

ACLU AND GHRC RESEARCH REPORT

Captive Labor

Exploitation of Incarcerated Workers



THE UNIVERSITY OF CHICAGO
THE LAW SCHOOL
Global Human Rights Clinic

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SCHOOL GLOBAL HUMAN RIGHTS CLINIC

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Executive Summary

Our nation incarcerates over 1.2 million people in state and federal prisons, and two out of three of these incarcerated people are also workers. In most instances, the jobs these people in prison have look similar to those of millions of people working on the outside: They work as cooks, dishwashers, janitors, groundskeepers, barbers, painters, or plumbers; in laundries, kitchens, factories, and hospitals. They provide vital public services such as repairing roads, fighting wildfires, or clearing debris after hurricanes. They washed hospital laundry and worked in mortuary services at the height of the pandemic. They manufacture products like office furniture, mattresses, license plates, dentures, glasses, traffic signs, athletic equipment, and uniforms. They cultivate and harvest crops, work as welders and carpenters, and work in meat and poultry processing plants.

But there are two crucial differences: Incarcerated workers are under the complete control of their employers, and they have been stripped of even the most minimal protections against labor exploitation and abuse.

From the moment they enter the prison gates, they lose the right to refuse to work. This is because the 13th Amendment to the United States Constitution, which generally protects against slavery and involuntary servitude, explicitly excludes from its reach those held in confinement due to a criminal conviction.¹ More than 76 percent of incarcerated workers report that they are required to work or face additional punishment such as solitary confinement, denial of opportunities to reduce their sentence, and loss of family visitation, or the inability to pay for basic life necessities like bath soap.² They have no right to choose what type of work they do and are subject to arbitrary, discriminatory, and punitive decisions



An incarcerated janitor cleans windows in an office at the California Correctional Center in Susanville, California.

Photo © Brian van der Brug/Los Angeles Times via Getty Images

by the prison administrators who select their work assignments.³

U.S. law also explicitly excludes incarcerated workers from the most universally recognized workplace protections. Incarcerated workers are not covered by minimum wage laws or overtime protection, are not afforded the right to unionize, and are denied workplace safety guarantees.

Incarcerated workers produce more than \$2 billion a year in goods and commodities and over \$9 billion a year in services for the maintenance of the prisons where they are warehoused.

Workers are assigned hazardous work in unsafe conditions without the standard training or protective gear provided in workplaces outside prisons.

Nobody expects prison labor to be highly remunerative. But incarcerated workers typically earn little to no pay at all, with many making just pennies an hour. It is rare that a job pays more than a dollar an hour—even the incarcerated firefighters braving the flames that rage across California’s forests and hillsides year after year are compensated at \$1 an hour.⁴ Even so, many consider themselves lucky to receive these low wages. That is because, in seven states, incarcerated individuals are forced to work but are paid nothing at all for most jobs.

At the same time, incarcerated workers produce real value for state prisons and state governments, the system’s primary beneficiaries. Nationally, incarcerated workers produce more than \$2 billion a year in goods and commodities and over \$9 billion a year in services for the maintenance of the prisons where they are warehoused. Even though prison labor is not what is driving mass incarceration in the United States, incarcerated workers’ labor does partially offset the staggering costs of our country’s bloated prison system.

The majority of incarcerated people wish to be productive while in prison. They want, and often need, to earn money to send home to loved ones and pay for basic necessities while incarcerated. They want to acquire skills useful for employment after their release. Studies show that people who had some savings when they leave prison and got jobs after their release were less likely to recidivate than those who did not. We all have an interest in prison work being something beyond pure punitive exploitation. Yet despite the potential for prison labor to facilitate rehabilitation, the existing system very often offers nothing beyond exploitation.

Drawing on responses to open records requests, analysis of state and federal laws and regulations, interviews, and written questionnaires completed by incarcerated workers, this report discusses at length the features of state and federal prison labor systems that result in systemic exploitation and abuse. This report also recommends concrete steps to make prison systems treat incarcerated workers with dignity and respect for their human rights. Though this report centers on the gratuitously harsh conditions of contemporary prison labor, it is embedded in larger conversations about racism, sexism, the U.S. criminal legal system, the 13th Amendment, and the ultimate morality of this country’s vast network of prisons, jails, and detention facilities.

Summary of Research Methods

This report relies on data from desk research, responses to open records requests, and analysis of existing government data sources. To provide more in-depth understanding, researchers used a case study approach in three states consisting of questionnaires of incarcerated people and interviews of key stakeholders and experts.

Desk research and policy analysis. Researchers conducted an extensive search and examination of existing research, including academic papers, government reports, historical studies, and journalistic investigations. They reviewed and analyzed legal standards, policy documents, legislation, and regulations from domestic and international sources.

FOIAs. Researchers submitted Freedom of Information Act (FOIA) requests to all 50 states of the United States, as well as the Federal Bureau of Prisons, seeking basic data on prison labor programs and participants. Twenty-three

states replied to the request with varying levels of responsiveness; 27 states provided no information.⁵

DOJ survey analysis. The authors conducted descriptive analyses on work assignments from a national survey of incarcerated adults in correctional facilities conducted by the Department of Justice Bureau of Justice Statistics in 2016 and published in September 2021.⁶ The sample for this report was limited to those incarcerated in federal or state institutions, resulting in a sample of 23,921.

Questionnaires of incarcerated workers in three states. The authors conducted in-depth primary investigations in three case-study states—California, Illinois, and Louisiana. The authors administered written questionnaires to randomly selected individuals who were incarcerated in these states (101 completed responses).

Interviews. The researchers also conducted interviews with key stakeholders and experts (78 interviews), including formerly incarcerated individuals, representatives of advocacy organizations, academics, and leaders of reentry organizations. All questionnaire and interview participants provided informed consent.

Workers incarcerated at the Mississippi State Penitentiary, equipped with hoes, march together to work in the cotton fields of the Giant Cotton Plantation in Parchman, Mississippi, on Dec. 28, 1939.



Photo © AP

Understanding Prison Labor

The roots of modern-day labor programs can be traced to the end of the Civil War and the passage of the 13th Amendment that abolished slavery “except as a punishment for crime.” States in the North and the South turned to incarcerated labor as a means of partially replacing chattel slavery and the free labor force slavery provided. As state corrections systems expanded, so too did the number of state-sponsored incarcerated labor programs.

The exception clause in the 13th Amendment disproportionately encouraged the criminalization and effective re-enslavement of Black people during the Jim Crow era, and the impacts of this systemic racism persist to this day in the disproportionate incarceration of Black and brown community members.

Under today’s system of mass incarceration, nearly 2 million people are held in prisons and jails across the United States.⁷ Almost all U.S. prisons have work programs that employ incarcerated workers: Nearly 99 percent of public adult prisons and nearly 90 percent of private adult prisons have such programs.⁸ Of the more than 1.2 million people incarcerated in state and federal prisons,⁹ over 65 percent work.¹⁰

Based on our analysis of data from the Department of Justice Bureau of Justice Statistics survey of

people in prisons conducted in 2016 and census of people in prisons at yearend 2020—both of which were published in late 2021 and are the most recent available data—we estimate that at least 791,500 people incarcerated in U.S. prisons perform work as part of their incarceration.¹¹ Because of a lack of available data, our estimate excludes people confined in local jails or detention centers, juvenile correctional facilities, and immigration detention facilities.

Although the Federal Bureau of Prisons and nearly all state departments of corrections refused to provide data on the number and race of people in prisons with work assignments, the incarcerated labor force is undoubtedly disproportionately made up of people who are Black, relative to their overall representation in the general population in the community. Black Americans are incarcerated in state prisons at nearly five times the rate of whites, and in 12 states, more than half the prison population is Black, despite constituting 13 percent of the nationwide general population.¹²

The vast majority of incarcerated workers perform **maintenance work**, keeping the facilities that confine them running. More than 80 percent of incarcerated workers in state and federal prisons who were surveyed by the Bureau of Justice Statistics reported working in jobs that served to maintain the prisons where they are incarcerated.¹³ About 30 percent of all incarcerated workers perform general janitorial duties, nearly 20 percent work in food preparation or carry out other kitchen duties, 8.5 percent provide grounds maintenance, 6.6 percent work in maintenance or repair, 4.5 percent work in laundry, and 14.1 percent perform essential services by working in prison hospitals or infirmaries, libraries, stockrooms, stores, and barber shops.¹⁴

State prison industries, also called “correctional industries,” constitute a second type of prison labor program that accounts for about 6.5 percent of prison jobs. The number of incarcerated workers employed in state prison industries programs has been dropping in recent years, from 91,043 in 2008¹⁵ to 51,569 in 2021.¹⁶ These are jobs in state-owned corporations that produce goods, services, and

More than 80 percent of incarcerated workers in state and federal prisons work in jobs that serve to maintain the prisons where they are incarcerated.

— Source: Bureau of Justice Statistics

commodities sold to other government agencies. Many states require all state agencies, political units, and public institutions to purchase manufactured goods, including furniture, cleaning supplies, printed materials, and uniforms, from their state correctional industries.¹⁷ Correctional industries programs are not limited to manufacturing, as states rely on incarcerated workers to provide a variety of services, such as data entry, repairing state-owned vehicles, and washing laundry for public hospitals and universities. For example, people incarcerated in New York and Oregon help staff the states' Department of Motor Vehicles (DMV) call centers, fielding questions directed towards the department.¹⁸

A third category of prison labor is **public works assignments**, sometimes referred to as "community work crews," for the benefit of state, municipal, and local government agencies and occasionally nonprofit organizations. States and municipalities contract with state departments of corrections to use the labor of incarcerated workers for a variety of public works projects, mostly off prison grounds. Incarcerated workers maintain cemeteries, school grounds, fairgrounds, and public parks; do road work; construct buildings; clean government offices; clean up landfills and hazardous spills; undertake forestry work in state-owned forests; and treat sewage.

Our research found that at least 41 state departments of correction have public works programs that employ incarcerated workers.¹⁹ About 44 percent of public prisons nationwide assign incarcerated workers to work on public works assignments outside the prison.²⁰ Public works constituted 8 percent of all state prisoners' work assignments at the time of the previous Bureau of Justice Statistics survey in 2004 (the most recent survey does not include disaggregated data on incarcerated workers assigned to public works).²¹

In Florida, for instance, about 3,500 unpaid incarcerated workers work on state road crews and "community work squads," required to provide labor for hundreds of state and municipal agencies and dozens of state colleges and nonprofits.²² In North Carolina, nearly 1,000 incarcerated workers work on the state's roads for the state Department

of Transportation and on manual labor jobs for other state and local government agencies.²³ In Arizona, 1,083 incarcerated people work on public works crews for the Department of Transportation and other state, local, and county entities through intergovernmental agreements with the corrections department.²⁴ These workers logged more than 1.8 million hours of work for the community during fiscal year 2020.²⁵ In Washington state, about 1,000 people work in similar community work programs through which incarcerated workers work on stream clean-up, land clearance, farming, and development of parks and recreation areas.²⁶ In Mississippi, each state prison provides incarcerated workers' labor for free to local towns and municipalities.²⁷ In Arkansas, incarcerated people on "inmate work crews" logged nearly half a million hours in regional maintenance alone in 2020.²⁸

Through such programs, incarcerated workers also perform critical work preparing for and responding to natural disasters, including sandbagging, supporting evacuations, clearing debris, and assisting with recovery and reconstruction after hurricanes, tornadoes, mudslides, or floods.²⁹ For example, in Florida, hundreds of unpaid incarcerated workers were tasked with picking up fallen trees and other debris after Hurricane Irma, and in Texas hundreds of unpaid incarcerated workers filled sandbags in preparation for Hurricane Harvey, forced to work in the storm's path while people outside prisons were evacuated.³⁰ Incarcerated firefighters also fight wildfires in Arizona, California, Colorado, Georgia, Idaho, Montana, Nevada, New Mexico, North Carolina, Oregon, South Dakota, Tennessee, Washington, and Wyoming. For instance, Georgia's incarcerated firefighter unit responds to over 3,000 calls annually, assisting with wildfires, structural fires, and motor vehicle accidents—for zero pay.³¹

A fourth category of prison labor is **work for private industries** through the Prison Industry Enhancement Certification Program (PIECP), which allows private companies to produce goods and services using prison labor.³² There are several employment models within this category. Some

incarcerated people work directly for the private company while others are employed by the prison and are essentially contracted out to the company.³³ PIECP employs the smallest number—only 4,860 workers, or less than 1 percent—of incarcerated people of any prison labor program.³⁴

Agricultural work fits within multiple categories of prison labor. Some incarcerated workers engage in field labor for the maintenance of the prison, cultivating and harvesting crops to be eaten by the people incarcerated there. Others engage in farming or ranching work for prison industries programs or for private corporations through PIECP programs to produce livestock, crops, and other agricultural products for sale. Twenty-seven percent of public prisons have work programs in farming and agriculture.³⁵ Although only 2.2 percent of incarcerated workers are engaged in agricultural work in prisons nationwide, in some states, agricultural work constitutes a greater percentage of work assignments, such as in Arkansas, where 17 percent of job assignments for incarcerated people were in agricultural work in 2021.³⁶ Some of this agricultural work takes place outside prison walls, while in states including Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, and Texas, incarcerated workers work on penal plantations or prison farms, some of which are situated on land that was originally the site of slave plantations.

Analysis using data sets from 2004 and 2005 and multilevel modeling to examine the nature of work assignments in state prisons found that race significantly impacted work assignments. The study, published in 2016, found that Black men represent the highest percentage of men assigned to agriculture and maintenance or other facilities services jobs—typically lower-paying or unpaid jobs—while a higher percentage of white men were assigned to public works jobs and more sought-after and higher-paying prison industries jobs.³⁷

Alabama, Arkansas, Florida, Georgia, Mississippi, South Carolina, and Texas pay zero compensation to incarcerated people for the vast majority of work assignments.

