

Baton Rouge, LA

April 18, 2017

On behalf of Koch Industries, thank you so much for having me here today. The folks with Right on Crime, the Justice Reinvestment partners, the Smart on Crime coalition, the Pelican Institute, and US Justice Action Network all are doing tremendous work. It's an honor to join you all this morning.

I can only imagine the many pressing issues facing Louisiana lawmakers, but I hope to make the case today that criminal justice reform should be at or near the top of the list. It is critical to creating a more free and open society for all – but particularly for the least advantaged. This is an issue that conservatives have led on and driven over the past decade.

And quite frankly, given the experience of many states in the South, this seems like an easy lift, and

something that needs to happen and hopefully will happen very soon.

That is because criminal justice reform has the potential to open opportunity to hundreds of thousands of individuals, it will make your communities safer, especially for law enforcement, it is good for business, and it will save Louisiana taxpayers millions and millions of dollars. My question is: why wouldn't you pass this ASAP?

For over a decade, Koch has worked with bipartisan coalitions to change our criminal justice system so it is more fair, effective, and just.

Why is Koch involved? We ain't no bleeding hearts! We are involved because the criminal justice system is just another failed big government program that wastes money and picks winners and losers. In this case, prosecutors are the winners and everyone else is by and large a loser.

I saw this firsthand when I was a prison guard in my hometown of Worcester, Massachusetts during

high school and college. I saw a number of former classmates in prison. They were poor, lacked support, and drug addicted and became criminals to support their addictions. It was one of those “There but for the grace of God go I” moments. It could easily have been me if I didn’t have parents who held me accountable and wouldn’t let me go too far astray.

At Koch, we want to end the immoral, broken two-tier justice system that provides the rich and connected far better treatment than the poor.

This is fundamentally unfair and contrary to why we have a criminal justice system in the first place – to enhance public safety and provide second chances for people who get caught up in the system so they and their families can lead productive and fulfilling lives. This in turn makes everyone safer, especially law enforcement, by reducing recidivism.

In our view, any reforms to the system must achieve the following:

1) Enhance public safety;

2) Honor rule of law and the fundamental individual liberties contained in the Bill of Rights; 40 percent of the Bill of Rights deals with CJR issues. The founders were sending us a message that the greatest threat to life, liberty, property, and the pursuit of happiness would come through the criminal justice system. They were right.

3) Treat EVERYONE in the system with dignity and respect – victims, the accused, the incarcerated, those returning from prison, and law enforcement; and

4) Recognize that almost everyone is capable and worthy of redemption regardless of what has happened in their past. Most everyone deserves a second chance. (By the way, April is Second Chances month.) Most everyone should not be judged forever for by what they did on their worst days. And all of us, each of us here and everywhere, we all are more than the worst thing we have ever done, as Bryan Stevenson has said.

By focusing on rehabilitation, reformation, and redemption – rather than reprisal, revenge and retribution – we move away from further breaking the already broken people caught up in the system.

Our current system has a profound human cost. 1 in 28 children in this country currently have a parent in prison. If you combine that number with the number of children who had a parent in prison during their childhood, that number is 1 in 14. As a result, many of these kids will have mental health and behavioral problems, and at least 70% will end up in in the juvenile and/or adult systems.

We spend \$80 billion a year on incarceration in this country, which is 3-4 times more per capita than we spend on education. That is the same general trend in Louisiana as well, where you spend 2 times the amount per capita on incarceration than you spend on education. If you are what you eat, you definitely are what you spend. And by looking at this data, one can conclude we care more about incarcerating people than we do educating people.

That may not be true, but that's what the numbers say.

What's more, this system also contributes to a poverty trap by creating a cycle of crime, incarceration, and hopelessness. A 2009 Villanova study concluded that had we not incarcerated as many people as we have the past 30-plus years, poverty would have been reduced by 20 percent.

While violent offenders and many individuals involved in drug trafficking need to be dealt with through criminal sanctions, and some very severely, that shouldn't be the standard for all.

Many would benefit from drug rehab and evidence-based treatment – as was passed in Congress last year and signed by former President Obama to address the opioid epidemic. In that law, we decided to treat opioid addiction epidemic - a public health crisis - like a public health crisis, which is what it is. And we didn't treat it like a criminal issue, which is what we did with crack cocaine in

the 90s when we decided on a bipartisan basis to treat that public health crisis like a criminal issue.

