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and the Legacies of American Protestantism**

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**THE SECOND CHANCE ACT, PENAL OPTIMISM, AND THE LEGACIES OF
AMERICAN PROTESTANTISM**

By David A. Green*

Abstract

This working paper first makes the case that optimism in the reform potential of criminal offenders has recently increased among federal-level policymakers, as evidenced by the passage of the Second Chance Act of 2007. It then sets this apparent renewal of “penal optimism” in historical context by drawing on American evangelical Protestant traditions and examining how these affect the perceived redeemability of criminal offenders. This paper is part of an ongoing project that traces the evolution of the Second Chance Act and uses it as a means to explore the nature of recent, nuanced changes in the penal climate that have eclipsed some of the simply punitive sentiments and pressures associated with cynical penal populism.

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I. Introduction

With 2.3 million offenders in prison or jail, the dominant narrative of contemporary American penal culture holds that the United States stands unmatched in the Western world in its harsh treatment of lawbreakers. It is irrefutable that American penal culture and practice have harshened strikingly over the past three decades. The number of state prison inmates increased by 708% (Pew Center on the States, 2010a) over the past 35 years¹, following the collapse of faith in the successful rehabilitation of offenders in the early 1970s. Nonetheless, the Second Chance Act of 2007 (SCA), among other indicators, might signify that a more nuanced rethinking of the dominant and simplistic tough-on-crime thinking and rhetoric is underway at both state and federal government levels. Overall state prison populations have stabilized; half the states have witnessed declines in their prison populations and only a handful have experienced increases over 3 percent (Pew Center on the States, 2010b).² Crime has fallen sharply and consistently since the early 1990s, and crime as a public or political issue has been relegated to the level of more distant concerns in favor of far more pressing ones, like unemployment, health care, immigration, and terrorism (Gallup, 2011).

One early sign of an apparent shift in mainstream penal thinking occurred a decade into the crime decline, when President George W. Bush stunned many progressive observers in his 2004 State of the Union address by declaring: “America is the land of the second chance, and when the gates of the prison open, the path ahead should lead to a better life.” With these words the president became the unlikely catalyst for an unprecedented bipartisan effort to address the myriad needs of released prisoners. His pronouncement and promotion of prisoner reentry quickly galvanized and energized a bipartisan coalition organized by the Open Society Institute in Washington DC which was already working to develop a reentry bill. The coalition, which included civil rights, law enforcement, and religious organizations, united some on the Christian right with many on the secular left and together they successfully lobbied to forge broad support for the

¹ This number specifically reflects increases between 1972 and 2008 (Pew Center on the States, 2010a).

² These include Alabama, Alaska, Arkansas, Louisiana, Indiana, Pennsylvania, Vermont, and West Virginia.

SCA in both chambers of Congress. The bill passed easily in the House of Representatives, with 80 percent voting in favor of it, and without controversy in the Senate by unanimous consent. Four years in the making, on April 9, 2008 Bush signed Public Law 110-199, the Second Chance Act of 2007: Community Safety Through Recidivism Prevention.

The SCA authorized a two-year program to assist the 650,000 (now 700,000) ex-offenders released from prison each year. It continues to fund a range of demonstration projects and mentoring programs for released prisoners. These grants are intended to increase public safety through recidivism reduction and to assist states and communities to reintegrate released ex-offenders through programs targeting employment, housing, substance abuse and mental health treatment, and family support. The SCA included “\$110 million for adult and juvenile offender state and local reentry demonstration programs; \$40 million for grant projects to provide job training, mentoring, and transitional services; \$20 million for reentry courts; \$130 million in funding for substance abuse treatment, education and training, and mentoring” (Nelson and Turetsky, 2008: 141). The Obama administration recently launched a cabinet-level Federal Interagency Reentry Council to promote and coordinate reentry research and services, and Congress is now considering the reauthorization of the SCA, a bill recently introduced by Democratic Senator Patrick Leahy and co-sponsored by Republican Senator Rob Portman, who had been an early champion the SCA while earlier serving in the House.

Before 9/11, the Bush presidency was initially defined in part by its launch by executive order of the White House Office of Faith-Based and Community Initiatives to “rally America’s armies of compassion.” In congressional speeches, several Republican co-sponsors of versions of what became the SCA focused on the promise of faith-based programs aimed at reducing recidivism, while most Democrats who spoke in favor of the bill in open sessions did not.³ However, members of the Congressional Black Caucus frequently invoked passages from the bible in support of the bill, as well as language

³ An exception was then Senator Barack Obama who cited a particular faith-based program in Illinois that had apparently shown impressive results.

about redemption and “reclaiming” those who have fallen from the path. Republican Senator Sam Brownback of Kansas, now its governor, became an ardent supporter of the bill, stating in a Judiciary Committee Hearing in 2007 that Americans need to recognize “that every person is a beautiful, unique soul, a child of a living god, regardless of whether they are in prison or not” (*Mass incarceration in the United States: At what cost? Hearing before the Senate Joint Economic Committee*, 2007, p. 5).

It appears this religious rhetoric, combined with the support of Christian groups like Prison Fellowship and The Salvation Army, helped unite a broad consensus of right and left. Christian fundamentalism has long been associated with the rise of retributive justice. “It is no accident that the new retributivism of current penal policy has gone along with the rise of Christian fundamentalism, especially in the United States. Many of the arguments in favour of it resemble those of evangelical Christians in the nineteenth century who believed that prisons ought to be places where criminals made atonement” (Gorringe, 1996: 29). However, to equate Christian doctrine with only punitive sentiments overlooks and ignores the doctrines of compassion and forgiveness throughout the bible, particularly the New Testament, examples of which were referenced by Bush in his remarks at the bill-signing ceremony. In fact, vengeful anger is considered sinful,⁴ and “the claim that offences can be answered other than in kind is at the heart of the gospel” (Gorringe, 1996: 253). Criminology has also overlooked this tension, focusing almost exclusively on the role of religion in feeding punitive attitudes rather than public capacities for forgiveness (Applegate et al., 2000).

To help sell the notions of offender redemption and second chances the president invoked biblical rhetoric and referenced American Judeo-Christian values. He drew as

⁴ “Let all bitterness and wrath and anger and clamor and slander be put away from you, along with all malice. Be kind to one another, tenderhearted, forgiving one another, as God in Christ forgave you” (Ephesians 4:31–32).

“Beloved, never avenge yourselves, but leave it to the wrath of God, for it is written, ‘Vengeance is mine, I will repay, says the Lord’” (Romans 12:19).

“You shall not take vengeance or bear a grudge against the sons of your own people, but you shall love your neighbor as yourself: I am the LORD” (Leviticus 19:18).

well upon his own personal redemption story—how he was able to quit drinking in the 1980s—and cited his own personal faith as critical to his success. At the signing ceremony for the SCA the president made remarks that are worth quoting at length:

This bill is going to support the caring men and women who help America's prisoners find renewal and hope. I can't thank the folks who care enough about a fellow citizen to offer their love and compassion [sic]. It's through the acts of mercy that compassionate Americans are making the Nation a more hopeful place...

The country was built on the belief that each human being has limitless potential and worth. Everybody matters. We believe that even those who have *struggled with a dark past can find brighter days ahead*. One way we act on that belief is by helping former prisoners who've *paid for their crimes*. We help them build new lives as productive members of our society.

