

SENTENCING LAW AND POLICY

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Conservatives latch onto prison reform

The title of this post is the headline of this terrific article in today's Los Angeles Times. Here are excerpts:

Reduced sentences for drug crimes. More job training and rehabilitation programs for nonviolent offenders. Expanded alternatives to doing hard time. In the not-too-distant past, conservatives might have derided those concepts as mushy-headed liberalism — the essence of “soft on crime.” Nowadays, these same ideas are central to a strategy being packaged as “conservative criminal justice reform,” and have rolled out in right-leaning states around the country in an effort to rein in budget-busting corrections costs.

Encouraged by the recent success of reform efforts in Republican-dominated Texas — where prison population growth has slowed and crime is down — conservative leaders elsewhere have embraced their own versions of the strategy. South Carolina adopted a similar reform package last year. Republican governors are backing proposals in Louisiana and Indiana.

The about-face might feel dramatic to those who remember the get-tough policies that many conservatives embraced in the 1980s and '90s: In Texas, Republican Clayton Williams ran his unsuccessful 1990 gubernatorial campaign with a focus on doubling prison space and having first-time drug offenders “bustin’ rocks” in military-style prison camps.

Now, with most states suffering from nightmare budget crises, many conservatives have acknowledged that hard-line strategies, while

partially contributing to a drop in crime, have also added to fiscal havoc. Corrections is now the second-fastest growing spending category for states, behind Medicaid, costing \$50 billion annually and accounting for 1 of every 14 discretionary dollars, according to the Pew Center on the States.

That crisis affects both parties, and state Democratic leaders have also been looking for ways to reduce prison populations. But it is conservatives who have been working most conspicuously to square their new strategies with their philosophical beliefs — and sell them to followers long accustomed to a lock-'em-up message.

Much of that work is being done by a new advocacy group called Right on Crime, which has been endorsed by conservative luminaries such as former House Speaker Newt Gingrich, former Education Secretary William J. Bennett, and Grover Norquist of Americans for Tax Reform. The group has identified 21 states engaged in some aspect of what they consider to be conservative reform, including California.

On its website, the group concedes that the “incarceration-focused” strategies of old filled jails with nonviolent offenders and bloated prison budgets, while failing to prevent many convicts from returning to crime when they got out.... The right's embrace of ideas long espoused by nonpartisan and liberal reform groups has its own distinct flavor, focusing on prudent government spending more than social justice, and emphasizing the continuing need to punish serious criminals....

There are other conservative elements to the



Conservatives latch onto prison reform, continued

argument, including a criticism of the “overcriminalization” of business and a push for more incentive-based policies, like a 2009 California plan that pays cash bonuses to county probation agencies that lower recidivism.

Reform in Texas has been relatively well received among conservatives, in part because of the results, and in part because of a good sales job. Texas is among a number of states that have received guidance from the Pew Center’s Public Safety Performance Project, which promises that reforms will be data-driven and not affect public safety.

In March, two research companies polled 1,200 U.S. voters and conducted focus groups for Pew, then suggested “effective messages” for lawmakers interested in reform. Among the tips: Focus on the success in Texas, given its “strong law-and-order reputation.” And avoid arguments based on “racial justice concerns.”

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As detailed in prior posts linked below, I have been following this still-developing story for quite some time. There are two especially important “insider” points about the “Right on Crime movement” not

stressed in this otherwise effective piece: (1) after the 2010 election, Republicans are in firm governing control in many states with the biggest prison budget problems, and thus this movement helps provide political cover for those Republican leaders who (sensibly?) prefer cost-cutting prison reforms to tax increases, and (2) Newt Gingrich has taken up this issue at the same time he seems to be talking serious about making a run for Republican nomination for President in 2012. These two “insider” points are especially important because, in my mind, they minimize the prospect of this movement being only a short-term phenomenon for only a few libertarian-minded conservatives. Budget problems for red (and blue) states with large prison populations are not going away any time soon, and the political profile of Newt Gingrich does not seem likely to fade in the next few election cycles.

Meanwhile, as highlighted by this new *New York Times* article, which is headlined “As Republicans Resist Closing Prisons, Cuomo Is Said to Scale Back Plan,” the Right on Crime movement has not yet transformed the usual left-right political debates over criminal justice reform in all regions of the country. Like politics generally, all prison reform politics is ultimately local.

