

ESSAY

CRIMINAL JUSTICE REFORM: A REVOLUTION ON THE AMERICAN RIGHT

Pat Nolan and Sadiq Khan

April 2013
© IPPR 2013





ABOUT THE CONTRIBUTORS

Pat Nolan is director of Justice Fellowship, the criminal justice reform arm of Prison Fellowship, a US organisation that seeks to reform the justice system to reflect traditional principles of restorative justice.

Sadiq Khan is Labour MP for Tooting and shadow justice secretary.

ABOUT IPPR

IPPR, the Institute for Public Policy Research, is the UK's leading progressive thinktank. We produce rigorous research and innovative policy ideas for a fair, democratic and sustainable world.

We are open and independent in how we work, and with offices in London and the North of England, IPPR spans a full range of local and national policy debates. Our international partnerships extend IPPR's influence and reputation across the world.

IPPR
4th Floor
14 Buckingham Street
London WC2N 6DF
T: +44 (0)20 7470 6100
E: info@ippr.org
www.ippr.org
Registered charity no. 800065

This paper was first published in April 2013. © 2013
The contents and opinions expressed in this paper are those of the author(s) only.

ABOUT 'THE CONDITION OF BRITAIN'

In the early 1990s, IPPR ran the Commission on Social Justice, which redefined the mainstream political response to core social policy questions. Now IPPR has launched a new programme called 'The Condition of Britain', with similar scope and ambition.

This major work focuses on the resilience and resources in British society, but also the pressures faced by individuals and neighbourhoods. It considers how to harness the state, market and community to advance core social goals.

For more information and the latest updates, visit <http://www.ippr.org/research-project/44/10307/the-condition-of-britain>

POSITIVE IDEAS
for CHANGE

CONTENTS

ESSAY

Criminal justice reform: a revolution on the American right	
Pat Nolan	2
The expansion of the US prison system.....	2
The widening reach of US criminal law	3
What happens after prison?	4
The roots of the conservative reform movement	4
Applying conservative principles to corrections.....	5
<i>Reserve costly prison space for dangerous offenders</i>	6
<i>Focus on reducing future harm</i>	6
<i>Fill each inmate’s day with productive activities</i>	7
<i>Facilitate victim–offender dialogue</i>	7
<i>Match offenders with mentors</i>	8
<i>Provide opportunities for community service and reparation</i>	8
<i>Punish parole violations immediately</i>	8
<i>Coordinate re-entry supervision and services</i>	9
Right on crime.....	9
Reform in the states	9

RESPONSE

Achieving consensus on criminal justice reform in the UK	
Sadiq Khan	12
Reform closer to home	12
A debate stuck in neutral	12
A model for reforming the British justice system.....	13

CRIMINAL JUSTICE REFORM: A REVOLUTION ON THE AMERICAN RIGHT

PAT NOLAN, DIRECTOR, JUSTICE FELLOWSHIP

The politics of crime in the United States are undergoing a remarkable change. After years of being reliably 'tough on crime', conservatives are now at the forefront of the movement for criminal justice reform. A recent article in the *Washington Monthly*, 'The Conservative War on Prisons', summed up this dramatic change succinctly: 'Right-wing operatives have decided that prisons are a lot like schools: hugely expensive, inefficient, and in need of root-and-branch reform.'

After giving prisons a blank check for three decades, many conservative leaders are applying their natural scepticism of large government institutions to the criminal justice system. They are asking questions. Why do so many inmates return to prison so soon after being released? What is being done to prepare the inmates to live law abiding lives when they get out? Why are we locking up so many nonviolent offenders? Why don't most incarcerated drug addicts receive treatment for their addiction? Might extremely long sentences actually make the offenders more dangerous after release?

The bureaucrats' responses have been woefully inadequate, giving impetus to a conservative epiphany on crime. Their frustration has led to a growing 'revolt' among conservative legislators to the way prisons are run.