The *work of redemption reflects our values*. It also reflects our national interests. Each year, approximately 650,000 prisoners are released from jail. Unfortunately, an estimated two-thirds of them are rearrested within 3 years. The high recidivism rate places a huge financial burden on taxpayers; it deprives our labor force of productive workers; and it deprives families of their daughters and sons and husbands and wives and moms and dads.

Our Government has a responsibility to help prisoners to return as contributing members of their community. But this does not mean that the Government has all the answers. Some of the most important work to help ex-convicts is done *outside of Washington, DC, in faith-based communities and community-based groups*. It's done on streets and smalltown community centers. It's done in churches and synagogues and temples and mosques.

I like to call the folks who are engaged in this compassionate work members of *the armies of compassion*. They help addicts and users break the chains of addiction. They help former prisoners find a ride to work and a meal to eat and place to stay. These men and women are answering *the call to love their neighbors as they'd like to be loved themselves*. And in the process, they're *helping prisoners replace anger and suffering and despair with faith and hope and love*.

The bill I'm signing today, the Second Chance Act of 2007, will build on work to help prisoners reclaim their lives. In other words, it basically says, we're standing with you, not against you...

...the Second Chance Act will live up to its name. It will help ensure that where *the prisoner's spirit is willing*, community's resources are available. It will *help our armies of compassion use their healing touch so lost souls can rediscover their dignity and sense of purpose*.

I recently went to a program in Baltimore, Maryland, called the Jericho...When I visited the program, I tried to remind them that *the least shall be first...I was a product of a faith-based program*. I quit drinking, and it wasn't because of a government program. *It required a little more powerful force than a government program in my case*. (Bush, 2008, emphasis added)

This essay begins to address the following questions that will guide future research as the broader project continues: How are we to account for this shift in penal rhetoric and New Testament aspirations about the redeemability of convicted offenders? How did it become sayable for a staunchly conservative president to embrace the notion of second chances, particularly a president who had sanctioned the execution of a record number of death-row inmates as governor of Texas? How did the selling of redemption find favor among a cross-party consensus of lawmakers, each of whom is loath to appear soft on crime? From where does the new optimism in the post-release correctional project spring?

II. Penal optimism and recidivism reduction

Using faith in prisoner reentry as an indicator of “penal optimism,” or the broader confidence in the reforming potential of penal intervention, must be qualified. The focus on offender reentry allows for a sort of hybrid, or even backdoor, approach to penal reform. While heading the National Institute of Justice, Jeremy Travis (2005) coined the term “prisoner reentry” to reframe prisoner reform and rehabilitation around what he calls the “iron law of corrections”—that nearly every person incarcerated will eventually return to the community. The reentry frame intentionally places the focus of attention outside the traditional, highly contested, politically fraught, conceptual parameters of “soft” offender rehabilitation versus “tough” retribution and incapacitation. Reentry focuses most on providing for offenders after their

imprisonment ends, with some overlap in the time leading up to release.⁵ The Act continues implicitly to embrace custodial punishment on the front end and rehabilitation and reentry near and at the back end of the sentence. This means that prison remains a central feature of penal power, providing “tough-on-crime” political cover even, or especially, for those who most strongly support reentry programs for released offenders that observers might find suspect and weak. The focus on back-end solutions for crime reduction which leave prison use intact suggests that the reentry brand, and the push for a “reintegration ideal” (Travis, 2005: xx), cannot on their own represent a paradigmatic shift in penal culture, akin either to the rise of the indeterminate sentencing model at the turn of the twentieth century (Rothman, 1980) or the decline of the rehabilitative ideal in the early 1970s (Allen, 1981). That said, the SCA’s passage was remarkable and significant; just how remarkable and significant will be assessed as this project continues.

The SCA builds upon two previous Bush administration reentry projects. The Serious and Violent Offender Reentry Initiative (SVORI), which was started by the Clinton administration and continued under Bush, ended in fiscal year 2005 after an evaluation funded by the National Institute of Justice found disappointing recidivism rates among program participants (Lattimore and Visser, 2009). The second program was the Prisoner Reentry Initiative (PRI) launched by Bush and run by the Department of Labor, which, in 2005, selected 30 faith-based community organizations (FBCOs) in 20 states and provided \$660,000 in the first year to assist in the reentry and employment of 13,315 released prisoners. Eligibility for PRI services was limited to adult, non-violent offenders⁶ who were enrolled in programs “within six months of their release from incarceration” (Holl et al., 2009: xiii). Participants in the program appeared to show much lower recidivism rates than the national average, but unfortunately the evaluation cannot rule out selection bias as it did not include a comparison group, and it used

⁵ However, SCA also funds options for diversion from prosecution of those low-level offenders who seek and successfully complete substance abuse treatment.

⁶ Eligibility was limited offenders at least 18 years of age who were convicted as adults and who had no convictions for violent or sex-related offenses.

measures of recidivism that make comparisons difficult.⁷

Evaluations of both programs were not published until after the passage of the SCA. However, one wonders whether it would have mattered much if they had. In spite of such mixed and even disappointing finding, initial interviews from an ongoing series with key informants in Washington D.C. indicate an unmistakable renewal of faith in recidivism-reduction methods. Tracing how that faith has been renewed is a major component of the broader research project. Its renewal is remarkable. In the introduction to *Doing Justice: The Choice of Punishments*, Andrew von Hirsch's influential book setting out his desert theory of punishment, Gaylin and Rothman wrote in 1976: "The quality of heady optimism and confidence in reformers in the past, and their belief that they could solve the problem of crime...will not be found in this document. Instead, we have here a crucial shift in perspective from a commitment to do good to a commitment to do as little mischief as possible" (von Hirsch, 1976: xxxiv). If we can understand the decline of the rehabilitative ideal as due in part to the efforts of an "unholy alliance" (King, 1998: 592) of liberals, like von Hirsch, and conservatives in the mid-1970s, it is possible we are now witnessing the resuscitation of rehabilitation in the guise of the reentry movement led by a new "holy alliance" of a rather surprising coalition of players from the Christian Right and the traditional left.

It appears as well that the glue that has historically bound such broad coalitions in pursuit of shared penal aims is to be found either in some level of shared faith, or in a shared absence of faith. In the Progressive era, there was a broadly shared faith in science, the ability of professionals to tailor treatment to the needs of diagnosed offenders, and in the power of the state as a facilitator of these improvements. The machinery of the modern criminal justice system, including probation, parole boards, and indeterminate sentencing, was assembled in a remarkably short period between

⁷ The evaluation assessed re-arrest for a new crime (8%), incarceration for revocation of parole or probation (9%), violation of community supervision requirements (4%), and arrest and release without charge (2%). However, these numbers refer to outcomes after one year, so comparisons with the standard recidivism definition used by Members of Congress in their speeches about —whether one has been rearrested for a felony or serious misdemeanor in 3 years—impossible. This standard recidivism measure continually hovers around two-thirds.

