

Decarceration Nation Episode 37: Mark Holden

Hello and welcome to Episode 37 of the decarceration nation podcast about radically reimagining America's criminal justice system. I'm Josh Hoe, among other things, I'm formerly incarcerated freelance writer, a criminal justice reform advocate and the author of the book *writing your own best story addiction and living home*

In a few minutes I'll get to my interview with Mark Holden of Koch Industries about their efforts in criminal justice reform. But first the news last week of course, I posted my recap of *Orange is the New Black* season six Episode 12 which was to say the least interesting episode I also started my to do a new feature on my blog, part of decarceration Nation. com. Just kind of just a review of any interesting news about incarceration or about re entry or any of the other criminal justice reform that I see during the week? I don't know if it'll be every day, but it will be. Whenever I find interesting articles just add something more to the portfolio. I suppose it really wasn't that much else going on this week. For me, it's been pretty busy. I hope everyone else has had a great week. And let's get to my interview with Mark Holden.

Mark Holden serves as Senior Vice President, general counsel and corporate secretary of Koch Industries. He is also the president and CEO of the legal division of coke companies public sector LLC, which provides legal Government and Public Affairs services to Koch Industries and its affiliates. Mr. Holding began his career with Koch Industries of 1995 is litigation attorney and was Vice President and General Counsel for litigation and compliance. He earned his bachelor's degree in Publix and Political Science from the University of Massachusetts and his law degree from the Columbia School of Law at the Catholic University of America where he was the associate editor of the *Capital University Law Review*.

Hello, Mark, very happy to welcome you to the decarceration nation podcast. Thanks for having me, Josh. Very excited to be here.

Thanks. Again, I think bios don't do a very good job of telling stories. So you can, can you do a little better job of flushing out how you got from where you started to where you are? Now? I know I I remember in a speech I heard you give that you started at least at some level as a correctional officer, is that correct?

Yes, that is correct. After my senior high school, I got a job at the Worcester County House of correction, you know, my hometown of Western Massachusetts and that and kill them with the law school. That was the best job I ever had in terms of pay, I think I

made but six bucks an hour back in the early 80s. That was real money. And that helped me pay for school, University of Massachusetts. And it was really an eye opening experience in a lot of different ways. And one of the biggest eye opening experiences was there were about 15 to 20 kids. I grew up with, went to school with and played sports with, and such who I'd lost track of in junior high and high school who were in prison who are incarcerated. And that was a very eye opening experience. For me as a young person.. These were kids who were a couple of them did some were violent criminals, violent, violent crimes, but most of them were just knuckleheads like I was, who made mistakes and did dumb things and got caught, didn't have parental support, didn't have resources I I was I'm lucky that I had the parents I had really kept a close eye on me and it made me do all the things I didn't want to do all the time like go to school and go to church and work but they think he made me really toe the the line and I think that saved me more than anything and a lot of it was just luck not being in the wrong place at the wrong time but it was really one of those there but for the grace of God go I moments and so these these guys who were like I said went to all the same circuit had the same circumstances is me if they were incarcerated in there were 1819 years old and their lives were pretty much ruined from that point forward just because they could not get out of a cycle of some of them were drug addicts and in poverty and didn't have any family support or any education or any skills. So that was my first real glimpse at the criminal justice system and wasn't a pretty sight and it still is, in my opinion, and is

that apparently that must have really stuck with you as you've gone through your journey from law school through to working at Koch Industries. How did you get from where it was something that you thought about to something that you worked on on a daily basis at coke?

Yeah, I guess it's been like most things process and an evolution over time. I joined Koch in 1995 and one of the first guy was a labor and employment litigation attorney. And one of the first cases I worked on was a whistleblower case. For one of our refineries in South Texas, and that case became not the civil case I handle didn't become a criminal case. But the person who brought the civil case became a key witness against four of our employees and our company. Back in 1995, our employees discovered a false statement had been sent into the state by another employee. They notified the state that there was a false statement made they told the state regulator that they would investigate and report back when they were back in compliance about how far they've been out of compliance and then report back they are in compliance. We have a document from the state regulator and official document of that meeting where it says all that our employees ultimately did everything they said they would do, they

