

Good morning. Thank you so much for inviting me. I take any chance I can get to meet with our state's sheriffs.

I know everyone in this room has a heavy heart today because Cody Carpenter isn't here.

A lot has been and will be said about Cody's valiant service and heroism, so I'll just add to that by simply saying: Cody was a true friend to this state and to me personally.

His was the first loss of an elected sheriff in the line of duty since I became Attorney General and it was only because I was out of the country that I missed his funeral.

I had the pleasure of meeting his wife Amie earlier. Amie is more than qualified to honor Cody's memory by serving out his term.

Amie - please know that you and your family are in the hearts and prayers of everyone here. We will all do whatever we can to make your term successful.

You can call us anytime you need us - day or night.

I want to use this opportunity to speak to you about a matter that is a source of a lot of confusion and, frankly, frustration.

I want to talk about the Death Penalty.

Before I go any further, I want to say that I continue to support the death

penalty. However, I think it's time for us to be frank.

Our death penalty system, as it currently exists, is completely broken.

Attorneys general all over the nation are grappling with how to address death penalty litigation. Including me.

My friend Chris Koster in Missouri gave a similar speech last week to what I am about to tell you.

I think it's time to have a serious conversation about the death penalty in this state. I think it's especially important that you, key leaders in our law enforcement community, know the facts.

Certainly, victims' families will look to you for information.

Many of you will remember when Plumerville Assistant Chief Joey Cannon was killed in the line of duty in 2010. Chief Cannon was shot on a traffic stop only two weeks before his retirement.

His own son, Josh Cannon, who was a Conway County deputy sheriff, was the first on the scene as his father lay dying.

Josh asked me to speak at his father's funeral, which I proudly did. And Josh asked for my opinion as the family was weighing whether to ask the prosecuting attorney to seek the death penalty.

I told Josh that if it was my father who was killed in such a cowardly way, I would want his killer to face the death penalty.

I also told Josh that as a former police officer, I believe that if ever we should apply the death penalty, it's when someone murders an officer in the line of duty.

But then I told him that I would also factor in what I know as Attorney General. Because if his father's killer receives life in prison without parole for capital murder, Josh would never see that man again. And he won't have to think about him. And he won't have to appear in a

courtroom with him and his lawyers ever again.

On the other hand, if his father's killer were sentenced to death, Josh's family could count on spending the next 15 to 25 years - or perhaps the rest of their lives - awaiting the sentence to be carried out.

They would receive countless phone calls from the Attorney General's Office about hearing after hearing.

They would dread every letter with a state seal on it. And would constantly have to be uncertain about the outcome.

I told him he would have to be in a room with his father's killer over and over

again, through multiple avenues of appeal. Statistics from my office show that a killer on death row has an almost 50/50 chance of receiving some kind of substantive relief from the Arkansas Supreme Court, such as a hearing or a new trial. No other prisoner in the Department of Correction has as many avenues of relief as death row inmates. The average inmate on death row in Arkansas has been there for almost 15 years.

Roger Coulter from Ashley County has been there longer than anyone in Arkansas. He was sentenced to death more than 23 years ago for raping and strangling an

innocent little girl who was only 5 years old.

The AG's office has been working, day in and day out, to see that Mr. Coulter's execution is carried out as well as the 37 other murderers who await justice, but I don't have any reason to believe that any of them will be executed while I'm in office.

I don't know if my comments mattered in the decision, but the Cannon family asked the prosecutor to waive the death penalty.

Arkansas faces many obstacles with the process of implementing a sentence of death, in addition to the appeal process itself.

The Legislature must determine the method of execution, and they have done that, repeatedly choosing lethal injection as the most humane method of execution.

The last inmate to be executed in Arkansas was in 2005. Although the appeals have been exhausted for at least 7 of our death row inmates, no execution dates have been scheduled.

Why? If they have no more rights to appeal, then what's left?

The answer to that is two-fold.

First, civil litigation has become far more burdensome in death penalty cases than any appeal.

Inmates have successfully sued the state and saw stays of executions imposed while they were litigating issues that range from the effectiveness of the drugs selected to the statute granting the Department of Correction the power to establish execution procedures.

In 2012, the Arkansas Supreme Court sided with the prisoners, holding that the state's method-of-execution statute violated the Arkansas separation-of-powers doctrine because it gave too much discretion to the Arkansas Department of Correction.