1900 and 1920 on a widely shared, utilitarian consensus (Rothman, 1980).⁸ The eventual attack on the Progressive consensus and on the rehabilitative ideal was orchestrated by a new, shared, consensual belief uniting those on the right and the left (though for different reasons) in the folly of such an ideal. It was replaced for a time by a retributive ethos, but the increasing harshness of sentencing from the mid-1980s through 1990s was actually “incompatible with retributivist ideas” (Tonry, 2010: 22). This was arguably because retributive rationales are particularly vulnerable to upward ratcheting. The tough-on-crime consensus to be harsh appeared to be a politically driven one, characterized by near unanimous support across the political spectrum for things like mandatory penalties and loss of good time credit for prisoners. Now, the faith that seems to bind at least some of those in support of the reentry and recidivism-reduction plans funded by the SCA is in part a Christian faith in redemption and second chances.

A new component of this renewal of faith in recidivism reduction that distinguishes it from earlier manifestations is the limited state role in facilitating it. Though renewed optimism in the malleability of the offender is apparent, responsibility has largely been delegated to faith- and community-based groups as facilitators; the government’s role is often only that of a funder of innovation and evaluation or provider of seed money, a role James Q. Wilson (1997) suggests is the most appropriate one for the federal government in criminal justice matters. This shift appears as well to implicate community- and restorative-justice programs⁹ that seek to reintegrate offenders into their communities (or, more accurately in many cases, to integrate them for the first time) in new ways that rely less on state resources and more on, in Bush’s phrase, the lay “armies of compassion.”

One problem with placing faith in faith-based solutions is that evaluations have shown them to be among the many offender-intervention programs found to be ineffective at

⁸ The Progressive project collapsed even more swiftly. “In the course of a decade, perhaps less, the rehabilitative ideal suffered a precipitous decline in its capacity to influence American penal practice and, more important, in its potency to define commonly held aspirations in the penal area” (Allen, 1981: 1-2).

⁹ Prison Fellowship, a Christian group credited with lobbying support for the SCA from conservative Republicans, also advocates restorative justice via its Justice Fellowship affiliate.

reducing recidivism. Though, anecdotally, some programs certainly work very well with some motivated offenders, “[t]he faith-based offender programs that have been evaluated to date do not significantly reduce recidivism” (Aos, Miller and Drake, 2006: 7).¹⁰ Kansas governor Sam Brownback addressed the first class of grantees under the SCA at a conference in May, 2010. Though a strong proponent of faith-based programs, he admonished the audience of grantees to show results in terms of recidivism reduction or the window opportunity to address reentry is certain to close (thecsgjusticecenter, 2010: 7:40). This indicates two, likely incompatible, tracks of optimism among the proponents of the SCA. One is in favor of community- and particularly faith-based programs, which have been shown to lack efficacy when rigorously evaluated, and the other is a cross-cutting optimism that rigorous evaluation and implementation of programs identified in the “what works” literature will lead to significant reductions in recidivism, and financial savings for states with overstretched corrections budgets.

Historical accounts of previous shifts in penal culture (e.g. Allen, 1981; Garland, 1990, 2001; Ignatieff, 1978; Rothman, 1980; Rotman, 1998; Tonry, 2004) are useful in determining the nature, course, and depth of recent changes. The broader project, of which this working paper is part, seeks to emulate Rothman who sought to account for the optimism of the Progressive era: “...the burden of analysis here must be to explain the sources of optimism, the willingness to strike out in new directions with an inordinate self-assuredness about the results” (Rothman, 1980: 46). The SCA states that a goal of any funded strategic reentry “plan shall be to reduce the rate of recidivism...by 50 percent over a 5-year period for offenders released from prison, jail, or a juvenile facility who are served with funds made available under this section” (Second Chance Act of 2007, Pub. L. 110-199, 122 Stat. 657, 9 Apr. 2008). Research interviews indicate this provision in the bill was intentionally ambitious to ensure that the evaluation of programs would be taken seriously, but the target is way off the mark from what evaluators have found realistic. Aos, Miller and Drake (2006) conducted a systematic

¹⁰ Aos, Miller and Drake (2006: 3) analyzed results from five faith-based program evaluations rigorous enough to be included in their systematic review of offender treatment programs. None reduced recidivism. Other authors, like Johnson, whose book title *More God, Less Crime* (2011) reveals the extent of confidence he has in faith-based interventions, rely on less rigorous program evaluations that cannot rule out selection bias.

review of 291 rigorous evaluation studies of in-prison and community-based offender treatment programs done in the United States and other English-speaking countries since the 1970s. Their review shows that some community-based programs and intermediate sanctions can reduce recidivism markedly. For instance, six cognitive behavior treatment programs for low-risk probationers reduced recidivism by 31 percent on average, five community drug treatment programs by 12 percent, and ten treatment-oriented intensive supervision programs by nearly 22 percent (Aos, Miller and Drake, 2006: 3). However, “42% of the evaluated programs, including jail diversion programs, domestic violence programs, faith-based, psychotherapy or behavior therapy for sex offenders, boot camps, electronic monitoring, and restorative justice programs *had no impact* on recidivism. Of the 167 effective programs...one-fourth were prison-based treatment programs. Of these programs the reduction in recidivism rates generally ranged from 4% to 10%.” (Austin et al., 2007: 16, original emphasis).

Yet the same meta-analysis (2006) was marshalled as evidence in a House Judiciary Committee report on the SCA which points out that the review identifies “some approaches that appear to be working in terms of reducing recidivism and other programs that were less successful” (House Judiciary Committee, 2007: 142). This hopeful interpretation of the review’s results coupled with a widely ambitious 50 percent reduction in recidivism seems to indicate the presence of a deep reserve of penal optimism that is hard to square with the previous thinking about rehabilitation and available evidence about the stubborn consistency of recidivism rates over time (see Austin et al., 2007: 16).

One goal of this study is to identify the sources of optimism among the broad coalition who lobbied for and passed the SCA, and to locate the wellsprings of their conspicuous optimism in reducing recidivism, and to understand how that optimism has been sustained in the face of mixed and contradictory evidence. The Act represents a decidedly sanguine view of recidivism reduction that few who lived through the decline of the rehabilitative ideal would have predicted. Martinson’s (1974) famously pessimistic evaluation of rehabilitation programs did much to assist in the collapse of the rehabilitative ideal, and while many scholars have since asserted this pessimism was

overstated, there was still very limited grounds for optimism at the time. As David Greenberg put it in 1977, “The blanket assertion that ‘nothing works’ is an exaggeration, but not by very much” (Greenberg, 1977: 141). As Michael Tonry put it more recently,

Proposed alternatives [to unduly harsh policies]—exemplified by most reentry initiatives—are generally supported by arguments about reduced cost or improved recidivism reduction. This is a mistake. As 30 years of program evaluations have shown, most ‘alternatives’ cannot keep their promises. A few well-managed, well-funded programs with charismatic leaders can divert offenders from prison, save money, and reduce reoffending, but few real-life programs are like that” (Tonry, 2011: 637)

Tonry (2011) further contends that instrumental arguments about cost savings and crime and recidivism reduction will eventually fail because the harsh policies that have led to the explosion of imprisonment were premised on normative or moral arguments, not on logical or instrumental ones, and these arguments must be won by direct engagement with the moral rather than instrumental consequences of Americans’ “overindulgent” use of imprisonment. Much of the SCA debate, particularly from supporters on the left, have steered clear of these moral arguments, at least publicly, perhaps for the fear that engagement with them might be construed by the opposition as soft on crime. Some conservatives, however—like George W. Bush, Sam Brownback, Rob Portman, Pat Nolan, and Michael Gerson—have indeed employed moral principles in defense of the SCA and other reform legislation. This might reflect a classic “Nixon in China” phenomenon whereby only the conservatives Republicans, and only those with passions bolstered by religious conviction, can afford the gamble of issuing pronouncements that opponents might charge are dangerously soft or liberal. Still, the normative approach to the reentry debate has yet to become universally convincing or apparent among most of its vocal supporters.

