

Segment 1: The “Power Few” and “Push-Button” Criminology

Dr. Sherman suggests that applying popular economic theory to criminology might be a key to helping states balance their criminal justice budgets. Push-button criminology requires identifying the “power few”—the small handful of criminals who commit the majority of offenses—and adjusting sentencing policies to target this group. Ultimately, Dr. Sherman says, we must incapacitate certain offenders and reallocate criminal justice funds to better support crime prevention through increased police presence.

Segment 2: The Crime Harm Index

The right question to ask regarding crime rates, Dr. Sherman says, is not whether it is going up or down, but how the crime adds up—what is the overall harm to society? He compares this “crime harm index” to the gross domestic product and challenges the Bureau of Justice Statistics to implement such an index to accurately inform the nation on U.S. crime rates.

Segment 3: Crime and Justice Research Needs to Evaluate Cost-Effectiveness

Dr. Sherman recommends that researchers include cost data in studies and research grants that systematically review the criminal justice system so that governments can better determine what crime prevention efforts they can afford and how much they want to spend. Reiterating that only a handful of offenders are committing a large number of crimes, he again suggested that one more cost-effective strategy would be to “reconfigure [the criminal justice] portfolio” by reducing prison spending, increasing investments in policing, and managing those investments “more aggressively in the direction of the strategies that are effective.”

Segment 4: The Role of the Federal Government in Solving Crime and Justice Problems

Because of its large-scale economy, Dr. Sherman argues that the federal government should play a much larger role in research and development of strategies to transform criminal justice operations at all levels. He recommends considering criminal justice as an integrated multi-governmental effort.

Segment 5: Criminological Forecasting

Dr. Sherman suggests using criminological forecasting, coupled with more selective incarceration, to better maintain crime rates. He argues it may be more accurate to forecast crime rates than to allow judges and

prosecutors to determine incarceration based on a rap sheet that may accurately reflect the likelihood that an offender will return to a life of crime.

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Issue in Focus

Three-Strikes Laws: Past and Present

In the mid-1990s, “three strikes and you’re out” were buzzwords in sentencing reform. Fifteen years later, states continue to enact and amend three-strikes laws, reexamining penalties that are best suited to crack down on habitual offenders.

Early Three-Strikes Laws: 1993 – 1995

[“Three strikes and you’re out” for habitual offenders](#) was coined and successfully carried out in the 1993 fall elections in Washington, where voters approved the Persistent Felony Offender Act. It required life without the possibility of parole for third-time serious felony offenders.

Three-strikes laws generally require a prison term for habitual or persistent offenders. However, the number and types of crimes that trigger a three-strikes sentence, as well as the length of the prison term, differ from state to state.

Nearly all states have some type of sentence enhancement that applies to habitual offenders, and many states have mandatory minimum provisions that apply to repeat offenders of violent crimes. The three-time loser notion caught on in the early 1990s; 24 states passed laws between 1993 and 1995.

In 1994, California, Colorado, Connecticut, Georgia, Indiana, Kansas, Louisiana, Maryland, New Mexico, North Carolina, Tennessee, Virginia and Wisconsin enacted “three-strikes”-type laws. An additional 10 states—Arkansas, Florida, Montana, North Dakota, New Jersey, Nevada, Pennsylvania, South Carolina, Utah and Vermont—passed laws in 1995.

Current Three-Strikes Laws

Of the 24 states that enacted three-strikes laws during the early 1990s, at least 16 have since made notable changes. In particular, states eliminated life without parole penalties and replaced mandatory sentences with sentencing ranges. However, three-strikes laws in at least eight states—Arkansas, Georgia, New Mexico, North Dakota, Tennessee, Utah, Vermont and Virginia—remain as first enacted.

Gaining notoriety on several criminal justice issues, [South Carolina’s 2010 Omnibus Crime Reduction and Sentence Reform Act](#) modified the state’s three-strikes law. The new law eliminated the requirement that three-strikes penalties are mandatory. Under the state’s three-strikes laws, punishment for two- and three-strikes convictions can be terms up to life without parole. The act also adds certain crimes—such as attempted murder, first degree assault and battery by a mob, second degree assault and battery by a mob, and assault and battery of a high and aggravated nature—to the list of “most serious offenses” that are punishable under the three-strikes statute. Certain offenders that are within three years of release now are eligible for parole or work release. Like South Carolina, at least 10 other

states—Colorado, Connecticut, Florida, Kansas, Louisiana, Maryland, Montana, Nevada, New Jersey, and Wisconsin—have increased judicial discretion in three-strikes sentencing. In Florida, for example, judges are not required to apply penalties to two-strikes offenders; rather, they may penalize an offender up to a certain maximum, depending on the underlying offense.

At least seven states—Indiana, Louisiana, Montana, Nevada, New Jersey, North Carolina, and Wisconsin—have eliminated the possibility of life without parole or narrowed the circumstances under which the court can impose a life without parole sentence for three-strikes offenses. Montana eliminated life without parole, replacing it with sentencing ranges and also allowing the judge to impose fines. Under Nevada’s updated three-strikes law, an offender can be eligible for parole after a minimum prison term is served. North Carolina’s life without parole sentence and review for parole eligibility after 25 years served provisions were eliminated. Instead, the law requires that the sentence for habitual offender status run consecutively with the sentence for the underlying felony conviction.

At least eight states have created sentencing ranges under their three-strikes laws. Connecticut changed its three-strikes sentencing from mandatory maximum prison terms to minimum and maximum ranges, depending on the offense. Nevada added several sentencing ranges to those available for third-strike offenders in addition to the life sentence requirements in the original law. Louisiana requires a determinate sentence, but provides ranges within which the sentence

must fall, depending on whether it is a second or third conviction and on the applicable sentence for the underlying offense. Pennsylvania maintained its mandatory minimum sentences, but added mandatory maximum sentences for two- and three-strikes provisions to carry a minimum prison term that is double the length of the mandatory minimum.

Since California’s three-strikes law passed in 1994, the Legislature has removed the mandatory life sentence penalty (that required at least 25 years be served) for third-strike offenders. The law now requires offenders to serve a prison term three times that for the underlying offense, 25 years, or the term for the underlying offense plus any sentence enhancements, whichever is the greatest of the three. More than 15 years after initial popularity, states such as California continue to review and refine their three-strikes laws.

On A Related Note

On the Hill

National Criminal Justice Commission Act

On July 27, 2010, the U.S. House of Representatives passed the [National Criminal Justice Commission Act of 2010](#) (HR 5143), which would establish a national, bipartisan commission to conduct a comprehensive evaluation of the nation’s criminal justice system and offer recommendations for reform in areas including sentencing policy, incarceration rates, law enforcement, crime prevention, substance abuse, corrections and reentry. A [Senate version](#), S. 714, currently is pending. The NCSL Law and Criminal Justice