corrected the issue and they reported back to the state their compliance Now there were a lot of different hiccups and other issues that came up during the case but all of a sudden this whistle blower emerged the one who's deposition I took and she claimed that the company and our employees had not fix the issue and that they were lying about it and had made another false statement that led to a six year or deal becoming ultimately a federal criminal case down in Texas where for our for employees who would fix the issue and address it properly. We're literally you know, facing prison time some of them up the double digits for alleged environmental crimes and false statements. Ultimately, the case was dropped by the prosecution that happened after we had a expert witness hearing where the government could not show they had any evidence of non compliance by our employees or the company other than the original false statement we had self reported six years earlier. So our four employees were exonerated, the case was dropped, our employees had to sign a waiver, not to sue the go for malicious prosecution, and we paid a \$10 million fine. And then we did a \$10 million supplemental environmental program in Corpus Christi, Texas, which we were planning to do anyway. And we were on five years probation after that. And one of the outcomes of that case was that Charles Koch asked us after, you know, did the system work the way we thought it should? And would and the answer was no, we saw you know, what we thought were bit was bad behavior by some of the prosecutors in the claims they brought in a number of counts. They had we found doctor tampered evidence in the grand jury process and so for us is a big company who could spend literally 10s of millions of dollars on the best lawyers in the best consultants they did it to us they did those types of things to us what was happening to the average individual in the out on the streets. What was it like for them if they get caught up, you know, the poor working class middle class small business owners. And so Charles said, Well, if the system isn't working the way it should, let's try to fix it. And so that's what we decided to do.

And has that long been a passion of the brothers criminal justice in general? Or there's a Yeah. Is there like a history?

Yeah, I mean, well, Charles, Charles and David are both very passionate about a number of different issues, public policy issues in our in our society. Charles in particular, David was one of the original founders of families against mandatory minimums. Charles has been a big opponent of the war on drugs forever, doesn't think it makes sense. And so they're very focused, particularly Charles on removing barriers to opportunity for everybody in our society, particularly the least fortunate and if you look at there are so many external barriers to people succeeding in our country, so many two tiered system that really ruin people's lives and have for generations one of the biggest

ones is the criminal justice system. You know, we it's very important to have a criminal justice system. obviously that provides justice and equal rights and keeps us safer. But in a lot of ways, that isn't what's been happening the last 40 years. So it's been a big issue for all of us at coke who work on this issue now and for Charles for a long time. And if the whole idea is if we could get the system, right, give people real second chances, you know, and make it a better a better society overall, that would be something that would be good for everybody. And so we focus on that whether it's failed K through 12 education programs, regulatory programs that don't work, whatever it might be, but in the criminal justice space for 47 years now, with the war on drugs we're just seeing the same thing happened again and again, people are picked up people recorded prison, they're in poverty, they go back they go back in their families go back in and a lot of places as well. So our goal is to have a system that is based on keeping people safe. So public safety and then equal rights and justice and then a redemptive type of prison experience and redemptive justice. So people get real second chances, which means that hopefully, they are not repeat offenders going back to prison again, and again, because that is what will keep us safer. If people don't go to prison at all. Or if they're in prison, they go go only once they get better while in prison. So when they come out, they don't hurt anybody else. And that's our goal, ultimately, to make it a better society and a safer system. I definitely couldn't agree with you any more on that and especially on that the drug the war on drugs has been a failure, not know the word failure drugs, won the war on drugs and to keep going. We have a higher rate as you know, Josh is a higher rate of usage of illegal drugs now than there ever has been. So whatever we're doing isn't working and we need to try something different.

Yeah, I totally agree. When I heard you give a speech in Detroit recently referenced a Frederick Douglass quote that is one of my favorites too,

“I would unite with anyone to do right and with nobody to do wrong.”

You also said in that speech that Charles Koch is a huge fan of Frederick Douglass. Can you talk a little bit more about that relationship?

Yeah, I mean, well, Charles, it's been one of his heroes throughout history always been a big vote a of Frederick Douglass. It's an image. As you know, Frederick Douglass story is an amazing one, talking with someone overcoming obstacles, external and internal obstacles and transform himself and others. And that's the goal ultimately, is for people to transform themselves and then to help transform others make other people's lives better improve other people's lives through these virtuous cycles. And then people who help people succeed will then help others succeed. And so Frederick Douglass is a

prime example of that. I mean, this whole story of being a slave, but then learning how to read, teaching himself through the Masters wife, teaching him how to read and then he became emancipated and all that. Then you just didn't stop there. He went on to help and other people in the United States secure their rights like women suffragette rights, other people who are downtrodden like immigrants who supported them. So it's really an example of someone who didn't just work for themselves and get themselves in a better place, but tried to make it a better society. So Charles is very much focused on that. And when you look at the great movements in history, whether it's the abolition movement, whether it's the civil rights movement, all the different movements over the past several decades, it's always a movement, it's trying to address a great moral problem or outrage. And I think that the criminal justice system in many ways is one of those types of movements. What we're seeing because both sides were in these other movements left and right it's not even political really, it's just doing the right thing. People coming together to do the right thing to be back and Topic Raven justice, I think we're seeing that more and more in the past 10 years in the criminal justice space as well.