That stubbornly high recidivism rates have opened a window of opportunity for government to rethink a better-facilitated prisoner reformation project is striking in itself; high recidivism could just as easily be used to justify even longer sentences to incapacitate incorrigibles. Nearly every congressional speech in support of the Act cites

the same figure: two-thirds of those released from prison will be rearrested for a felony or serious misdemeanor within 3 years of release. Yet, again, none mentions the stubborn rigidity of that figure over time and space. What has perhaps changed is that this figure has often recently been cited alongside the daunting number of returning prisoners¹¹ and this that might have served to remind legislators of Travis's "iron law." The evident confidence in reentry programs runs parallel with a mostly implied faith in actuarial risk assessment measures to target and match offenders with appropriate programs. Yet surges in optimism in the reform potential of penal intervention have often been decoupled from strong supporting evidence. As Allen reminds us:

Much that is most bizarre in the history of penal rehabilitationism stems from scientific ignorance about how changes in the behavior of offenders are to be achieved. The use of the lash at Auburn Prison, Bentham's Panopticon and his corporal punishment machine (to cite only historical examples) testify to deficiencies of knowledge. In general scientific ignorance has not inspired caution in the devotees of the rehabilitative ideal. On the contrary, the very absence of knowledge has encouraged confident assertions and dogmatic claims. One consequence is the creation of expectations that are inevitably disappointed. (Allen, 1981: 52)

III. The legacies of American Protestantism

Another sign of an apparent shift in the American penal climate can be found in the recent push for penal reforms, like increased support for prisoner reentry and decreasing Americans' heavy reliance on imprisonment, by the conservative "Right on Crime" initiative launched late last year by the Texas Public Policy Foundation, whose thirty-six conservative signatories include Newt Gingrich¹², Grover Norquist, William Bennett, and Ed Meese—household names among many Americans.¹³ Other prominent

¹¹ This number was 650,000 annually when the bill was debated and is now over 700,000.

¹² It is perhaps in itself telling that Gingrich would embrace so publicly what many might perceive as "soft" criminal justice reforms through this initiative at the very same time he was weighing the decision to run for president. Certainly this would seem a politically reckless or misguided move if criminal justice reform were as freighted with risk as it has traditionally been since the late 1980s, when the Willie Horton affair made sensible criminal justice policy discussion very difficult to achieve.

¹³ David Keene, head of the National Rifle Association and former chairman of the American Conservative Union, is another prominent member of the organization. Another is John DiIulio, the conservative-leaning Democrat and academic who served as the first head of the Bush White House's Office of Faith-Based and Community Initiatives in 2001.

signatories to the Right on Crime initiative include two Christian Republicans who remain strong proponents of the SCA and who served time in prison themselves. Chuck Colson was special counsel to Richard Nixon and founded Prison Fellowship in 1975 after his “born-again” conversion and eventual release from federal prison, where he had served time after pleading guilty to obstruction of justice in a case involving a plan to smear Daniel Ellsberg, the RAND analyst who released “The Pentagon Papers.” Pat Nolan¹⁴ was recruited by Colson to join Prison Fellowship after he experienced his own spiritual transformation in prison after being conviction of receiving illegal campaign contributions as a member of the California State Assembly. Nolan now heads Justice Fellowship, the criminal justice reform advocacy arm of Prison Fellowship, and is credited with coordinating this extraordinary group of conservative leaders in support of the Right on Crime initiative.

Colson’s early personal accounts of his moral transformation and activist faith that provided the germ for this paper (see Colson, 1976, 1979). His autobiographies in turn led to a wider historical consideration of the impacts and implications of American Christian (mostly Protestant) theologies in accounting for the cyclical character of American optimism about penal reform. The compelling redemption stories of Colson and Nolan likely did much to influence their conservative, former colleagues in politics to support the SCA and other reform bills, and their knowledge of the political process and their connections to political operatives in both in Washington and around the country have further enhanced their effectiveness as lobbyists for progressive criminal justice reform.

Winnifred Sullivan (2009) contends that the United States is exceptional among its Western peers, by virtue of both its citizens’ high degree of professed religiosity and its heavy reliance on incarceration. Both have increased significantly over the past thirty-five years, and both help explain the proliferation of faith-based social programs and the

¹⁴ Unlike most at Prison Fellowship who are Protestant evangelicals, Pat Nolan is Catholic. Blending his own personal experiences with reentry with research findings and interpretations of biblical passages, Nolan wrote a book to serve as a guide for how those in faith communities can assist those returning from prison to reintegrate into the community (Nolan, 2004).

near impossibility of truly extracting religion from state functions.¹⁵ She also writes, “Religious revival and law-and-order populism are not unique to the United States, but the U.S. stands out in both respects. The two are connected, historically and sociologically, and the story of one cannot be fully told without implicating the other” (Sullivan, 2009: 4). Much of the criminological literature has focused on describing and explaining the darker aspect of American penalty, but few have explored its religious under- or overtones. Most scholarship has been preoccupied with explaining American punitiveness, whether in terms of public attitudes, political rhetoric, or penal policies, but there is another side of this story.

Just as Tom Tyler (2006) asked why people obey the law rather than focus on the more common criminological preoccupation with why they break it, an alternative approach to American penalty is to investigate how and why reform-minded optimism in the penal project, what is referred to here as “penal optimism,” has again found some favor in a context that for thirty-five years has been associated with harsh penal treatment and repression. Just as important as the quintessentially American law-and-order penal project are the perhaps just as quintessentially American, religiously driven inclinations to mitigate the damages rendered by harsh punishment, as through, for instance, the embrace of less demonstratively punitive, reintegrative impulses and policies of the Jacksonian and Progressive eras. It is unquestionably premature to draw parallels between either of these eras and recent developments in our own. Nonetheless, it appears that change is occurring and inclinations are shifting the course of reform along a bearing that is more optimistic about the prospects of intervening successfully in the lives of offenders to reduce their chances of reoffending. The Second Chance Act set the wildly optimistic target of reducing recidivism by 50 percent in five years and yet still passed uncontroversially through both chambers of Congress. More surprising and

¹⁵ That said, the enthusiasm of the past decade in the area of faith-based initiatives was shaken in December 2006 when a U.S. District Court judge in Iowa found unconstitutional the in-prison InnerChange Freedom Initiative (IFI) program developed by Prison Fellowship Ministries (Sullivan, 2009: 4). Though the U.S. Court of Appeals for the Eighth Circuit upheld the District Court’s decision finding the program was engaged in “conversion and discrimination” rather than rehabilitation and the Iowa program was terminated in 2008, five other states (Arkansas, Kansas, Minnesota, Missouri, and Texas) continue to operate IFI programs while many others offer private- or state-run (Florida) faith-based programs in their prisons (Sullivan, 2009: 1).

conspicuous are the actions of those prominent, Right on Crime conservatives lobbying to reduce “overcriminalization,” repeal mandatory minimum penalties, better facilitate prisoner reentry, reform prisons, and reduce the prison population.

