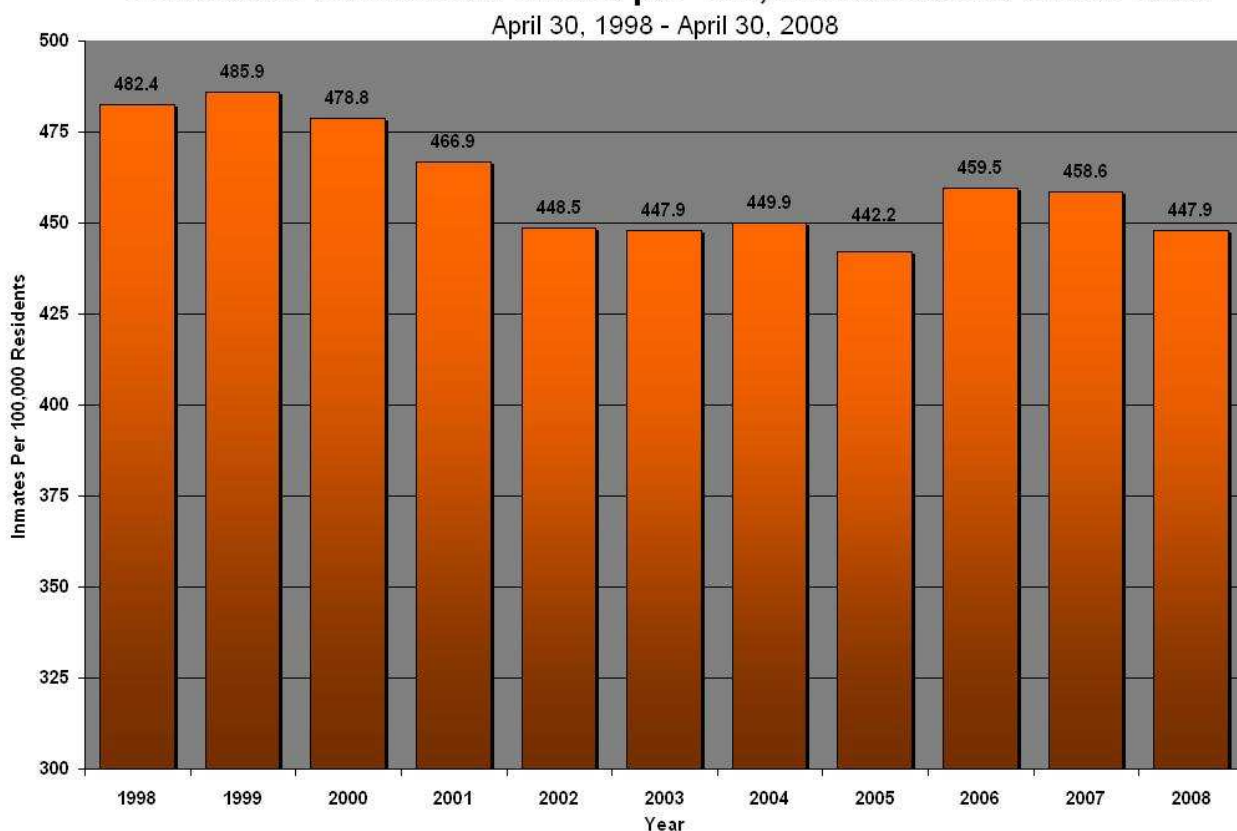


Earlier this year the Pew Institute published *One in 100: Behind Bars in America 2008* a decidedly critical evaluation of U.S. prison policy. The report nonetheless correctly identifies California's incarceration rate (prison and jails) as very ordinary with at least 20 other states reporting more inmates per 100,000 residents.

On January 1, 2008 Texas, with 13 million fewer people, had more prison inmates than California. The report in addition demonstrates that California is on the bottom fifth of all states regarding recent growth in prison population. This is because the much discussed explosion in California's recent prison population simply has not occurred. California had 12.5% of the national population as well as 12.5% of the inmates incarcerated in all state prisons.