The *Weekly Standard*, a favorite magazine of conservative opinion leaders, has taken note of the movement. In a recent edition, Eli Lehrer wrote: 'Around the country, dozens of political leaders with rock-solid conservative credentials have begun to take a new line on crime and, particularly, the issue of reintegrating ex-offenders into society. This loose movement represents a sea change in conservative thinking and, arguably, the largest social reform effort to emerge from the right in several decades.'

The expansion of the US prison system

Beginning in the 1970s, the US expanded its prison system at a phenomenal rate. The number of prisoners grew from 338,000 in 1970 to over 2.3 million today – this is an eightfold increase, three-and-a-half times the rate of increase in our national population. We now have the highest incarceration rate in the developed world: 716 out of every 100,000 Americans are behind bars. By comparison, England and Wales incarcerate just one-fifth that number – 149 per 100,000 people. In Australia – founded as a prison colony – that number is 130; in Canada, just 114.

'Either we have the most evil people on earth living in the US, or we are doing something dramatically wrong in terms of how we approach the issue of criminal justice,' observed former senator Jim Webb, a conservative Democrat. Lest you think Webb is a liberal, he is a decorated marine who served as navy secretary under President Reagan.

The rapid expansion of prisons was a bipartisan effort, with each party trying to be tougher on crime than the other. This phenomenon reached its apogee with passage of the Violent Crime Control and Law Enforcement Act 1994, which expanded the death penalty to 60 crimes, established life sentences for 'third strikes', increased the number of crimes with mandatory minimum sentences, and eliminated grants for college courses for inmates. The bill was sponsored by President Clinton and received the support of strong bipartisan majorities.

On this occasion, conservatives set aside their natural scepticism of big government because they were so concerned about the rising toll of crime on communities across the US. They gave full-throated support to tough-on-crime legislation, and called for even stronger measures in their 'Contract with America', which helped to propel them to a majority in the House of Representatives for the first time in 40 years.

By the time the Republicans took control of the House, however, the crime rate had already started to decline. At first, conservatives wrote off the drop as an anomaly. Then, as the fall continued, they attributed it to their capacity to lock up more criminals. However, New York City mayor Rudy Giuliani's commissioner of corrections, a former budget analyst, studied the numbers and found that there was a point at which longer sentences were not buying increased public safety. As a result, New York City began to release low-risk offenders beyond the point of maximum deterrent; the city was able to slow the rising costs of its prisons, and the crime rate continued to drop like a rock. In 1990, there were 2,245 murders in New York City; last year there were only 414. Crime rates for all classes of crime have dropped precipitously across the US and are at the lowest point in decades.

As it became clear that slumping crime rates were not an aberration, conservatives expected the number of prisoners to drop as well – after all, there were fewer crimes being committed. Yet, contrary to these expectations, prisons and their cost kept rising. In 2012, the states spent \$54 billion on prisons. In state budgets, one out of every 14 dollars went to corrections, which employed one of every eight state workers. Spending on prisons was increasing at a rate second only to Medicaid, devouring scarce tax dollars that might otherwise have paid for education, roads or hospitals. These other important functions of government were starved to feed the growth of prisons.

Our prisons might be worth the current cost if the recidivism rate were not so high, but, according to the Bureau of Justice Statistics, half of the prisoners released this year are expected to be back in prison within three years. That is a failure rate of 50 per cent. Prisons are the only enterprises that expand by failing.

If our prison policies fail half of the time, and we know that there are more humane, effective alternatives, then it is time to fundamentally rethink how we treat and rehabilitate our prisoners. We can no longer afford a business-as-usual approach to prisons. The criminal justice system is broken, and conservatives must lead the way in fixing it.

It is increasingly clear that the 'system' continues to expand, not to make the public safer, but in its own interests and at the behest of those who live off the system, such as guards and contractors.

For years, American conservatives have turned a blind eye to the excesses of the criminal justice system. Because we share the same goals as prisons – to take dangerous people off the streets – conservatives have assumed that prisons are different from other government agencies. However, as the economic recession has forced state budgets to be tightened, conservatives have taken another look at prisons – and we don't like what we have found. Anti-tax crusader Grover Norquist expressed the growing consensus: 'Spending more on education doesn't necessarily get you more education ... That's also true about criminal justice and fighting crime.'