What follows explores some of the religious-historical patterns of thinking that help explain previous shifts in penal sensibilities and practices in the hope that they might shed light both on our experiences of the past three decades as well as the changes we are currently witnessing. The notion of penal optimism is examined through the prism provided by four sets of binary oppositions within which penal thinking and practice have repeatedly oscillated throughout the history of American Protestantism. Each has its roots in various theologies that have shaped and continue to shape the American penal landscape and the underlying rationales and thinking that fortify it. These binary oppositions include Quaker optimism vs. Calvinist pessimism, pre-millennialism vs. post-millennialism, the social gospel vs. neo-Puritanism, and America as the New Israel vs. America as Babylon. Before these can be explored, however, the case must be made for the utility of a historical approach to understanding the current shifts in penal optimism.

IV. The case for a religious-historical approach

Penal optimism has historically been innervated by two offender-reform mechanisms with deep roots in American Christian traditions running as far back as the nation’s Puritan origins. These mechanisms are, first, the conversion of the soul of the sinning offender, and second, the individualized treatment of the offender through tailored intervention in the offender’s mind, body, and/or environment. Broadly speaking, the will to conversion drove the penitentiary experiments in Pennsylvania and New York during the Jacksonian era, roughly from the late 1820s-1840. The Progressive era (1890s-1920s) saw the beginning of the individualized model of penal treatment associated with the rehabilitative ideal, which remained intact and dominant until the early 1970s when it was attacked by liberals and conservatives alike. Though the former individual-treatment model is often understood as a byproduct of the rise of positivism, most accounts overlook the role that religion played in setting the stage for both

progressivism and, as unintuitive and improbable as it might appear today, for positivism itself.

Skotnicki (2000) makes a convincing case that both positivism and Progressivism have the prison chaplains to thank for their ascendancies in the early nineteenth century. Science and religion were at the time deemed to be perfectly compatible approaches to truth, and positivism did not supplant religion in the penitentiaries of Pennsylvania and New York. Instead, the chaplains employed scientific methodology in the penitentiaries by collecting data on prisoner characteristics by, for instance, tracking recidivism rates and cataloguing variables associated with offending as a means to discover the causes of crime. For example, these techniques allowed the prison chaplain at New York's Sing Sing to demonstrate the link between intemperance and criminality in an 1832 report. The chaplain at Pennsylvania's Eastern Penitentiary collected a range of data on prisoner characteristics, including geographic origin, age, marital status, crime, previous convictions, personal habits, and sentence. "This is an important legacy of the chaplains to the development of the American penal system, and it is from this rudimentary social analysis that the Progressive Movement in penology was born" (Skotnicki, 2000: 63).

Religion matters to most Americans in ways that many criminologists have overlooked. Though many progressive social scientists might scoff at the apparent importance of religion in public life, the United States remains an exceedingly religious country. Ninety-five percent of Americans profess to believe in God, as compared to 76 percent of Britons, 62 percent of French, and 52 percent of Swedes (Morone, 2003). Seventy percent of Americans claim they would not vote for a president who was not a believer (Marsden, 2001). Nearly three-fourths of Americans belong to a church, 40 percent go every week, 1 in 10 claims to go several times a week (Morone, 2003), and one-third identify as evangelical Christians (Greenwald, 2007; Marsden, 2001). According to a 2007 Harris poll, more Americans believe in the existence of Satan as a literal being (62 percent) than believe in Darwin's theory of evolution (42 percent) (Poole, 2009). So while it might be possible to overstate the significance of American religious heritage for contemporary penal thinking and practice, it is impossible to ignore it, particularly as it pertains to the reformative potential and redeemability of convicted offenders.

As mentioned above, some of the most vocal support for the Second Chance Act came from Christian politicians and activists. Bush described how his own evangelical conversion and born-again experience were crucial in finding the strength to quit drinking, a point he referenced to defend the need for the Act. Already mentioned as well were the lobbying efforts of those at Prison Fellowship. Religious language was invoked by many members of Congress from both parties to justify their support for the Act.¹⁶ Even more recently, *The New York Times* (“Faith was on his shoulder,” March 26, 2011) reported that Illinois governor Pat Quinn’s decision to abolish capital punishment was a matter of conscience based on his Catholic beliefs and a book by Cardinal Joseph Bernardin. These examples suggest that religiously rooted rationales and goals have contributed to the success of the Second Chance Act and to a range of other reforms of state punishment and justice systems, including the Prison Rape Elimination Act of 2003 and the Fair Sentencing Act of 2010.

American religious heritage, as well as aspects of the notion of American exceptionalism, preceded even the founding of Massachusetts Bay Colony. While still at sea, John Winthrop’s sermon to the Puritans aboard the *Arbella* declared, “The God of Israel is among us...We shall be as a city upon a hill. The eyes of all people are upon us.” Progressive-era Senator Albert Beveridge claimed that “Almighty God has marked the American people as a chosen nation to finally lead in the generation of the world” in order to justify American expansion in the Caribbean and Pacific (Poole, 2009: 33). Lest one believe such aspirational thinking and its abiding faith in American “civil religion” (Bellah, 1967) no longer endures, modern examples are plain. When George W. Bush called the nation in his second inaugural address to “end tyranny in the 21st century” (quoted in Greenwald, 2007: 75), he was reviving the Puritan notion of America as a redeemer nation (see Morone, 2003) and civil religion’s “deification of the national enterprise” (Marsden, 2001: 51). In his 2004 State of the Union Address, the same speech in which he announced his commitment to prisoner reentry, Bush, like Reagan who had called the United States a “shining” city on a hill, spoke with a missionary zeal

¹⁶ More tangentially related is the recent conversion of Newt Gingrich to Catholicism, though it is not yet known whether or how his faith might have influenced his work with the Right on Crime initiative.

of America's providential destiny: "I believe that God has planted in every human heart the desire to live in freedom. And even when that desire is crushed by tyranny for decades, it will rise again...America is a Nation with a mission, and that mission comes from our most basic beliefs...[W]e understand our special calling: This great Republic will lead the cause of freedom."

The nature of religious influence on public life has shifted and oscillated over time, often in confusing and crosscutting ways. This itself is due in part to another American religious peculiarity. The absence of a state church and the firm roots of anti-establishment (anti-Catholic), Protestant doctrines allowed the United States to become a unique incubator of religious innovation and "entrepreneurial religion" (Sullivan, 2009: 3). The resulting American "religious effervescence" (Morone, 2003: 110) began with the teachings of Anne Hutchinson, who was banished from Boston by the Puritan authorities for her contention that she had established a personal relationship with God through her own Bible study. The themes of personal conversions and of finding one's own path to God would find explosive resonance over the next century in the mass revivals of the First (1730s-1740s) and Second (1790s-1840s) Great Awakenings.

