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**PROMOTIONAL EXAMINATION 2008**  
**Pre-University 2**

**GENERAL PAPER**  
**PAPER 2**

**8806/2**

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1 hour 30 minutes

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Write your **name**, **class** and **admission number** in the spaces provided at the top of this page.

This insert contains the passage for Paper 2.

This document consists of 3 printed pages.

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## Responses to Crime

Lee writes .....

- 1 Recently, one of the most popular proposals in the effort to get tough on crime has been the "three-strikes-and-you're-out" proposal. This law, which is already in effect in Washington state and California, requires that offenders convicted of three violent crimes be sentenced to life in prison without parole. This proposal has received broad-based support from federal and state politicians including President Bill Clinton, Senator Bob Dole, and Governor Mario Cuomo. The law is based on the idea that the majority of felonies are committed by 6% of "hard core" criminals, and that crime can be reduced by getting these criminals off the streets. Unfortunately, the proposal fails to take into account several major flaws in the law and its implementation. 5
- 2 Opponents of this proposal claim that it is ineffective as its principle of removing judicial discretion, severely hinders a judge's ability to make the punishment fit the crime. One man in Washington is faced with life in prison if convicted of his third felony: stealing \$120 from a sandwich shop. His prior two convictions were for similar crimes. While it is certainly true that some incorrigible felons deserve life in prison, it is patently unfair to create a sweeping standard that would force the courts to sentence offenders to jail for life for relatively minor crimes. Even for more serious crimes, removing all discretion from sentencing denies many prisoners the chance to turn their lives around. A three-strikes law would deny this chance for felons to turn their lives around. Felons are capable of reform, but this law would deny them that chance. 10 15 20
- 3 The assumption that all three-time offenders are incorrigible criminals who can never hope to become law-abiding citizens is a gross oversimplification of a complex problem. Three-strikes is based on this assumption that a few extreme cases are representative of all criminals, and is therefore divorced from reality. Three-strikes also has serious constitutional problems. The most obvious constitutional objection is that the policy is a form of cruel and unusual punishment, especially when applied to the young for relatively minor offences. Under the policy, a person would face life in prison at age seventeen; life imprisonment for a seventeen-year-old seems cruel and unusual by most standards and unconstitutional. Closely linked to this is the constitutional principle of proportionality that the punishment should not be more than is merited by the crime. By requiring it, the law contravenes a basic judicial principle. 25 30
- 4 An equally serious constitutional problem is that three-strikes violates the principle of punishment for specific offences. Under American law, the government can only punish criminals for specific crimes they commit. Three-strikes, on the other hand, does not punish for a specific crime but instead establishes an arbitrary standard that judges the person, not the crime, to be immoral. It does not punish a criminal for a specific offence, but instead punishes that person for general past behaviour. The final constitutional difficulty with the plan is that it violates separation of powers within the judicial system by putting sentencing jurisdiction in the hands of the prosecutor rather than the judge. A prosecutor decides whether to try someone for a three-strike felony or for a lesser charge, and thus the prosecutor makes the decision as to the penalty should the person be convicted. The prosecutor assumes the role of judge, which is blatantly unfair to the accused and destroys the impartiality of the system. The prosecutor has a conflict of interest, since his or her career depends on the conviction and punishment of offenders. This gives the prosecutor a motive to ask for a more serious punishment than the crime merits, and so it violates the separation of powers. 35 40 45 50

- 5 Proponents of three-strikes also claim that it is racially neutral, since it provides one sentence for all offenders. Unfortunately, evidence suggests that the opposite is true. In the case of mandatory drug sentences, between 1986 and 1991 arrests of minority adults rose 57%; arrests of white adults rose 6%. Blacks are more likely to be arrested and convicted for the same crime than whites. This makes them more likely to receive harsher sentences. Three-strikes would also worsen prison conditions throughout the system. In an attempt to save money, states and the federal government are already delaying or avoiding the construction of the prison facilities as a result of a nationwide budget-crunch. Prison conditions and overcrowding are a serious problem in many states, and mandatory sentencing laws only add to that problem. Overcrowding and decline in prison conditions cause concern not only for human decency, but also for practical control of prisons. 55 60
- 6 Perhaps the greatest problem with three-strikes is that it is an ineffective solution proposed to make politicians look good rather than to deal with the problem. The government policy of sending more people to prison and increasing sentences has been a complete failure in reducing crime. "Three strikes and you're out," writes Robert Gangi, Executive Director of the Correctional Association of New York, "represents extension of a policy that has proven a failure: prison expansion. Since 1973, New York's prison population has grown more than 500%, from 12,500 inmates to 64,500 today. But can anyone argue that the streets are safer or that drug abuse and violence are less a threat to the quality of our lives"? 65 70
- 7 There are also many alternatives to three-strikes that are more likely to work and that cost less money. Grassroots programmes for juvenile offenders tend to be more effective than prison. A study of 700 young offenders in California found that those placed in community treatment committed crimes again in 28% of cases, while those placed in prison committed further crime in 52% of cases. Also, programmes that target at-risk youth and attempt to reduce the chances of their committing crimes have proven fairly effective. One program in Baltimore, Maryland involves college students who work daily with a small group of "problem" youths over a two month period. After completing the program, none of the youths was convicted of any crime for at least 6 months. A three-strikes law means reduced availability of funds for programmes such as this. Robert Gangi notes that "less money would be available to support measures that actually stand a chance at reducing crime, ranging from drug rehabilitation and community policing to economic development programmes." Unfortunately, programmes like those Gangi describes have been attacked as "social pork" by conservative legislators who call them soft on crime. As an alternative to these crime policies of proven effectiveness, the American people have been handed a baseball slogan. 75 80 85 90