The widening reach of US criminal law

The growing cost of prisons was only part of conservatives' concern about prisons. They were also distressed about the expansion of criminal law to actions that had never before been considered a crime: using an incomplete sticker for sending a parcel, mislabeling orchids, or shipping lobsters in plastic rather than cardboard, as a few illustrative examples. Extraordinarily, each of the people found guilty of these 'crimes' was sentenced to multiple years in prison.

For conservatives who want to limit government power, the criminalisation of so much activity in society has been shocking. After all, the most draconian authority we cede to government is the power to take a person from their family, home, job and friends and to confine them behind bars with no control over any aspect of their life, including with whom they can associate, where they can sleep, what they can eat and how they spend their time. They are stripped of all means by which to protect themselves. Traditionally, these harsh criminal sanctions have been reserved for morally reprehensible acts such as murder, rape, arson and robbery.

Now, however, that limitation on the scope of criminal law has vanished, and severe sanctions are imposed on acts that are not immoral in any way. They are not inherently bad, they have merely run afoul of the regulatory state, with no regard to intent or morality. The lobsterman mentioned above was sentenced to eight years in prison, a longer sentence than received by many murderers.

The overcriminalisation of America has exacted a stunning toll: when you add those who are on probation or parole to the total number of prisoners, one of every 32 adults is under government control. That is a startlingly large swathe of our population to place in the hands of the government. Many conservatives have grown uneasy that so much of our society has now been criminalised.

What happens after prison?

Of course, almost all those in prison will be eventually released. Over 95 per cent will finish their sentence and walk out the gates. Each year over 700,000 inmates return to their communities. What kind of neighbours will they be? What has been done to prepare them to live healthy, productive, law-abiding lives? Each of us has a stake in seeing that these men and women make a safe and successful return to their communities.

Most offenders return from years in overcrowded prisons having been exposed to the horrors of violence, including rape. Inmates are isolated from family and friends, and many are despondent. Most are idle, having been effectively warehoused, with little preparation given to help them make better choices when they return to the free world. Just one-third of all released prisoners will have received vocational or educational training in prison. Less than 10 per cent of addicts will have received treatment.

This environment is particularly hard on low-risk offenders. It makes no sense to place them in prison with hardened criminals. The skills they develop to protect themselves while incarcerated make them more dangerous when they get out. There is much truth in the notion that jails and prisons are graduate schools of crime. Noted conservative sociologist Dr John Dilulio wrote: 'Jailing youth with adult felons under Spartan conditions will merely produce more street gladiators.' Few leave prison better than they enter – indeed, vegetables take on the flavour of the stew pot.

The roots of the conservative reform movement

As the prison population began to expand rapidly, civil rights groups and churches expressed concern about prison conditions. They were disturbed that prisons had become warehouses, that they were breaking the spirits of the inmates rather than preparing them to be good citizens. The churches were also troubled by increasing reports of violence and abuse in prisons. They called for reform.

The prison reform effort was viewed as reliably liberal and was largely ignored by conservatives. However, the movement to care about prisoners first caught fire among

conservatives more than 30 years ago, when Chuck Colson was released from prison. Colson had been counsel to President Nixon, and was a firm proponent of Nixon's 'tough on crime' policies. Then, after pleading guilty to leaking an FBI file to the press, he was sentenced to prison, serving seven months. What Colson saw inside profoundly changed his views on crime and punishment.

Following his release from prison, Colson founded Prison Fellowship, and called on the church to join him in ministering to prisoners and their families. He spoke movingly of awful conditions in prisons, particularly the hopelessness he had found inside prison walls. He reminded Christians that Jesus told us to care for prisoners; that inmates were made in the image and likeness of God, and as children of God they were entitled to be treated with dignity; that we should offer them a helping hand and a second chance, just as Jesus had given to us.

As Colson and Prison Fellowship volunteers spread the gospel in prisons, they felt compelled to speak out about the conditions in which the inmates were confined, about what was happening to their families while they were locked up, and about the justice of the system that imprisoned them.

