

# Is the Time Right for a Paradigm Shift? Where we have been and where we Might be Going

P.J. Verrecchia\*

*Department of Criminology and Criminal Justice, York College of Pennsylvania, USA*

**Abstract:** Over the years there have been a number of paradigms and concomitant shifts in criminal justice. Each paradigm shift follows a general discontentment with the existing paradigm. This is crucial because with change comes a new operating system designed to, at the least, protect society. When the paradigm is not doing its job, crisis can ensue. Current attitudes towards the criminal justice system raise the question, are we in a moment of crisis? This article explores the history of shifts in the criminal justice system, where we are now, and where we might be going.

**Keywords:** Philosophy of criminal justice, punishment, safety, paradigm shift.

## INTRODUCTION

In his book *The Structure of Scientific Revolutions*, Thomas Kuhn (1962) defines the term paradigm and lists over 20 different interpretations of the term. According to Kuhn a paradigm is the fundamental image of the subject matter within a science. A paradigm serves to define what should be studied, what questions ought to be asked, how the questions should be asked, and what rules should be followed in interpreting the obtained answers. Paradigms are created because we need to make sense of the world, so we create predictable models of it. The paradigm is the broadest unit of consensus within a science and it serves to differentiate one scientific community from another (Kuhn, 1962).

Kuhn uses the term “normal science” to refer to research firmly based upon one or more past scientific achievements, achievements that some particular scientific community acknowledged as supplying a foundation for its further practice. However, science is not an incremental accumulation of information. Rather, a new paradigm requires the “reconstruction of prior theory and re-evaluation of prior fact”, which in essence is an “intrinsically revolutionary process” (Kuhn, 1962, p. 7). Normal science is essentially research that is based on a variety of past scientific achievements, acknowledged by a community of theorists, methodologists, or practitioners. In other words, it is research rooted in a particular paradigm.

Kuhn (1962) describes the nature of normal science as a “mopping up exercise” (p. 24), which attempts to fit nature or reality into the pre-formed and relatively

inflexible box that the paradigm supplies. Paradigms gain their status because they are more successful in solving problems than their competitors.

The nature of science is to test, validate, review, analyze, fine tune and apply a theory to as large a segment of reality as possible. Nevertheless, the scientific method oftentimes discovers anomalies in nature that cannot be explained by the existing paradigm. Anomalies are facts that cannot be explained by existing theory or, more often than not, refute the theory (Kuhn, 1962). When facts are out of synch or refute theoretical propositions, this leads to a crisis within the paradigm and there are two possible outcomes. One, the system closes, and what was once a scientific theory becomes an ideology. Two, the system remains open to the new facts and the theory is modified, revised, or discarded (Kuhn, 1962). Hence, new theories are not based on accumulated facts, but rather they come about by refuting existing knowledge. The implication is that any community needs more discernment and less rhetoric. The questions that need to be asked are can the paradigm solve this problem, what are its strengths, and what are its weaknesses?

Once a scientific theory has achieved the status of paradigm it is declared invalid only if an alternative paradigm is available to take its place (Kuhn, 1962). However, this is never as simple as replacing one set of concepts and propositions with another. The task of science is to bring theory and fact into closer agreement. When a paradigm is found to be flawed, this spawns a proliferation of competing articulations, revisions, modifications, and a feeling of discomfort within the paradigm as it stands. The old paradigm malfunctions as it fails to explain reality. This malfunction leads to crisis, which is a prerequisite for a revolution. There is a willingness to try something new and innovative. The revolutionaries are generally very

\*Address correspondence to this author at the Department of Criminology and Criminal Justice, York College of Pennsylvania, USA; E-mail: pverrecc@ycp.edu

young or those who are new to their field (Kuhn, 1962). They are not socialized into the paradigm, and bring to it a fresh perspective.