Yeah, I would have to agree with you there. We also have seen I think, you know, if you look at almost any statistic, that there's a large racial component to the way that we've been done mass incarceration. Do you have any opinions on how we best should address that? Or said it? Does that also been informed by kind of how you looked at Frederick Douglass or any of the civil rights struggle?

Well, I mean, I think it's we've got a system that you know, it's some statistics Don't lie. There's a huge over representation of brown and black people in our criminal justice system. The numbers show that over representation and by saying that no one st it's there's no people are intentionally doing intentionally doing that, but that's how the system is played out. And you know, so I think it's an issue we have to address that's why we talk about equal justice and Equal Rights. We want a society where everybody's treated the same. And we want a society that when it comes to a criminal justice system is actually engaged in, in focused on real crimes, not some of these other crimes that we've made up, not crime. So, you know, people who are drug addicts are mentally ill, or doing drugs and not hurting anybody else but themselves. Not saying that's a good thing. But those aren't the types of things we should be locking people up for. We should be more focused on keeping people out of the system, like a lot of states have been doing the last decade or so and and focused on diversionary programs, whether it's community service or jobs, programs or skills, training, drug therapy, just opportunities I mean, some of the reasons we've seen I know the war on drugs and and the prevalence of drugs in particular communities is because in a lot of places there

have been hollowed out altogether and a lot of there are no jobs or opportunities in those places and nuts. saying its own drugs is good thing. I'm not saying we're forward at all, obviously but people have to survive. And when you're in certain communities, you know your economic reasons why you might do that. So let's address those rather just locking people up for long periods of time so they get worse and come out less skilled and less employable and more traumatized. None of that makes sense. So we need to reform the system in our opinion from beginning to end and from beginning and that means everything from bail practices, asset forfeiture, the grand jury system, we need to also look at the way plea bargaining works. We need to look at indigent defense programs, Sixth Amendment rights, you know, 80% of the people in the system who are entitled by the Constitution, the Bill of Rights, they have a god given right to a lawyer to defend them. And when the government tries to take away their life, liberty and property 80% of people have to rely on that right. But it's not fully realized because these lot of places we don't fund these programs so they don't really have a full time lawyer to go against the government, the government is still prosecuting them. And I think that's a constitutional crisis when the government that's in charge of keeping your rights are protecting your rights. And providing you a lawyer is also trying to indict you, and then incarcerates you convict you but they're not providing you a lawyer. We also think we need to fix since now the sentencing laws but the crime 50 on the punishment, excuse me fit the crime. We think we need to look at prison reform rehabilitation programs like in the first step back at the federal level, and we're big, we're big fans of and focused on re entry programs as well. And when going back to the grand jury and the power prosecutors. I really think we need to revamp that as well.

Well, almost every issue that you just raised as an issue that I've done an episode of the podcast about so we're like simpatico right now on everything that you're talking about. and I think when you talk about economic opportunity, you all as a as a company also provide opportunities for second chances and Ban the Box is that correct?

Yeah we've Ban the Box a few years ago it Koch Industries prior to that I've been with the company like I mentioned since 1995, we hired people with criminal records from 1995 to present whether without the box on our application, it's never really dictated our hiring practices. And we've just learned given the way Charles and particular understands the world and how things work that people do make mistakes. There are so many laws out there, there's an estimated 6000 federal criminal laws and an estimated 300,000 or more federal criminal regulations that you can get tripped up pretty easy in our society and that, you know, people make mistakes, people do things they shouldn't do, but that shouldn't basically you keep them from ever being successful in life. So from our perspective, as a global employer, you know, in our country because

of how much we use the criminal justice system to solve every single issue or try to solve every single issue from real crimes, to regulatory crimes to, you know, drug crimes, whatever it might be. We've got one in three people in this country with a criminal record, which is as many people with a criminal record as a college degree and is a global employer like we are so we're in obviously the United States, we have a presence in all 50 states and in 60 other countries around the world where we have 120,000 employees and we are in a global talent on foot hunt for the best people, the best employees, not the best employee with a criminal record or without a criminal record. So our point of view is we get an application we look at what the individual looks like on paper then we do a phone screen then we have someone in for face to face interview if it goes that far, and it's point at the end of the process, we do a background check. And that'll come up with whatever it's going to come up with and for us, so we want to get to learn the individual learn about the belt, the person in their story. And a criminal record is part of someone's story. We want to hear about that it's not going to freak us out necessarily, we're still going to hire the best person for the job, regardless of a criminal record or not. And usually what happens is people who have a record or an issue in their background, bring it up early in the process. And for us to the extent they do that, and we get to learn the whole person and what they about the whole person and what they've learned from that experience that informs our hiring process and what we want to do with a person if they could overcome something like that and what they learned from it because everybody does make mistakes. And if people don't put out that they have a criminal record, they don't tell us about it. And we learned it, learn about it near the end of the process. When we make a an offer of employment conditional on the background check. There's a different conversation that has just like why didn't we hear about it till now. So for us, it's just makes sense. And we encourage a lot all employers to take a chance on someone, because we've found that people with criminal records are among our best employees in certain places in certain circumstances. And they're better than a lot of employees who don't have criminal records. And by and large, those that people we hire with criminal records were really hungry and humble and really grateful for a chance and are, you know, positive employees and positive in the workplace. So we encourage individuals and employers to give people a second chance. It's one of these things again, the virtuous cycle, it's good for everybody. It's good for the employer like Coke, we got a good employee, the individual gets a job jobs are big part of keeping someone out of prison, a good job once they've been in prison, gives them a chance and then it helps society because someone who was in prison and custom 30,000, 40,000 a year and coming out again and going back in that's what waste of money and people get more dangerous over time this night, have someone positive in your community, someone who's a taxpayer, someone who's making the community better, not worse. That's better for everyone, including law enforcement, and