Colson called for prison reform, and offered to work with government leaders to improve the system. His background as a conservative Republican drew conservative leaders to reform efforts. As churches across the country took up the call to care for prisoners, libertarians spoke up about the growing power of prosecutors and the impact of overcriminalisation on the market place. Fiscal conservatives added their voices, concerned that out-of-control prison costs were expanding budgets without increasing public safety.

The *Washington Monthly* took note of this confluence of forces behind the conservative movement for reform: 'Change is coming to criminal justice because an alliance of evangelicals and libertarians have put those benefits on trial. Discovering that the nation's prison growth is morally objectionable by their own, conservative standards...'

It is important to note that many of the reforms enjoy broad support from liberals. In fact, they were in this battle long before the conservatives. However, it is Republican governors and legislators who are leading the charge for reforms in the states. As noted in the *Washington Monthly*: 'Conservatives over the last few years haven't gone "soft". They've changed their minds about what prisons mean. Prisons increasingly stand for big-government waste, and prison guards look more and more like public school teachers.'

Applying conservative principles to corrections

Conservatives have diagnosed our justice system as being very ill, and they have prescribed new policies to restore its health:

- Reserve costly prison space for dangerous offenders
- Focus on reducing future harm
- Fill each inmate's day with productive activities
- Facilitate victim-offender dialogue
- Match offenders with mentors
- Provide opportunities for community service and reparation
- Punish parole violations immediately
- Coordinate re-entry supervision and services.

Research shows that each of these policies is effective and keeps the public safe. Although these policies embody conservative principles, they enjoy broad bipartisan support across ideological, theological and racial lines.

Reserve costly prison space for dangerous offenders

We need prisons. There are some very bad people who are so dangerous that we need to quarantine them from the rest of society. However, America has overused imprisonment. As with any government bureaucracy, prisons have expanded far beyond what is needed to protect us. They have become ends in themselves, serving those who work for and supply the 'system'.

Most of the prison growth has not been driven by locking up more dangerous people – almost half of the inmates in federal prisons are drug offenders. Dr James Q Wilson, the respected conservative sociologist, wrote: 'This country imprisons too many people on drug charges with little observable effect.'

Locking up low-risk offenders is a misuse of prisons, and it carries a high cost in taxes and lost human potential. Prisons are for people we are afraid of, but we are filling them with people we are just mad at.

Focus on reducing future harm

For nonviolent offenders, the system should focus on reducing the likelihood that they will break the law again. The US has had great success with 'accountability' courts for offenders with special problems such as drug addiction or mental illness.

It makes no sense to lock up drug offenders for a term of years but do nothing to treat their addiction. When they walk out the prison gates, they are still an addict. It costs tens of thousands of dollars to imprison an addict but much less to provide them with drug treatment in the community.

Many states have established drug courts, placing offenders in mandatory treatment and keeping them there long enough for it to work. Drug court judges are specialists trained to work with addicts. They have heard all the excuses before, and they can quickly discern whether a defendant is trying to straighten out or not. In addition to getting the offenders clean and sober, the judge holds them accountable for meeting their obligations to the court, society, themselves and their families. Offenders are tested for drug use regularly and randomly. They meet with the judge frequently to review their progress. If they are doing well then they are rewarded; when they do not live up to their obligations, they are sanctioned. Numerous studies have found that drug court graduates are much less likely to use drugs or commit new crimes, and the programmes save the state large amounts of money.

Mental health courts have become an essential part of our justice system. Mentally ill persons have been incarcerated in ever-increasing numbers, but most are not dangerous and are able to live normal lives if they stay on their medications. They are sick, not bad. Unfortunately, when they go off their medications and are in crisis the police are the first to respond. Putting them into the jail deprives them of the treatment they need, exposes them to dangers, makes managing jails more difficult, and is very costly to the public.

Mental health courts break this costly and damaging cycle by combining court supervision with community-based treatment, usually in lieu of a jail or prison sentence.

