

PROSECUTING FROM TWO CAMPS

by

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How can we be safe from crime? There are two camps vigorously competing for your buy-in. Conservatives want to stay the course with the tired and failed rhetoric of "law and order." Progressives want to implement new strategies; strategies that get to the root of crime and are evidenced based.

Let's face it, the problem with law and order rhetoric is that it is just that -- rhetoric. California has one of the largest prison systems in the nation. Do you feel safer? According to the rhetoric, arresting our way out of the crime problem should make us the safest state in the union.

The problem is that too many of the draconian laws that emerged from the tough-on-crime era stem from mere caprice, with no studies to predict effectiveness. As it turned out, they were costly failures that only caused more harm -- and most importantly -- never got to the root of the problem.

Progressive former San Francisco District Attorney Chesa Boudin went beyond the rhetoric, to the root of the problem. The problem is not so much the "bad

guys" running rampant, as the over simplistic Conservative narrative goes, but bad policies that create so-called bad guys.

The great Rev. Martin Luther King, Jr. noted over fifty years ago, that inequality causes poverty; poverty causes desperation, and desperation is the root of crime.

It doesn't take academia to tell us that, yet they do, and have for decades. Those facts ignored, Boudin became the face of the frustration people felt as a result of wide-spread post-Covid crime reporting. In all actuality, it is much too early to assess whether progressive prosecutorial policies can be attributed to the aberrant behavior of many citizens following the traumatic Covid lockdowns.

However, preliminary studies indicate that the Covid lockdowns may have played a role in the spike in aberrant behavior by Americans all over the United States, even in the skies as we collectively witnessed hard working flight attendants being abused and mistreated in mid-flight. Incidents that went far beyond the borders of Northern California.

The truth is, Boudin's policies were in lock-step with everyone willing to admit that the tough-on-crime era policies were a resounding debacle. A turning point was in order.

That turning point didn't come from progressive district attorneys. One of the most pronounced turn-arounds came directly out of the Right-leaning U.S. Supreme Court. Yet the High Court was paving a new course.

In June 2022, the U.S. Supreme Court ruled that trial court judges are permitted to weigh a panoply of factors when considering resentencing options to correct past wrongs.

In its 5-4 decision, the wrongs the Supreme Court were rectifying were

the notorious racial disparities encrusted into the crack cocaine vs. power cocaine injustices of the tough-on-crime era. To be specific, the U.S. Congress enacted legislation imposing much harsher sanctions on crack cocaine offenses than powder cocaine offenses.

For instance, possessing just 5 grams of crack cocaine, which was typically associated with Black people, carried the same penalty as a whopping 500 grams of power cocaine, typically possessed by white people.

Meanwhile, in January of 2022, California passed AB 1540, Ensuring Due Process and Equity in California Resentencing Laws, which expands opportunities for resentencing.

In 2021, months prior to the expansion of resentencing opportunities in California, the California Legislature declared, in pertinent part: Since the mid-1970s rates of incarceration rose dramatically, and have increased since [though in general, crime stabilized or decreased].

Today the California Department of Corrections and Rehabilitation houses 35,000 people serving life sentences, representing 38 percent of the prison population. Many have been incarcerated decades. Moreover, according to CDCR, as of June 2019, approximately 24 percent of the prison population was over 50 years of age.

Yet researchers have determined that there is scant evidence that long sentences deter crime. Furthermore, research shows that criminal inclinations diminish dramatically by age 50. Progressive Da's get this, Conservatives ignore it.

Moreover, research has found that prisons are crimenogenic. One of the many ways that overuse of prisons hurt communities is that incarceration robs children of their parents. The result of this is that children with incarcerated

parents tend to fall into the grasps of the court apparatus themselves, making imprisonment predictably generational. In this case, we are creating a symptom from the cure.

These are the symptoms Boudin and other progressives around the country are trying to rectify. Progressive DAs were not the first to attempt to make this turn around, but they are the most political because they are the face of the change.

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