including crime victims who are very important here and the way to honor crime victims to make sure that the people who go to prison come out better and don't hurt anyone else ever again.

And that's a really good bridge to my next question. The Uniform Crime report came out recently and as I read it, it suggests that the the rates of crime and violent crime are as low as they've been since the 16th but some are claiming that it was a victory for tough on crime. As recently as yesterday a letter was sent to the president to that effect what is your read on the Uniform Crime report and on tough on crime as a guiding principle for policy?

First off, I think any any look at an issue like crime in a country as big as ours and as diverse as ours to try to divide something from it means this is valid. What is this and what's causing it? I think it's ultimately a fool's errand. It's hard to know. It's very, very idiosyncratic. I think it's important. Even more important, though, not to politicize something as important as public safety, which is, unfortunately, exactly what we've done from the 1970s when the war on drugs started till today, that willie horton era, you know, the bill clinton era, all that and I think all this stuff's way too important to be doing that too because it's very nice. This is people's lives so my first off as far as the tough on crime era it it's so fake. It's so phony, be tough on crime. I mean, come on. What's key? What keeps people safe is what's happened in the last 10 to 15 years starting in Texas and it's being smart on crime and soft on taxpayers and based on evidence and based on data not based on fear and emotion and political aspirations, which is what happened in the 80s and 90s with the mandatory minimums and mandatory minimums, there was no data, no science behind it. One party came in and wanted to be tough. And then the other party wanting to do the same thing being Democrats and Republicans. And that's where we are today. So we're very focused on places like Texas where they're now closed a prisons reducer crime rate to a rate they haven't seen since the 1960s and also have saved over \$4 billion in taxpayer money. That's what keeps people safer, smarter crime soft on taxpayers. And so when you see people saying that when the crime rate goes up, well, that means that we're been soft on crime or it goes down that means that oh well that means because we're tough on crime I just call bs on that. Quite frankly it's factual I don't think it's true I think that um, you know, if even when crime goes down like it has the last several years consistently, like you said, Josh, we've got our lowest crime rate since the 16th will incarceration rates to keep going up as well. So that's really the problem and and I think at the end of the day that what we've learned is that there are certain places where there are a lot of serious issues that we need to take seriously and not just say, hey, this goes up or this goes down I win because this is way too important for that. But the tough on crime are is

really it's it's got its last I'm telling you in a few years, the people who are tough on crime are going to be like people used to find after world war two and one of these remote islands that didn't know the war was over. That's what's going to happen because what we're doing now it's worked in all the states that have done it and tried it and states are doing more and more and more trying to make the system much more effective and a much safer system but a redemptive system that costs less and gives people second chances. That's the goal and a good one.

Okay, let's talk about some of the criminal justice reform efforts that you and Koch Industries have been part of. One of the most important I believe is voting rights for people with convictions. Yeah, I feel like I've had some struggles with proposition I guess amendment for in Florida to in that I am very much for the vast majority of people getting their voting rights. Yeah. Well, I think it always should be the individual but when you're doing something in a referendum