Similar courts have been established for veterans, who face unique challenges, such as physical or psychological injuries incurred in service to our country.

Fill each inmate's day with productive activities

Idleness and boredom are the twin curses of most inmates' lives. They have nothing to do for much of the day, leading to tensions and often violence. Idle hands are, indeed, the devil's playground.

As much as possible each inmate's day should look like a day in the real world, with eight hours of productive activity. They should get up at a set time, clean up, eat a healthy breakfast and report to work. There aren't enough jobs inside prison to keep every inmate busy all day long, but at a minimum each should be given some responsibilities, such as kitchen detail, landscaping, cleaning the facility, or working in the motor pool. It is important, nonetheless, that they should do real work that needs to be done, not demeaning tasks such as 'making little rocks out of big rocks'. The work should teach useful skills and provide them with the satisfaction of accomplishment.

When their job is finished, the rest of their eight hours should be spent in classes in order to prepare them for release. They can complete their high school equivalency work, or participate in drug treatment or anger management classes. And they can take life-skills courses, such as how to write a CV (being honest about their convictions but also explaining why they would make valuable employees). They can be taught how to be a good employee: the importance of showing up on time, doing their work, letting their boss know if they are sick or going to be late, and not to pilfer from the cash drawer or supply room.

During their eight-hour day, inmates could voluntarily enroll in religious classes taught by volunteers. Most inmates are self-centred; it is important that they learn to understand their obligation to the rest of society. Acknowledging a higher power helps inmates realise that they are not the centre of the universe, that they are only a small part of something much larger and more important than themselves. You don't have to be a believer to understand that belief in a higher power provides a moral compass. This is an important first step in acceptance of their responsibility to the community, including not harming others.

Facilitate victim-offender dialogue

Being self-centred, most offenders don't think about the harm they have caused to their victims. If the victim is willing, offenders should be encouraged to participate in victim-offender dialogues, meeting face-to-face along with a trained mediator.

In the meeting, the offender and the victim talk to each other about what happened, the effects of the crime on their lives, and their feelings about it. Often the offender is moved to acknowledge their responsibility and apologise. This is what the victims want more than anything. Frequently the dialogue results in a plan for the offender to make reparation for the crime.

In addition to making the offenders aware of the harm they have done, through the dialogue many victims are touched by the offender's own story. Victims do not seek revenge but instead want to make sure the offender doesn't hurt anyone else. They usually encourage the offender to turn around their lives. Studies show that victims are much more likely to be satisfied with the outcomes of these dialogues than they are with traditional legal processes.

Match offenders with mentors

The moment ex-offenders step off the bus they face several critical decisions: where will they live, where can they find a meal, how will they get around, and where can they earn enough to pay for these necessities? They are also confronted with bits of administrative business, such as obtaining identification cards, making medical appointments, and working through the many everyday bureaucratic problems that occur during any transition. Together, these challenges prompt feelings of intense stress about the logistics of return to the outside world. To someone who has had no control over any aspect of their lives for many years, each of these problems can be vexing. In accumulation, they can be overwhelming. Returning inmates also need good advice on family relationships, and encouragement as they face many disappointments.

In short, they need someone who cares about them and looks out for their best interests – a mentor. Martin Luther King said: ‘To change someone, you must first love them and they must know that you love them.’ Programmes are helpful, but a programme cannot love these former inmates – only people can do that.

Studies of Prison Fellowship’s IFI program, which relies heavily on mentoring, found that offenders who kept in touch with their mentors after release were twice as likely to stay out of trouble.

Provide opportunities for community service and reparation

Crime harms the entire community, and part of the response should involve community service proportional to the harm done. If possible, the service the offender provides should also be related to their offence: a vandal might be required to repair their damage, a drug dealer to restore an abandoned crack house or assist at 12-step meetings.

It is most important that the service is ‘victim-driven’. If there are individual victims, they should be given the greatest voice in selecting the service to be provided. When individual victims are difficult to identify then ‘surrogate victims’, in the form of community organisations, can be asked to suggest a project. Some communities have asked for help to repair a senior citizens centre; others have requested new landscaping for a park.

