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October 14, 2015

The Honorable Charles Grassley, Chairman
The Honorable Patrick J. Leahy, Ranking Member
United States Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

RE: S. 2123, Sentencing Reform and Corrections Act of 2015

Dear Chairman Grassley and Ranking Member Leahy:

On behalf of Koch Industries, Inc., thank you for introducing S. 2123, the *Sentencing Reform and Corrections Act of 2015* (“the Act”), a bill to reform sentencing laws and correctional institutions, and for other purposes. We commend your leadership for convening this hearing. We also express our thanks to your colleagues who demonstrated bipartisan leadership in co-sponsoring this bill: Senators Cornyn, Durbin, Whitehouse, Lee, Schumer, Graham, Scott, Tillis, Coons, and Booker.

We believe that our criminal justice system is in need of comprehensive reform so it better enhances public safety, honors and protects the individual liberties contained in the Bill of Rights, and treats everyone in the system - from the accused to the victims to law enforcement - with dignity and respect, and as individuals. We also believe that our system needs to be reformed as part of a broader effort to remove barriers to opportunity for all Americans, especially the least advantaged. The current system does not fully ensure equal justice for all, and wastes both human potential and scarce fiscal resources. The Act is a significant step forward in addressing these issues.

We support the Act’s efforts to recalibrate prison sentences for non-violent drug offenders. It is a fundamental principle of a fair criminal justice system that the punishment must be proportionate to the facts and circumstances of the crime committed. However, over the past several years, many individuals were over-sentenced without regard to their actual crimes due to

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the current structure of mandatory minimum sentences, which deny discretion to judges. The Act addresses this issue by expanding judicial discretion in the safety valve provisions for low level offenders, and reforming the circumstances under which an individual might face a “three strikes and you’re out” life sentence. The Act enhances public safety by reserving mandatory minimum sentences for serious drug felonies and serious violent felonies.

The Act also addresses the inequities in the Weldon Angelos case and similar cases. Under 18 USC § 924(c), Mr. Angelos was sentenced to 55 years in prison for allegedly possessing a firearm in connection with selling marijuana, a sentence that the presiding judge called “unjust, cruel, and even irrational.”¹ The Act would correct this injustice and provide qualified individuals an opportunity to return to their families and rebuild their lives by reducing their sentences retroactively.

The Act also appropriately focuses on reducing recidivism by providing and creating opportunities for federal inmates to improve themselves while incarcerated. According to the Federal Bureau of Prisons, there are more than 200,000 federal inmates.² The overwhelming majority – almost 97%³ – of those individuals will eventually return to their communities. Given the fiscal and societal costs associated with incarceration, it is in everyone’s best interest that those incarcerated reform their behavior and re-enter society as better people. The Act addresses this by directing the U.S. Attorney General to evaluate best practices for re-entry and to submit a report identifying those best practices. A risk and needs assessment will be developed for each inmate to identify appropriate programming - including work and education programs, drug rehabilitation, job training, and faith-based programs.

In addition, the Act addresses a fundamental problem in our system of Congress creating a new federal criminal law in response to every real or perceived crisis that occurs.⁴ There are an estimated 5,000 crimes in the federal code. (The exact number has not been calculated.)⁵ We

¹ Madigan, N. (2004, Nov. 17). Judge Questions Long Sentence in Drug Case. *The New York Times*. Retrieved from http://www.nytimes.com/2004/11/17/us/judge-questions-long-sentence-in-drug-case.html?_r=0.

² https://www.bop.gov/about/statistics/population_statistics.jsp, updated October 8, 2015.

³ The rate of release is calculated based on the fact that about 400 inmates a year die in prison, or about .19% of the Federal prison population, and 2.8% of Federal prisoners are sentenced to life in prison or the death penalty. Bureau of Prison Statistics “Sentences Imposed,” http://www.bop.gov/about/statistics/statistics_inmate_sentences.jsp, updated 26 September 2015, accessed 13 October 2015. National Prisoners Statistics Program, Bureau of Justice Statistics “Deaths of Prisoners under Federal Jurisdiction, by cause of Death, 1999-2008,” <http://www.bjs.gov/index.cfm?ty=tp&tid=194>, updated 13 October 2015, accessed 13 October 2015.

⁴ The Heritage Foundation and National Association of Criminal Defense Lawyers: Without Intent: How Congress Is Eroding the Criminal Intent Requirement in Federal Law (2010) <http://www.heritage.org/research/reports/2010/05/without-intent>.

⁵ Fields, G. & Emshwiller, J. R. (2011, July 23). The Many Failed Efforts to Count the Nation’s Federal Criminal Laws. *The Wall Street Journal*. Retrieved from <http://www.wsj.com/articles/SB10001424052702304319804576389601079728920>.

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support the Act's requirement that the U.S. Attorney General submit a complete listing of all federal crimes, including regulatory crimes, and an evaluation of their use and requisite intent requirements. This is an important step in ultimately determining what criminal laws need to be revised or eliminated.

Finally, we support the Act's focus on juvenile justice reform. It reduces and restricts the use of solitary confinement for juveniles, and allows for sealing and expungement of certain juvenile convictions. Juvenile solitary confinement is an outdated and inhumane method of punishment, and research shows that its effects on juveniles can be devastating, often leading to worse public safety outcomes in the long term. Expungement of juvenile convictions will alleviate one of the many government-imposed burdens on individuals when they re-enter society. This should provide former juvenile offenders with a better opportunity to find employment and fully partake in American life without regard to earlier errors in life.

The *Sentencing Reform and Corrections Act of 2015* is a significant step toward addressing the many inequities in our criminal justice system. Koch Industries commends the thoughtful deliberation by all the co-sponsors and urges other Senators to sponsor this comprehensive criminal justice reform bill. Thank you, again, for convening this hearing and introducing the Act, and thank you for the opportunity to submit this letter of support.

We hope that your leadership with this bill is the beginning of ensuring equal justice for all, and protecting the freedom and rights of all Americans - especially the least advantaged.

Respectfully submitted,


Mark V. Holden