In a state, you're covering all the population. I it's not happened before in that state like in Florida, I think you you have to get success where you can and build on that in the future is my sense. But, um, so I think that's what they're trying to do in the Florida case by excluding murderers and sex offenders. And then over time, will that change? I don't know, but I think they must. I was not a part of the people, the individuals in the groups that drafted the language for the amendment and what their strategy is or was but I'm assuming they did the research and felt this was the best way to advance this issue. And like we're seeing in a lot of criminal justice. issues over the past decade you're going once get something good done and you failed on it so that could be the strategy as well that's worked in a number of states you've also been working to achieve bail reform I'm guessing you agree that the amount of money someone has doesn't have much to do with their level of dangerousness, right yeah No, I totally agree with you Josh. We should be based and what we do on all our activities really on risk and this is person threat to public safety. And if the person is then they probably need to have bail or no bail if they're really a big threat. But the fact that you have money is not a proxy for whether or not you're going to be a risk to commit another crime while you're waiting your case to be heard. And we know that you know, the Eighth Amendment talks about bail, but it isn't in a way that says bail is really great. Everybody should try so the whole ideas and bail is allowed but it can't be excessive. And from my perspective, and this is in a Supreme Court case that basically pretrial today, detentions under our constitution under the Bill of Rights should be rare. You know, freedom is the norm. And so when we have all these cash bail requirements for every single offense under the sun, even petty ones or even ones that, you know, nonviolent, whatever it might be, and it's 100, 200, \$500 for a lot of people might as well be \$500,000 if they don't have the resources

and the costs are so high to those people who aren't a threat to public safety that then are locked up waiting their case to be heard. They lose their jobs, they lose their homes, they lose their families, that isn't what our system should be about. Money is not a proxy for public safety. And so it should be based on risk. And I think a lot of states are doing that now a lot of different jurisdictions and that will lead to better outcomes because the data shows the evidence shows that when people are put in prison pre trial, they oftentimes end up leading to things they didn't do. They don't get lawyers but half the time and then when they come out of the door, their job, they can't get jobs, they have a criminal record, their families may have disappeared and they've lost their possessions. So we think that that bail bail system needs to be reformed consistent with what the law is about. And the Bill of Rights is above, which is individual liberty and freedom. And so what do you think would make for a good system of pre trial detention? Well, I think it's going to be risk assessments, I think, between predictive technology that's, you know, gets better and better all the time and home confinement issues. So people whether it's an ankle bracelet or something else people want, so they can go to work and have their lives their lives but can be monitored, maybe that's the way to do it. And I think a lot of it also should be that looking at who were arresting get caught up in the system. And, you know, there's a lot of these technical parole violations and all these other issues that people get picked up for. And this is gets back to part of the problem is we're using our criminal justice system in ways that it was never intended to be used, whether it's really revenue generation generation or anything else, you know, and you've got twin asset forfeiture fees and fines, those types of issues, you've got law enforcement, who I have utmost respect for my brother in law is I was he just, he retired a few years ago cop and a detective in San Diego. I have friends in Worcester who are law enforcement, we owe it to them that they're not, you know, put at risk with asset forfeiture practices, late fees and fines, to just end up making people angry and trigger things and we should let them be, you know, in the communities and be a partner in the communities, not someone who the communities don't want around because they feel like they're going to get hassled or find. And so I think that we need to look at all our systems who were picking up power picking it up. And I think the whole idea in a country is great as ours but I still think our system is has probably the greatest system that exists criminal justice as well, despite all its problems that the whole idea was losing someone's Liberty losing liberty. was the ultimate next to death, the ultimate penalty. But we go too fast with that now it's our first option, it seems as locking someone out, we really need to rethink all that.

That's a pretty good lead in also to this. I think a lot of people when they hear people talk about risk assessments and ankle monitors and things like that, they start to have fears about kind of widening the net and privatization and surveillance. I also think that sometimes people are afraid that when large companies are involved in criminal justice

reform, like for instance, Koch, that maybe their goal is a for profit play about privatization. I'm obviously not making that I just I've heard this a bunch of times. I just thought this would be a good time to ask what you all take on this was our take is that we have too many people in prison and too many presidents would like to see consistent with public safety, fewer prisons and fewer people in prison. Now to answer your other question about privatization, we're not involved in any way, shape or form any whatever investment anything else in private prisons not involved. We've told the private prisons when they talked to us that the only way whatever support them and we've never supported them would be if they were to be in favor of comprehensive criminal justice reform like we are. And I don't know if that's going to happen or not. But we're not we're not even thinking about being engaged. We're trying to, again, reform the system, whether it's a private prison or Republic prison. We want people not in prison so much and when they come out, they're better because they've been rehabilitated. I will say it from what I understand, and this is anecdotal, not empirical. But over the past several years, talking with people who have been in private prisons and in public prisons, pretty much everyone says that private prisons has better programming staff more professional they have they have a better experience there. That doesn't mean I want private prisons again. We want fewer people in prison and fewer prisons. But we also want people coming out rehabilitated and better, not worse. So this is something, you know, from my perspective, the reason we're even having this discussion is between because between 1990 and 2005, we built on average every 10 days in this country, a new federal or state jail or penitentiary, well, we blown all our money on this. That's the problem. And let's go back and look at that. And you know, people get upset about private prisons and I respect their positions I'm very much focused on let's fix the whole system. And you know, if we can get better outcomes through a private system, which I'm not saying we should or water could and i'm not in favor of anyone ever spending a second more in prison than they have to if there's something in a contract with a private prison that says that that keeps people in this because you have a quote on bed space and occupy and people who are in keeping people in prison. We're against that we would never favor that we just want better outcomes regardless.