Paid in Pennies

Incarcerated workers in U.S. prisons are often working for paltry wages or no wages at all. Alabama, Arkansas, Florida, Georgia, Mississippi, South Carolina, and Texas pay zero compensation to incarcerated people for the vast majority of work assignments. For instance, in Texas, only the approximately 80 workers employed by private companies through the PIECP program are paid a wage,³⁸ while the rest of the state's incarcerated workers—121,167 workers as of April 2019—labor unpaid.³⁹ In South Carolina, more than 90 percent of the state's incarcerated workers are not paid for their work.⁴⁰

Our research found that the average minimum hourly wage paid to workers for non-industry jobs is 13 cents, and the average maximum hourly wage is 52 cents.⁴¹ The overwhelming majority of workers have jobs that support the operation of the prison facilities and are compensated at the lower end of prison pay scales. Prison maintenance jobs pay anywhere from nothing to pennies per hour. Several prisons in Maine do not pay at all for laundry, kitchen, cleaning, and grounds-keeping work.⁴² The state of Connecticut pays incarcerated workers employed in maintenance jobs 75 cents a day.⁴³ And in Kansas, maintenance workers make just over five cents an hour.⁴⁴

The about 6.5 percent of workers with jobs in higher-paying state prison industries are paid 30 cents to \$1.30 per hour on average. State-owned prison industries programs employ incarcerated people nationwide at a small fraction of the wages they would pay a regular employee. Oregon’s DMV center pays its incarcerated workers \$4 to \$6 a day,⁴⁵ compared to the average pay of \$80 a day for non-incarcerated employees doing the same job. An incarcerated worker in Louisiana making mattresses earns about 20 cents an hour,⁴⁶ and another making dorm furniture in Arkansas is paid nothing at all.⁴⁷

Incarcerated workers’ wages remain stagnant for years, even decades. Incarcerated workers in New York state last received a pay increase in 1993.⁴⁸ Workers in South Dakota have been paid \$0.25 per hour for non-industry jobs for more than 20 years.⁴⁹ In Vermont, most incarcerated workers have been paid \$0.25 per hour since 1988, when the pay scale for non-industry jobs was last revised.⁵⁰ Workers in Illinois received a pay raise in 2021 for the first time in 11 years, an increase of merely 14 cents per day for general laborers, who are now paid \$0.85 to \$1.10 per day.⁵¹

Even these low wages are not theirs to keep. Across the country, prisons deduct as much as 80 percent from incarcerated people’s paychecks for court-imposed fines, taxes, family support, restitution, and room and board, among other fees. These wage deductions often leave incarcerated workers with less than half of their gross pay. For instance, in the first half of 2021, 59 percent of the wages earned by incarcerated workers employed in the Federal Prison Industries program, known as UNICOR, was deducted by the federal government.⁵²

In many states a majority of these wage deductions are for room and board. In a single year, over \$22.5 million was deducted from the wages of incarcerated workers employed by private corporations through the PIECP program nationwide, more than 60 percent of which went to room and board.⁵³ In Minnesota, 77 percent (\$3.48 million) of wages earned by incarcerated workers was deducted in fiscal year 2021, about two-thirds of which went to “cost of confinement.”⁵⁴ At the state level, wage

deductions have also been used to sustain and expand incarceration. For example, Florida has created a Prison Industries Trust Fund to collect and administer funds for the “construction or renovation of its facilities or for the expansion or establishment of correctional work programs.”⁵⁵

Workers are left with even less disposable income because prison systems bleed incarcerated people dry by charging them exorbitant costs for basic necessities, like phone calls to loved ones, decent food, hygiene products, warm clothing, medications, and medical care. Almost 70 percent of the incarcerated workers surveyed for this report said that they were not able to afford basic necessities with their prison wages.⁵⁶ Most cannot pay these costs themselves and must rely on family and friends, placing tremendous financial strain on families and exposing the wider community to financial insecurity.

Because incarcerated workers’ wages are so low, families already struggling from the loss of income when a family member is incarcerated and removed from household wage earning must step in to financially support an incarcerated loved one. Families with an incarcerated loved one, many of whom are impoverished themselves, spend an estimated \$2.9 billion a year on commissary accounts and phone calls.⁵⁷ Over half of these families are forced to go into debt to afford the costs of a relative’s conviction and subsequent incarceration.⁵⁸

Excluded from Basic Workplace Protections

Prison labor is a unique labor arrangement. The employer—usually the prison and sometimes a public agency or private corporation contracting with the prison—exercises complete control over the worker. Given the vast power disparity between prisoners and their employers, incarcerated workers are an exceptionally vulnerable labor force. And workers’ testimonies indicate that this vulnerability is too often abused and exploited by the facilities and their staff. Incarcerated workers report being assigned jobs and subjected to punishment in an arbitrary and

discriminatory manner. They also report laboring in dangerous conditions and without proper training or protective equipment, exposing them to serious injuries and health-related harms that are wholly preventable.

Yet despite overwhelming evidence of exploitation and negligence in prisons, little has been done to protect these workers. The vast majority of incarcerated workers are excluded from federal statutes such as the Fair Labor Standards Act, Title VII of the Civil Rights Act of 1964, and the National Labor Relations Act, that provide for minimum wage, overtime pay, protection from discrimination, and the right to collectively bargain for improved work conditions.⁵⁹ Incarcerated workers also are excluded from the right to earn into the social safety net afforded to other workers. Because the work performed by incarcerated workers is excluded as covered employment eligible for Social Security, Medicare, disability insurance, and unemployment insurance benefits, the time people spend working while in prison generally does not contribute toward earning future benefits.⁶⁰ Incarcerated workers' earnings also are excluded from refundable income tax credits.⁶¹

The main U.S. federal statute that sets minimum standards and safeguards for health and safety in the workplace, the Occupational Safety and Health Act (OSHA), excludes most incarcerated workers from its coverage.⁶² Many health and safety workplace statutes at the state level do the same, resulting in gaps in protections for most incarcerated workers.⁶³

Nor are incarcerated workers in most states covered by workers' compensation if they are injured or killed on the job. And when workers attempt to access remedies for injuries, they are met with grievance systems inside prisons that are cumbersome, opaque, and ineffective. Meanwhile, laws and judicial doctrine increasingly create obstacles for prison workers who seek legal redress. Among these is the Prison Litigation Reform Act of 1996, which erected nearly insurmountable barriers to prisoners who seek to enforce their rights in federal courts.⁶⁴

Injury logs generated by the California Prison Industry Authority show that incarcerated workers reported more than 600 injuries over a four-year period.

Dangerous Work Conditions and Preventable Injuries

Incarcerated people sometimes work in dangerous industrial settings or other hazardous conditions that would be closely regulated by federal workplace health and safety regulations if they were not incarcerated. Sixty-four percent of incarcerated workers surveyed for this report said they felt concerned about their safety while working.⁶⁵ Our research found that incarcerated workers with minimal experience or training are assigned work in unsafe conditions and without protective gear that would be standard in workplaces outside prisons.

Unsurprisingly, this leads to injuries. Incarcerated workers have been burned with chemicals, maimed, or killed on the job. Although lack of data related to workplace conditions and injuries in prisons makes it difficult to know the full extent of injuries and deaths, injury logs generated by the California Prison Industry Authority show that incarcerated workers reported more than 600 injuries over a four-year period, including body parts strained, crushed, lacerated, or amputated.⁶⁶

In numerous cases we documented nationwide, injuries could have been prevented with proper training, machine guarding mechanisms, or personal protective equipment. Incarcerated workers report receiving inadequate training on how to handle

hazardous chemicals,⁶⁷ operate dangerous equipment with cutting blades, clean biohazardous materials like excrement and blood,⁶⁸ and use dangerous kitchen equipment.⁶⁹ In fact, almost 70 percent of currently incarcerated workers who participated in the survey circulated for this report indicated that they received *no* formal job training.⁷⁰

The systematic failure to adequately train incarcerated workers has resulted in serious injuries and deaths. For example:

- An incarcerated worker assigned to an industrial workshop in a Minnesota state prison suffered mutilation of his hand and loss of three fingers while operating a beam saw to slice pieces of wood. He had never seen a beam saw in his life and never received official safety training from a prison official. Instead, he was taught on the job by another incarcerated worker who had been operating the saw without the plastic safety guards meant to protect the operator from the blades.⁷¹
- A man incarcerated in an Illinois state prison assigned to work in a prison food facility lost several of his fingers on a deli slicer.⁷² At a trial concerning the incident, he explained that he never received an orientation session or even an explanation of the facility's rules or safety precautions.⁷³
- On her second day of work on laundry porter duty at a Michigan state prison, an incarcerated woman suffered a traumatic brain injury, fractured skull and nasal bones, and internal cranial bleeding after a 400-pound laundry cart fell on her while she was unloading carts from a truck with a hydraulic lift. A federal court found that despite the dangerous work, prison officials provided "only limited, on-the-job training" and that the laundry truck lacked a stopper device to prevent the laundry carts from tipping.⁷⁴
- An incarcerated woman employed at a private egg factory in Arizona was forced to rip her own finger off rather than lose her whole hand to a piece of machinery she had never been trained on.⁷⁵

- A man who was incarcerated in a state prison in Alabama and sent to work a sanitation job at a private poultry processing plant was killed when a machine caught his arm and pulled him inside.⁷⁶ When OSHA later investigated the incident, it found that employees at the plant might not have known how to correctly turn off the machine that killed him.⁷⁷
- An incarcerated worker in Alabama tasked with clearing dead pine trees from near a county road while on a community work crew was struck by a large fallen branch, suffering a broken back and rendered a paraplegic.⁷⁸ He remembers telling his work supervisor he did not feel qualified to use the chainsaw and that he feared for his safety because of the tree's precarious position. Still, he was ordered to cut the tree. He complied with the order because otherwise he would have received a written reprimand that would affect his parole eligibility. A federal court found that no one had provided the incarcerated workers with any orientation or training about the use of chainsaws, concluding that assigning incarcerated workers to use chainsaws without safety training raised a substantial and obvious risk.⁷⁹

Workers report injuries that would have been prevented had they been provided standard protective equipment. An incarcerated worker tasked with repairing a damaged sewage line after thousands of pounds of sewage flooded a Michigan state prison said he had to wade through excrement without adequate protective gear such as a respirator or protective suit.⁸⁰ As he opened and cleaned backed up vents, sewage shot out, and he subsequently tested positive for hepatitis C.⁸¹ An incarcerated worker tasked with removing asbestos from a hot steam pipe in a New York state prison sustained a first degree burn because he was not provided with a high temperature glove.⁸² Repeated injuries caused by objects becoming lodged in incarcerated workers' eyes while using industrial grinders in California could have been prevented if they had proper safety goggles or visors.⁸³

The conditions of work can be inherently dangerous. Incarcerated workers are employed at dangerous

meat, poultry, and egg processing plants, where lack of adequate training or safety procedures has led to dozens of documented injuries and at least one death of incarcerated workers.⁸⁴ Incarcerated workers have suffered injuries and amputations from sewing and cutting machinery while working in garment factories.⁸⁵ Incarcerated workers have been severely injured—even paralyzed and killed—by falling trees and tree limbs while cutting down trees on community work crews and in forestry and firefighting jobs.⁸⁶ In California, where research has shown that incarcerated workers were more likely to be injured than professional firefighters, at least four incarcerated firefighters have been killed while fighting wildfires, and more than 1,000 required hospital care during a five-year period.⁸⁷ Even work in industrial-scale prison kitchens and laundries can be dangerous because it involves huge industrial equipment that carries mechanical and electrical safety risks as well as risk of burns, lacerations, and exposure to hazardous chemicals.

Incarcerated workers endure brutal temperatures with inadequate water or breaks, while working outdoors and inside facilities without air conditioning. Incarcerated firefighters have been sickened and killed by heat exposure during routine training exercises in California.⁸⁸ Formerly incarcerated agricultural workers at Louisiana’s Angola prison report witnessing other farm workers collapse from exhaustion or dehydration while working in the fields on hot days.⁸⁹ In Texas, an incarcerated man working as a dog trainer died of severe hyperthermia; he had been wearing a 75-pound fight suit on a hot day and collapsed while training attack dogs to catch escaped prisoners.⁹⁰

Workers have also been exposed to dangerous toxins on the job. Incarcerated workers perform asbestos abatement in New York, Pennsylvania, Ohio, and Utah through each state’s correctional industries program. An incarcerated man working at the electrical shop of a federal prison in Illinois filed suit after his supervisor ordered him to crush fluorescent bulbs containing mercury in an unventilated room. When he asked for a face mask, he was told that he was “shit out of luck.”⁹¹ Incarcerated workers employed at a battery

manufacturing factory in Georgia were exposed to dangerous levels of lead,⁹² and incarcerated workers employed in the federal prisons’ UNICOR electronics-waste recycling program who disassembled and recycled computer parts were exposed to poisonous metals, causing serious health problems.⁹³

When incarcerated workers are hurt on the job, they may be denied medical care or receive substandard care. In North Carolina, four incarcerated workers with severe chemical burns received nothing more than diaper rash ointment for their injuries.⁹⁴ In Georgia, a kitchen worker had his leg amputated due to improper medical care of a wound he sustained from slipping and falling while working in the prison kitchen.⁹⁵ In Colorado, an incarcerated worker assigned to a sawmill was told by a supervisor to reach into a conveyor belt area to dislodge a piece of wood. A blade sliced through her helmet and straight into her skull, nearly decapitating her.⁹⁶ Instead of being rushed to the emergency room, a shift commander ordered her back to the prison infirmary with two feminine hygiene pads on her wound because the sawmill had no first aid kit. She later developed an antibiotic-resistant staph infection.⁹⁷

Prison Labor During the Pandemic

Incarcerated people, recognized as one of the populations most vulnerable to the COVID-19 virus, were on the front line of the pandemic response. Nearly every state in the country reported that incarcerated workers contributed labor to the pandemic response. Incarcerated workforces were widely used to meet the demands of protective equipment production early in the pandemic.⁹⁸ Incarcerated workers were tasked with manufacturing hand sanitizer, masks, medical gowns, face shields, and other personal protective equipment that they were then prohibited from using to protect themselves.⁹⁹ Incarcerated people also worked in morgues, transported dead bodies, dug mass graves, and built coffins. They washed soiled hospital laundry, disinfected supplies, and cleaned medical units.

Incarcerated workers from the El Paso County detention facility load bodies wrapped in plastic into a refrigerated temporary morgue trailer in a parking lot of the El Paso County Medical Examiner's office on November 16, 2020 in El Paso, Texas, amid a surge of COVID-19 cases in El Paso.



