly 50 percent, according to a 1992 article" (2). Also, "The number of LAPD arrests since then has dropped precipitously, from 290,000 to 189,000 since 1991, a trend that exceeded the modest dip in reported crimes both here and nationally" (Wood 2).

Three strikes is also costly to society. The U.S. Department of Justice report on justice expenditures and employment states, "only three cents of every tax dollar goes to public safety such as police, courts, prisons, jails, and related activities" (Lungren 4). The defendants or their lawyers would now recommend jury trials to avoid being incarcerated. This law will most likely need an additional "17,000 jury trials a year, at a cost of 27 million" ("It Needed" 2). What about the people who are already charged under three strikes, especially the elderly? The annual budget for California's Department of Corrections is about \$5.2 billion, and just to house elderly inmates alone in California is about \$4 billion because of their health care cost. Older inmates' expenses triple those of younger inmates, mainly as a result of health care costs (Martin 2). According to an article by Mark Martin, "Some lawmakers have questioned the need to keep 70 and 80 year olds with severe health problems behind bars" (2). These expenses have to raise concerns for taxpayers, whether they would be forced to pay higher taxes to support three strikes. Rand Research Corporation found that a bad fiscal future awaits California citizens, who will pay a heavy price for the gains of three strikes. The law will cost local taxpayers \$5.5 billion, \$27.5 billion more than what the state Department of Corrections had projected (Sileo 2). Many analysts believe that "the state will have to cut social services drastically, by about half, or greatly raise taxes, or both" (Sileo 2).

According to “String ‘em up,” in 1992, taxpayers “shelled out \$34 billion to run federal and state prisons, not counting billions more for new construction...That’s fifty percent more than the national total for aid to Families with Dependent children” (1). This happened the same year that Michigan invested 12 percent of its state funds on jails, while funds for transportation and education were being taken away (“String em up” 1). Will California’s schools and roads get snubbed just like Michigan’s? If so, will I be able to attend UCLA next year and receive some type of financial aid?

Cutting money from public schools would not be fair because society has interested students attending them and they will not have updated resources to perform at their best level, because most of the money would go to rehabilitation services for inmates to help educate them. California’s Department of Corrections offer GED programs and vocational training, but less than half the inmates succeed in these programs. California is known for its higher education programs, but now, warns the Rand Study, the law “may be a time bomb that could...undermine the college opportunities of thousands of Californians” (Sileo 2). On the other hand, there have been some ideas to help the state get out of its turmoil. Martin believes that, “The Legislative analyst’s office, which gives nonpartisan budget advice to lawmakers, recommended last week that the state release between 250 and 300 older inmates who committed non-violent crimes” (2). The analyst office believes that this idea would save the state \$9 million because older inmates are highly unlikely to return to crime (Martin 2). Don Thompson, an Associated Press writer, states that, “Other states found they can cut costs without early release by incarcerating elderly inmates in a single prison with onsite health care; housing such low escape risks in minimum security facilities; using electronic bracelets to monitor inmates at home or

in nursing homes; and converting surplus institutions to elder care more cheaply than building new prisons” (2) Also, Dan Lungren, author of the article “Three Cheers for 3 strikes,” claims that, “The cost to society and victims for each crime range from \$2,940.00 for each murder, to \$1,400 for each burglary,” and had California not experienced the post “three strikes” drop in crime in 1994 and 1995, it would have cost \$2.66 billion for the additional murders, \$174.3 million for each additional rapes, \$707.9 million for the additional robberies, \$108.5 million for the additional aggravated assaults, and \$ 129.9 million for the additional burglaries (4). These projections would not work because it seems that no matter how much you try to punish criminals, they sometimes just do not understand and do not care. The only way California will see a change in its budget is if it reforms the law or creates a new one.

Three strikes is overcrowding California’s prisons, county jails and courts. Jonathan Turley, a professor at the University of Washington Law School, states that, “The state’s ‘horrific’ recidivism rate, aging population, budget problems and three-strikes life sentencing law will combine to create “crippling” overcrowding and budget-busting costs I the next decade” (Thompson1). California is looking at a prison outrage that is the most critical in the country (Thompson 1). Why force the state budget into disarray when you can simply charge a suspect with a basic sentence for his actions? For example, if a person steals a pack of batteries on his third strike, charge him or her with a misdemeanor, not a felony because the act is defined as a petty theft and not a burglary. The number of inmates charged under three strikes is noteworthy. Clark believes that as of December 31, 1996, “a total of 26,074 offenders have been admitted to the California Department of Corrections (CDC) for either a two- or three-strikes sentence.... Of this