Both of these revival periods also reflected and helped facilitate American populism; the ordinary were deemed virtuous and the powerful deemed unworthy of the authority they claimed for themselves within traditional institutional hierarchies. Martin Luther's notion of "sola scripture" (Skotnicki, 2000: 8) underlies the populist tendencies and the vigorous religious innovation that characterizes American Protestantism. The "bible alone" is the key to salvation in this view, and one does not need a formal church hierarchy or a congregation to follow the path of God. For Roger Williams and the early Baptists, "the doctrine of the conversion was a radically leveling doctrine. Anyone, even the poorest in society, could be the spiritual equal of anyone else and the spiritual superior of those unconverted who held power and prestige in the world" (Marsden, 2001: 25). Similarly, the preachers of the Second Great Awakening during the Jacksonian era "pushed the same four moral innovations, which added up to religious democracy" (Morone, 2003: 126). First, they rejected Calvinist predestination and held instead that no one was beyond salvation or "irredeemably depraved." Second, they

overruled the authority of clergymen and responsibility for salvation was now in the hands of the individual. Third, religious discourses infused American secular culture. Finally, all preachers of the time “pushed the personal disciplines of sobriety, piety, and hard work...[all of which would help] bend workers to the regulated, clock-driven monotony of mill and factory” (Morone, 2003: 127).

The proliferation of American Protestant faiths and denominational offshoots holding to myriad doctrinal beliefs makes it impossible to speak monolithically about the directions of Christian influence on penal matters. Nonetheless, several clear variations, distinctions, and historical tendencies cohere that are instructive in understanding penal optimism in the American past and today.

V. Quaker optimism vs. Calvinist pessimism

The story of American penal optimism, and pessimism, begins with the founding of the penitentiaries in Jacksonian era Pennsylvania and New York. The distinction between Pennsylvania’s Eastern Penitentiary’s silent, separate system and the silent, congregate system of New York’s Auburn Penitentiary is a familiar one in criminology, so it will not be thoroughly explored here. However, the precedents set during this period of penal experimentation remain evident to us today as we look back over the periods of ebbing and flowing confidence in the effectiveness of reform-minded penal intervention. What is most important to note here are the differences in optimism embedded in the Quakers’ efforts in Pennsylvania and the Calvinist Puritan’s pessimism on display in the New York penitentiary model. Both systems were premised on the idea that the prison sentence itself served as “a pretext to reform the inmate through silence, work, and spiritual counsel” (Skotnicki, 2000: 8). However, each system was built around deeper, and conflicting, religious notions about human nature. William Penn insisted that each individual was endowed with “Native Goodness” (Skotnicki, 2000), and Quaker emphasis on individual treatment rested upon enduring optimism in the innate goodness of human beings, all of whom were believed to harbor an “inner light.” In

contrast, Calvinists believed in mankind's fallen, depraved nature.¹⁷ Though a small elect are suitably pious to receive God's favor, "it is necessary that the rest of the crowd be restrained by a forcible curb. For the sons of God are intermingled with the great, savage beasts, or with wolves and false men" (Calvin 1958: 188, quoted in Skotnicki, 2000). Thus the Calvinists' Auburn-style penitentiaries relied more on repressive regimes that demanded obedience (Skotnicki, 2000: 7-8).

Notwithstanding the striking differences in the Quaker and Calvinist approaches to the reformation of individual offenders and their varying degrees of optimism in the potential for human perfectibility, it is important to recognize that "the religious movements sweeping the country in the Jacksonian era were the seminal influences in the creation and propagation of the belief that the penitentiary could restore the criminal to society with mind and spirit renewed" (Skotnicki, 2000: 54). Confidence in the penitentiaries themselves remained strong among both the Quakers and Calvinist Puritans.

The scope of social, as opposed to individual, reform was also shaped by the two distinct operating theologies. Calvinist theology advocated small-bore reform efforts, like the eradication of vices like drunkenness and prostitution. Though Calvinists believed they must work to "fashion the earthly realm into a 'theater of God's glory,'" the ambitions of that work were pared back significantly by their belief in predestination, which "removed the redemptive significance of action in the world" (Skotnicki, 2000: 12). There was little incentive to trouble oneself with virtuously working toward social reform on a broad scale because God's will was sovereign and no earthly act could ever ensure one's salvation. This pessimistic worldview, both of the nature of others and of the prospects for one's own salvation, created a social detachment from others, a certain self-centered preoccupation and concentration on piety, with a tendency toward the condemnatory repression of backsliders.

¹⁷ This notion of human depravity is deeply embedded in American political culture, in the endemic distrust of those in power, and in the separation of powers. "Thus, the Constitution had to be designed in such a way as to curb the darker side of human nature" (Wilson, DiIulio and Bose, 2011: 86).

Moreover, the revivals of the Jacksonian era emphasized individuality and the importance of a “personal change of heart” which manifested in a brilliantly emotional experience. The focus on the individual meant that “national reform hinged on saving one soul at a time” (Skotnicki, 2000: 28) rather than on major root-and-branch reform. The notion of America as the New Israel, as a chosen nation, meant that calls for reform were far more conservative, in both senses of the word, than they would be later on when reformers during the social gospel movement would indict economic injustice and insist that social reform precede the conversion of individual souls. Though Jacksonian era evangelicals were aware of deeper seated social ills, “They were, however, insistent that the conversion of the individual heart was the prelude to social action, and without a heart renewed in Christ, no amount of reform could restrain the dissolute from falling into error” (Skotnicki, 2000: 30). As we will see, these ideas, which again go back to the early Puritans, continue to echo today in evangelical rhetoric and are evident in statements made by advocates of faith-based initiatives like Bush and Colson. These reform efforts that focus on faith conversions are not principally driven by a drive for social justice; they are much less ambitious in scope but arguably set goals at least as difficult to achieve, that is, the conversion of souls.

The Quakers deviated from Puritan doctrines by preaching about the “inner light” and the need for silent prayer, which, like Anne Hutchinson’s beliefs, negated the need for sermons or a church hierarchy, rendering the connection between God and the individual a very personal matter to be discovered on one’s own. The Quakers also turned their attention to worldly concerns about social justice, by, for instance, calling into question the practice of slavery as early as 1671 (Morone, 2003, 69). The clashes between the early Puritans and the Quakers in New England “is a story of clashing American impulses: inclusion and exclusion, internal grace and external force, toleration and repression” (Morone, 2003: 73).

VI. Premillennialism vs. postmillennialism

A second important and illustrative split among Christians grew from the “effervescent” evangelical revivals of the Great Awakenings, manifested in diametrically opposed premillennial and postmillennial eschatology. Each of these periods of fervent religious revival yielded a contrasting dominant notion of mankind’s place in the chronology of Christian spiritual destiny. The notion of premillennialism developed during the mass religious revivals of the 1730s and 1740s as “new light” evangelicals, forerunners of the premillennialist Fundamentalists who would first emerge in the early twentieth century (Skotnicki, 2000). The premillennial preachers of this First Great Awakening popularized the idea of the imminent millennium—the apocalyptic ending of the age manifested by the Second Coming of Christ and the rapture of the true believers. As a consequence, the premillennialist focuses on his/her own state of spiritual piety and awaits the Second Coming, when Jesus will return to usher in a thousand-year period of peace. The engagement in the worldly affairs of politics or social reform is therefore even less of a priority for premillennialists than for the Calvinists.