Photo © Mario Tama/Getty Images

At times, incarcerated workers had to perform work that put them at the highest level of exposure to the virus. In at least five states (Michigan, Missouri, New York, Oregon, and Texas), incarcerated workers participated in frontline health roles that put them at high risk of contracting COVID-19.¹⁰⁰ Incarcerated people working in prison laundries in Oregon and Missouri were tasked with cleaning bedsheets, towels, and gowns from hospitals treating COVID-19 patients.¹⁰¹ In Texas, previously unpaid incarcerated workers were paid \$2 an hour to work in mobile morgues and transport bodies from the Medical Examiner's Office in El Paso.¹⁰² In New York, workers who were tasked with digging mass graves were transitioned from an hourly wage of \$0.65 to \$6. The Rikers Island jail offered personal protective equipment as a "privilege" to any incarcerated worker tasked with digging mass graves.¹⁰³

Our research identified at least 40 state departments of correction and state prison industries programs that pivoted to manufacture personal protective equipment and hand sanitizer for healthcare workers and other state employees. Incarcerated workers performed this work at the height of early pandemic lockdowns, often without personal protective

equipment or the recommended social distancing, putting their health and lives at risk. Incarcerated workers at Great Meadow Correctional Facility in New York were working around the clock in eight-hour shifts to bottle 100,000 gallons of hand sanitizer every week for 65 cents an hour.¹⁰⁴ Incarcerated workers at Green Haven Correctional Facility in New York built 1,400 coffins per week in April 2020 as COVID-19 spread through the prison.¹⁰⁵ California prisons halted most programming in an effort to slow down the spread of COVID-19, while keeping open its state prison factories as incarcerated women worked seven days a week to produce masks and hand sanitizer.¹⁰⁶ In Pennsylvania, while the state prison system was under quarantine, some incarcerated workers worked 12 hours a day, six days a week to manufacture masks, medical gowns, antibacterial soap, and disinfectant.¹⁰⁷ Incarcerated workers in at least 15 federal prisons around the country manufactured masks, gowns, and sanitizer for \$0.23 an hour.¹⁰⁸ Workers in Texas were not paid at all for their work manufacturing face masks and medical gowns for first responders.¹⁰⁹

In every state in the country, incarcerated workers whose job assignments are considered essential

were required to continue working during COVID-19 lockdowns, including jobs in manufacturing, agriculture, firefighting, meat processing, food services, and construction.¹¹⁰ Although these incarcerated essential workers later met the Centers for Disease Control and Prevention’s priority categories 1a and 1b for COVID-19 vaccine rollout, 16 states left incarcerated people out of their phase 1 vaccine distribution entirely.¹¹¹

As COVID-19 spread in March and April 2020, in some prisons, incarcerated workers were required to continue even work that was nonessential, such as making office furniture or stamping license plates.¹¹² For instance, in April 2020, Florida suspended family visits in the interest of safety while continuing to force incarcerated people to do “road maintenance, sewage treatment, and moving services for governmental buildings.”¹¹³

Incarcerated workers labored during the pandemic under the threat of punishment if they refused their work assignments. For instance, incarcerated workers in Colorado who opted out of kitchen work assignments in 2020 due to health concerns lost “earned time,” meaning their parole eligibility dates were pushed later.¹¹⁴ Workers who subsequently returned to their job assignments because of the threats of having to serve more time in prison, being placed in more restrictive housing units, and losing phone calls and family visits recently filed a class-action lawsuit alleging that state prison authorities violated the state ban on slavery and involuntary servitude by forcing them to work.¹¹⁵ DG Foods, a poultry processing plant in Bastrop, Louisiana, avoided shutting down operations at the height of COVID-19 by relying on incarcerated laborers who similarly faced loss of their earned-time credits should they refuse to work.¹¹⁶

Dead-End Jobs

Despite all this, state governments describe their prison labor programs as rehabilitative.¹¹⁷ Incarcerated workers are eager to learn new job skills: More than 70 percent of incarcerated workers

rank skills-learning as a very important reason for working.¹¹⁸ However, the promise of providing incarcerated people with transferable skills and work experience for their eventual reentry into society often proves illusory. In reality, the vast majority of work programs in prisons involve menial and repetitive tasks that provide workers with no marketable skills or training.¹¹⁹

Our research shows that better-paid prison industries jobs are declining, while maintenance jobs increasingly represent a larger share of work assignments. Vocational training programs are declining in prisons across the country, cut from state correctional budgets. The rate of participation in job training programs has fallen nationwide among people incarcerated in state prisons, according to analysis of the Bureau of Justice Statistics surveys of people in prisons conducted periodically between 1986 and 2016.¹²⁰

Even vocational programs often fail to meet their full potential. Incarcerated workers report that vocational programs often involve training on outdated equipment no longer used outside of prison walls,¹²¹ described by one formerly incarcerated worker as “stuff from the dinosaur era.”¹²² A state legislative audit of the Louisiana Prison Enterprises program found that one-third of incarcerated people working in the state prison industries program are trained for jobs that are projected to decrease in the labor market, such as garment factory work and agriculture, finding that “many...may not be learning job skills that could help them after they are released.”¹²³ A state legislative audit of Mississippi’s correctional industries program likewise found it is providing “work skills in occupations for which there were expected to be few to no job prospects in Mississippi.”¹²⁴

Moreover, when people leave prison, they face state-imposed barriers to finding employment, such as laws that explicitly authorize discrimination against formerly incarcerated individuals in housing, employment, and other areas of life.¹²⁵ State occupational licensing restrictions often bar people with conviction records from work in the very fields they trained in while incarcerated.¹²⁶

While less than 1% of state correctional budgets goes to wages for incarcerated workers, 68 percent is spent on wages and benefits for the public sector staff who operate prisons and jails.

Who Benefits from Prison Labor?

This system serves a purpose, but not one consistent with basic human rights. Prison labor is designed to benefit primarily public entities that capitalize on a vulnerable population that is, at once, a captive labor force¹²⁷ and a captive consumer base.¹²⁸

Although some private companies contract with corrections departments to use prison labor in their production or services—and this report identifies some of the corporations that currently employ incarcerated workers—work for private companies accounts for less than 1 percent of work assignments in prison labor programs. Private companies do profit from incarcerated individuals' need to provide for their basic needs while in prison, including food, health, and communications,¹²⁹ but they are not the primary beneficiaries of prison labor.¹³⁰

The primary beneficiaries of the labor of incarcerated workers are federal, state, and local governments. Federal and state governments offset budget shortfalls by forcing incarcerated laborers to work to maintain the very prisons that confine them.¹³¹ State and local governments also rely on unpaid and low-paid incarcerated workers for a variety of public

works projects. For instance, the Florida Department of Corrections estimates the value of the labor of the 3,500 unpaid incarcerated workers working on state road crews and community work squads to be about \$147.5 million over a five-year period.¹³² “There’s no way we can take care of our facilities, our roads, our ditches, if we didn’t have inmate labor,” Warren Yeager, a former Gulf County, Florida, commissioner told the *Florida Times-Union*.¹³³ State governments also rely on incarcerated workers as a low-wage labor force to respond to a variety of disasters and emergencies throughout the country.¹³⁴ At least 30 states explicitly include incarcerated workers as a labor resource in their state-level emergency operations plans.¹³⁵

Prisons also provide a cheap and compliant labor force through correctional industries, the state-owned businesses that produce goods and services sold to other state entities. In fiscal year 2021, the federal government’s UNICOR prison industries program reported \$404 million in net sales of goods and services produced by the 16,315 federally incarcerated workers who are employed in the program.¹³⁶ In fiscal year 2020, Illinois’ correctional industries program sold over \$33.5 million worth of goods and services from incarcerated workers to its own state agencies, state universities, and local governments,¹³⁷ while California’s correctional industries program sold over \$191 million in manufactured goods, services, and agricultural products produced by incarcerated workers in fiscal year 2020–21.¹³⁸

In 2021, the value of goods, services, and commodities produced by the incarcerated workers employed in state prison industries programs nationwide—who represent only about

6.5 percent of all incarcerated workers—totaled over \$2 billion.¹³⁹ The precise value of incarcerated workers’ labor to maintain the very prisons that confine them—work such as food preparation, maintenance, laundry, and cleaning—is unknown but totals vastly more. In 2004, the value of services provided by incarcerated workers laboring to maintain and operate the prisons that confine them was conservatively estimated to be \$9 billion.¹⁴⁰

Prison Labor Masks the True Costs of Mass Incarceration

According to the Bureau of Justice Statistics, state governments spend nearly \$50 billion a year to keep over 1 million people in prisons (the United States spends over \$81 billion to run its corrections system—including prisons, jails, parole, and probation—that keeps nearly 2 million people behind bars).¹⁴¹ While less than 1 percent of state correctional budgets goes to wages for incarcerated workers,¹⁴² more than two-thirds (68 percent) of state prison expenditures is spent on wages and benefits for the public sector staff who operate prisons and jails.¹⁴³ Payroll for state correctional staff alone totals over \$2 billion each month.¹⁴⁴

The true costs to operate our prisons are much higher. Incarcerated workers' labor partially offsets the staggering costs of our country's bloated prison system. The cost-savings of unpaid and grossly underpaid prison maintenance labor and the revenues from commodities and services generated by imprisoned laborers prevent policy makers and the public from reckoning with the true fiscal costs of mass incarceration.

Some government officials have even voiced opposition to efforts to reduce prison and jail populations precisely because it would reduce the incarcerated workforce. In 2017, Steven Prator, a Louisiana sheriff opposing new sentencing and parole laws, made the operating logic clear: Incarcerated laborers are a “necessary evil to keep the [prison] doors open.”¹⁴⁵ He added,

“We need to keep some out there, that’s the ones that you can work, that pick up trash, the work release program, but guess what? Those are the ones that they are releasing... the good ones, that we use every day to wash cars, change oil in our cars, to cook in the kitchen, to do all that where we save money... well, they are gonna let them out.”¹⁴⁶

Similarly, the *Los Angeles Times* reported that lawyers with the office of the then-Attorney General of California, Kamala Harris, argued in court that

a parole program to increase earned sentence reductions for eligible incarcerated people would cause the state to lose an important labor pool: incarcerated people working as firefighters. In a September 2014 filing in the case, signed by Deputy Attorney General Patrick McKinney but under Harris' name, the state argued, “Extending 2-for-1 credits to all minimum custody inmates at this time would severely impact fire camp participation—a dangerous outcome while California is in the middle of a difficult fire season and severe drought.”¹⁴⁷

But we should not have prison policy driven by a desire for cheap labor. Even though prison labor is not what is driving mass incarceration in the United States, when incarcerated people are used for cheap labor, there is a risk that our criminal justice policy will be hijacked by the desire to grow or maintain this literally captive labor force.

The Path Forward

It does not have to be this way. Work in prisons could be truly voluntary. Conditions could be safe. Jobs could provide incarcerated people with real wages and opportunities in vocational training and skills development that meaningfully prepare them for success upon release. Work in prisons could help incarcerated workers build self-esteem and provide a break from the crushing monotony of prison life.

To move in this direction, incarcerated workers should be paid a fair wage that enables them to save for the future, support their families, and sets them up for a successful reentry—97 percent of people in prison will return to their communities, and studies show that recidivism is reduced when returning citizens have savings¹⁴⁸ and stable employment.¹⁴⁹

Prison work programs that provide vocational training should be expanded to provide incarcerated workers with marketable skills and training that will help them to find employment after release. Research has found that joblessness is the single most important predictor of recidivism.¹⁵⁰ Vocational programs can boost formerly incarcerated

individuals' job prospects by almost 30 percent.¹⁵¹ A November 2021 study of California's prison industry program found that "participants were significantly less likely to be arrested at one, two and three years post release" than incarcerated people who were waitlisted for the program.¹⁵² The federal government's UNICOR prison industries program has been shown to reduce recidivism by 24 percent and participants in the program are more likely to be employed after release from prison than similarly situated individuals, yet the program has a 25,000-person waitlist and employs only 8 percent of workers incarcerated in federal prisons.¹⁵³ Expanding these programs makes good economic sense: Money spent on vocational programs in the short term translates into long-term gains through reduced recidivism rates.¹⁵⁴

Even those who run our prisons agree it is time to raise incarcerated workers' wages and provide more job training opportunities in prisons. The American Correctional Association—the trade association that has served as the voice of the U.S. corrections profession since 1870—called for incarcerated workers to have decent work, pay, and working conditions in a 2016 resolution calling for the repeal of the 13th Amendment clause that excludes incarcerated people from its protection against slavery and involuntary servitude.¹⁵⁵

In the face of extreme obstacles—the Supreme Court has held that incarcerated people do not have a First Amendment right to form a union¹⁵⁶—incarcerated workers have organized to demand improved pay and conditions. Incarcerated workers have formed the Incarcerated Workers Organizing Committee, a prisoner-led local of the Industrial Workers of the World that organized two national prison strikes in 2016 and 2018.¹⁵⁷ Incarcerated people in 17 states went on strike in August 2018 to call attention to various issues, including low wages, and called for work stoppages and an end to what the organizers call "prison slavery."¹⁵⁸ Strike organizers demanded that incarcerated workers be paid the prevailing wage for their labor, among other demands.

The best way to protect incarcerated workers is to treat them as much as possible like non-incarcerated

employees. Incarcerated workers must receive the basic protections guaranteed in nonexploitative workplaces. They should be protected by occupational health and safety laws, and compensated for injuries on the job. Basic labor protections and meaningful access to redress when their rights are violated should be the minimum standard.

International human rights law can guide reform efforts. Core human rights instruments ratified by the United States, as well as other authoritative documents at the international level, provide a basic standard that prohibits dehumanizing and exploitative treatment undermining incarcerated people's human dignity.

The following key recommendations, if enacted, would help ameliorate the exploitative conditions of work experienced by workers incarcerated in U.S. correctional institutions. These recommendations were developed in consultation with advocates and incarcerated workers interviewed for this report. A more comprehensive set of recommendations is provided at the end of this report.

Key Recommendations

End forced labor, without exceptions.

- Repeal federal and state constitutional exception clauses allowing slavery and involuntary servitude to be used as punishment for a criminal conviction.
- Ensure that all work in prisons is fully voluntary by eliminating any laws and policies that require forced labor or impose adverse consequences on incarcerated workers who are unable or unwilling to work.
- Prison authorities should ensure incarcerated workers who seek exemptions from work duties are granted such exemptions when they are unable to carry out their assigned jobs due to illness, injury, disability, or other physical or mental limitations.

End arbitrary and discriminatory allocation of jobs.

- Adopt laws and policies to ensure work assignments are not allocated or taken away in an arbitrary or discriminatory manner, including on the basis of race, gender, and disability.
- Take incarcerated people's preferences into account when selecting job assignments.
- Comply with federal disability rights laws, which require prisons to provide reasonable accommodations to incarcerated people with disabilities who wish to work, to allow them to fully and equally participate in work and vocational programs.

Guarantee incarcerated workers the standard labor protections available to other workers in the United States.

- Amend federal and state laws to ensure that incarcerated workers enjoy the standard labor protections available to other workers in the United States with regard to minimum wages, overtime pay, health and safety standards, unionization and collective bargaining, and protection from discrimination and retaliation, among other protections.

Raise incarcerated workers' wages and eliminate or limit wage deductions.

- Ensure incarcerated workers are paid prevailing wages no less than the minimum wage of the state where they work and limit wage deductions.
- Adopt policies eliminating or limiting wage deductions to no more than 20 percent of incarcerated workers' wages, solely to be used to cover legal obligations such as child support. Cease all deductions for costs of incarceration or prison capital improvement funds.
- Include work performed by incarcerated workers under covered employment eligible for Social Security, Medicare, disability, unemployment insurance, Earned Income Tax Credit, and Child Tax Credit benefits, making it possible for

incarcerated workers to earn toward and receive future benefits.

Protect incarcerated workers from injuries and hazards.

- Amend occupational health and safety and workers' compensation laws that exclude most incarcerated workers from their coverage, and ensure federal and state occupational health and safety administrations monitor conditions in all workplaces inside prisons.
- Provide adequate personal protective and safety equipment to incarcerated workers.
- Institute mandatory safety standards and comprehensive safety training programs for all work assignments in correctional institutions.

Permit incarcerated workers to join labor unions.

- Recognize incarcerated people's right to associate and permit incarcerated workers to form labor unions and bargain collectively so that workers can negotiate improved working conditions for themselves.

Ensure incarcerated workers have access to redress when their rights are violated.

Provide incarcerated workers with marketable skills and training and eliminate barriers to securing employment after release.

- Invest in valuable work and education programs designed to enhance incarcerated individuals' prospects of securing employment and becoming self-sufficient upon release.
- Eliminate occupational licensing restrictions, adopt comprehensive fair-chance hiring policies, and pass ban-the-box statutes to reduce discrimination against formerly incarcerated people and remove barriers to securing employment after release.

Research Methodology

This report was produced jointly by the ACLU Human Rights Program and the Global Human Rights Clinic of the University of Chicago Law School.¹⁵⁹ Findings are based on desk research, responses to open records requests, questionnaire responses, interviews, and fact-finding conducted between January 2019 and April 2022.

