

## Republicans Rethinking ‘Tough on Crime’

**Criminal-justice reform is increasingly an issue among potential 2016 candidates.**

**By Michael Tanner**

**March 17, 2015**

It wasn't so very long ago that every Republican running for higher office sounded as if he were really running for sheriff. "Tough on crime" was a slogan that never failed. Remember Willie Horton?

But this time around, something is different. Most of the Republican presidential candidates are touting their positions in favor of reducing prison time, allowing some felons to expunge or seal their criminal records, and even reforming federal drug laws. Rather than putting more people in jail and throwing away the key, Republicans are for letting people out of jail.

Senator Rand Paul, of course, has been the candidate most identified with calls for criminal-justice reform, both rhetorically and legislatively. Recently, for example, he joined Democratic Senators Cory Booker (N.J.) and Kirsten Gillibrand (N.Y.) in sponsoring legislation that would repeal the federal ban on marijuana. Paul has also co-sponsored the REDEEM (Record Expungement Designed to Enhance Employment) Act with Booker, to make it easier to expunge or seal criminal records for nonviolent offenses. The idea behind the legislation is that a youthful arrest for marijuana possession or joy-riding should not become a permanent barrier to getting a job.

But Paul is not the only senator cum presidential aspirant advocating criminal-justice reform.

Senator Ted Cruz has also been an important voice for reform. Recently, he joined Democratic Senators Richard Durbin (Ill.) and Patrick Leahy (Vt.), as well as Booker, in introducing legislation that would significantly reduce sentences for many federal drug crimes. That bill passed the Judiciary Committee last year by a vote of 12 to 5. Cruz also co-sponsored legislation with Senator Paul to make the reduction in crack sentencing approved by Congress in 2010 retroactive, as well as cutting the mandatory minimum sentence for a variety of drug offenses in half.

More surprising to some, Cruz's fellow Texan Rick Perry has also become a leader on these issues. For instance, the former governor told CPAC, "You want to talk about real conservative governance? Shut prisons down. Save that money." He has pointed out that "During my leadership as governor, Texas shut down three prisons, and we saved taxpayers \$2 billion. When

I left office, Texas had the lowest crime rate in our state since 1968. My administration started treatment programs and drug courts for people who wouldn't be served well by sitting behind bars. We made sure our parole and probation programs were strong. Most of all, we evaluated prisons based on whether they got results. Did an ex-offender get locked up again? Did he get a job? Is he paying restitution to his victims? In Texas, we believe in results."

Perry also pushed a state-level version of the REDEEM Act, which became law in 2009. And, this month, Perry has joined Right on Crime, a project of the conservative Texas Public Policy Foundation, which hopes to promote sentencing reform and other alternatives to wholesale incarceration.

Governor Chris Christie has been unwilling to go as far as Paul, Cruz, or Perry, but he has still called for treatment rather than jail for most nonviolent drug offenses, promising that "We will end the failed war on drugs that believes that incarceration is the cure of every ill caused by drug abuse." Christie has also pushed for bail reform, "giving nonviolent offenders who often sit in jail because they can't afford bail a chance to reclaim their lives."

Even Jeb Bush appears to be evolving on the issue. Whereas, as governor, Bush once called for building more prisons and emphasized "punishment over therapy" for juvenile offenders, today he supports reforming the criminal-justice system, warning that incarceration can turn low-level lawbreakers into hardened career criminals. Like Perry, Bush has signed onto the Right on Crime initiative.

One big exception to this trend is Scott Walker. Walker ran for governor of Wisconsin as an old-fashioned "law and order" Republican, pledging "to protect our families, our senior citizens and our property." Bills that Walker sponsored while a legislator would have increased mandatory minimum sentences for everything from perjury to privacy invasion to intoxicated boating. He was perhaps the leading backer of Wisconsin's "Truth in Sentencing" legislation, which ended parole opportunities for many categories of prisoners and increased prison time for others. As governor, Walker has resisted efforts to liberalize the state's parole system, and the proportion of inmates granted parole has fallen in half during his tenure.

Senator Marco Rubio also appears to be sticking to a hard line on criminal-justice issues. "While individuals from a variety of perspectives have made a compelling case that American law has been over-criminalized and over-federalized," Rubio wrote in an op-ed, "reform should not begin with careless weakening of drug laws that have done so much to help end the violence and mayhem that plagued American cities in prior decades."

But despite disagreements on the details, the need for criminal-justice reform seems clear. The United States has one of the highest per-capita incarceration rates in the world, more than six times higher than the average for other industrialized nations. One out of every hundred American adults is in prison or jail. When you add in those on probation or parole, almost 1 in 33 adults is under some type of control by the criminal-justice system.

The current system is particularly harsh for young African-Americans. For example, illicit drug use is comparable for white and black populations (9.5 percent for whites and 10.5 percent for blacks), but drug-related arrests per 100,000 people are 2.6 times higher for blacks than for whites. Is it any wonder that African-Americans feel that they are unfairly treated?

All this comes at a cost for taxpayers, too, both directly and indirectly. The United States spends more than \$80 billion per year on corrections at the federal, state, and local levels, a cost that has more than quadrupled over the past 20 years in real terms. Moreover, the high incarceration rates among the poor and in minority communities lead to increased family disintegration and high unemployment. These conditions in turn give rise to increased welfare spending. As Senator Paul puts it, “If we’re for families with a mother and father around, we need to be for fixing the criminal-justice system.”

The result has been a growing bipartisan push for reform, one that has seen the Koch brothers working with the Center for American Progress, and Ted Cruz co-sponsoring legislation with Richard Durbin.

As Grover Norquist recently told *The Daily Beast*, “By the time we get to the caucuses, every single Republican running for president will be versed on this, and largely in the same place . . . Some guys will be playing catchup ball, but I do believe that, largely, this will become a consensus issue within the center-right.”

At the very least we can expect a very interesting debate in Republican ranks. Sheriffs need not apply.

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