The postmillennialist worldview, on the other hand, became popular during the Second Great Awakening, between the mid-1820s and the recession of 1837 (Skotnicki, 2000), and had entirely different consequences for reform efforts. The postmillennialist believes that Jesus will only return once humankind has prepared the way for Him by achieving for themselves a thousand years of peace and justice. This view has obvious consequences for the believer who, unlike the premillennialist, is now compelled to engage diligently in the sort of works that might bring social justice to the world. Postmillennialist zeal energized Progressive era reform: “Men and women would be the central agents in the cosmic pageant; the coming of the Lord awaited their moral triumph. The millennial visions reflected the rest of the Second Great Awakening: destiny had passed from divine volition to the people’s free will” (Morone, 2003: 129). The following captures well the optimism of the postmillennial progressive:

No one who notes the characteristic of the age we live in can doubt it...All things are manifestly tending with a rapidity unknown before toward their final consummation, the full development of their capacities, and their largest

influence upon the condition and destiny of our race...The past is a picture of darkness, and error, and corruption, and moral death, from which the eye turns instinctively to the brighter picture of the present and the future. (The Pennsylvania Journal 1894-1895, quoted in Skotnicki, 2000: 102)

Such rhetoric contrasts sharply with the jeremiads of the premillennial evangelical preachers.

The consequential difference between the two millennial views is found in the compulsion, responsibility, and enthusiasm to engage in good works within the world.

The postmillennial consensus during and following the Second Great Awakening was that “crime was symptomatic of an unredeemed social order” and, as one evangelical in 1842 put it, “people cannot choose holiness of heart, speech, or behaviour” (Skotnicki, 2000: 25, 24). With positivism the focus shifted to the “supra-natural” genetic and environmental causes of crime. Some in the Progressive era, like one instructor at the Elmira reformatory in New York State, began to focus attention on bigger targets for reform, placing the blame for genetics and environment on “State neglect” (Skotnicki, 2000: 100).

VII. The social gospel vs. neo-Puritanism

The ongoing split between the “two great moral paradigms” of social gospel theology and what James Morone calls neo-Puritanism reflects the split into liberal and conservative wings that was experienced by all Protestant churches in the twentieth century (Morone, 2003: 497). Skotnicki (2000) contends that the Jacksonian penitentiary experiment did not fail because it was ineffective in its reformatory mission.¹⁸ Instead, it failed as the result of a broader split between liberal and conservative Protestants, which had great implications for the nature of penal reform to come:

¹⁸ The Eastern Penitentiary’s separate system ended after an increase in prison commitments and the refusal of the state assembly in 1867 to fund the building of the additional cells needed to keep the system intact (Skotnicki, 2000: 95).

The threads of this separation are witnessed in the evolution of the Social Gospel movement within the liberal wing of American Protestantism. It featured a growing insistence on institutional reform as the catalyst for the continued unfolding of the reign of God. This dominant trend led to calls for new institutional configurations that precipitated the inauguration of the reformatory and the modern prison. The conservative, evangelical wing of Protestantism continued to place its emphasis on the traditional program of personal conversion. Although it continued, as it does today, to have periodic bursts of revivalism, it was diminished as the governing logic of the American religious community and, indeed, of the American social ethos. (Skotnicki, 2000: 5)

The social gospel ethos downplayed the otherworldly aspects of Christianity (Marsden, 2001) and, allied with positivism, helped to push the conservative conversionist model out of the prisons while retaining an evangelical drive and postmillennial zeal for worldly reforms.

An ongoing but historically rooted tension continues within criminology and elsewhere about whether to blame individuals for wrongdoing or to blame society, both poles of which are embedded in the legacy of Puritanism. As Morone (2003: 344) puts it, in America “you never really bury either side of our Puritan tradition.” The Victorians placed the bulk of the blame on the individual, just as the Puritans had blamed the sinner. During the period of social gospel theology dominance—between 1932, when Roosevelt’s New Deal issued a “call to alms” (Morone, 2003), and the 1973 *Roe v. Wade* decision—blame was placed instead on social and environmental factors that demanded reform. The Puritans, too, embraced the morality of community service in the name of God’s covenant with the “New Israel,” though again in a more pared-down fashion.

Social gospel theology is credited to the work of the influential pastor Walter Rauschenbusch and associated with a postmillennial optimism for social and moral reforms. Rauschenbusch believed Christianity had become indifferent to human suffering and he helped lead a shift among evangelicals away from a preoccupation with personal salvation and the saving of souls toward a duty to engage in public service. During this period, “Policy makers blamed the system rather than the sinner” (Morone,

2003: 349). Social gospel theology began to erode after peaking in the 1960s, in part because anti-communists like John Stormer likened Rauschenbusch's social gospel to Marxism (Morone, 2003: 413). The new evangelicals after this period were more conservative and were responding to and resisting the liberal character of the dominant social gospel notions. They would be awakened en masse with the 1973 *Roe* decision when the "the political pendulum headed back toward the politics of personal morality...from the old Social Gospel dream of shared responsibility to the new Victorian fear of bad people and social decline" (Morone, 2003: 444, 542).

VIII. America as New Israel vs. America as Babylon

The Christian fundamentalist movement of the twentieth century fought back against the liberalization of Protestant doctrine, basing its theology on a series of twelve pamphlets called *The Fundamentals* published between 1900 and 1915 (Marsden, 2001). What most distinguished the fundamentalist from the garden-variety evangelical was a belief in the literal reading of an inerrant bible and a fervent militancy in protecting their doctrines. The distinction between contemporary evangelicals and fundamentalists was established by the revival crusades of evangelical preacher Billy Graham, particularly after 1957 when Graham brought about a fissure within the fundamentalist evangelical community. He had become adept at using his access to powerful figures in American government and public life to fulfill his mission to combat the evils of American secularization and Godless communism, and to save souls. The even more conservative fundamentalists, on the other hand, were separatists who rejected even the Protestant denominations and evangelicals who engaged with a world and a culture they considered corrupt and irredeemable. From 1957, the term "fundamentalist" tends to refer to this more separatist vision.¹⁹

Christian fundamentalists and evangelicals have always exhibited a "confusion" about whether to regard the United States as the New Israel or the Whore of Babylon (Poole, 2009). Premillennialists would tend to regard America as Babylon, which would

¹⁹ Jerry Falwell once joked that a fundamentalist is "an evangelical who is mad about something" (quoted in Morone, 2003: 23).

undermine political engagement in what might be regarded as a lost cause. “On the other hand, fundamentalists, like more White Protestants, shared in the Puritan heritage that America was the new Israel. So [Jerry] Falwell and other new religious right leaders typically talked about a covenant between God and the American people and advocated a return to a ‘Christian America’” (Marsden, 2001: 276). How this tension is resolved has consequences for the nature of human engagement with the world. Premillennial visions of an American Babylon inspire pessimistic views about engagement with a corrupt culture and call the believer to spiritual warfare with it. The optimism of the New Israel vision of American destiny is postmillennialist in its demand that we must work to deserve and hasten that destiny, through spiritual revival or social gospel reforms or both. Some groups, like Pentecostals, hold strongly supernaturalist views about the nature of evil in the world that confirm the image of America as Babylon (Poole, 2009) and function, first, to exonerate one as an accomplice in the proliferation of human suffering and, second, to disincentivize engagement in reform in the social gospel style.

Morone argues that American history has repeatedly cycled between neo-Puritan condemnation and social gospel optimism. Whether changes within religious justifications for punishment have played a direct and causal role in the expansion of mass imprisonment over the past thirty-five years has not been empirically established, but “there is no question that the two are culturally congruent and mutually recognizable” (Sullivan, 2009: 101).