Desk Research and Policy Analysis

Research included an examination of domestic and international legal standards on prison labor, U.S. legislation and regulations at the federal and state level, historical studies of prison labor programs in the United States, sociological and penological studies measuring the impact of prison labor programs, published investigative journalism on prison labor, and official reports on incarceration and recidivism. The authors analyzed publicly available policies and regulations concerning incarcerated workers published by state departments of corrections and the Federal Bureau of Prisons, as well as reports and other information about prison labor programs published by the Federal Bureau of Prisons, state departments of corrections, and correctional industries programs. The authors also analyzed published reports by state and federal prison agencies or departments that oversee and/or have audited work programs; court rulings in lawsuits brought by incarcerated workers concerning workplace injuries; and complaints filed by incarcerated workers with OSHA.

FOIAs

The authors submitted requests under the Freedom of Information Act (FOIA) to all 50 states of the United States, as well as the Federal Bureau of Prisons, seeking basic data on the number, race, gender, and percentage of incarcerated people working in prison labor programs, disaggregated by type of work assignment; the amount of wages paid to incarcerated laborers; and the amount of deductions subtracted from their pay. Twenty-three states replied to the request with varying levels of responsiveness; 27 states provided no information.¹⁶⁰

DOJ Survey Analysis

The authors conducted descriptive analyses on work assignments from a national, wide-ranging survey of people age 18 or older who are incarcerated in correctional facilities conducted by the Department of Justice Bureau of Justice Statistics in 2016 and published in September 2021.¹⁶¹ The sampling universe for the survey consisted of state and federal prisons housing 1,502,671 people and the final full survey sample was 24,115. For the purposes of this analysis, we limited the sample to those housed in federal or state prisons (thus those incarcerated in facilities run by U.S. Immigration and Customs Enforcement, U.S. Marshalls, and local authorities were excluded from our analysis), resulting in a sample of 23,921 incarcerated people.¹⁶²

Questionnaires of Incarcerated Workers in Three States Interviews

The authors conducted more in-depth primary investigations in three case-study states—California, Illinois, and Louisiana. These states were selected because they represent different models of prison labor systems in different geographic areas of the United States. The authors designed a six-part questionnaire consisting of 27 questions that was sent to 600 people currently incarcerated in prisons in the three states: California, Illinois, and Louisiana. The questions included closed- and open-ended questions about their prison jobs, including questions about wages, other compensation or benefits, wage deductions, job training, voluntariness of the work, safety precautions, dangerousness of the work, and whether respondents could afford basic necessities with the wages they were paid. The individuals contacted were selected from online databases cataloguing the people incarcerated in each state: VINELink for Louisiana, the California Department of Corrections and Rehabilitation Inmate Locator for California, and Illinois Department of Corrections Inmate Search for Illinois. Names were selected at random using the following sampling criteria: 25 percent have served less than five years in prison and 75 percent have served more than five years; sampling from different prisons proportionally to their populations; and sampling proportional to the racial and gender breakdowns of each state’s prison population. Of the 101 surveys that were completed and returned, 48 were received from 20 different facilities across Illinois,¹⁶³ 35 were received from 16 facilities across California,¹⁶⁴ and 18 were received from nine facilities across Louisiana.¹⁶⁵ Responses to the questionnaire were recorded, aggregated, and turned into percentages, which allowed the authors to observe and track trends across the three states. All individuals who responded to the survey provided written informed consent to participate. Survey respondents’ names are used when they provided written, informed consent to use their real name in the report, while most survey respondents’ names are not published in the report to preserve their anonymity at their request.

The authors interviewed 78 key stakeholders and experts, including formerly incarcerated individuals, representatives of advocacy organizations, academics, and leaders of reentry organizations. Of these, 26 interviewees are in California, nine in Illinois, 17 in Louisiana, and 26 in other states. These interviews were conducted between October 2019 and November 2021. Members of the team traveled to Louisiana to conduct 17 interviews in person. Plans to conduct interviews in person in other locations were changed due to COVID-19 and these interviews were instead conducted over phone or Zoom. Interviewers followed an interview protocol and took notes during and immediately following the interview. Interviews were typically between one and 1.5 hours. All individuals interviewed provided verbal informed consent to participate and did not receive any compensation for participating in interviews. Individuals interviewed were offered the option of using their real name in the report or remaining anonymous. Separate interview questionnaires were formulated for each interview, and the content of the questions were tailored to each interviewee’s personal situation/experience, relationship to the criminal legal system, or area of expertise.

Understanding Prison Labor

There are roughly 800,000 people working while incarcerated in state and federal prisons in the United States, where they are stripped of practically all control over their lives. Within prisons, everyday decisions like when to eat, sleep, and bathe become subject to the arbitrary and unpredictable policies, practices, and whims of correctional officers. Incarcerated people are often told what they can and cannot read, and whether and when they can communicate with loved ones.

In addition to being stripped of these basic freedoms, incarcerated people also lose the right to refuse to work when they enter prison. They have no right to choose what type of work they do and are subject to arbitrary, discriminatory, and punitive decisions

by the prison administrators who select their work assignments.¹⁶⁶

The vast majority—more than 80 percent—of incarcerated workers labor as cooks, dishwashers, janitors, groundskeepers or plumbers; or in laundries, kitchens and hospitals, keeping the facilities that confine them running. Others are put to work producing goods and services sold by the federal and state governments and the private sector for a profit. They provide public services such as repairing roads, clearing land, planting trees, or fighting wildfires. They carry out industrial work, manufacturing products like office furniture, mattresses, license plates, and uniforms. They labor on prison farms and work in meat, poultry,

Incarcerated women work in the laundry room at Las Colinas Women's Detention Facility in Santee, California.



Photo © Photo by Sandy Huffaker / AFP via Getty Images

dairy, and egg processing. Although prison labor has undergone various permutations throughout U.S. history, the model in U.S. prisons for labor has remained far too close to its “chain gang” origins.

Prison Labor by the Numbers

Under today’s system of mass incarceration, almost 2 million people are held in prisons and jails across the United States.¹⁶⁷ Of the more than 1.2 million people incarcerated in state and federal prisons,¹⁶⁸ over 65 percent work.¹⁶⁹ We estimate that at least 791,500 people incarcerated in U.S. prisons perform work as part of their incarceration.¹⁷⁰ Because of a lack of available data, our estimate excludes people confined in local jails or detention centers, juvenile correctional facilities, and immigration detention facilities.

This figure is an estimate because the last national data on the number of incarcerated workers is from a Department of Justice, Bureau of Justice Statistics census conducted in 2005, which documented 800,208 people incarcerated in state and federal prisons who were participating in work programs at that time.¹⁷¹ About half of all people incarcerated in state and federal prisons had work assignments in 2005, according to the Bureau of Justice Statistics.¹⁷² Subsequent prison censuses published by the Bureau of Justice Statistics have not included data specifying how many incarcerated people have work assignments.

The ACLU and the GHRC filed FOIA requests with the federal government and in all 50 states seeking data on the number of incarcerated people with work assignments, but the Federal Bureau of Prisons and all but eight state departments of corrections refused to provide such data. Some states reported that they do not maintain such data, others claimed that it would be too burdensome to determine how many people incarcerated in their prisons have work assignments, and 27 states refused to respond at all. Appendix A details the number of incarcerated workers in the 20 states where we were able to obtain such data through FOIAs or data made public by departments of correction.

Over 65 percent of people incarcerated in state and federal prisons—an estimated 791,500 people—work.

To arrive at our estimate, the authors analyzed data from a national, wide-ranging survey of people age 18 or older who are incarcerated in state and federal correctional facilities conducted by the Bureau of Justice Statistics in 2016 and published in September 2021.¹⁷³ 65.1 percent of people incarcerated in federal and state prisons who were surveyed by the Bureau of Justice Statistics reported that they have work assignments.¹⁷⁴ The sampling universe for the survey consisted of state and federal prisons housing 1,502,671 people (the final full survey sample was 24,115 incarcerated people).¹⁷⁵ Since 2016, the prison population dropped to 1,215,821 people at yearend 2020, according to the most recent available data published by the Bureau of Justice Statistics in December 2021.¹⁷⁶

The percentage of people incarcerated in state and federal prisons who reported to the Bureau of Justice Statistics and the Federal Bureau of Prisons that they held work assignments at the time of the survey has declined slightly, from 71.5 percent in 1991 to 65.1 percent today.¹⁷⁷

Today, almost all U.S. prisons have work programs that employ incarcerated workers: Nearly 99 percent of public adult prisons and nearly 90 percent of private adult prisons have work programs that employ incarcerated workers, according to the Bureau of Justice Statistics census of state and federal correctional facilities conducted in 2019 and published in November 2021.¹⁷⁸ According to this census, more than 1.2 million people are incarcerated in adult prisons that have work programs employing incarcerated workers.¹⁷⁹

Although the Federal Bureau of Prisons and nearly all state departments of corrections also refused to provide data on the race of prisoners with work assignments, the incarcerated labor force is undoubtedly disproportionately made up of people who are Black, relative to their overall representation in the general population. Black Americans are incarcerated in state prisons at nearly five times the rate of whites, and in 12 states, more than half the prison population is Black, despite constituting 13 percent of the nationwide general population.¹⁸⁰

History of Incarcerated Labor in the United States

Incarcerated labor has a long and problematic history in the United States, rooted in racial oppression. The roots of modern-day labor programs can be traced to the end of the Civil War and the passage of the 13th Amendment to the Constitution in 1865. The 13th Amendment outlawed slavery and involuntary servitude, “except as a punishment for crime whereof the party shall have been duly convicted.”¹⁸¹ Given this gaping loophole, states turned to incarcerated labor as a means of partially replacing chattel slavery and the free labor force slavery provided.

In the North, incarcerated people were contracted out to private individuals and entities to perform labor in industrial factories.¹⁸² Under this contract system, incarcerated laborers were often forced to work 14 to 16 hours a day and were brutally punished for not working fast enough, for accidentally damaging equipment, and sometimes for no reason at all.¹⁸³ These severe punishments, which included hoisting incarcerated individuals “up by the thumbs with fishing line and a pulley mechanism attached to the ceiling,”¹⁸⁴ allowed Northern states to produce in one year alone what, in today’s dollars, amounts to over \$30 billion worth of prison-made goods.¹⁸⁵ By the late 1800s, over 75 percent of the North’s incarcerated population worked in these factories. This economic exploitation fell largely upon impoverished, immigrant, and African American communities who



A Southern chain gang, photo taken between 1900 and 1906.

made up the majority of the incarcerated population in the North.¹⁸⁶

In the South, conditions for incarcerated people were just as brutal, with incarcerated workers being forced to labor for up to 17 hours each day, building factories, laying railroads, and mining coal.¹⁸⁷ Under the convict leasing system, this work was conducted under the supervision of private employers who could bid on and “lease” incarcerated people for days, months, or years to work on plantations and at coal mines, turpentine farms, sawmills, phosphate pits, railways, and brickyards.¹⁸⁸ These private employers had unfettered control over unpaid, predominantly Black workers and subjected them to brutal punishments such as whipping and branding and, in many cases, worked incarcerated people to death.¹⁸⁹ In Mississippi, not a single leased convict lived long enough to serve a 10-year sentence.¹⁹⁰ Because the leasing system was so profitable for Southern states and lessees alike, new laws known as Black Codes were passed which permitted sheriffs to arrest Black men on specious charges and indirectly allowed states to expand their convict leasing programs.¹⁹¹

Organized free labor, disgruntled by having to compete with incarcerated labor, was the driving force behind the fall of the contract system in the North and the convict leasing programs in the South.¹⁹² By the 1890s, 35 states capitulated to rising union pressure to scale back incarcerated labor programs as a way to reduce competition in the labor market. The result of this concession was the implementation of the “state-use system,”¹⁹³ in which the state became the only lawful purchaser of incarcerated labor and goods.¹⁹⁴ When Congress established the first federal prisons in 1891, a similar system was adopted in which incarcerated people could be forced to work and produce certain commodities, provided that these workers were “employed exclusively in the manufacture of such supplies for the Government.”¹⁹⁵

As state corrections systems expanded, so too did the number of state-sponsored incarcerated labor programs. Work crews, commonly known as chain gangs, were first established in the 1890s in Georgia and spread throughout the South as states began to phase out the convict lease system.¹⁹⁶ These chain gangs consisted of prisoners, the vast majority of whom were Black men, shackled together with chains wrapped around their ankles, day and night, even while working, sleeping, or eating. They were forced to engage in unpaid labor in brutal conditions outside of the prison, such as road construction, ditch digging, rock breaking, highway maintenance,

The 13th Amendment outlawed slavery and involuntary servitude, “except as a punishment for crime whereof the party shall have been duly convicted.”

and farming, under the supervision of correctional officers armed with shotguns and whips. Chain gangs became more prevalent in the early 20th century as states gradually abolished the convict leasing system, as Georgia did in 1908 and later Alabama in 1928. By 1923 every state except for Rhode Island had used chain gangs to build and repair roads, but the practice was most widely used in the South.¹⁹⁷

In 1913, Wisconsin established the first work-release program in the United States.¹⁹⁸ This program allowed those convicted of misdemeanors to leave jail during the day for the limited purpose of attending work (and sometimes school, community service, or other activities).¹⁹⁹ Since the workers’ wages were collected directly by the jail, which also profited from reduced supervisions costs, the model proved to be quite cost-effective.²⁰⁰ Several states were quick to adopt near-identical versions of the Wisconsin program, while others sought to further reduce the costs associated with incarcerating large swaths of their population by expanding the program to prisons and allowing those convicted of minor felonies to participate as well.²⁰¹

A similar growth in incarcerated labor programs occurred within the federal system as well. In 1934, four years after the Federal Bureau of Prisons was first established, Congress authorized the creation of the Federal Prison Industries program (later rebranded as “UNICOR” in 1977). This program allowed federal prisons to employ incarcerated individuals “in the manufacture of articles for, the production of supplies for, the construction of public works for, and the maintenance and care of the institutions of, the State or political subdivision of the State in which they are imprisoned.”²⁰² The initial aim of this program, like many of those discussed above, was to offset the costs of incarceration by allowing state governments to profit from prison labor.²⁰³

Like the state-use system, this program drew intense criticism from powerful union groups who were concerned that prison labor would displace “free labor.”²⁰⁴ The American Federation of Labor’s executive council said in 1928, “The manufacture and sale of commodities produced by convict labor in competition with free labor is a menace to working

men and women.”²⁰⁵ In response, Congress passed several pieces of legislation that outlawed the use of prison labor to maintain federal highways and prohibited the interstate sale of prison-made goods, but made certain exceptions which allowed states and the federal government to continue benefitting from prison labor. The 1935 Ashurst-Sumners Act, for example, made it a federal crime to transport prison-made goods into or out of states which had outlawed this practice, but made an exception for “commodities manufactured in a Federal, District of Columbia, or State institution for use by the Federal Government, or by the District of Columbia, or by any State or Political subdivision of a State.”²⁰⁶

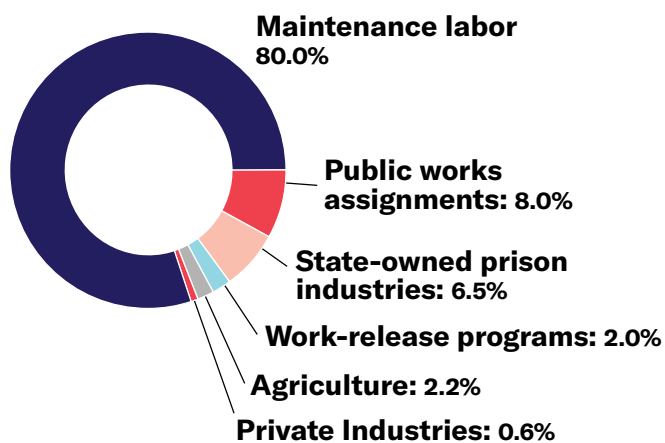
These legislative reforms were short-lived. Beginning in the 1970s, Congress and individual states increasingly allowed private entities and state governments to benefit from incarcerated labor.²⁰⁷ For example, in 1972, Minnesota established America’s first “restitution centers” in which low-level offenders were “paroled” out of jail only to be sent to a lower-security confinement facility where they were required to secure employment to pay off any victim restitution which they owed, or otherwise participate in community service.²⁰⁸ Similar to work-release programs, these so-called restitution centers proved incredibly cost-effective and, in the years that immediately followed, were rapidly adopted by other states.²⁰⁹ Like the first restitution center in Minnesota,²¹⁰ however, many of these programs ceased to exist only a few years following their creation, although they continue to remain on the books in some states.²¹¹

Changes also occurred at the federal level. In 1979, Congress amended the Ashurst-Sumners Act to allow for the creation of “prison work pilot projects,” whereby prison workers could be employed under joint ventures between private companies and state correctional facilities to produce goods authorized for sale in interstate commerce. Under this program, the PIECP, prison laborers were to receive prevailing wages—that is, market wages²¹²—subject to certain enumerated deductions. In this way, it was thought, private companies using prison labor would not displace companies that employed free workers, as both would be providing market wages to their workers.