### REESE AND OVERTON'S DEVELOPMENT OF KUHN'S WORK

In 1970 Hayne Reese and Willis Overton wrote a chapter for the book *Life-span Development Psychology*. In their chapter, *Models of Development and Theories of Development*, Reese and Overton further developed Kuhn's notion of paradigms. We need to make sense of the world, so we create particular models of it in our mind. These models usually take the form of theories. Reese and Overton argued that science needs proper concepts to formulate good theories, but there is a paradox in that good theories are needed to arrive at proper concepts. They resolve this apparent dilemma by saying science needs to recognize that there are different levels of models, theories, and concepts. The highest levels of models are paradigms, which they also refer to as world views and world hypotheses, which "reflect different ways of looking at the world" (Reese & Overton, 1970, p. 116).

These paradigms, or pretheoretical models, "have a pervasive effect upon theory construction" (Reese & Overton, 1970, p. 144). Different worldviews have different criteria for determining the truth. Therefore, differences between paradigms are irreconcilable, and prevent full communication. However, Reese and Overton argue that the adequacy of a paradigm is determined by its usefulness, i.e., its precision and scope. Precision in that the paradigm must have the ability to produce a compelling interpretation of a fact. It is the job of science to articulate the phenomena and theories that the paradigm supplies (Kuhn, 1962). The task of science is to bring theory and fact into closer agreement, and this can only happen if one is operating from a particular paradigm. Reese and Overton (1970) take this idea further, stating that theories in science are used to explain and predict phenomena.

### Paradigm Shifts in Criminal Justice

There have been, and still are, many theories and models that attempt to explain the causes of, and solutions to, crime. Also, individual professionals in criminal justice will subscribe to a certain worldview when executing their duties. However, the paradigms discussed here are affected public policy, not

worldviews adopted by certain individuals, since the word paradigm implies a community or group of people who think and respond to the world in a similar fashion (Kuhn, 1962). Since these paradigms and the subsequent shifts from one to another are well known they will be briefly discussed here, if only to give the reader a sense of how we got to where we are today.

### THE DEMONIC PARADIGM

Although exactly when this paradigm began is unknown, the Demonic Paradigm is the oldest of all known paradigms of deviance (Pfohl, 1994). It suggests that we look for the cause and cure of deviant behavior in the realm of the supernatural, namely, the devil. According to this paradigm, deviance is equated with sin and as a transgression of the will of God (Pfohl, 1994). The word deviance is used, and not crime, because under this paradigm acts that today are not considered criminal (such as homosexuality) were punished. No attention was paid to the age or gender of the offender, and even young boys and girls were treated brutally for minor offenses, such as theft.

The Demonic Paradigm centralized the control of deviance in the hands of religious authorities (Pfohl, 1994). During the reign of medieval Christianity obedience to God meant obedience to the church, so priests acted as official mediators between God, the deviant, and the community (Pfohl, 1994). Ministers administered punishment to purge offenders of the demonic influence and restore God's blessing. Prior to the rule of religious authorities, the authority to punish was not centralized. The most commonly used form of punishment was burning at the stake. Burning the deviant evoked the image of hell as the ultimate resting place for the deviant, and the act of burning symbolized the "true" nature of the supernatural world (Pfohl, 1994). Another form of commonly used punishment was *lex talionis*, or "an eye for an eye" (Pfohl, 1994, p. 29). Under *lex talionis*, the hand of a thief was cut off, or the tongue of a liar would be cut out, and these mutilations were done as public events. Such punishments "underscored the subordination of natural bodies to supernatural struggles between good and evil" (Pfohl, 1994, p. 29). However, not all of the punishment that was invoked was as violent as burning and cutting off limbs.

It is here that we see the logical consistency of paradigms and how they inform practice. The point here is not that paradigms are necessarily logical (no one calls for burning deviants or criminals at the stake),

but if one believes the premises of the demonic perspective, then the methods of social control make perfect sense. If the devil causes crime then family counseling is completely illogical, since there is nothing in Scripture that says the evil can be counseled out of anyone.

### **The Classical School of Criminology**

In the 18<sup>th</sup> century, the Classical School represented a radical departure from the Demonic Paradigm, and it is thought of as the first “modern” paradigm of social control (Pfohl, 1994). Where the Demonic Perspective emphasized the influence of the devil on deviant behavior, Classical theorists emphasized that human behavior is rational, logical, and a product of free will. Criminal behavior is a choice made freely in an attempt to maximize pleasure and minimize pain. The idea that the devil lurked behind every deviant act was replaced by an emphasis on individual responsibility and free choice.