That's all. Yeah, I agree. I think, you know, my focus is generally on if we have good outcomes or not. And personally, my problem of privatization I think it's kind of a misnomer anyway, because we have just as many companies involved in public prisons, as we do in private prisons. And to me, it's a question of what gets better outcomes and what has better results for the families and people inside and that can include the charges so for instance, with public or private prisons, a lot of times the

costs get passed on to the families of the incarcerated people so I do care about that too

Well I agree with you I think that what you I agree with what you said and I think that some of the other practices in prisons about the ridiculous rate for keeping people in touch them phone, you know, there's there's so high that people can't talk to their loved ones. I really really am not it all in favor of picking on least among us who are having their worst moments to try to make money off it. I think that's reprehensible and unconscionable.

We definitely agree on that. Let's talk let's move to something that we're both very passionate about the first step back, we kind of get attacked on both sides. Some people kind of usually what I would assume most people would assume is my side of the fence, like to characterize it somewhat as fake reform. And then on the other side, it's not tough enough. So I don't know what's your take on the first step back well, people whose they say it's fake reform,

Tell that to the family members who have people in federal prisons Tell that to the people in federal prison, and at that that's just to me, it's it's offensive. Let's just put it that way. I think that the first step Act is a really, really good piece of legislation. I like it because it's based on evidence and data driven practices. Things that have worked in the states, things that have been shown to work and it's not based like the mandatory minimums on fear and emotion. I like it because it's going to give people a chance at a real second chance when they get out of prison because they'll be real programs and education, vocational training therapy, cognitive issues will be addressed. They're going to allow certain outside groups and to help whether it's an education or vocational training program. And we know from the work we do a lot of really good groups that do that, as do you think that's very important as well. We like it because it has incentives in there. And incentives matter as far as good time during credits, we like it because it also provides for the families to be closer to their loved ones who are incarcerated based on risk factors and bed space better and availability. No longer no more than 500 miles. We think that's very important. We also like the fact and it's kind of sad that we have to have a lot for this, but that pregnant women will no longer be shackled when they give giving birth to their children. And afterwards, we'll be able to hold their babies. We think all that's very important, and we think that it should be passed through the Senate. Hopefully, after the midterms that'll happen. You saw how it sailed through the house and everybody from the Freedom Caucus to a lot of the Congressional Black Caucus conference voting for it. So we're a big fan of it. And if it gets through the Senate, and they add some sentencing reform, common sense sentencing reform focused on low

level offenders, we think that's even better. So we're very excited about it. And we hope it happens. We think it needs to happen and it's going to be our top priority for the next while I guess after we get through the election until the end of the year, because we need to get moving at the federal level. The states are way I had it there's no time for all this other nonsense not getting this done. It has to happen. People are suffering. We know that there's going to be what, 45,000 or 50,000 federal inmates coming out each year. And to the extent that they're not coming out better, that's not good for any of us. It's not good for their families. It's not good for their communities. So if Congress can't get this done, Shame on them.

Now, luckily, we just got news from the senate majority leader that he's agreed to a vote as long as it has 60 votes after the midterms. Do you agree that this is an achievable threshold?

Yeah I think it is now I'm not as you know, I'm not like chicken my heels here and singing in the rain because a leader that they'll do a whip count lot depends on who's whipping and who's counting and I want to make sure I'm want to, you know, we want to make sure this happens. You know, I think there's probably much more than 60 votes there. So I am I'm guardedly optimistic, but at the same time we haven't we have not popped the champagne bottles because we're getting a webcam. We need an actual vote on the floor. It needs to be on the floor. And I think if it is it will pass. And and we know that President Trump again made it clear yesterday, he will sign it into law, even if his attorney general is against it.

Yeah, I thought that was really good news. Lately, you've been working on a project called Safe Streets and second chances. The website calls it an innovative program that takes on evidence driven approach to the chronic issues of repeat offenders and recidivism using academic research to craft individualized reentry plans that shift the ultimate measure of success from whether individuals are punished to whether these individuals are improved, rehabilitated and capable of redemption. Could you flush this out a bit more? I think people might be wondering functionally how that's going to work?