Types of Prison Labor

Labor programs in prisons across the country today take many forms, and the experiences of workers in prison vary from state to state and even from facility to facility.²¹³ Nonetheless, prison labor can generally be grouped into six types: (1) maintenance work within prisons for the upkeep of correctional facilities; (2) production of goods and services in state-owned prison industries or “correctional industries” for sale to other state agencies; (3) public works assignments or “community work crews,” through which states, municipalities, and nonprofit organizations contract with state departments of corrections to use the labor of workers for a variety of public works projects; (4) work for private industries for production of goods and services sold to the general public; (5) work conducted as a condition of sentencing or as part of a “work-release” program; and (6) agricultural work, which cuts across several of these categories. Figure 1 notes the estimated breakdown of the types of labor incarcerated people engage in, based on available data on the distribution of work assignments in prisons nationwide.

FIGURE 1:
Types of prison labor by category



Sources: Bureau of Justice Statistics and National Correctional Industries Association²¹⁴

Prison maintenance work, state-owned prison industries work, public works assignments, and work for private industries are discussed in more detail in the subsequent section of this report titled “Who Benefits from Prison Labor.”

Maintenance Work

Maintenance work, which accounts for the vast majority—more than 80 percent—of prison jobs, is run by the department of corrections and goes toward keeping the facilities running.²¹⁵ Assignments include custodial services, laundry, food services, administrative work, and grounds keeping. Some jobs are not just menial but also futile, like being told to cut grass with dull blades or to push a mop around on surface that has already been cleaned.²¹⁶ Other jobs provide essential services to prisons. In Michigan, for example, incarcerated people work as carpenters, electricians, and plumbers.²¹⁷ A plumber, designated a skilled laborer, is paid between \$1.24 and \$1.77 a day.²¹⁸ Outside of prison, a plumber in Michigan makes, on average, \$25.70 an hour.²¹⁹

More than 95 percent of public prisons and nearly 90 percent of private prisons have work programs that employ incarcerated people to support and maintain the facilities where they are incarcerated (see Table 2).²²⁰ More than 80 percent of incarcerated workers in state and federal prisons who were surveyed by the Bureau of Justice Statistics in 2016 reported working in jobs that served to maintain the prisons where they are incarcerated and provide essential services that keep these prisons running.²²¹ This category included 30 percent of all incarcerated workers performing general janitorial duties, nearly 20 percent working in food preparation or kitchen duties, 8.5 percent providing grounds maintenance, 6.6 percent in maintenance or repair, 4.5 percent working in laundry, and 14.1 percent performing essential services by working in prison hospitals or infirmaries, libraries, stockrooms, stores, and barber shops (see Table 1).²²² Because some of these Bureau of Justice Statistics survey categories likely encompass a proportionately small percentage of workers engaged in work outside the prison on public works assignments, such as in forestry, groundskeeping, maintenance, or road maintenance, we estimate that the percentage of incarcerated people working to maintain the prisons is somewhat lower than their sum of 86.1 percent but certainly above 80 percent.

TABLE 1

Type of work assignments reported by incarcerated workers

General janitorial duties (cleaning, orderly, sweeping)	29.9%
Food preparation or kitchen duties (kitchen, bakery, butchery, etc.)	19.6%
Other services such as library, stockroom, store, office help, recreation, sew shop, barber or beauty shop, etc.	14.1%
Grounds or road maintenance	8.5%
Goods production / industries / contract services (telemarketing, tag shop, print shop, etc.)	7.3%
Maintenance or repair / construction	6.6%
Laundry	4.5%
Hospital, infirmary, or other medical services	2.9%
Farming, forestry, ranching	2.2%
Other	7.3%

Note: Survey respondents could check multiple work assignments

Source: ACLU analysis of Bureau of Justice Statistics Survey of Prison Inmates, United States, 2016 (data published September 2021)²²³

Only 7.3 percent of survey respondents reported working in state and private prison industries, goods production, and contract services jobs that



Incarcerated workers carry loads of cardboard to recycling bins at Camp Waterloo, a deteriorating former state prison. Prison work crews cleared trash and scrap metal from the abandoned prison facility in Waterloo, Michigan.

Photo © AP Photo/The Jackson Citizen Patriot, Nick Dentamaro

constitute work in three other categories of prison work: work in state-owned prison industries, work for private industries, and a small fraction of the work performed through work-release programs. Another 7.3 percent reported engaging in undefined “other” work, which likely includes some public work assignments and work-release jobs.

State-Owned Prison Industries

State-owned prison industries, which constitute a second type of prison labor program that accounts for about 6.5 percent of prison jobs, employ 51,569 incarcerated individuals in state-owned corporations that produce goods, services and commodities sold to other government agencies as of 2021,²²⁴ down from 70,507 in 2011²²⁵ and 91,043 in 2008.²²⁶ According to the National Correctional Industries Association, the value of saleable goods and services produced by incarcerated workers in prison industries programs nationwide totaled \$2.09 billion in 2021.²²⁷

The federal government and all states except Alaska operate their own correctional industries.²²⁹ Of the 49 states with prison industries programs, Mississippi and Florida operate their programs through a nonprofit prison industries corporation working with the state department of corrections.²³⁰

In the other 47 states, the program is either operated solely by the state department of corrections or by a division of the corrections department functioning as a semiautonomous agency.

These industries are involved in a variety of production and services, such as sign and license plate manufacturing, meat and milk processing, optical and dental laboratories, and recycling and metal shops.²³¹ The federal industry program, known as UNICOR, likewise advertises an extensive product list.²³² A state agency that needs office chairs can contract with a prison to produce them. An office park with an asbestos problem can contract with a prison to remove it. A new governor can contract with a prison to print thousands of new letterheads.²³³

Half of public prisons offer work in prison industries.²³⁴ Among private prisons, where the work on offer is almost entirely in prison maintenance, only 15.5 percent offer prison industries work programs.²³⁵ The National Correctional Industries Association touts the program as largely self-funded, reporting that 86 percent of prison industries programs are “operating solely from the revenue generated from agricultural and manufactured products and services.”²³⁶

TABLE 2
Public and private confinement facilities and prisoners, by work programs available in facility, midyear 2019

Work Program	Public				Private			
	Facilities		Prisoners		Facilities		Prisoners	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Any	1,058	98.7%	1,200,367	99.7%	52	89.7%	60,854	99.3%
Maintenance/ facilities support services	1,022	95.2%	1,176,098	97.6%	52	89.7%	60,854	99.3%
Prison industries	536	50.0%	789,541	65.5%	9	15.5%	11,187	18.3%
Public works assignments	474	44.2%	550,529	45.7%	5	8.6%	7,105	11.6%
Farming/agriculture	294	27.4%	341,839	28.4%	5	8.6%	5,456	8.9%

Note: Details do not sum to totals because facilities could report more than one work program.

Source: Bureau of Justice Statistics, Census of State and Federal Adult Correctional Facilities, 2019 (published November 2021)²²⁸

Public Works Assignments

A third category of prison labor is **public works assignments**, sometimes referred to as “community work crews,” for the benefit of state, municipal, and local government agencies and occasionally nonprofit organizations. States and municipalities contract with state departments of corrections to use the labor of incarcerated workers for a variety of public works projects, mostly off prison grounds. Incarcerated workers maintain cemeteries, school grounds, fairgrounds, and public parks; do road work; construct buildings; clean government offices; clean up landfills and hazardous spills; undertake forestry work in state-owned forests; and treat sewage. In some states, including Arkansas,²³⁷ Florida,²³⁸ Georgia,²³⁹ Mississippi,²⁴⁰ South Carolina,²⁴¹ and Texas,²⁴² these workers are not paid at all for their work.

Our research found that at least 41 state departments of correction have public works programs that employ incarcerated workers.²⁴³ About 44 percent of public prisons and 8.6 percent of private prisons nationwide assign incarcerated workers to work on public works assignments outside the prison.²⁴⁴ Although the most recent Bureau of Justice Statistics survey of prisoners does not include disaggregated data on incarcerated workers assigned to public works, public works constituted 8 percent of all state prisoners’ work assignments at the time of the previous survey in 2004 (federal prisons do not have these public works programs).²⁴⁵ As of 2005, the last year for which the Bureau of Justice Statistics published such data disaggregated by region, over half of the prisons with public works programs were located in the South.²⁴⁶

In Florida, for instance, about 3,500 unpaid incarcerated workers work on state road crews and “community work squads,” required to provide labor for hundreds of state and municipal agencies and dozens of state colleges and nonprofits.²⁴⁷ In North Carolina, nearly 1,000 incarcerated workers work on road squads for the state Department of Transportation and on manual labor jobs for state and local government agencies.²⁴⁸ These contracted services include patching potholes, clearing

rights-of-way, and picking up litter on state roads; janitorial services; cleaning parks and streets; working for county schools; undertaking construction, cleaning, and yard work for the Department of Social Services; and refurbishing restrooms and picnic areas for the Department of Agriculture.²⁴⁹

In Washington State, about 1,000 people work in similar community work programs through which incarcerated workers perform work in farming, stream clean-up, land clearance, and development of parks and recreation areas.²⁵⁰ In Arizona, 1,083 incarcerated people work on public works crews for the Department of Transportation and other state, local, and county entities through intergovernmental agreements with the corrections department.²⁵¹ These workers logged more than 1.8 million hours of work for the community during fiscal year 2020.²⁵² In Mississippi, each state prison provides incarcerated workers’ labor for free to local towns and municipalities.²⁵³ Workers incarcerated at Mississippi State Penitentiary provide more than 100,000 hours of free labor each year to state agencies and adjacent municipalities and counties.²⁵⁴ In Arkansas, unpaid incarcerated workers on “inmate work crews” logged nearly half a million hours in regional maintenance alone in 2020.²⁵⁵ These workers filled sandbags, dug ditches, cleaned highways and parks, and assisted with clean-up from severe storms and demolition of buildings.

Through such programs, incarcerated workers also perform critical work preparing for and responding to natural disasters and emergencies, including sandbagging, supporting evacuations, clearing debris, and assisting with recovery and reconstruction after hurricanes, tornadoes, mudslides, or floods.²⁵⁶ For example, in Florida, hundreds of unpaid incarcerated workers were tasked with picking up fallen trees and other debris after Hurricane Irma, and in Texas, hundreds of unpaid incarcerated workers filled sandbags in preparation for Hurricane Harvey, forced to work in the storm’s path while people outside prisons were evacuated.²⁵⁷ Incarcerated firefighters also fight wildfires in Arizona, California, Colorado, Georgia, Idaho, Montana, Nevada, North Carolina,

Oregon, South Dakota, Tennessee, Washington, and Wyoming. For instance, Georgia’s incarcerated firefighter unit responds to over 3,000 calls annually, assisting with wildfires, structural fires, and motor vehicle accidents—for zero pay.²⁵⁸ Indiana turned to incarcerated workers during an avian flu outbreak, tasking them with culling and disposing of infected chickens.²⁵⁹

Private Industries

A fourth category of prison labor is work for **private industries** through PIECP, which allows private companies to produce goods and services using prison labor.²⁶⁰ There are several employment models within this category. Some incarcerated people work directly for the private company while others are employed by the prison and are assigned (essentially contracted out) to the company.²⁶¹ PIECP employs the smallest number—only 4,860 workers, or less than 1 percent—of incarcerated people of any prison labor program.²⁶² Yet it is the most coveted prison labor program among incarcerated individuals because it generally provides higher wages—by law, prevailing wages—and typically includes job training in more marketable skills.²⁶³ However, incarcerated workers in the PIECP program ultimately receive a small fraction of these wages, as their earnings may be deducted by up to 80 percent for room and board, taxes (such as federal, state, and Federal Insurance Contributions Act), family support, and victim compensation or assistance.²⁶⁴ The PIECP program and the companies that use incarcerated labor are discussed in more detail in the subsequent subsection of this report on the private sector, located in the section titled “Who Benefits from Prison Labor.”

Work-Release Programs and Restitution Centers

A fifth category of prison labor is work carried out by incarcerated people being held in “**restitution centers**,” as well as those taking part in “**work-release**” programs provided by the prison, jail, or community facility where they are confined. In both instances, workers leave correctional facilities to

In 2021, incarcerated workers employed in prison industries programs produced more than \$2 billion worth of goods and services.