There are four main reasons for this paradigm shift. While their details are too broad and beyond the scope of this paper, they are summarized as follows. One, demographic changes in the 18<sup>th</sup> century that saw not only increases in the world population, but its heterogeneity. Two, the economic and political landscape shifted from one of collective responsibility to an individualistic ethic. Three, there was a change in the spiritual heterogeneity of the world, as evidenced by the Protestant Revolution. And four, the age of the Enlightenment brought about intellectual changes. For further details and analysis of these changes, please refer to Palmer and Colton (1978), and Nisbet (1973).

Thomas Kuhn (1962) wrote that new phenomena create anomalies that cannot be explained by the existing paradigm. Simply put, when facts are out of synch, this leads to a crisis with the old paradigm. Due to the broad and sweeping changes in the world that were discussed above, the Demonic Perspective was not effective in handling the problem of deviant behavior.

The Classical School first appeared in the writings of Cesare Beccaria, particularly, his essay *On Crimes and Punishments* which was published in 1764. Beccaria believed that the irrational cruelty of the Demonic Perspective had to be replaced with a rational system of measured punishments, each calculated to exceed the pleasure expected from a specific act of delinquency. If a burglary produced six units of

pleasure, then its punishment should involve seven units of pain. In this fashion Beccaria proposed a political arithmetic of rational sanctions. He argued that specific types of punishment should be rationally fixed by “a calculation of (pleasure-pain) probabilities to mathematical exactness” (1764/1986, p. 29). This idea became known as the Hedonistic Calculus, and it was important for Classical theorists to counterbalance the pleasure gained from a criminal act with the right amount of punishment to deter further criminal activity.

This basic premise in the Classical School is that persons take actions in the rational exercise of free will. All individuals choose to obey or violate the law by a rational calculation of the risk of pain versus potential pleasure. Therefore, in order to prevent crime, the law must provide reasonable penalties that are applied in a reasonable fashion to encourage citizens to obey rather than violate the law. This idea of reasonableness is important as it illustrates Classical theorists break from the Demonic Paradigm. The punishment for crime must be tailored to be just severe enough to overcome the gain offered by the crime, but not so harsh as to be considered brutal.

Where social control during the Demonic Paradigm was in the hands of religious authorities, during the Classical Paradigm it was in the hands of legislatures who were to determine which acts endangered the common good, and assign to each a particular punishment (Pfohl, 1994). Once a person was found guilty of breaking the law, a fixed punishment was to be assigned. This punishment was in the form of large, centralized state prisons. Since deviants were seen as rational people choosing to commit deviant or criminal acts, it was believed that by “doing time” they would learn to correct their behavior.

### **The Biological Paradigm**

The reasons for the paradigm shift from the Classical to the Biological were not as complex as the reasons for the shift from the Demonic to the Classical. Many scholars believe that the Biological Paradigm developed as a reaction to the perceived failures of the Classical School's answers to the problem of crime and delinquency (Brantingham & Faust, 1979; Jeffrey, 1979). Under the Classical School, crime and delinquency rates actually rose throughout Europe, despite the belief that rational punishment would be a deterrent to criminal behavior. France had experienced a tripling of the crime rate with many of the offenses being committed by repeat offenders, that is, by

offenders who had been apprehended and punished. Italy, Belgium, Russia and Germany had also experienced “spectacular rises in crime which could not be explained in terms of population growth” (Brantingham & Faust, 1979, p. 43). Simply put, the propositions of the Classical School of Criminology were not working.

Many criminal justice theorists date the origins of the Biological Paradigm to 1876 when Cesare Lombroso published *The Criminal Man* (Wolfgang, 1961). Lombroso was an Italian physician who, when performing an autopsy on a “dreaded” criminal, discovered what he believed was an apelike structure of the criminal’s skull. This led Lombroso (1876/1911) to hypothesize that this criminal was an evolutionary throwback.