Instead of fear and emotion guiding our criminal justice policies as they have for decades, many states have shown the value of employing data and evidence-based practices. We now know that “tough on crime” and “soft on crime” are meaningless slogans.

We instead need to be smart on crime and soft on taxpayers.

Before we dig into the specifics of the situation here in Louisiana, let me commend everyone who has worked with the Pew Public Safety Performance Project, and the task force members. The Pew data is the gold standard and it has been used with success by dozens of states in reforming their justice systems.

More than 30 states in the last ten years have undergone some form of Justice Reinvestment process. This reflects a growing consensus around

the country that we lock too many people up, for too long, at far too high a cost.

Here are a few examples of states that have found success through reform:

- Georgia passed comprehensive reforms in 2012 aimed at reducing the commitment of lower-level offenders and investing the cost savings in diversion and incarceration alternatives. The result? Georgia has saved an estimated \$25 million, and violent and property crime rates have fallen.
- Georgia has seen so much success that they're doubling down – the legislature passed a bill this session going even further in restructuring and reducing sentences.
- South Carolina was an early adopter of this evidence-based approach to criminal justice reform, passing a comprehensive package back in 2010. Those reforms improved parole

practices, enhanced community supervision, increased accountability, and modified many of their sentencing policies.

- These reforms have yielded tremendous results: South Carolina's daily prison population was cut by 9 percent over the following 5 years; probation and parole completion rates increased by 12 and 9 percent; and the state has since closed two prisons. Violent and property crime rates fell as well.

I understand that what's happening in one state might not be what's best for another. Louisiana has its own set of challenges. Here's what I know:

Louisiana incarcerates at the highest per capita rate in the U.S. That's shocking to me.

Sure, every state has serious, repeat violent offenders who must be dealt with, but Louisiana can't have that many more roaming the streets than there are in the rest of the country.

From the data I've seen, there are policy decisions that are inflating your incarceration rate.

I mentioned South Carolina—for similar nonviolent offenses, people are incarcerated at a much higher rate in Louisiana than in South Carolina. Yet your crime rates are higher.

The data also show that for similar offenses in states like Georgia and South Carolina, people are spending less time incarcerated than they do in Louisiana. Again, those states have seen steady declines in crime rates as they have implemented reform.

The data support this and so does common sense: if we choose to emphasize extremely long prison terms over effective rehabilitation then we are doing a disservice to ourselves, to taxpayers, and to victims of crime.

Over 95% of people in the justice system will be released.

Other states have recognized that reality and chosen to focus more efforts on rehabilitation and diversion, because at the end of the day, if someone comes out worse or the same as they went in, then they're most likely to go right back to offending.

Within five years, 43% of your state prisoners in Louisiana will return to prison. For all that you invest in your criminal justice system, that just isn't good enough.

All this begs the question – if Louisiana locks people up more often and for longer than other states and spends more money than other states do, but Louisiana's crime rates are higher than other states and people Louisiana reoffend at a high rate, why wouldn't you fix the system? It clearly isn't working.

It is difficult to go back to constituents, to victims of crime, and argue this is an effective use of so much of taxpayers' money and that this is an efficient and humane criminal justice system.

Is it good enough to say we have punished them a lot, they did a lot of time, and when they reoffend we'll catch them and punish them some more?

Polling shows overwhelmingly that the public, and victims of crime, support a criminal justice system that emphasizes effective rehabilitation over extended punishment.

- And it's not just one political party or ideology: In Louisiana, 81% of conservatives, 87% of liberals, and 84% of moderates support reforms.
- Specifically, 75% of those polled believe money spent incarcerating nonviolent offenders could be better spent on rehabilitation efforts and other local diversion programming.
- 91% favor more and better diversion programming for low-level offenders. That level

of agreement is unheard-of on political issues, especially these days. The partners with the Smart on Crime coalition can gladly get you that polling.

Louisiana right now is in the same situation as many states in the past– the very difficult work of finding agreement on what to reform.

But I urge you to start somewhere. Don't let the perfect be the enemy of the good. In other states, even if all the stakeholders couldn't agree 100%, meaningful criminal justice reform legislation has passed and has been implemented.