Source: National Correctional Industries Association

work at a place of employment and return to the facility when their shift is complete. These programs cover only a small minority of incarcerated workers—around 2 percent.²⁶⁵ Because these programs sometimes involve incarceration at correctional facilities other than prisons, this report does not attempt to give an extensive description and analysis of them, but it does reference them where relevant. As of 2019, there were 451 correctional facilities nationwide (27 percent of all correctional facilities) whose main function is work release and community corrections; this number does not include state prisons that operate work-release programs as well.²⁶⁶

There is wide variation in how these types of institutions and programs manifest across states²⁶⁷—including in terms of who manages them, which individuals are eligible, the structure of work assignments, and wage deduction policies—but there are certain features that tend to characterize them both.²⁶⁸ Restitution centers and work-release programs alike involve work conducted outside of the prison by mostly those convicted of misdemeanors but also people convicted of low-level felonies as well. Workers are generally paid a wage—although not always—and these wages are often collected by the state, county, or private facility where they are housed.²⁶⁹ The facility then deducts rent, restitution, court fines and fees, child support, and other costs before the worker ever sees the wages.²⁷⁰

Restitution centers and work-release programs can be distinguished, in most cases, by how individuals end up working there. Restitution centers are generally discussed at the initial sentencing stage as an alternative to jail or prison or following supervision revocation (generally for failure to pay or absconding violations),²⁷¹ while work-release programs tend to become relevant near, or at the end of, an already incarcerated person's sentence.²⁷² People often are assigned to work release for a transitional period when they are nearing the end of their sentence. But this is not always the case; some work-release programs function like traditional restitution centers in that they are used as an alternative to jail or prison and confine incarcerated individuals to a corrections facility for a set term (usually equal to the length of the sentence they would have received had they been sent to jail or prison).²⁷³ Some work-release programs may even allow individuals to reside at home, as opposed to being confined in a corrections facility, as long as they continue to report to work each day.²⁷⁴ Similarly, restitution centers in some cases function like traditional work-release programs in that they are sometimes made available to those nearing (or at the end of) their jail or prison sentence who are in need of transitional services.²⁷⁵

Mississippi is the only state that still uses restitution centers to lock people up for an indefinite period of time while they work for private employers to earn money to pay off court-ordered debts.²⁷⁶ Hundreds of people a year are sentenced to be confined in Mississippi's restitution centers, where they are required to stay until they pay off court fees, fines, and restitution. Workers are required to pay for room and board, transportation to their jobs, and medical care costs. They work slaughtering chickens, cutting catfish at processing plants, at Popeyes and McDonald's franchises, and for auto mechanic shops, furniture companies, and meatpacking plants.²⁷⁷

Agricultural Work

Agricultural work fits within multiple categories of prison labor. Some incarcerated workers engage in field labor for the maintenance of the prison, cultivating and harvesting crops to be eaten by the

people incarcerated there. Others engage in farming or ranching work for prison industries programs or for private corporations through PIECP programs to produce livestock, crops, and other agricultural products for sale. Twenty-seven percent of public prisons and nearly 9 percent of private prisons have work programs in farming and agriculture.²⁷⁸ Although only 2.2 percent of incarcerated workers are engaged in agricultural work in prisons nationwide, in some states, agricultural work constitutes a greater percentage of work assignments, such as in Arkansas, where 17 percent of job assignments for incarcerated people were in agricultural work in 2021.²⁷⁹

In states such as Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, and Texas, incarcerated workers work on penal plantations or prison farms, discussed in more detail in the next section of this report. Incarcerated workers are also employed in agricultural work through prison industries programs in states including Arizona, California, Colorado, Florida,

Photo © AP Photo/Lake Charles American Press, Karen Wink



Corrections officers oversee incarcerated agricultural workers working in the fields at C. Paul Phelps Correctional Center in DeQuincy, Louisiana.

Georgia, Idaho, Iowa, Kentucky, Montana, Oklahoma, and Washington.

In Georgia, about 5,000 incarcerated workers were employed in the Georgia Correctional Industries' Food and Farm Operations division as of 2015, the most recent year for which data is available.²⁸⁰

More than 300 of these incarcerated workers are employed each year in the agribusiness program.²⁸¹ Incarcerated workers in the farm services and agribusiness programs labor unpaid on six prison farms totaling nearly 14,000 acres of land.²⁸² These workers farm crops and hold jobs in canning and meat processing plants, cattle and swine operations, milk and egg production, feed and grits mills, and fresh vegetable processing.²⁸³ In addition to the production of profitable farm-grown commodities, these workers produce over 40 percent of the ingredients used in Georgia state prisons' food service operations.²⁸⁴

The California Prison Industry Authority made \$27.96 million from its agriculture sector in fiscal year 2020–21, revenues generated by incarcerated workers who produced crops, poultry, dairy, and eggs.²⁸⁵ Over a hundred incarcerated workers are employed in Florida's Prison Rehabilitative Industries and Diversified Enterprises (PRIDE) prison industries program manufacturing food products.²⁸⁶ Oklahoma Department of Corrections' Agri-Services division employs about 275 incarcerated workers at prisons across the state, managing cattle, working at a meat processing center and a dairy/milk processing facility, and producing crops at multiple farms encompassing more than 19,000 acres.²⁸⁷

Some agricultural work is for private corporations. For example, incarcerated workers cultivate and harvest alfalfa, rye, wheat, and triticale for the Barnum Land and Cattle of California.²⁸⁸ In Idaho, incarcerated workers process potatoes, frozen onions, and peppers for Dickinson Frozen Foods through the Idaho Correctional Industries Agricultural Program.²⁸⁹ In Arizona, Hickman's Family Farms—the fourth-largest U.S. egg producer—has contracted with Arizona Correctional Industries to employ incarcerated workers for over 20 years. Dairy

Farmers of America, which markets one-third of the milk sold in the United States, purchases milk from correctional industries.

Penal Plantations

In Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, and Texas, incarcerated workers are tasked with agricultural work on penal plantations or prison farms.²⁹⁰ These penal plantations have direct roots in the Black chattel slavery of the South and some are situated on land that was originally the site of slave plantations. At some of these prisons, incarcerated workers today produce some of the same crops that were grown by enslaved people on the same land less than 160 years earlier.²⁹¹

For example, at the Louisiana State Penitentiary, known as Angola, the nation's largest maximum-security prison situated on 18,000 acres of land that was originally the site of slave plantations,

incarcerated workers work field crops including cotton, corn, soybeans, and sugarcane for only two cents an hour.²⁹² Every person incarcerated in Angola, 74 percent of whom are Black²⁹³—and most incarcerated across Louisiana—starts work in the fields, and switching jobs is difficult.²⁹⁴ Field laborers work with limited access to water, minimal rest, and no restroom facilities, under the supervision of armed correctional officers on horseback.

Workers report being placed in solitary confinement if they are unwilling or unable to perform work in the fields, or if they do not work fast enough.²⁹⁵ One incarcerated worker in Louisiana reported, “In the field each inmate is given a number to a row of crops to be cultivated or pulled and bagged which is about a half mile. The gun guard on the horse said she wanted 30 sacks of greens and was keeping count. I was on sack 23 before the specified time and was transported to segregation.”²⁹⁶

In Arkansas, about 3,000 incarcerated workers labor on 20,344 agricultural acres spread across

Corrections officers ride horses as incarcerated workers return from farm work detail at the Louisiana State Penitentiary in Angola, Louisiana.



Photo © AP/Gerald Herbert



Workers incarcerated at North Carolina's Roanoke River Correctional Institution, located on the site of the former Caledonia plantation, harvest crops on a prison farm outside of Tillery, North Carolina.

five prisons unpaid, with no limit to their daily hours, and without scheduled, guaranteed breaks.²⁹⁷ Many of these workers are assigned to field work on the “hoe squad,” digging ditches, pulling weeds, clearing land, and picking crops while watched by correctional officers on horseback.²⁹⁸ Incarcerated workers receive no pay for their work, which generates millions of dollars per year for the state. In fiscal year 2019, revenue from sales of the crops and livestock produced by incarcerated workers in Arkansas to outside vendors totaled more than \$4.4 million (down from almost \$7 million the year before), and incarcerated workers generated an additional \$7.5 million in food consumed by incarcerated people that year.²⁹⁹

At Cummins Unit, a maximum-security state prison in Arkansas that was designed as a prison for Black men and where the population today is disproportionately Black, incarcerated people work in the fields cultivating and picking row and vegetable crops including corn, soybeans, rice, wheat, and oats; work in slaughterhouses, poultry, and swine

management; and work in egg production, picking through 100,000 eggs a day.³⁰⁰ The prison is situated on 11,347 acres of farm land that was the site of part of the Cummins and Maple Grove slave plantations.³⁰¹

In Mississippi, incarcerated workers plant, harvest, and process crops including soybeans, corn, blueberries, pecans, tomatoes, turnip greens, and field peas. The farming work takes place at Mississippi State Penitentiary (known as Parchman Farm) in Parchman, and South Mississippi Correctional Institution in Leakesville. Parchman was built in the early 20th century and modeled after antebellum slave plantations; the governor of Mississippi at the time the prison opened referred to it as running “like an effective slave plantation.”³⁰² Today it is located on 18,000 acres and leases an additional nearly 8,000 acres for its agricultural work, and 67 percent of the incarcerated population is Black.³⁰³ Incarcerated workers at Parchman supply food to Parchman, two other state prisons, 10 community work centers, and four restitution centers.³⁰⁴ While the Mississippi Department of Corrections touts the farming operations as a way to feed prisoners and reduce food costs, more than 98 percent of the total acreage farmed by incarcerated workers is devoted to cash crops to sell for a profit, not vegetables for consumption. The revenue generated by cash crops such as soybeans and field corn produced by incarcerated workers in Mississippi totaled \$1.06 million in fiscal year 2020, over 1 million dollars more than the value of vegetables farmed and consumed by people incarcerated in Mississippi prisons, which totaled \$33,255 that same year.³⁰⁵

The former commissioner of the Mississippi Department of Corrections noted that the Mississippi Prison Agricultural Enterprises (MPAE) program’s cost savings is critical to support the rising prison and jail population—in a state that now has the second highest

incarceration rate in the country due to dramatic increase in its rates of imprisonment in the last 40 years.³⁰⁶ “With a nearly \$30 million deficit this fiscal year because of inmate growth, two federal court orders and critical capital improvement needs, every dime counts,” then-Commissioner Christopher B. Epps told the *Mississippi Link* newspaper, “Standing programs like MPAE are critical to our savings.”³⁰⁷

At North Carolina’s Roanoke River Correctional Institution (formerly known as Caledonia Correctional), located on 7,500 acres on the site of the former Caledonia plantation, incarcerated workers cultivate row crops such as corn, wheat, and soybeans; vegetables including sweet corn, collard greens, sweet potatoes, squash, cucumbers, and melons; and manage cattle and chickens.³⁰⁸ Today, incarcerated workers produce some of the same crops that were grown by enslaved people on the same land.³⁰⁹ Incarcerated workers also work in the prison cannery to can crops grown on the farm to supply prison kitchens across the state. Roanoke River Correctional Institution is the largest prison farm in the state; others include Dan River Prison Work Farm and Tyrrell Prison Work Farm, which were constructed by work crews of incarcerated workers in the late 1990s.

Between 1899 and 1918, the state of Texas bought 10 plantations and began running them as prisons.³¹⁰ A number of the prison farms still operating today were previously the sites of plantations, including Memorial Unit state prison (formerly known as Darrington Unit, the site of the Darrington plantation), W. F. Ramsey Unit (formerly the Ramsey Prison Farm, located on the site of five former plantations), Clemens Unit (formerly the site of two plantations), Wayne Scott Unit (formerly the location of the Retrieve plantation), J. Dayle Wainwright Unit (formerly the Eastham Unit, the site of a plantation), and Beauford H. Jester Unit (formerly known as the Jester State Prison Farm

Photo © AP/Gerald Herbert



An incarcerated worker pushes a bin of greens inside a processing plant at the Louisiana State Penitentiary in Angola, Louisiana.

and the Harlem Prison Farm, located on the site of several plantations including the Harlem plantation).

Today, more than 2,100 incarcerated workers from 24 prisons work without pay at Texas state prison farms spanning 139,000 acres.³¹¹ In 2019, incarcerated workers laboring on prison farms in Texas produced 7.8 million pounds of vegetables; processed 4 million dozen eggs and more than 23 million pounds of meat; and harvested 69.5 million pounds of cotton, grains and grasses.³¹² They also canned vegetables and tended cattle, swine, laying hens, and horses.³¹³ A state audit of the Texas Department of Criminal Justice’s agribusiness program found that 46 percent of the agricultural products produced by incarcerated workers cost more to grow than they are worth, and the state could have saved millions by simply buying them.³¹⁴ Despite losses in field crops and canning, the prison system’s agricultural operations generated \$160.3 million in cost savings over a five-year period, in part because of highly profitable beef and pork processing work performed by incarcerated workers.³¹⁵

Who Benefits from Prison Labor

The chief beneficiaries of prison labor are (1) the prison system itself; (2) state, local, and federal governments; and (3) private sector companies which can exploit a captive labor force that has much to lose and little to expect. As the prison population has ballooned over time, so have available prison workers. This increase has enabled a parallel growth in commodities and services produced by incarcerated people. In the early 20th century, the value of commodities produced by incarcerated workers was estimated to be around \$650 million.³¹⁶ In 2021, the value of goods, services, and commodities produced by the 51,569 incarcerated workers employed in prison industries programs—who represent only about 6.5 percent of all incarcerated workers—totaled over \$2 billion.³¹⁷ The precise value of incarcerated workers’ labor to maintain the very prisons that confine them—work such as food preparation, maintenance, laundry, and cleaning—is unknown but totals vastly more. In 2004, the value of services provided by incarcerated workers laboring to maintain and operate the prisons that confine them was conservatively estimated to be \$9 billion.³¹⁸ In 2017, Steven Prator, a Louisiana sheriff opposing new sentencing and parole laws made the operating logic clear: Incarcerated laborers are a “necessary evil to keep the [prison] doors open.”³¹⁹

The Prison System

Daniel Tapia was incarcerated in Louisiana for decades. In the mornings, he helped with prison upkeep, and in the afternoons, he serviced the local police force’s fleet of vehicles.³²⁰ Joel Jackson spent time in Illinois’ prisons, where he sliced meat for



Photo © AP/Ocala Star-Banner, Alan Youngblood

An incarcerated worker stirs a vat of rice and beans at the Marion County Jail in Ocala, Florida.

prison lunches.³²¹ And Kelly Savage was incarcerated in California, where she worked cleaning the prison yard and in the prison kitchen where she suffered several burns to her hands and arms.³²² Across the country, incarcerated people like Tapia, Jackson, and Savage work day in and day out to maintain the prisons that incarcerate them.

Of the nation’s roughly 800,000 incarcerated laborers, more than 80 percent perform low-skilled maintenance labor for the facilities in which they are held.³²³ This maintenance labor allows prisons to significantly offset their operating costs. When

“We are saving [the prisons] millions of dollars and getting paid pennies in return or an extra piece of meat. All the jobs we are doing in prison are not really benefiting us; it is more benefitting the prison system. I work a job making \$450 for a whole year. If they were to pay a civilian for the same job that would be his pay for just one week.”

— Latashia Millender, incarcerated at Centralia Correctional Center, IL

incarcerated people serve as janitors, plumbers, electricians, and food servers—often involuntarily and typically for little or no pay—facilities are spared hiring outside market-rate laborers.³²⁴ According to the Bureau of Justice Statistics, state governments spend nearly \$50 billion a year to keep over 1 million people in prisons (the United States spends over \$81 billion to run its corrections system—including prisons, jails, parole, and probation—that keeps nearly 2 million people behind bars).³²⁵ More than two-thirds (68 percent) of state prison expenditures is spent on wages and benefits for the public sector

staff who operate prisons and jails.³²⁶ Payroll for state correctional staff alone totals over \$2 billion each month.³²⁷

Due to the explosive growth of the prison population since 1970, and despite a recent slight decline in incarceration rates in some states, U.S. prisons house more incarcerated people than they are designed to hold.³²⁸ Thus, prisons struggling to operate on their state-provided budgets rely on incarcerated laborers to perform essential maintenance tasks, like cleaning prison yards and servicing police cars, to offset budget shortfalls.³²⁹ This saves state governments billions of dollars a year in prison upkeep. One conservative 2004 estimate placed the nationwide value of these cost-saving services at about \$9 billion.³³⁰ Even now, there is no way to know exactly how much value is generated by prison labor given the lack of a centralized data collection system, which would increase transparency and accountability in this regard.

According to some experts, the use of prison labor not only saves correctional systems money but is what allows prisons to perpetuate themselves.³³¹ The more prisons use incarcerated labor, the more the prison system can expand without having to increase budgetary allocations from state and local governments. According to Bruce Reilly, a prison reform advocate and formerly incarcerated worker, prisons are “never going to get rid of maintenance jobs, or cooking [jobs]” because “the budgets don’t work otherwise.”³³²

Incarcerated people not only replace workers needed for typically lower-paid maintenance work, but they also perform work that is typically well remunerated, saving prisons even more money.