Lombroso sought to test his hypothesis by comparing the bodies of 400 Italian prisoners with the bodies of a group of Italian soldiers. He developed a list of physical anomalies that would be unique to criminals like unusual head size, large ears, receding forehead, eye defects, and an excessive jaw. According to his measurements, 43 percent of the prisoners had five or more of these qualities, and none of the soldiers had five. In fact, only 11 percent of the soldiers had three of these qualities (Lombroso, 1876/1911). This led Lombroso to the conclusion that the criminals were atavists-born criminals, and this biology was destiny and pathological bodies produced pathological behavior.

The Biological Perspective is associated with a medical model of social control (Pfohl, 1994). Therefore although the purpose of treatment was to protect society, help the criminal, or both (Brantingham & Faust, 1979). This treatment could be administered by physicians or other helping professionals like nurses or psychologists, and it was treatment that was prescribed as a cure for all types of crime. The justification of treatment was that society would be protected from further criminal acts. Many things were done in the name of treatment, such as castration for sexual offenders, lobotomies on prisoners, sterilization so criminogenic genes could not be passed on, and indeterminate periods of incarceration (Brantingham & Faust, 1979).

There was also an individualized aspect to treatment of criminals. Since each individual had unique characteristics, equality before the law was rejected (Brantingham & Faust, 1979). Treatment was

to be individualized based on scientific analysis of the individual delinquent (Conrad & Schneider, 1980). This individualization implies that two people arrested for the same offense would be treated in different ways by the criminal justice system. This was another break from the Classical School, which dealt out punishment based on offense, not the individual. It is big differences that, according to Kuhn, characterize a true scientific revolution. The new paradigms are not merely additives on the thoughts of the old, but are radically different (Kuhn, 1962).

### **The Social Structure Paradigm**

The Social Structure/Strain Paradigm reflects the fact that, according to official statistics, most criminal behavior occurs in the inner cities and is committed by lower class people. Therefore, forces must be operating within lower class areas that account for the relatively high crime rates. Social Structure/Strain theorists believe that the conditions in the lower class areas are so powerful that they actually influence people to engaged in criminal behavior.

The Social Structure/Strain paradigm was first developed in the studies of urban crime and delinquency in the 1930s. These studies showed that the distribution of juvenile delinquents around the city of Chicago fit a systemic pattern. The rates of delinquency in lower class neighborhoods were highest near the inner city and decreased outward toward more affluent areas (Shaw & McKay, 1972/1942). These rates remained constant, even with the influx of population growth. If biological factors truly explained the cause of crime, why was there not a more even distribution of crime rates throughout the social structure? Instead, the delinquency rates were highest in poor neighborhoods, even though there was a heterogeneous population. This was the main reason for the shift away from the Biological Paradigm to the Social Structure/Strain Paradigm. Social structure theorists suggested that the unique cultural norms, rules, and conditions in lower-class areas were so powerful that they influence people to break the law

Physical decay, poor housing, incomplete and broken families, high rates of illegitimate births, and an unstable population characterized the inner city of Chicago at this time. Residents were at the bottom end of the socio-economic scale with low income, education, and occupations. Criminal behavior developed under these poor societal conditions.

## The “Get Tough” or Neo-Classical Paradigm

The most recent paradigm regarding crime is the “get tough” paradigm, which has been supported by politicians who reacted to public concerns and fear of crime (Feld, 2000). This paradigm is also known as the Neo-Classical Paradigm because of its focus on punishment as a means of deterring behavior. This paradigm began in the 1970s when there was a perceived failure of the Social Disorganization/Strain Paradigm to effectively deal with the problem of crime (Pfohl, 1994). With crime rates rising, criminal justice theorists, and many public officials, decided that trying to explain and treat the causes of crime was a waste of time. Instead, we should think of criminals as rational actors, and devise a system of punishments.

James Q. Wilson (1975) argued that criminals should be viewed as rational people who will think twice about breaking the law if it is made known that violations of the law will be met by swift and severe punishment. While Wilson agrees that the ideas of the Classical School “may be scientifically questionable,” he believes that they are nonetheless “prudently necessary” (1975, p. 62); necessary because the Social Structure Paradigm did not solve the problem of crime. As Kuhn stated, the single most prevalent claim advanced by the proponents of a new paradigm is that they can solve the problems that have led the old one to the point of crisis (1962).