These are examples of restorative justice at work. The offenders put ‘sweat equity’ into the neighbourhood they have harmed, and their neighbours see them giving back to the community. The offenders develop pride as they see the fruits of their labours take shape in a new roof or freshly planted plot. Often the residents come out to speak with the offenders, and bring them tea or lemonade. Both victims and offenders begin to see the others as human beings that they should care about. Offenders frequently bring their children by the neighborhood to show off their work with pride.

Punish parole violations immediately

In most jurisdictions, drug offenders on probation or parole can consistently fail drug tests and yet suffer no consequences. It is only after 13 or 14 violations that they are taken before a judge, whereupon they can be returned to prison for a long time. Judge Alm, a former federal prosecutor, wondered: ‘Why do we let them continue to break the rules? Why not impose consequences immediately on the first violation, but not sentence them for years, but just days to get their attention and let them know that we are serious about staying clean from drugs.’

Rules of probation and parole are intended to stop criminal behaviour, not to send people to prison for years.

Alm established Project HOPE, which stands for ‘Hawaii Opportunity Probation with Enforcement’. One of HOPE’s guiding principles is that what matters with drug and other nonviolent offenders is the *certainty*, not the *severity*, of punishment. Failing the drug test leads to immediate arrest. They sit in jail until a hearing, usually within 48 hours. For most of them, this is all it takes to ‘get with the programme’. Under the HOPE programme, sanctions are imposed immediately and are graduated in severity if they are broken again. Judge Alm set up a system that made punishment more certain and increased accountability.

The results are striking: HOPE participants are 55 percent less likely to be arrested for a new crime, 72 percent less likely to test positive for drugs and 61 percent less likely to skip appointments with their probation officer.

Coordinate re-entry supervision and services

A similar programme to HOPE, but with more intense supervision, is provided by re-entry courts. These courts are established for probationers who are just one step from being sent back to prison. The courts coordinate offender accountability and support services through the entire re-entry process. Re-entry courts employ graduated sanctions and rewards to encourage good conduct without automatically returning the parolee to prison. The implicit goal of re-entry courts is to reduce recidivism among participants.

Re-entry courts require that participants appear before the court regularly to check on progress on their personalised programme plan. Most programmes last between six months and one year. When an offender has successfully completed their programme, the court conducts a formal ceremony to mark that achievement, representing the participant’s return to free society. This is very important for offenders, many of whom have never received recognition for their positive accomplishments.

Right on crime

As conservatives came to realise that many of us were in agreement about the need for reform of the criminal justice system, we formed the Right on Crime campaign, a national movement urging sensible, conservative and proven reforms to our criminal justice system – policies that will cut prison costs while keeping the public safe.

Our statement of principles reads, in part: ‘Conservatives are known for being tough on crime, but we must also be tough on criminal justice spending. That means demanding more cost-effective approaches that enhance public safety. A clear example is our reliance on prisons, which serve a critical role by incapacitating dangerous offenders and career criminals but are not the solution for every type of offender. And in some instances, they have the unintended consequence of hardening nonviolent, low-risk offenders—making them a greater risk to the public than when they entered.’

Among the many prominent conservatives who have signed the statement are Ed Meese, who was Ronald Reagan’s attorney general, former speaker of the House Newt Gingrich, and former Florida governor Jeb Bush. All of us agree that we can keep the public safe while spending fewer tax dollars if we spend them more effectively.

Reform in the states

In the US, most reform efforts begin in the states. Supreme court justice Louis Brandeis wrote: ‘It is one of the happy incidents of the federal system that a single courageous State may, if its citizens choose, serve as a laboratory; and try novel social and economic

experiments without risk to the rest of the country.’ Once an innovative policy is shown to be effective, other states move to adopt it, and soon a national reform movement is born.

The conservative ‘revolt’ on criminal justice reform began in Texas in 2007 when state leaders decided to scrap plans to build three more prisons, saving the state more than \$2 billion. Some of the money that was saved was put into treatment for offenders with mental health issues or drug addiction. Texas now has 6,000 fewer inmates, and the crime rate is at its lowest level since 1973.