During the past 10 years (April 30, 1998 through April 30, 2008) California's total inmate population has grown an average of less than 1% per year, slower than the composite inmate population growth rate for the other 49 states and considerably slower than California's overall population growth. Accordingly, California has a lower prison incarceration rate in 2008 than it did in 1998.

Inmates in California Prisons per 100,000 Residents Since 1998

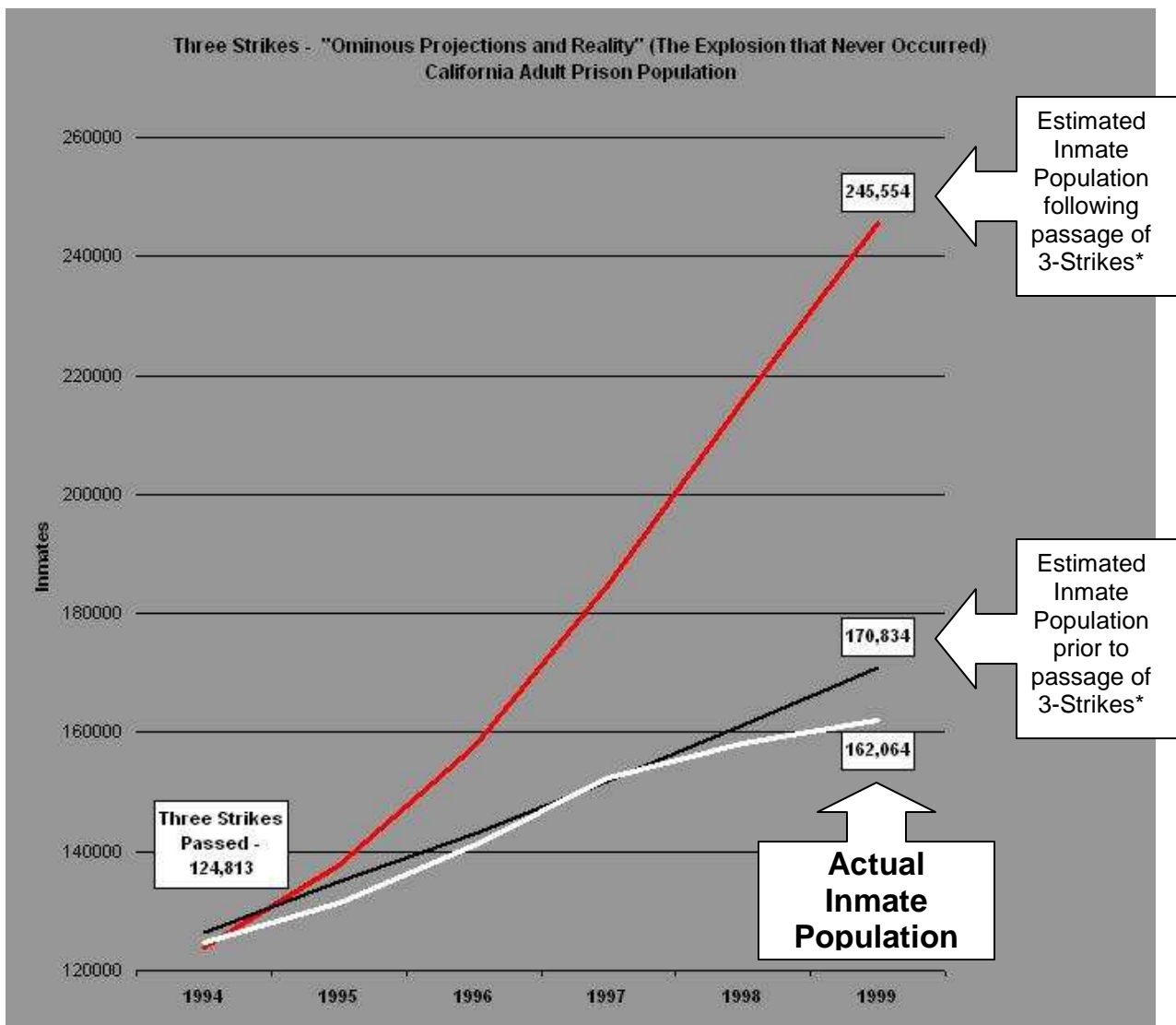


The fact that California's prison population is quite typical in relationship to its overall population was previously reported in *Understanding California Corrections* (2006), a University of California publication. That report, while critical of prison rehabilitation programs, helps clarify both the relative level of incarceration in California and the demographics of the inmates. It observes that two-thirds of the overall growth in

the prison population since 1994 (the year voters approved Three Strikes), is due to crimes against the person (especially robbery, assault, and homicide), whereas only 10% is due to drug related convictions. Moreover, for every 100 serious felonies reported in California there are approximately 40 adult arrests but only five offenders sentenced to state prison.