### Where we are Today

In 1994 the federal government passed the Violent Crime Control and Law Enforcement Act. This act funded the hiring of 100,000 new police officers and provided almost 10 billion dollars for prisons. It also, among other things, banned assault weapons, expanded the federal death penalty to cover 60 offenses, and instituted mandatory life in prison for federal offenders with three or more convictions for drug trafficking and for serious violent felonies (United States Department of Justice, 1994). All of this fits with the ideas of the Classical School of Criminology. More police means more deterrence. Greater punishment (pain) means that people will think twice (engage in the Hedonistic Calculus) before acting.

So, what happened? Violent crime dropped precipitously. According to Statista, crime rates went from 713.6 cases per 100,000 of the population in 1994 (they were as high as 758.2 per 100,000 in 1993, which might have been the impetus for the 1994 Crime Bill) to

380.8 cases per 100,000 in the population in 2019. This would seem like a good thing, but at least two things happened that made people question the efficacy of the Crime Act.

One, over the same time rates of imprisonment increased. In 1995 there were 1,585,586 people in federal state, and local jails, and that number increased to a high of 1,933,505 in 2000 (Beck & Harrison, 2001), and then fell to 1,404,032 in 2002 before increasing to 1,612,395 in 2010. Imprisonment rates then began to fall and in 2018 they were 1,465,158 (Carson, 2020), the last year for which statistics are available. This is one of the criticisms of the 1994 Crime Bill. If crime drops, then shouldn't we see a concomitant drop in incarceration rates? How can crime go down year after year but imprisonment rates hit peaks and valleys? Does this mean that the 1994 Crime Bill did not work, and it is time for a paradigm shift? President Biden wrote most of the 1994 Crime Bill, but when he ran for president he disowned it.

Second, there were cases of police brutality that made people doubt that more officers was the answer to rising crime rates. Organizations like Black Lives Matter insisted that people of color were being targeted by the police, and that while perhaps society was safer, a segment of it was not. But is that the case? According to Statista between 2017 and 2020 there were 3,975 people in the United States who were shot by police officers. Of course, these are people who, for whatever reason, came to the attention of the police. Of the almost 4,000 people who were shot, over half were white (42.33%) and Hispanic (16.45%). Less than one quarter were Black (22.84%). While this number seems skewed since Black people make up 13.4% of the population (according to 2019 US Census data), they are responsible for 26.9% of the violent crime in the country (according to the FBI's 2020 Uniform Crime Report). So while police shootings are statistical anomalies, are they enough of an anomaly to shift the paradigm?

The 1994 Crime Bill did exactly what it was supposed to do, namely, it lowered crime. As a result when crime goes down fewer people are victimized and therefore more people are safe. Punishment is an integral part of society, and most people believe that the government is justified in punishing those who break the law (Bronstein, 2009). According to Travis, III (2015), punishing wrongdoers is a reflection of society attempting to balance the needs of society (in terms of safety) and the needs of the offender (in terms of

fairness). Offenders have harmed society, therefore they should be harmed in return, as long as the harm to the offender is proportional to the crime that they committed (Carlsmith, 2006).

Defunding the police does not mean abolishing the police, regardless of the slogan. According to Rashawn Ray at the Brookings Institute, defunding the police means “reallocating or redirecting funds away from the police department to other government agencies funded by the local municipality.” In 2022 acknowledged that “Defund does not mean abolish policing,” rather, that today we are asking the police to do things that they traditionally were not a part of policing. This is not to ignore the voices that are calling for an abolishment of policing. However, those voices are few, and no one can take seriously the claim that we can never have policing.

### Where are we Going?

This seems to be the crucial question. Today we are seeing the results of cities with fewer police officers and prosecutors who are refusing to punish criminals for their actions, and they are not good. Crime rates in those areas are increasing. San Francisco recently voted to recall their district attorney, Chesa Boudin, for being, as the slogans went, soft on crime. However, other cities, like Los Angeles, held a recall election for their district attorney that failed, despite rising crimes rates.

