

***CALIFORNIA
THREE STRIKES
SENTENCING***

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ABOUT THE AUTHORS



J. Richard Couzens is a retired superior court judge, having served on the Placer County bench for over 34 years. He remains on full-time active assignment in the Assigned Judges Program. Judge Couzens was Editor-in-Chief of the University of California, Davis Law Review, and was a law clerk to California Supreme Court Chief Justices Roger Traynor and Donald Wright. He has served on the California

Judicial Council and the California State-Federal Judicial Council. Judge Couzens has been actively involved in many Judicial Council advisory committees, including a post as Chair of the Criminal Law Standing Advisory Committee. He has written and taught on a wide variety juvenile and criminal law topics. He has been a regular member of the faculty of the B.E. Witkin Judicial College since 1995. Judge Couzens was selected as the 2008 Jurist of the Year by the Judicial Council.



Tricia A. Bigelow was the Presiding Justice of the California Court of Appeal, Second District, Division 8; she retired in 2021. Before her elevation, she was a trial judge on the Los Angeles Superior Court for 10 years and the Los Angeles Municipal Court for three years. She worked for the California Attorney General's Office in the Criminal Appeals, Writs and Trials section of the Los Angeles Office before her ap-

pointment to the bench. While there, she was a member of the Special Prosecutions Unit, a team of prosecutors who worked collaboratively with the Los Angeles District Attorney's Office and the United States Attorney's Office in the prosecution of white collar criminals. She also supervised deputy attorneys general in their appellate work and oversaw the trials in the office. Justice Bigelow is active in legal education and served as Chair of the New Judge Education Committee, where she acted as Dean of the annual two-week judicial college with the California Center for Judicial

Education and Research. She was also Chair of the Criminal Law Education Committee and has written and taught extensively on felony sentencing, sex crimes, criminal jury instructions and judicial ethics.

INTRODUCTION TO THE 2022 EDITION

New features and recent developments in this 2022 edition include updates to relevant statutes, rules, and case law. This edition contains new case summaries on topics such as:

- General Sentencing Principles for all Three Strikes Cases
- Authority of Courts to Dismiss Strikes (Penal Code § 1385)
- Petition for Resentencing (Penal Code § 1170.126)

PREFACE

This book is dedicated to the judges and attorneys who spend their days fighting for justice in the trenches of criminal law courtrooms every day. Our intent is to lighten your load by demystifying some of the Byzantine rules that underlie California's sentencing law.

California Three Strikes Sentencing began as an attempt to understand the Three Strikes Law when it was first enacted in 1994. It had its genesis in a 10-page outline of the new statutes and, with a proliferation of cases interpreting the law, went through many rewrites and edits to evolve into this expansive publication.

We have organized the book in a linear fashion . . . to better track the process of a criminal case. It is intended to answer questions from the most basic to the most difficult. The book starts with the text of the statutes, indicates how to prove or challenge a strike, and provides step-by-step instructions on calculating third strike sentences involving single counts and multiple convictions. It has an extensive discussion of *Romero* motions, and provides case law on all the constitutional challenges the law has survived.

We plan to keep this book current and to improve it in the years to come. With that goal in mind, we *invite and encourage your comments!*



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