Indeed few criminal offenders are sent to state prison for a first, second, or even third felony unless they have committed murder, rape, or robbery with a firearm. A federal survey of inmates in state and federal facilities reported that 47% of the inmates in California prisons were violent recidivists while another 33% were non-violent recidivists. Of the 19% percent of inmates who were first time felons most had committed violent crimes against the person. Many California inmates had more than one prior felony conviction including 14% with two prior felony convictions, 25% with 3 to 5 prior felony convictions, 17% with 6 to 10 prior felony convictions, and 12% with 11 or more prior felony convictions. In addition, almost 60% of all inmates were already on parole or probation at the time they committed their most recent felony.

The slow growth and increasingly violent makeup of California's inmate population is at odds with the loud but unsupported claims of opponents of the criminal justice system and in stark contrast to the dire consequences predicted after the passage of "Three Strikes."



Both before and immediately after Three Strikes became California law in 1994, it was widely predicted, in public documents and the media, that California's prison population would explode. Prison population estimates for mid-year 1999 were recalculated by the California Department of Corrections, after Three Strikes passed, and increased from 171,000 to 245,000. Neither estimate was reached. On June 30, 1999, the actual state prison population was 162,000. With the advantage of hindsight, it is evident that the explosion in inmate growth never occurred.

On April 30, 2008 California's inmate population was approximately 170,000, less than the pre- Three Strike prison population estimate for June 30, 1999. Undaunted critics continue to insist that "Three Strikes" has caused explosive growth despite the absence of any basis in fact and irrefutable evidence to the contrary. Equally dubious is the claim that California prisons are filled with low level offenders and drug addicts. The most recent census (12/31/2007) of state prison inmates (California Department of Corrections and Rehabilitation online) reports that 53.1% of men in California's prison were committed for crimes against persons. These offenses are murder, manslaughter, rape, child molestation, kidnapping, aggravated assault and robbery. In addition tens of thousands of inmates committed for other offenses have violent criminal histories including approximately 7,750 inmates, currently incarcerated for different crimes, but previously convicted of one or more felony sex offenses.

CALIFORNIA STATE PRISON POPULATION (MALE)

December 31, 2007	160,144	
97% of male inmates are identified by commitment offense.		
<u>Commitment Crime</u>	<u>Actual Number Of Prisoners</u>	<u>Percentage of Total Prison Population</u>
Murder	22,005	13.7%
Manslaughter	3,556	2.2%
Robbery	18,920	11.8%
Assault/Battery or with deadly weapon	23,276	14.6%
Rape, child molest and other sex offenses	14,812	9.3%
Kidnapping	2,428	1.5%
CRIMES AGAINST PERSONS SUBTOTAL	84,997	53.1%
Burglary	12,379	7.7%
Arson	409	0.3%
D.U.I. (with priors OR injury)	2,320	1.4%
Escape	109	0.1%
Possession of a weapon (Felon in possession)	6,532	3.8%
Theft with prior felony conviction(s)	3,821	2.4%
Drug manufacture, sale, or possession for sale	18,711	11.8%
Lesser offense with serious or violent strike prior(s)	9,620	6.0%
TOTAL inmates convicted of crimes against persons, serious or violent crimes, or crimes aggravated by prior felony conviction(s)	138,898	86.7%

*The remaining inmates were not identified by commitment offense (2.7%) or were committed for drug possession or theft related felonies without identifiable aggravating criteria. Nonetheless almost all of these offenders have extensive juvenile and/OR adult records for commission of a wide spectrum of felonies.