Yeah, so we're in four states right now. You know, a number of prisons need to the states were in Texas, we're in Kentucky, Florida and Pennsylvania we've got I believe it's going to be 11 or hundred people. Ultimately, in our pilot program, this is a pilot. And we hope to scale it up over time, half of the people who are volunteered for this and were selected randomly, not by us, but by the institutions, half of them are going to get the programs that exists currently in the state institutions. The other half are going to get a program that our teams put together that we think is, well, I don't want to be

disrespectful to what the states are doing. We think it will be more innovative and more effective. We hope that at least we're going to find that out. This is really about getting more and more data and evidence based practices in place and learning more and more, because in our criminal justice system, as we've talked about a few times here, data is what has changed the dynamic but we don't have enough data. And so what we're hoping to do, and we're just started with the first collection of data we're hoping to do over time is to see who gets better outcomes and tracking the people who are coming out of prison. And re entering society. And we're going to be tracking them for the next year and a half. And then we're going to see, compare our notes with what the state institutions, what their outcomes were, what ours were learned from each other and keep building and growing and hopefully scaling it up. You know, our ultimate goal is to um, well, first off, one other thing I want to talk about the partners here, it's Koch Industries, and Charles Koch Foundation, right on crime and the net which is the Texas public policy Foundation, longtime partners of us who are phenomenal. And then Florida State University and professor, and and carry Pettis Davis, who is an awesome human being former social worker. Now, Professor, she has studied issues around incarceration and decarceration and recidivism for the past, oh gosh, 20 years or so. There's studied over 100,000 different programs her and her team and they think that to her, her plan is five key models plan which we think is innovative, it's going to be layered on top of What is going on with nonprofits and other providers in the jurisdiction. So it's not a top down approach. It's a bottom up approach. And we want to learn from those who are on the ground, you know, helping with re entry and different programs outside of the prison systems, what works for them, what doesn't work in their communities. And our hope is to learn from that and then keep, like I said, scaling this up both in size within the different states we're already in and then we've already got 10 other states that want to be a part of this but we can't do anything till we get really through the first batch of our data and see what you know whether we've had the success we want then grow from there and then go to these other states potentially and our goal ultimately the motto what we know if it's the motto enough but what we talked about is that re entry needs to begin day one of incarceration hopefully, you know, pre entry not even ever getting in prison. He started as soon as that but definitely wanted day one of incarceration and so people have hope and that they can if they want to get better If they want to not be a repeat offender and keep coming back to prison, we think our program can help them. And that's when they have five years in prison, 10 years in prison, whatever it might be. And we're going to, hopefully, if we get our system working the way we want it to, our goal would be within, I don't know, 30 or 60 days of an avid individual being incarcerated, they would have a personalized the entry plan specific to their issues and specific to what their needs are. And one of the things in this first data collection, it was just really surveys from the people who were entering our program.

And basically, the questions were around what are their hopes and it's not surprising if you know, Josh, I mean, it's just people who are incarcerated want the same things that we all want. They want to be this group of people, they want to learn more, they want to work more. They want to practice their faith more. They want to be in positive relationships. They want to be part of a community. They want to be part of something positive. That was pretty much to a person and then that's that's great that that that is something that we all want whether we've been incarcerated or not. But then when you look at the the trauma that basically every single person has been through who's in our program. The victims of violence have also some of them perpetrated violent acts as you know, sexual abuse, rape, depression, loss of loved ones, you name it. They've had great trauma in their life. They've been in prison, they've been incarcerated, yet they have great hope. And what we think are hopeful our program can do is kind of just give them more like agency in their life, more control over more there. This is a class of people by and large, if you've been incarcerated a lot or for any time at all. No one's really asking you what you want, you're told what to do. So we're now trying to help them what you might say self actualize and let them make some decisions about their lives which could be empowering for them and hopefully whatever they need to work on. Whether it's you know deficiency in reading or vocational skills or you're depressed you're an addict or your whatever it might be, still have untreated trauma, whatever it is, we want to try to help on that and get people to a better place. And ultimately, over time, whatever the recidivism rate is, and it's varies from place to place because of how its measured we want to see it dropped precipitously. We want to make prisons, we'd love to prisons out of business. That's that's unrealistic, but we'd like to have fewer and fewer and better communities better society. That's our ultimate goal.

Yeah, I recently gave a speech and I started out with talking, talking about how prison administration should be operated like hospital administrations in that their goal should be starting to plan for release from day one. So I totally agree with what you're saying.

My last three questions are always the same. First. What did I mess up? Were there any questions? I didn't ask that you were hoping I would ask.

I don't think so.

Well, that's good. And then so that's the second question, which is how you answer the question I didn't ask. But since there weren't any we're good there. And so finally do you have any questions for me?