Many prisons, for example, employ their incarcerated workforce as auto mechanics and plumbers. Outside of prison, such work typically pays over \$20 an hour,³³³ but in prison, it pays between \$0 and \$1.24 an hour.³³⁴

This fact is well known by incarcerated workers and their families. Latashia Millender, who is incarcerated at Centralia Correctional Center in Illinois, noted:

Incarcerated workers debone turkeys at the meat plant in the Maryland Correctional Institution in Hagerstown, Maryland.



Photo © Ricky Caroti/The Washington Post via Getty Images

“You have people risking their lives working in the conditions they are working in, and the pay is not good and there is no training being provided. We are saving [the prisons] millions of dollars and getting paid pennies in return or an extra piece of meat. All the jobs we are doing in prison are not really benefiting us; it is more benefitting the prison system. I work a job making \$450 for a whole year. If they were to pay a civilian for the same job that would be his pay for just one week.”³³⁵

State, Local, and Federal Governments

Prison labor not only saves federal and state governments money by funding their bloated prison systems, it also provides a cheap and compliant labor force in correctional industries, the state-owned businesses that produce goods sold to other state entities. Many states require all state agencies, political units, and public institutions to purchase manufactured goods, including furniture, cleaning supplies, and uniforms, from their state

correctional industries.³³⁶ In fiscal year 2020 alone, Illinois’ correctional industries program sold over \$33.5 million worth of goods and services from incarcerated workers to its own state agencies, state universities, and local governments,³³⁷ while California’s correctional industries program sold over \$191 million in manufactured goods, services, and agricultural products produced by incarcerated workers in fiscal year 2020–21.³³⁸ Table 3 shows the state correctional industries programs with the highest net sales for fiscal year 2019, the most recent data we were able to obtain for all states.

Correctional industries programs are not limited to manufacturing, as states rely on incarcerated workers to provide a variety of services, such as data entry, repairing state-owned vehicles, and washing laundry for public hospitals and universities. For example, people incarcerated in Oregon help staff the state’s DMV call center, fielding questions directed towards the department.³⁴⁰

Foods produced by incarcerated workers in correctional industries’ agricultural and food processing programs are also sold to state hospitals, state-run psychiatric hospitals, veterans’ homes, and residential treatment programs.³⁴¹ For instance, the

TABLE 3

State correctional industries programs, ranking by net sales, fiscal year 2019

Ranking	State	Net Sales
1	California*	\$249,961,931
2	Washington*	\$113,260,594
3	North Carolina	\$92,500,000
4	Pennsylvania*	\$80,688,000
5	Texas	\$76,745,560
6	Florida	\$69,524,370
7	Colorado*	\$68,871,011
8	New York	\$63,557,000
9	Maryland	\$52,457,137
10	Arizona	\$47,974,027

*States that have canteen or commissary operations as part of their correctional industries programs.

Source: National Correctional Industries Association (NCIA)³³⁹

food factories that employ incarcerated workers in California sell food products to veterans’ homes and state hospitals, while Montana’s prison industries program’s food factories produce meals for the state psychiatric hospital. New Jersey’s prison bakery sells doughnuts, cupcakes, and hot dog rolls to government agencies and public schools.³⁴²

Crucially, these state-level “correctional industries” programs employ incarcerated people nationwide at a small fraction of the wages they would pay a regular employee. Oregon’s DMV center pays its incarcerated workers \$4 to \$6 a day,³⁴³ compared to the average pay of \$80 a day for non-incarcerated employees doing the same job. An incarcerated worker in Louisiana making mattresses earns about 20 cents an hour,³⁴⁴ and another making dorm furniture in Arkansas is paid nothing at all.³⁴⁵

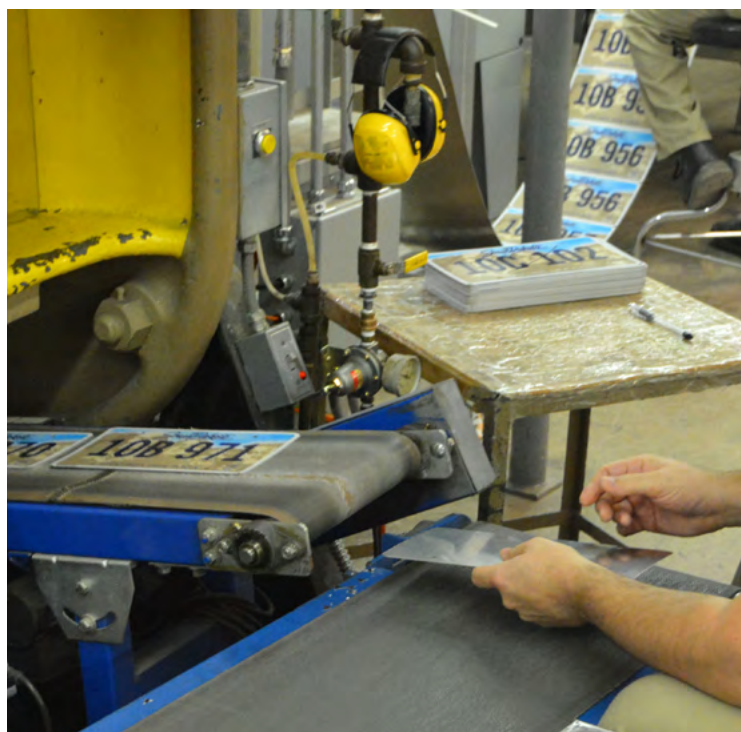
The federal government operates its own Federal Prison Industries program known as UNICOR, which functions as a wholly owned corporation of the U.S. government that employed 16,315 federally incarcerated people in fiscal year 2021 to produce goods and services.³⁴⁶ The program has seven areas of manufacturing carried out by people incarcerated in the federal system: metals, wires and plastics, vehicular repair/manufacturing, data and document conversion services, electronics, woods, and fabrics/

materials.³⁴⁷ Like at the state level, federal agencies are required to purchase certain products from UNICOR.³⁴⁸ UNICOR reported \$404 million in net sales in fiscal year 2021.³⁴⁹

Many of UNICOR’s products are attractive to private purchasers as well, given that UNICOR is able to keep costs down by paying its incarcerated employees a rate exceptionally below minimum wage. Wages for these various manufacturing jobs or services range from \$0.23 to \$1.15 per hour.³⁵⁰ UNICOR explicitly advertises to private companies, telling them that they can benefit from the “Made in the USA marketing advantage” while eliminating the “waste and instability caused by offshore supply chain interruptions and unstable labor.”³⁵¹ As for services, UNICOR maintains call centers that it outsources to private companies. The program’s website urges these corporations to “imagine...all the benefits of domestic outsourcing at offshore prices. It’s the best kept secret in outsourcing!”³⁵²

Apart from correctional industries, state and local governments also rely on unpaid and low-paid incarcerated workers for a variety of public

Photo © AP/Dirk Lammers



An incarcerated worker working in the Pheasantland Industries license plate shop catches a plate coming off the production line in the South Dakota Penitentiary in Sioux Falls, South Dakota.

works projects. Incarcerated people work for state and local agencies, nonprofit organizations, and the community at large—while receiving hardly any compensation or recognition. For example, in Georgia, nearly one-third of counties rely on the labor of unpaid incarcerated firefighters; in some of these communities, incarcerated workers are the sole fire protection and emergency medical response units in the entire area, responding to motor vehicle accidents, calls for medical assistance, and fires.³⁵³ In New York, incarcerated workers remove hazardous materials for state agencies and local governments, including asbestos, lead paint, mold, and bird feces. The New York State Department of Corrections and Community Supervision has drawn in over \$7.5 million selling abatement services provided by incarcerated workers since 2017.³⁵⁴

State and local governments derive significant financial benefits from using prison workers in this way. For instance, the Florida Department of Corrections estimates the value of the labor of the 3,500 unpaid incarcerated workers working on state road crews and community work squads to be about \$147.5 million over a five-year period.³⁵⁵ “There’s no way we can take care of our facilities, our roads, our ditches, if we didn’t have inmate labor,” Warren Yeager, a former Gulf County, Florida, commissioner told the *Florida Times-Union*.³⁵⁶ State governments also rely on incarcerated workers as a low-wage labor force to respond to a variety of disasters and emergencies throughout the country.³⁵⁷ At least 30 states explicitly include incarcerated workers as a labor resource in their state-level emergency operations plans.³⁵⁸

The Private Sector

Montrell Carmouche still dreams about Cancun. The white beaches, the coral reefs, and the fascinating history of the Mayan empire whose ancient stories of grandeur and conquest are told by the pyramids lining the lush jungle. Carmouche spent their days weaving stories of trips to this Mexican paradise, hoping that the listener at the other end of the phone would buy a vacation package to experience this bliss

for themselves. A key detail: Carmouche had never been to Cancun.³⁵⁹

Instead, they made these calls from within a prison call center, instructed to make hundreds of calls a week to unsuspecting customers on behalf of a private company that contracted with Carmouche’s employer to use incarcerated labor to sell vacation packages over the phone. All that Carmouche knew about Cancun had come from pictures, pamphlets, or what they dubbed “story time”—sessions designed to get the workers “in a trance” through detailed stories of a tropical paradise many of them would never see themselves. If a customer ever asked Carmouche who they were or if they had actually travelled to Cancun, Carmouche was instructed to lie. Carmouche’s employer made a point to ensure customers never knew that the person whom they were talking to was behind bars. Carmouche sold thousand-dollar dream vacations but was paid no wage except for a \$6 commission per sale.³⁶⁰

Private companies benefit from prison labor by purchasing goods and services through correctional industries for a lower cost than they would pay in the private market. Colorado Correctional Industries, for example, sold goods and services to around 100 private companies, which generated more than \$6.2 million in revenue for the state correctional industries program in 2020.³⁶¹ Utah Correctional Industries sold goods and services to almost a thousand private companies, including such major corporations as 3M Company, Allstate Insurance Company, American Apparel, American Express, Apple Inc., AT&T Mobility, Costco, Enterprise Rent-a-Car, FedEx, Frito Lay Inc., Fujifilm North America, Hertz Corporation, Hewlett-Packard, Hickory Farms, Infiniti Motor Company, Little Caesars Enterprises, Lowe’s, KFC, OfficeMax, Pepsi-Co, Procter & Gamble, Sara Lee Corporation, T-Mobile, Verizon, and Xerox Corporation.³⁶²

These products are then sold by private companies to consumers who may be unaware they originated with prison labor. Agricultural products provide an instructive example. Colorado’s and South Carolina’s prison industries programs sell milk produced by incarcerated workers employed in prison dairies to

Dairy Farmers of America, the conglomerate that markets about 30 percent of the milk produced in the United States.³⁶³ The two state prison industries programs sold more than \$10.5 million worth of milk from 2017 to 2020 to Dairy Farmers of America, which manufactures brands including Borden, Breakstone, Plugrá, and T.G. Lee Dairy.³⁶⁴

In Louisiana, Louis Dreyfus Commodities, a commodities trader, purchased \$2.4 million worth of corn and soybeans produced by incarcerated workers employed in the state prison industries program from 2017 to 2020, while numerous livestock auction companies purchased at least \$5 million worth of livestock raised by workers incarcerated in Louisiana prisons during that same time period.³⁶⁵ The livestock sold at auction on the open market later finds its way as meat sold to consumers with no indication that it originated with the labor of incarcerated workers. Leprino Foods Company, which supplies mozzarella to Domino’s Pizza, Papa John’s, and Pizza Hut, purchased more than 600 tons of buffalo milk from 2017 and 2020 produced by incarcerated people working in Colorado Correctional Industries.³⁶⁶ Colorado Correctional Industries also reports that

its customers include Avis Budget Group and Hertz Corporation.³⁶⁷

But the private sector’s involvement in prison labor can be even more extensive. Arizona Correctional Industries has a private labor contract program that allows private companies headquartered in Arizona to directly employ incarcerated workers outside of the PIECP program. As of February 2022, 974 incarcerated people employed by Arizona Correctional Industries work for outside employers through labor contracts.³⁶⁸ Workers in these non-PIECP programs are required to make a minimum wage of \$2 per hour, but the average wage is typically \$3 to \$4 per hour—far less than the prevailing wage legally required by the PIECP program.³⁶⁹

Arizona Correctional Industries’ best customer in fiscal year 2020 was Hickman’s Egg Ranch / Hickman’s Family Farms, which paid more than \$7 million to the state prison industries program that year for labor contracts to employ incarcerated workers, outside the PIECP program, who were paid \$4.25 to \$5.25 an hour to care for chickens, provide farm maintenance, and package eggs.³⁷⁰ Hickman’s is the fourth-largest U.S. egg producer, and its eggs are

Poultry workers cut and trim chicken as it moves along a line.



Photo © National Chicken Council

Arizona Correctional Industries' best customer in fiscal year 2020 was Hickman's Egg Ranch, which paid more than \$7 million to the state prison industries program that year for labor contracts to employ incarcerated workers.

sold at grocery stores around the Southwest. Taylor Farms, North America's largest supplier of salads and fresh-cut vegetables, paid over \$2.2 million to Arizona's prison industries program for labor contracts to employ incarcerated workers to cut and package fruit and vegetables for the company.³⁷¹ Taylor Farms supplies some of the nation's biggest fast food and grocery chains, including Chipotle, Costco, Kroger, McDonald's, Pizza Hut, Ralphs, Safeway, Subway, Target, Walmart, and Whole Foods Market.

Through the PIECP program—a program enabled by the congressionally authorized exception to the Ashurst-Sumners Act of 1935—private companies can contract with correctional institutions to employ prison workers to produce goods, either at production workshops within prisons or offsite. Today, 4,860 incarcerated workers nationwide are employed in the PIECP program to produce goods authorized for sale in interstate commerce on behalf of private corporations.³⁷² Although private corporations participating in this program are required to adhere to some minimal labor standards,

which include paying incarcerated workers the “prevailing wage,” they enjoy significant benefits and cost-savings from employing this captive labor force.³⁷³

Some private companies participating in PIECP have successfully avoided paying prevailing wages by exploiting loopholes and employing a variety of tricks. One tactic has been to divide incarcerated workers into two groups: one which creates *pieces* of a product and a second which *assembles* the pieces (only the final assembly group is paid the prevailing wage).³⁷⁴ Another tactic, refined by Florida's PRIDE, involved prolonging “training programs” to justify paying incarcerated PIECP participants artificially depressed wages instead of the prevailing wage.³⁷⁵ Incarcerated workers about to complete their PRIDE training program on one piece of equipment were moved to train on another piece of equipment at the last moment to restart the process.³⁷⁶ None of these companies, including PRIDE, has been charged with violating the terms of the program, but their practices illustrate how easy it is to squeeze profits out of the program.