The struggle right now is between the tough on crime side and the abolish the police side. Critics of being tough on crime say that it hurts people in poor communities, but that is also the argument of critics of abolishing the police; crime rates go up in inner cities when there are fewer police to prevent it. Perhaps the answer lies with Aristotle’s notion of the Golden Mean. However, can we ever find a middle ground between these two extremes?

### REFERENCES

Beccaria, C. (1986). *On crimes and punishments*. (D. Young, Trans.). Indianapolis, IN: Hackett Publishing. (Original work published in 1764.)

- Beck, A.J. & Harrison, P.M. (2001). *Prisoners in 2000*. Washington, DC: United States Department of Justice.
- Brantingham, P.J., & Faust, F.L. (1979). *Juvenile justice philosophy: Readings, cases and comments*. St. Paul, MN: West Publishing Company.
- Bronstein, J. (2009). Retribution’s role. *Indiana Law Journal*, 84, 1129-1156.
- Carlsmith, K.M. (2006). The roles of retribution and utility in determining punishment. *Journal of Experimental Social Psychology* 42(4), 437-451. <https://doi.org/10.1016/j.jesp.2005.06.007>
- Carson, E.A. (2020). *Prisoners in 2018*. Washington, DC: United States Department of Justice.
- Conrad, P. & Schneider, J. (1980). *Deviance and medicalization*. St. Louis, MO: Mosby.
- Feld, B. C. (2000). Legislative exclusion of offenses from juvenile court jurisdiction: A history and critique. In J. Fagan & F.E. Zimring (eds.), *The changing borders of juvenile justice: Transfer of adolescents to the criminal court* (pp. 83-144). Chicago: The University of Chicago Press.
- Jeffrey, C.R. (1979). *Biology and crime*. Beverly Hills, CA: Sage Publications.
- Justice Policy Institute (2020). *The presence of school resource officers in America’s schools*. Washington, DC: Justice Policy Institute.
- Kuhn, T.S. (1962). *The structure of scientific revolutions*. Chicago: The University of Chicago Press.
- Lombroso, C. (1911). *Crime*. (H. Horton, Trans.). Montclair, NJ: Gardner Patterson
- Smith. (Original work published in 1876.)
- Nisbet, R. (1973). *The social philosophers: Community and conflict in western thought*. New York: Crowell Publishing.
- Palmer, R.R. & Colton, J. (1978). *A history of the modern world to 1815 (5<sup>th</sup> ed.)*. New York: Alfred A. Knopf.
- Pfohl, S. (1994). *Images of deviance and social control: A sociological history*. New York: McGraw-Hill, Inc.
- Reese, H.W. & Overton, W.F. (1970). Model of development and theories of development. In L.R. Goulet & P.B. Bates (Eds.), *Life-span developmental psychology* (pp. 115-145). New York: Academic Press. <https://doi.org/10.1016/B978-0-12-293850-4.50011-X>
- Shaw, C.R. & McKay, H.D. (1972). *Juvenile delinquency and urban areas* (rev. ed.). Chicago: University of Chicago Press. (Originally published in 1942.)
- Travis, III L.F. Criminal sentencing: Goals, practices and ethics. In M.C. Braswell, B.R. McCarthy & B.J. McCarthy (Eds.), *Justice, crime and ethics* (8<sup>th</sup> ed.). Waltham, MA: Anderson Publishing.
- United States Department of Justice (1994). *Violent Crime Control and Law Enforcement Act of 1994*. Washington DC: United States Department of Justice. Retrieved on October 12 from <https://www.ncjrs.gov/txtfiles/billfs.txt>
- Weiler, S.C. & Cray, M. (2011). Police at school: A brief history and current status of school resource officers. *Clearing House: A Journal of Educational Strategies, Issues and Ideas*, 84(4), 160-163. <https://doi.org/10.1080/00098655.2011.564986>
- Wilson, J.Q. (1975). *Thinking about crime*. New York: Vintage Publishing.
- Wolfgang, M. (1961). Pioneers in criminology: Cesare Lombroso. *Journal of Criminal Law, Criminology, and Police Science*, 46, 361-369. <https://doi.org/10.2307/1141263>