Uh, I don't think so. I think thank you for having us. And and I don't know if I mess something up, let me know. But hopefully we got things right. Oh, I think so. Yeah, I think everything's fine. Yeah. So thanks so much for doing this mark. I know you're incredibly busy and it means a lot that you took the time to do the podcast was very happy to do it. Look forward to seeing you in the future. Maybe in DC fighting for the first step back I'm hoping

I know a bunch of us were just down there. So Oh, let's get it done.

All right. Nice. Talking to you all. Good weekend. You too. Bye.

Now my take to radicals. I think I'm seeing it as at best a moderate with a pretty good education in radical politics to conservatives and modern democrats and the moderates often seen as a radical, it can be kind of confusing at times to remember which bridges I'm trying to build and which bridges people are trying to burn. At the same time. I grew up in a republican family. As far as I know, I'm the only liberal and certainly the only person in my family who could or would want to claim that they voted for pretty much every Democratic candidate since they became old enough to vote. My father is a Reagan Republican, and my mom is now a Trump supporter, which is a little weird for me, I'm telling you this because I've spent most of my life learning how to communicate with and sometimes persuade people that I don't necessarily entirely agree with politically and maybe more important, I've had to learn to listen for the places that we can agree. I'm not saying I've always been good at it. In fact, for the most of my young life, I was terrible at it, but eventually realized that if I wanted to have a good relationship with my family, or if I wanted for us to do that things together that I needed to learn how to listen and to talk with them differently so that even when we disagreed and I wasn't making a compromise, we still could keep a good relationship and we still could make progress and other areas. Now people on the left and people in the right can't talk about much of anything anymore without it degenerating into insults, a shouting match or even worse, but the one thing we can apparently talk about seems to be criminal justice reform. And as I've met more and more folks from across the aisle, I found that counter to some of the legends they are doing it for a lot of the same reasons that I do it and other advocate advocate to do it. They were impacted themselves. They had a family member or friend who was incarcerated. They like Jared Kushner, whose father was incarcerated saw the injustice of our system up close sometimes it's because they're Christians like myself and take Jesus seriously when he said that we have to forgive No matter the consequence, I mean, no matter what happened or what the crime was that eventually we had to forgive, and we had to change ourselves, not the other person. Sometimes it's because of a deep skepticism about government power,

especially the power to incarcerate and deprive people of liberty. Sometimes it's about an intolerance for racism, whatever their reason, I found over and over again, that while I might disagree with them about 100 other policy issues, we can usually come together and really make progress on criminal justice reform. And sometimes this creates a bridge to where we can discuss all the other issues in new ways to anyway, one of the problems of talking like this is it sounds like I'm making some concession to conservatives, by being nice enough to talk to them about criminal justice reform, or that they somehow need me more than I need them when the truth is and the current political environment it's exactly the opposite. Plus I don't really think like that at all. I think it is amazing that people in this atomized fractured society can still get to know each other across this divide, listen to each other deeply understand that there are things that can still connect us places that we can still, you know, work together not only work together, but also retain and regain kind of respect for each other. A few years ago, I might have been happier to stay in my bubble self righteously above talking to someone, for instance, from Koch Industries. But since then, I've gotten to know folks like my friend, Jenny Kim or recently, Jeff Holtzman and of course, Mark and I've come to believe because I've met these people that they are incredibly dedicated and really care deeply about trying to change our criminal justice system for the better and this changing our system for the better is to me the core of everything, bringing people home with hope stopping people from going to prison in the first place. It's about the people it's about deconstructing a bad system and trying to imagine something better. It's about making incarceration the last resort instead of the first resort, it's about not allowing a system to continue whose most fundamental identifying sociological feature is market racial disparity. So like I said in the interview with Mark, I love that Frederick Douglass quote I would do not with anyone to do right and with nobody to do wrong so I understand also that a lot of people will push back and you know they don't like the Koch Industries and they you know, and you know, I get this all the time but I think at least if we care about the people in prison first that will find ways to work together and where we disagree we disagree and we can still have those fights you know, I'm pretty sure that you know, and I don't know because I haven't engaged in this yet but I'm pretty sure I don't agree with Koch Industries on for instance climate change, but that doesn't mean we can't move forward on the problem of criminal justice reform. And I hope we do. So thanks to mark for answering my question. So honestly, I hope this interview will help for people listening to my podcast will help to demystify at least to some extent what Koch Industries is doing and criminal justice reform in particular I was thrilled to hear someone at such a high level of a company that large asking for an end to the war on drugs you know, I don't have the kind of power they do to make that happen. But I believe deeply that it needs to happen and it's powerful statements on privatization. You know, I don't totally disagree with that. You know, I was

I was really surprised to hear the answer that he gave to that question, and I really appreciate him taking the time to talk with me.

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