The Attorney General's Office worked closely with the Department of Correction

to write that law, and it was modeled on the laws of at least five other states which had been approved by their states' supreme courts.

I respectfully disagree with the Court's decision that the 2009 law was unconstitutional.

Still, in response to the court's decision, in this Legislative session, again my office joined with Rep. Nate Steel and other legislators and the Department of Correction to pass a new act, one that we believe addresses the concerns outlined by the court.

It should be no surprise though that even though the new law was only enacted in March, we've been sued yet again.

The suit alleges that the statute must specify the type of IV procedures used and the rate of flow from the syringe.

I believe that if the Legislature were to amend the law today to give the inmates what they contend is required, they would file another suit tomorrow, challenging yet another aspect of the medical procedure, such as the length of the tubing, the lighting in the room or the number of medical personnel on hand.

I truly believe we could make the statute describing the Department of

Correction's powers in this area as long and detailed as "War and Peace" and we would still be sued.

The second major impediment to implementing the death penalty is this: the drugs needed for lethal injection are simply not available for purchase by state prisons anymore.

Many of the manufacturers of drugs most commonly used for lethal injections are European. The death penalty has been abolished in most of Europe and those manufacturers will not sell their drugs for this purpose.

This was not the case as recently as a few years ago. But today, the drugs that

have been primarily used for executions, thiopental and pentobarbital, are not available for purchase by state departments of corrections anywhere.

Some states have old supplies still available for use. However, even those supplies are dwindling. Therefore, the old practice of sharing or selling these drugs between states no longer takes place, as they cannot spare what they have.

Arkansas also attempted to acquire an ample supply of lethal injection drugs for future use. However, the DEA in 2011 informed the state that they believed the drugs were improperly imported and demanded seizure of the drugs. Ultimately, the state

turned them over to the federal government, and no viable source for replacement has been found.

But, let's assume that a viable supply magically appeared and all of the court hurdles were behind us, would that allow us to carry out a lethal injection? I'm not so sure.

The state would still have to find someone to *administer* the lethal injection.

Doctors have been willing to participate in executions anonymously, but inmates have begun challenging the qualifications of the executioners, and there is now a risk that the physician

would be identified eventually through litigation.

And even if a doctor weren't concerned about being publically identified, he or she would have to be concerned that the American Medical Association says that it is unethical for a physician to participate in an execution.

So that is why I said earlier that our system is completely broken. Some states are still managing to complete lethal injections. Texas put two men to death using that method last month.

But still other states are looking to alternative methods to carry out the death penalty.

As recently as two and a half years ago, Utah executed a man by firing squad.

The attorney general of Missouri last week said his frustration with the courts leave him to consider reopening their gas chamber.

The Arkansas statute says that if the lethal injection method becomes unavailable or invalidated, our fallback method of execution is the electric chair.

Of course we don't know how the courts would view an execution by a firing squad or a gas chamber or electric chair but I think I have a good guess.

I will do everything in my power between now and the time that I leave office to address the legal problems that the death penalty continues to cause us, but I cannot tell you how this chapter in our history will play out.

I believe that the majority of Arkansans, if polled, would say they support the death penalty. However, I would be surprised if the majority of Arkansans would support the death penalty if they knew the only methods of carrying it out are a firing squad, the gas chamber or an electric chair.

I think that most people would find those methods to be too barbaric for a civilized society.

I think that it is high time for a new debate on what to do about the death penalty.

18 states have abolished the death penalty. The voters of Arkansas can certainly choose that route. The legislature may choose to abolish the death penalty. The voters or legislature may decide to change methods of execution, recognizing that lethal injection sounds acceptable but is a legal fallacy.

If the Arkansas Supreme Court decides to abolish the death penalty by declaring

it unconstitutional, I'd acknowledge that that would be an acceptable use of their power.

But none of these things are happening and without pressure from the people, none of them will. Rather, we have our current situation, which I strongly oppose.

I am opposed to the courts and drug manufacturers continuing to neutralize our death penalty through the imposition of practical hurdles that cannot be overcome.

You are key leaders in our law enforcement community. We must be frank about this situation, and, if we don't like what we hear, we need to go about the business of trying to change it.

Thank you for having me and, as always,
call me if you need me. God bless each and
every one of you.