number, nearly 90 percent were sentenced under two-strikes provisions (3). Some analysts believe that California courts would become exhausted, as defendants facing enhanced penalties would want jury trials (3). As a result, “The added time to process cases through trials and the reluctance to release pending trial defendants who were facing long prison terms would cause jail populations to explode as the number of admissions and length of jail stays grew (Clark 3). Also, according to Clark, “Early evidence from California indicated that these predictions were proving correct...a review of 12,600 two-and three-strike cases from Los Angeles, for example, showed that two-strikes cases remained pending in court 16 percent longer than non-strike cases” (3). In addition, strike cases were “three times more likely to go to trial than non-strike felonies and four times more likely to go to trial than the same type of cases before the law took effect (Clark 3). As a result, there was a 25 percent increase in jury trials as well as an 11 percent increase in the proportion of the jail population held in pretrial statuses, from 59 percent before the law was activated (3). In addition, a survey of sheriff’s departments throughout the state showed that the “pretrial detainee population had grown statewide, going from 51 percent of the average daily population before three strikes to 61 percent by January 1, 1995” (Clark 3). These statistics are cause for concern. However, the numbers are not as big as originally estimated. Clark claims CDC “recently lowered its 5 year projection by nearly 40,000 inmates, principally because there have been as many as two strikes admissions as expected and because judges have modified their sentencing practices for two-strike cases” (4). Moreover, more recent data show that at least some counties in the state are learning to deal with the increases brought about three strikes. A survey of eight counties with populations of more than 1 million “identified several

counties that have successfully disposed of two- and three-strikes cases early in the process” (Clark 3). According to Clark, “under the Delay Reduction program, a new pilot project in one of Los Angeles county’s Superior Court districts implemented as a result of the added burdens the three-strikes law imposed on the court- the pending caseload of criminal cases has been reduced dramatically” (3). Also, the most recent statistics from the Los Angeles Sheriff’s Department implemented that the pace of strikes cases coming into that system may be decreasing. Clark believes that “the number of two-strikes cases filed by the Los Angeles district attorney declined by 15 percent between the second quarter of 1995 and the second quarter of 1996...Likewise, there was a 28 percent decline between the two periods in the number of three strikes cases filed” (3).

According to Clark, however, he mentions that it is too soon to state whether there is another possible answer (3). If the changes are not definite, maybe it means that the law is not working. Why would you want to support a law that does not produce significant and updated outcomes, especially if it is causing a population crisis in state prisons, local jails and courts? We as tax paying citizens are fed up with paying for higher taxes to help pay for new prisons, jails, and courts. It’s always the victims who wind up suffering in the end.

Three strikes violates the amendment against cruel and unusual punishment. For example, Leonardo Andreas, the first inmate to be charged under three strikes, was sentenced to fifty years in prison for stealing children videotapes from three different K-Mart stores that estimated \$153 dollars in total. This is ridiculous to charge a man with a stiff sentence such as that. According to criminal apologists, in such cases as Andreas’s, this law does not mandate appropriate punishment. Lungren believes, “these critics focus

on the cases in which a habitual felon is charged with a 'minor' property of drug offense that qualifies as a third strike" (2). In addition, Lungren believes that that, "they allege it is wholly improper to impose an indeterminate life sentence for a 'minor' crime and that instead the offender should be given special consideration or more lenient treatment...

The Philosophical approach advocated here is that criminal conduct should be viewed in isolation of past history and surrounding circumstances" (2). Some judges view crime collectively instead of individually when charging a defendant under three strikes. They tend to forget what types of crime or crimes the suspect committed and instead view all crimes as felonies. Princeton professor John Dilulio recently wrote, "most Americans rightly think in terms of total criminality, the full social and moral weight of an offender's acts against life, liberty, and prosperity" (Lungren 2). In addition, three strikes have a serious effect on the behavior of inmates. According to Gregory Gaines, a veteran homicide detective in the Sacramento police department, he states, "you hear the criminals talking about it all the time. These guys are really squirming. They know what's going on...I've flipped 100 percent" (Lungren 3). Judges also feel that three strikes unfair. According to Sileo, Last December, Sonoma County, California, Judge Lawrence Antolini defied state law by refusing to sentence Jeffery Missamore to life imprisonment under the state's "three strikes and you're out" law (Lundgren 1).

Missamore was a shoplifter whose final strike had been to sneak a marijuana cigarette into jail. Antolini called the mandate unconstitutional, saying "it violated the ban on cruel and unusual punishment and interfered with a judge's sentencing authority" (Sileo 1).

The judge placed Missamore on probation instead. On the other hand, many people feel that the law is a good fit to society. In viewing Lungren, " the law provides consistency

and impartiality to the life of the state and its citizens” (2). He also noted, “as individuals exercise their individual, personal liberties in living their lives and in interacting with others, they also become personally accountable for the choices they make, choices from which clear consequences arise” (2). To have an inmate in prison for life just for some petty thefts can drive them crazy. Usually inmates think about the crime they committed in their cells, which can play a psychological disturbance to the brain. Inmates go crazy and possibly would commit suicide because of the depression they are suffering from. For these reasons, the law should be reformed to save an inmate’s life.

Overall, this law has caused many problems throughout California. Prison over-population, cruel and unusual punishment, the economy, and the safety of society will not change unless there is a new law created that serves justice to both inmates and society, balances with the state budget, does not violate the Eighth Amendment, and provides safety for police and witnesses. Taxpayers do not want to pay higher taxes; My friends and I want to be able to attend California’s public universities, police and witnesses do not want to feel fear when they tell on a suspect, and inmates want their rights to be protected. For these reasons, reconstruction of “three strikes” needs to become in progress right away to provide for a better and safer society in California for years to come. Let this be a lesson to Washington and any other states that base their criminal laws on three strikes.