The minority of inmates, those without a history of crimes against the person, are mostly career criminals with multiple convictions for crimes like residential burglary, sale of drugs or as a felon in possession of a firearm. Many of these offenders have 10 or more felony convictions and extensive juvenile records. Under Proposition 36 a person convicted of felony drug possession is generally not even eligible for incarceration until a third conviction. It is not easy to get into state prison without committing violent or multiple felonies.

The fundamental reason that critics of tough criminal penalties cannot come to grips with the facts is their unshakeable belief that longer sentences inevitably increase prison population. Experience tells us otherwise. In 1993, there were 126,000 robberies in California. In 1999 following the passage of Three Strikes and 10 -20-Life there were 60,000 robberies in California. Critics of Three Strikes quickly proclaimed that the drop in crime was unrelated to California's tougher penalties and just part of a national trend. But according to the FBI's U.S. Crime Index, California established the trend when its crime index dropped from fourth worst in 1993 worst to 29th among all states in 1999.

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

The number of robberies and robbery victims were cut in half and the number of robbers sent to prison was cut in almost equal proportion. Similar declines were experienced in the number of homicides and burglaries.

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

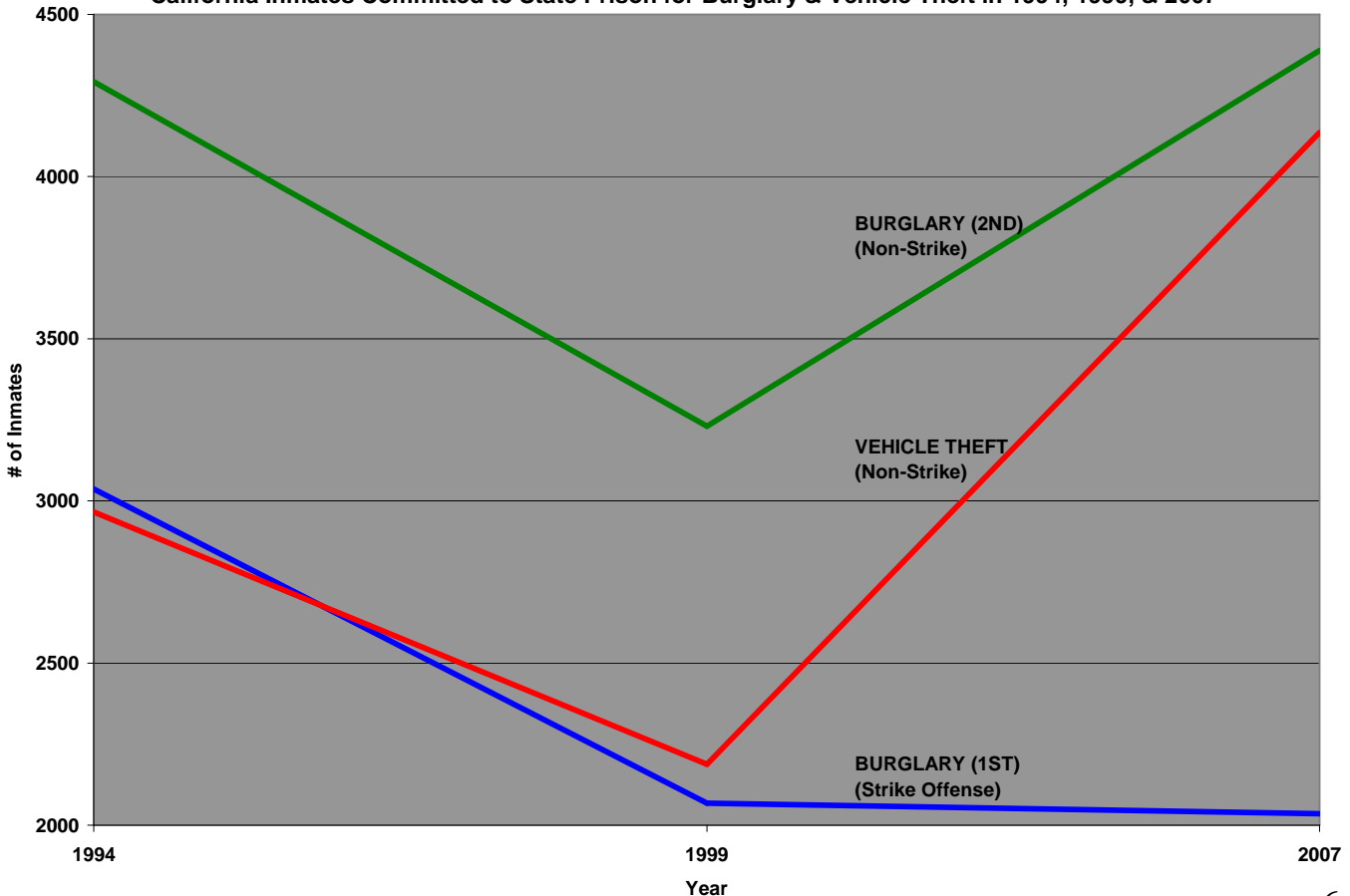
Offense*	Murder	Rape	Robbery	Burglary	Auto Theft
1993	4,095	11,754	126,347	413,671	319,225
1999	2,006	9,443	60,027	223,828	168,465
Offense Decrease 1993-1999	(2,089) ↓	(2,311) ↓	(66,320) ↓	(189,843) ↓	(150,760) ↓
**Rate Decrease 1993-1999	54% ↓	25% ↓	56% ↓	50% ↓	51% ↓