Two years ago, Ohio governor John Kasich led a reform effort to reserve costly prison beds for violent and repeat offenders while beefing up community supervision of nonviolent offenders, holding them accountable and putting them on track to becoming law-abiding, productive citizens. The state will save \$50 million over the next three years, helping to close the state’s budget shortfall.

Last year, Georgia governor Nathan Deal signed legislation that will reduce the number of low-level drug possession offenders in prison and expand the use of drug courts, which emphasise accountability for the drug users. This conservative, cost-effective approach has enjoyed remarkable success in reducing drug use by participants, at far less cost than imprisonment. This legislation united the political left and right, passing the legislature unanimously.

And last October, Pennsylvania governor Tom Corbett signed bipartisan legislation that directs more low-level, nonviolent offenders into community supervision, with frequent drug tests and swift sanctions in place to keep participants on the straight and narrow. The state will save \$250 million in corrections costs over the next five years.

It is noteworthy that both governors Corbett and Deal are former prosecutors.

Similar reforms have been adopted by Arkansas, Kentucky, Michigan, Missouri, New York, North and South Carolina, Oklahoma and South Dakota. As a result, these states will save billions in prison costs; their communities will be safer and they will have more productive ex-offenders who support their families and pay taxes. One of the remarkable aspects of the state reform efforts is that they have enjoyed bipartisan sponsorship and overwhelming public support. Indeed, two of these states – Michigan and New York – made their changes under Democratic governors. However, it is noteworthy that in all the other states Republicans have led the reform efforts. The success of the reforms is evidence of the commitment of conservatives to offer alternatives to our current criminal justice policies.

Probably the best indication of the strength of this movement is the Republican platform adopted at their convention last year:

‘While getting criminals off the street is essential, more attention must be paid to the process of restoring those individuals to the community. Prisons should do more than punish; they should attempt to rehabilitate and institute proven prisoner re-entry systems to reduce recidivism and future victimisation. We endorse State and local initiatives that are trying new approaches, often called accountability courts.

‘Government at all levels should work with faith-based institutions that have proven track records in diverting young and first time, nonviolent offenders from criminal careers, for which we salute them. Their

emphasis on restorative justice, to make the victim whole and put the offender on the right path, can give law enforcement the flexibility it needs in dealing with different levels of criminal behavior. We endorse State and local initiatives that are trying new approaches to curbing drug abuse and diverting first-time offenders to rehabilitation.'

American conservatives hope that our British cousins will join us in this effort to hold the criminal justice system accountable. The result will be fewer victims and safer communities. That is being right on crime.

ACHIEVING CONSENSUS ON CRIMINAL JUSTICE REFORM IN THE UK

A RESPONSE FROM SADIQ KHAN,
SHADOW JUSTICE SECRETARY

The UK and US have shared history when it comes to criminal justice reform: both countries responded to rising crime and violence in the 1970s and '80s by locking up more people and making sentences longer. Obviously we shouldn't exaggerate the comparison: the rate of incarceration in the US is five times higher than here in the UK. Nonetheless, reforms in the US have always been a point of reference for British politicians with an interest in criminal justice reform.

Now, the US appears to have reached a watershed. The 'Right on Crime' Initiative, of which Pat Nolan is a prominent advocate, has led many on the political right to question the conventional assumptions that have guided criminal justice policy there for the last 30 years. Why is this change happening? As Pat Nolan explains in his paper, in part because the context has changed:

- crime has come down
- simply expanding the rate of incarceration has shown its limitations
- there is much less money to spend.

Reform closer to home

In fact, we don't have to go across the Atlantic to see what a different approach might look like. Many of the solutions have been lying right under our noses. For while our adult criminal justice system has struggled to convert falling crime into falling prison numbers, our youth justice system has achieved this double prize. Back in 1998, the Labour government created the Youth Justice Board (YJB) and local youth offending teams (YOTs), which have delivered startling falls in first-time offending and the size of the youth secure estate.