I know the governor here has made these reforms a priority, and he should be commended for that. But it is also true that this work was undertaken before he acted with legislators and key stakeholders from across the spectrum. Right on Crime especially has been a driving force here and elsewhere around the country.

I also have heard that the governor has upset some people by running to the front of the parade on these issues; that some people feel like he is trying to get all the credit.

I would say that you shouldn't worry about it. There will be enough credit to go around if you are successful. But more importantly, this isn't about the governor and it isn't about you all. This is all about doing the right thing for your constituents, for communities, for taxpayers, and for law enforcement to make Louisiana a better and safer place.

At the same time, it's no secret that the most serious opposition to justice reform comes from the district attorneys' association. That's not unique to Louisiana.

We know and work with many prosecutors and prosecutor's organizations around the country and we have immense respect for the difficulty of what they do. And, for the record, many prosecutor groups - local, state, and national - support criminal

justice reforms like those being considered here. They need to be at the table and they should be part of the solution. Let's hope they do that soon.

With that said, I found this recent quote by a Louisiana District Attorney to perfectly encapsulate the quagmire you face. He said: "There is not a single person that we put in prison that doesn't deserve to be there."

With all due respect, in my experience, this sort of mindset is counterproductive to public safety. Nationally near 95% of cases are settled by plea bargain. We know district attorneys take their work seriously and they make incredibly difficult charging decisions every day, but can we safely assume they are right near 95 percent of the time?

If that's true, the Louisiana DA's need to quit their jobs and go to Vegas. They could really clean up there! I would love to see their NCAA brackets; I bet they called all the games right.

That's an incredibly high success rate for any human endeavor. Governments are composed of people and people make mistakes. That's just a part of life.

I'll mention anecdotally that the number of exonerations in this country is at an all-time high. Advances in forensic science are helping clear people for crimes they were convicted of on faulty evidence. We also know that 80% of the criminal defendants in this country can't afford a lawyer and need a court-appointed one. We also know that 6th amendment right to counsel is violated every day in this country.

So, I believe that in the interest of public safety and effective justice we need the humility to accept that mistakes have been made, can be made, and will continue to be made.

As I mentioned before, recidivism rates are incredibly high. So again, what are you doing here with the people who deserve to be in prison to make sure they don't recidivate? How are you making them better on the way out than they were

when they came in? Are there educational, vocational, spiritual, counseling programs? What are prisons doing to help people reintegrate and reenter society?

More importantly for the reforms in front of you, I would also argue there are people incarcerated who may deserve to be there in the sense they committed the offense they are accused of, but in many cases, could be much better served by drug treatment and mental health services.

For a lot of people suffering from mental illness and addiction issues, there are far more successful and less costly alternatives to incarceration.

Other states have recognized many of these shortcomings with their systems and taken steps to fix them.

On a related note, I know much of the debate here centers around who gets out and when. I don't have the perfect answers there, but again, you can look to the example of other similarly situated states like

Texas, Georgia and South Carolina, states that have made similar reforms to time-served policies and seen crime rates decline.

There is also a well-researched body of criminology that demonstrates longer prison terms and mandatory minimums do not effectively reduce recidivism, nor do they reduce crime. There is no real evidence that they do, at least nothing scientific.

The partners engaged here and the District Attorneys need to continue to work to find common ground that enhances public safety and focuses limited human and taxpayer resources on the most serious offenders.

The good news is you can find examples of how this is working all around the country in states that are reducing crime and saving money – many of them red states.

The states that have reached out to engage in the Justice Reinvestment process should be

commended, and those that have implemented reforms are seeing the results: lower crime and lower prison populations.

Again, Louisianans want reforms to these systems, and we owe it to them, and especially to law enforcement and victims of crime, to use our limited resources wisely, to reduce recidivism, and focus our resources on the most serious offenders.

Smart on crime and soft on taxpayers works. I urge everyone to continue working to find consensus solutions that are based in evidence of what works and has worked around the country.

Reject fear and emotion; embrace data-driven and evidence-based practices.

Thank you to everyone in this room who is striving to make society better for everyone, especially the least fortunate.

May God Bless you all. Thanks again for having me here today.