* Source of crime statistics is the California Crime Index (DOJ).

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

Opponents of tough criminal laws cannot accept that penalties deter crime. They presume that the same number of people will commit a crime whether the penalty is 5 years, 10 years, or 20 years. They are wrong. Since 1999, certain offenses with low penalties like vehicle theft have surged while the number of residential burglaries, which constitute “strikes,” have remained lower. When tough penalties contribute to fewer crimes there are also fewer criminals being sent to state prison.

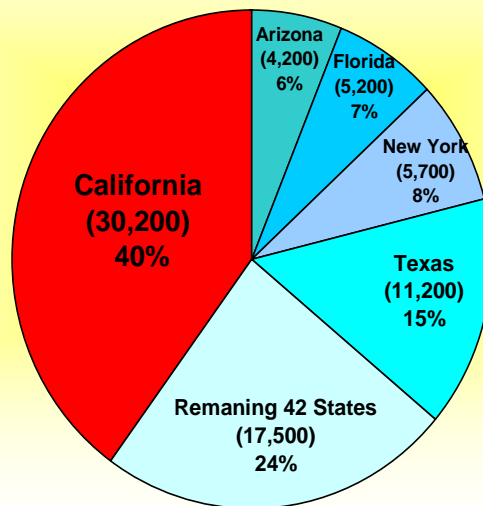
California Inmates Committed to State Prison for Burglary & Vehicle Theft in 1994, 1999, & 2007



While penalties for residential (1st degree) burglary increased under Three Strikes (1994) the number of inmates sentenced to prison for residential burglary has declined from 3036 in 1994 to 2036 in 2007. As a consequence, the total number of inmates in California prisons serving sentences for 1st degree burglary has dropped from 9442 (in 1994) to 7056 (in 2007). During the same period of time, the total number of inmates serving sentences for 2nd degree burglary and vehicle theft (non-strike offenses) has increased by more than 3000.

There are many things wrong with our prison system and a need for more investment in early interventions and rehabilitation programs as well as additional facilities. In the last 10 years California has added almost 5 million people to its population but has opened only one new prison. Since 1999 gang crimes including homicides have increased and have been more difficult to prosecute than other crimes. Our prisons are further strained because we are required to house more than 30,000 alien felons, many of them gang involved. They should be in Federal prisons. But for this disproportionate number of alien felon inmates, (more than the total of Texas, New York, Florida and Arizona combined) California's incarceration rate would fall below the national average.

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.



Under the circumstances California's laws and law enforcement have served the public remarkably well. Many people who advocate more offender education and fewer prison cells are, like the path to hell, driven by good intentions. Nonetheless before we begin to release prisoners or reduce criminal penalties in the hope of reducing inmate populations the public is entitled to know who resides in our state prisons and who will be returning to our streets. Armed with the facts most rational citizens will conclude that we need both more books and more bars.