IX. Contemporary penal optimism in context

The preceding sections traced a history of penal optimism through the lens of competing aspects of American Protestant theology. That historical overview has implications for indicators of penal optimism today, particularly in relation to George W. Bush’s views on prisoner reentry and Chuck Colson’s approach to broader penal reform efforts. The very definitions of American Protestantism and religious entrepreneurship make pinning down consistent and principled theological rationales for the range of an individual’s views impossible. The aim here is only to illustrate how the categories of binary

oppositions discussed above help to interpret and place in context the optimism apparent in the rhetoric and policies for which these men have lobbied. Only a few tentative connections can be drawn at this point in the study.

Some prominent supporters of the reentry movement, particularly those who explicitly justify that support with Christian theologies, including Bush and Colson, appear to conceive the notion of the well-intentioned offender whose desired goal of desistance from criminality is impeded by personal, social, and structural barriers. Reentry is thus premised not on the notion of a fallen creature, but on a perfectible, or at least improvable, individual who needs the support and assistance of others to realize his potential. Drawing a connection between this optimism and the Quaker's notion of the inner light seems appropriate, though few today would use such language or recognize the link.

Colson became convinced while in prison that "there was no clear distinction between good and evil men. Many who have a sense of decency and goodness in them had committed gross sins while in the grip of some kind of evil power. I no longer could accept the idea that some men simply had an evil nature" (Colson, 1979: 318-319). He told prisoners in one speech, "Jesus Christ came into this world for the poor, the sick, the hungry, the homeless, the imprisoned. He is the Prophet of the loser. And all of us assembled here are losers. I am a loser just like every one of you. The miracle is that God's message is specifically for those of us who have failed" (Colson, 1979: 298). To explain the passion for his evangelicalism, he quotes D.T. Niles: "Evangelism is one beggar telling another beggar where he found bread" (Colson, 1979: 69). He also writes, "I was convinced that even a modest effort by Christians at evangelizing a prison could do more to reduce the crime rate than building 20 new fortresses—based on the simple premise that change and reform begin with changed hearts. This was what Prison Fellowship was all about" (Colson, 1979: 216).

Colson acknowledges a Calvinist belief in predetermination and the sovereignty of God, yet he is driven by more than simple conversionist fervor. He is an admirer of

Rauschenbusch's compassion and often seems to identify himself as a social gospeler. He came to believe:

the malaise of our society could be healed only by a profound spiritual movement...I yearned to learn more about the great Wesley awakening in England which sparked some of the most sweeping social reforms of modern times...A pattern was emerging from my reading: the great reforms of history, I could see, came about not so much because of political institutions but as a result of God's power flowing through righteous and obedient people...I was discovering pockets like these all across America, simple men and women who loved God, little known Christians working for love and justice in the best tradition of 19th-century evangelicals when the church led the way in social reform. (Colson, 1979: 216-217, 100, 221)

Colson's autobiographies recount a number of telling examples of Christian faith and brotherhood trumping old, partisan, worldly concerns in favor of the notion of shared faith in Christ. Examples of this elevation above differences that divided their former selves are found, for instance, in Colson's own personal reconciliation and close friendship with Harold Hughes, a liberal Democrat and one-time high-profile Nixon administration enemy.²⁰ Christian fellowship also united former Ku Klux Klan member Tommy Tarrant and the former Black Panther Party member Eldridge Cleaver. These examples illustrate the transformative power of Christian fellowship and buoy the authenticity of Colson's convictions.

Bush's theological bearings are not as clearly discernible. He once told journalists of his hope that his presidency would usher in a Third Great Awakening (Greenwald, 2007; Poole, 2009). This is a clear display of his evangelical enthusiasm, but whether he had hoped such a religious revival might yield mass conversions or broader social gospel reforms is unclear. Though his Manichean view of the world is repeatedly evident in his speeches, for him spiritual warfare against evil demands more than just martial commitments; it also requires worldly engagement and the good works that postmillennialist social gospellers would recognize. In a 2002 speech he said:

²⁰ The bond between the men was so strong that Hughes would later offer to serve the remainder of Colson's prison sentence in his place.

And, obviously, if you want to fight evil, we've figured out a way to do so militarily. That's one way. But at home, you fight evil with acts of goodness. You overcome the evil in society by doing something to help somebody...Not only will our country be better, but we'll show the world—we will show the world that values, universal values must be respected, and must be adhered to. And as a result, the world will be more peaceful. History has called us to action, and action we will take. (Quoted in Greenwald, 2007: 103)

Whether support for prisoner reentry and offender second chances is linked with Bush's two-pronged strategy of destruction and "do-gooding" is not clear. The centrality of his faith in his decision-making as president suggests that political calculations were at times secondary to his broader mission. In his book *A Charge to Keep*, he writes, "My faith frees me...Frees me to make decisions other might not like. Frees me to do the right thing, even though it will not poll well. Frees me to enjoy life and not worry about what comes next" (quoted in Greenwald, 2007: 69). This might account for Bush's unexpected decision to champion prisoner reentry after decades of rampant tough-on-crime political posturing by Republicans and Democrats.

X. Conclusion

With important consequences for those in criminology who are intent to bring research more to bear on policy, the science invoked in support of either the condemnatory or reformatory penal projects have been secondary to the often religious zeal with which pessimistic or optimistic approaches to offender reform have been embraced. Science has not driven these changes to the extent often believed.²¹ For instance, the move away from the separate system in Pennsylvania in the nineteenth century raises a point relevant to today's reformers intent to marshal evidence of effectiveness to support any penal intervention. Skotnicki (2000: 145) points out that "the central coordinates of the separate and silent systems, silence, work, and moral/religious training, were not found to be ineffective as formal guiding principles...[In fact] prior to the Civil War, the rates

²¹ Though the "nothing works" consensus that Martinson's (1974) report propelled in the 1970s had an empirical basis, the paucity of evidence to support rehabilitation had been noted long before then. The reception of Martinson's message was facilitated by larger-scale shifts in religiously tinged notions of reform pessimism.

of reconviction were consistently less than 10%, with the data from the Eastern Penitentiary being the lowest.”

The financial cost of the separate system was certainly a factor in its decline (Welch, 2011), but the disregard of the evidence of recidivism reduction shows, among other things, how deeper values about human nature and human progress shape penal practice more than is often acknowledged. It also suggests that evidence of efficacy in recidivism reduction, even if we knew more than we currently do, would likely be an insufficient basis on which to build a penal system that retained legitimacy. Evidence is marshaled to support shifting, a priori, normative positions. The cycles or pendulum swings seen in the history of American punishment have been driven in part by these competing religious beliefs about human nature and the proper role for human intervention in the world. History suggests penal optimism is seldom evidence based, and the enthusiasm with which recidivism reduction has been recently embraced suggests Americans are capable of a remarkable collective amnesia.

Nonetheless, few thoughtful observers would argue that a new, deliberative, bipartisan conversation about how Americans do criminal justice is necessary. The Second Chance Act may prove to be among the first evidence of a shift in the nature of that debate. For the first time in more than a generation there are reasons to feel optimistic about the possibility of progressive criminal justice policy reform, even if a misguided or overblown penal optimism in recidivism reduction and offender transformation is first required to begin what must become, following Tonry (2011), a normative conversation about values.

XI. References

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