But this didn't happen overnight. From 1997, the Labour government set about tackling crime and its causes, being tough on both. This meant, on one hand, investing in Sure Start nursery places, smaller class sizes, family intervention projects, and schools and youth services. At the same time, we set up the YJB, which took youth justice out of the hands of politicians and established a multidisciplinary approach, with various agencies finding solutions based on evidence of 'what works best' to both punish and reform young offenders.

Since 2008, 11 youth custodial premises have been closed, and the number imprisoned has shrunk 57 per cent since its peak in 2002. There were 54,000 fewer first-time entrants into the youth justice system over the same period, a drop of 59 per cent, and total proven offences have fallen 48 per cent from their peak in 2006/07. When you consider that a single place in a secure youth establishment costs at least £65,000 a year – rising to more than £250,000 per year for the most expensive – that's at least £70 million per annum that can be reinvested elsewhere in our justice system.

A debate stuck in neutral

Nonetheless, while the debate in the US appears to have shifted, some of the debate on this side of the pond appears to be stuck in old ways of thinking.

One of the Coalition government's first major acts was to attempt to abolish the Youth Justice Board, despite its many successes, as part of its 'bonfire of the quangos'.¹

Despite previously opposing supermax Titan prisons – on the understandable grounds that they tend to make reoffending worse – the government has now announced plans to build one. As Pat Nolan's paper points out, all the evidence shows that when

¹ The decision to abolish the YJB was reversed in November 2011.

offenders are warehoused in big prisons they are less likely to be involved in productive activity, making rehabilitation harder.

Finally, we cannot be tough on crime without also being tough on the causes of crime. We have recently witnessed the abolition of educational maintenance allowances, and cuts to Sure Start and family centres. In addition, we have seen youth unemployment rise to almost 1 million. All of this puts at risk the recent reductions we have seen in crime, by making it more challenging to prevent crime in the first place.

A model for reforming the British justice system

I want to outline three broad principles that will guide my approach to reform of our criminal justice system.

- First, we need a more **tailored approach to dealing with offenders**. For example, instead of abolishing the YJB, we should be seeking to emulate its success. After all, the blueprint of agencies working together – local government, health, education, police, social services – clearly works. That’s why I’ve said the next Labour government will look at recreating a similar model for women offenders, and why I’ve consulted with experts in the field on whether the remit of the YJB could be extended up to the age of 21. Both, I believe, would result in further reductions in those committing crime and in a system of punishment and reform that is more effective and doesn’t rely on simply locking people up.
- Second, we need **a system of swift and proportionate punishment that nips antisocial behaviour and crime in the bud** and prevents problems from escalating. When cautions are handed down repeatedly, fines aren’t paid, or community sentences aren’t rigorous, the state sends a damaging message to offenders and wider society. That is why we need wider use of properly resourced restorative justice, which forces offenders to make good on the damage caused and allows the system to deal with low-level crime, and why we need tougher, more visible community sentences that involve serious hard work and command the confidence of the public.
- Third, we need to **prioritise rehabilitation as the next step in bringing down crime rates** even further and delivering a more efficient criminal justice system. Pat Nolan’s paper focuses on the work done to tackle drug dependency and support those with mental health problems in the US, and these will be central to our justice policies should Labour win the next election. Most importantly, too little has been done to reform our prisons so that inmates spend their day undertaking productive activity – in work or training – rather than sitting idly in their cells. Through our policy review we will look at everything – from the inspection regime through to the training of prison officers – to ensure that this changes in future.

In the two and half years since being appointed shadow justice secretary, a key priority of mine has been to seek out what works in effectively punishing and reforming offenders. I know that, despite sharp falls in crime on Labour’s watch, reoffending rates remain stubbornly high, and that we continue to have an incarceration rate greater than many of our European neighbours. I’ve never been precious about learning from others; there should never be a monopoly on new ideas. So, while obviously I don’t agree with all aspects of his analysis, I welcome this paper from Pat Nolan as an extremely important contribution to the process of persuading all political parties that a consensus should be achievable on the issue of criminal justice reform.