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Testimony from:  
Alan Smith, Midwest Director, R Street Institute

In SUPPORT of Sub SB 3, to: “Express intent to reform drug sentencing laws,”

December 8, 2020

House Criminal Justice Committee

Chairman Lang, Vice-Chair Plummer-, Ranking Member Leland and members of the House Criminal Justice Committee:

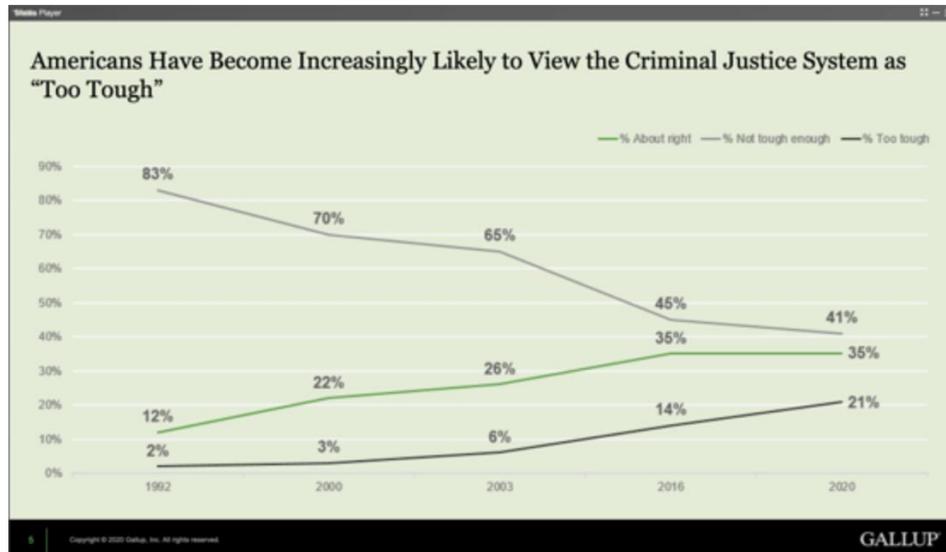
My name is Alan Smith and I am the Midwest director at the R Street Institute, which is a nonprofit, nonpartisan, public policy research organization. Our mission is to engage in policy research and outreach to promote free markets and limited, effective government in many areas, specifically influencing criminal justice policies, including sentencing reform.

We believe that Sub SB 3 comprehensively addresses a situation that can be mitigated by what we have learned in the last few years. In our view, it also describes the best manifestation of the public policy process on lawmaking.

Decades ago, a “war on drugs” was initiated eventually by virtually all levels of government to sort out the problems and bring some measure of relief to street life which featured weekly tragedies for the residents.

Over the years, a major result of this effort was the incarceration of large numbers of people convicted of mostly nonviolent crimes owing to the increasingly “zero tolerance” nature and the felony categorization of many of these laws and ordinances. These “tough on crime” solutions beget consequences that reached beyond the criminal justice system into health care, housing, education and deterioration of the family structure because of the absence from home of incarcerated family members. The costs of investigation, prosecution, interdiction of illegal sales and housing all of those convicted and sentenced to lengthy periods skyrocketed, which brought the situation under the radar of government budgeteers as well as corrections professionals.

As the legislative branch responded decades ago to the citizen plea for a “war on drugs”, new data-driven policies are increasingly turning around public policy in response to the current landscape which is viewed in some quarters as amounting to “mass incarceration.” Even more pernicious and damaging to the republic are public concerns that have developed around public safety and policing issues. This recent Gallup poll of attitudes illustrates very well the perception gap that is fraying the social compact and causing an unprecedented upheaval in the social order.



This is not just good legislation. It is the product of an exemplary legislative process. To address the challenge of finding a better balance of crime and punishment, a recodification committee looked at all the data from the Ohio Department of Rehabilitation and Correction (ODRC) and reviewed interviews of users, law enforcement professionals, social scientists and focus groups to get enough information to tailor the offenses and punishments to the three types of offenders they commonly found. This committee proposes serious penalties for individuals who traffic illicit drugs as a business. It fine-tunes judicial discretion for users that sell some drugs to support an addiction and leaves most users without a lifetime impediment to job or housing.

The 546 pages of Sub SB 3 change hundreds of code sections and provide countless technical tweaks to the law to exempt large numbers of offenders from felony prosecutions while protecting the public against serious and violent crime which has always been the core of the public policy formulation.

Perhaps your inclination is to “follow the science”—at least the social science data—or simply to try something different, backed by evidence that the current scheme is falling short of the intended goals. If neither of these reasons to vote for this legislation is persuasive, perhaps you could consider endorsing a robust exercise by professionals who have worked seriously to draw a blueprint to mitigate a towering challenge that affects not just the criminal justice system, but also housing, public health, education and family structure.

A possible side effect could perhaps be that the compact that undergirds elected representation will undergo some restoration in the public mind, because even though thoughtful people are divided on the right mix of policies, they all want this fixed.