Another major cost-saving feature of PIECP labor is not having to pay employee benefits. Direct Trailer and Equipment Company, a Texas-based manufacturer of flatbed trucks, used this to their advantage to undercut their local competitors, eventually driving competitor Lufkin Industries into bankruptcy. A media report in 2010 concluded that Direct Trailer's use of incarcerated labor allowed it to avoid paying full wages or employee benefits, resulting in an artificially cheap product.³⁷⁷ There is some evidence that unionization could help incarcerated people negotiate more favorable terms, but the state has a strong interest in suppressing union activity to ensure a “secure, frugal penal system.”³⁷⁸ Furthermore, the Supreme Court has held that incarcerated people do not have a First Amendment right to form a prison union.³⁷⁹

Small companies like Direct Trailer and Equipment are not the only ones reaping the benefits. Consider Walmart and the claims under its Standards for Suppliers that it does not tolerate involuntary labor in the production of its goods.³⁸⁰ Despite this

public-facing promise, Walmart benefitted from cheap prison labor by using subcontractors that use prison labor themselves. One of Walmart’s partners is the Minnesota-based Jacobs Trading Company, which has used PIECP labor to “demanufacture” customer returns.³⁸¹ Jacobs Trading Company has employed incarcerated workers in Indiana, Minnesota, Nevada, and Oklahoma.³⁸² This means that incarcerated people worked indirectly for Walmart by removing all identifying marks and branding from returned clothing and putting them up for resale at superstores around the country.³⁸³ By hiding behind the anonymity of Jacobs Trading Company, Walmart benefitted from cheap incarcerated labor.

Before Starbucks adopted a zero tolerance policy on the use of prison labor by suppliers, the company used a similar tactic to Walmart by subcontracting with a company called Signature Packaging Solutions, which itself hired Washington state incarcerated workers to package coffee.³⁸⁴ In the mid-1990s, Microsoft subcontractor Exmark Manufacturing, which also has reportedly worked for Costco and JanSport, used incarcerated labor to shrink wrap up to 20,000 computer mice.³⁸⁵ Fujitsu, a leading global information and communication technology company, used PlasTech, a Minnesota-based plastics company, as an intermediary to benefit from the labor of 26 incarcerated workers.³⁸⁶

There is little recourse for incarcerated workers being exploited under PIECP. The accountability mechanism for labor abuses in PIECP programs has been captured by the entities benefitting from prison labor. The National Correctional Industries Association, an organization run by a board of directors who represent different prison industry departments and corporations from across the country, monitors PIECP. In essence, the people implementing PIECP are charged with monitoring their own implementation—hardly a logical or effective oversight structure.³⁸⁷

Table 4 includes the identifiable corporate partners that employed incarcerated workers through PIECP-certified projects as of the third quarter of 2021. The listed companies that produce products made by incarcerated workers may sell the products under other brand names or operate as subcontractors or subvendors for larger corporations, making it difficult to track supply chains from incarcerated worker to consumer.³⁸⁸ As a result, incarcerated workers provide labor for other suppliers in the listed companies’ supply chain. For instance, incarcerated workers employed through the PIECP program in Idaho work at a frozen food factory for Dickinson Frozen Foods. The products are then sold to consumers under a variety of brand names—Dickinson Frozen Foods notes online that it supplies “most major food companies” with frozen onions, for example—so consumers may not know that the food they consume originated with prison labor.³⁸⁹

TABLE 4
Corporations with PIECP-certified projects to employ incarcerated workers, by state

State	Company	Product
Arizona	JIM-GLO Trailers LLC	Utility cargo trailers
Arizona	Sun Country and PlayCraft Trailers	Metal utility trailers
Arkansas	SemahTronix, LLC	Wiring harnesses
California	Barnum Farming Company/ Barnum Land and Cattle	Alfalfa, rye, wheat, and triticale
California	Big Dawg Manufacturing, LLC	Assembly/manufacturing of evaporator coils
California	Joint Venture Electronics	Circuit boards
California	Merit Corporation	Electronic remanufacturing
Idaho	Dickinson	Specialty roasted, baked, seasoned, and water-cooked potatoes

Idaho	Dickinson Frozen Foods	Frozen onions and peppers
Indiana	Jacobs Trading Sewing	Manufacturing of industrial air filters
Indiana	Kauffman Engineering	Assembly, inspection, and packing of wire harnesses
Indiana	Raine, Inc.	Making small item cases
Iowa	Game One	Custom screen printing and embroidery
Iowa	H&H, LLC	Steel trailers
Iowa	Lomont Molding	Plastic molded parts
Iowa	PDM Precast	Precast concrete products
Iowa	Quantum Plastics	Custom injection-molded parts
Kansas	BAC Company	Leather goods
Kansas	Electrex Inc.	Wire harnesses
Kansas	Great Plains Manufacturing	Agricultural equipment
Kansas	Hubco Inc.	Cloth bags
Kansas	Impact Design, LLC (AllCustomWear Sports Apparel)	Sports apparel
Kansas	Koch & Co., Inc.	Wood doors
Kansas	LPF High Performance Coatings, LLC	Sewing, painting, and welding machine operators
Kansas	Moly Manufacturing, LLC	Agricultural equipment
Kansas	Pioneer Worldwide	Balloons
Kansas	Polo	Clothing and textiles
Kansas	Redbarn Pet Products, Inc.	Pet products
Kansas	Seat King	Transportation seating
Minnesota	Anagram ³⁹⁰	Assembly and packaging of decorated party balloons
Minnesota	Plastech Corporation	Plastic products assembly
Minnesota	Stillwater Assembly and Manufacturing	Miscellaneous subcontract assembly and light manufacturing
Minnesota	Stillwater Metal	Metal fabrication
Montana	Simms Fishing	Wading boots
Nebraska	CleanCore Solutions	Janitorial supply
Nebraska	Millard Lumber	Cabinet and drawer boxes
Nebraska	TekBrands, LLC	Wood storage cases for paper cutting dies, metal assembly, scrapbooking machines and dies
South Carolina	Craig Industries, Inc.	Cut and sew operation and golf shirts
South Carolina	Midcon Cables	Electronic cables
South Carolina	Standard Plywood, Inc.	Hardwood flooring, pressed plywood, and scraped hardwood
South Dakota	Badlands Quilting	Textile, apparel, and furnishings
South Dakota	Metal Craft Industries	Truck suspension, boat docks, miniature lamps, window sashes, and fence stakes
Texas	Henderson Controls, Inc.	Brass valves and fittings
Texas	OnShore Resources, Inc.	Circuit boards and wire harnesses
Utah	Nexeo HR	Manufacturing, assembly, and labor requirements

Note: Companies listed above had projects certified by PIECP and employed incarcerated workers during the third quarter of 2021. This list does not include correctional industries programs with PIECP-certified projects nor companies that had projects certified by PIECP but did not employ incarcerated workers during the reporting period. This list also omits any companies that were not named by the National Correctional Industries Association (NCIA) with sufficient specificity to be identified by the ACLU.

Source: NCIA, *Prison Industry Enhancement Certification Program (PIECP) Certification & Cost Accounting Center Listing, Statistics for the Quarter Ending September 30, 2021* (Baltimore: 2022)³⁹¹

These companies represent only a fraction of the private companies that employ incarcerated workers. For instance, the Kansas Department of Corrections lists 36 private companies that employ incarcerated workers as of March 2022, only 12 of which employ workers through PIECP.³⁹²

Private companies also directly employ incarcerated workers through work-release programs and restitution centers. In Kansas, about 150 women incarcerated at a state prison have been sent to work at candy maker Russell Stover Chocolates work-release program since 2021.³⁹³ Although they are paid \$14 an hour, their take-home pay is less than \$6 an hour because the prison keeps one-quarter of their wages for room and board and deducts for transportation costs and other expenses. Men incarcerated at another state prison in Kansas are sent to work for Husky Hogs, LLC, a private hog operation, where they are assigned to job assignments such as breeding, farrowing, maintenance, and finishing.³⁹⁴ In North Carolina, incarcerated workers have worked at Tyson Foods poultry plants as part of a work-release program.³⁹⁵ Workers in Mississippi's restitution centers have been employed by private employers, including Arby's, Church's Chicken, McDonald's, and Popeyes franchises, as well as for meat- and poultry-processing plants.³⁹⁶

Bound to Work

Kevin Rashid Johnson is incarcerated in a solitary cell in a maximum-security prison in Virginia. He has been starved, beaten, and chained to a wall. The men held in the solitary cells on either side of him have been ordered not to speak to him. Johnson has been told that he is there for a number of reasons: He has organized prison strikes, tried to attract media attention to the abusive conditions of confinement, and above all else, he has refused to work.³⁹⁷ Prison labor, as he sees it, is a form of modern-day slavery.³⁹⁸

Although many incarcerated people apply to work or otherwise seek employment while incarcerated, the labor performed by people incarcerated in the United States is not truly voluntary. Voluntariness implies the right to have a say in what type of work one does and the right to refuse to work at all. Yet 76.7 percent of incarcerated workers surveyed by the Bureau of Justice Statistics reported that they are required to work.³⁹⁹ Prison systems have developed forms of coercion that strip away most or all choice, forcing incarcerated people to work exploitative jobs that they rarely choose for themselves.

This section focuses on coercion through the threat of *punishment*—such as solitary confinement and loss of family visitation—to prevent incarcerated workers from challenging the arbitrary and discriminatory nature of their work assignments. The second form of coercion, discussed in greater detail in the section of this report titled “Captive Market,” involves coercion through *deprivation*—whereby incarcerated people work because it is the only way for them to pay for basic necessities, or because it is the only alternative to being confined in their cells.⁴⁰⁰

Photo © Mark Peterson/Corbis via Getty Images



Shackled incarcerated workers from the Limestone Correctional Facility on a chain gang doing roadwork in Huntsville, Alabama, in August 1995.

The coercion applied through the threat of further punishment has the backing of state and federal courts, which have upheld the practice of using prison-specific sanctions, like solitary confinement, for refusing to work or instigating others to refuse work.⁴⁰¹ Some states threaten the loss of basic “privileges,” like family visitation and access to the commissary to buy food and other necessities. Others use subtler but still coercive methods, such as the promise of earning “good time” (a reduction in sentence), if the individual engages in good behavior, studying, and work.⁴⁰²

This section details the dynamics, factors, and policy choices that have led to a form of prison labor practiced in the United States that runs afoul of many of the most basic and universal human rights standards and with no equivalent in other western democracies.

Involuntary Labor in Confinement

The 13th Amendment to the U.S. Constitution prohibits slavery and its modern manifestations, including forced labor, debt bondage, and human trafficking.⁴⁰³ Yet it carves out an exception for incarcerated workers, one which U.S. courts have construed broadly, granting prison administrations unfettered discretion to set prison labor conditions and requirements.⁴⁰⁴ States such as Colorado, Utah, and Nebraska have recently amended their state constitutions to abolish slavery without exception, but 20 state constitutions still contain language mirroring the 13th Amendment carve-out for incarcerated labor.⁴⁰⁵ The constitution of Georgia, for example, states: “[t]here shall be no involuntary servitude within the State of Georgia *except as a punishment for crime after legal conviction thereof.*”⁴⁰⁶ California’s constitution contains almost identical language.⁴⁰⁷

Mandatory work requirements for incarcerated people are common in most U.S. prisons. In the federal prison system, all “sentenced inmates who are physically and mentally able to work are required to participate in the work program.”⁴⁰⁸ People incarcerated in federal prisons can be disciplined for “refusal to work or accept program assignment,” “unexcused absence from work or a program,” and “failure to perform work as directed.”⁴⁰⁹

In state and federal prisons, incarcerated people who refuse to work may be placed in disciplinary or administrative segregation—which often is a form of solitary confinement.⁴¹⁰ During this time, they may have most or all of their personal property taken away and are allowed out of their cells only for brief periods to shower and exercise, often at most only an

hour a day or every other day, and the “exercise” is usually alone in a small, dog kennel-like enclosure. People incarcerated in federal prisons can be placed in solitary confinement for up to three months as punishment for work-related violations, and up to six months for “encouraging others to refuse to work, or to participate in a work stoppage.”⁴¹¹

Those who refuse to work also typically lose all privileges, including access to personal telephone calls, family visitation, and access to the commissary to buy food and other basic necessities. If they refuse a work assignment, incarcerated people in federal and most state prisons additionally risk losing the opportunity to shorten their sentence through earned “good time,” effectively extending their incarceration.⁴¹² In fact, a single instance of refusal can add a month back to a sentence in federal prisons.⁴¹³

Compulsory prison labor systems are likewise present in many state prison systems.⁴¹⁴ Missouri requires incarcerated people to work unless they present proof of inability.⁴¹⁵ In Florida, the Inmate Orientation Handbook explicitly informs incarcerated individuals that “[they] do not have the option to refuse work assignments.”⁴¹⁶ If they try to, they are severely punished: 60 days of disciplinary confinement and the reduction of 90 days of good time toward their sentence.⁴¹⁷ In Oregon, because of a ballot measure passed in 1994, the state constitution mandates that all incarcerated people are required to work a minimum of 40 hours per week.⁴¹⁸ Those who refuse to comply with Oregon’s work requirement may be punished; for instance, workers incarcerated in Oregon state prisons who refused to work shifts at the height of the COVID-19 pandemic reported they were threatened with transfer to more crowded, higher-security units and loss of honor housing, benefits, and privileges.⁴¹⁹

In Texas, all incarcerated people who are able to work are required to do so, and those who refuse to work can be confined to their cell; stripped of their personal property; lose good time credits; and lose access to commissary, recreation, visitation, and personal telephone calls.⁴²⁰ A refusal to work while incarcerated in Tennessee can lead to solitary

confinement.⁴²¹ Workers incarcerated in Illinois report that refusing to work means the loss of recreation time, phone privileges, and warm food.⁴²²

In California, when incarcerated people refuse to accept or perform a work assignment, they lose all access to family visits, phone calls (except during emergencies), recreational or entertainment activities, and all personal packages.⁴²³ They may face “disciplinary detention or confinement” (solitary confinement) for a period of 10 days. During this time, they have their personal property taken away, are allowed out of their cells for exercise for only one hour per day, five days a week, and lose all privileges, including access to personal nonemergency telephone calls.⁴²⁴ In more serious cases, confinement and loss of privileges may become prolonged or permanent.⁴²⁵ Refusing to work in California can also lead to a “115” write-up,⁴²⁶ a serious rule violation that then can keep an individual from attaining parole.⁴²⁷

In Louisiana, if an incarcerated person refuses to work, fails to perform their assigned jobs with “reasonable speed and efficiency,” or does not answer during work roll calls, they can be placed in solitary confinement for up to 30 days for first offense and up to 180 days for a third offense, although in practice people are placed in confinement for indefinite periods of time for these work offenses.⁴²⁸ Dolfinette Martin, the housing director at Operation Restoration who was formerly incarcerated in Louisiana, attested that “the choice [was] work or go to solitary.”⁴²⁹ When Montrell Carmouche was incarcerated at Louisiana Correctional Institute for Women, they cut grass on a “chain squad,” reminiscent of chain gangs after the Civil War. Once Montrell decided they no longer wanted to participate in forced manual labor, they spent about one year in solitary confinement.⁴³⁰ Multiple respondents to a survey of 700 people incarcerated in Louisiana likewise reported that they were placed in solitary confinement because they were unwilling or unable to work in the fields.⁴³¹ One respondent said, “Most of my lockdown came from refusing to be a slave...working in fields of corn, etc. Free people riding horses with guns telling you to pick this, do that, and/or write you up for disciplinary just because he or she can.”⁴³²

In Arkansas, Kaleem Nazeem was repeatedly placed in solitary confinement for months at a time at multiple state prisons, including Cummins Unit and Varner Unit, for refusing to pick cotton. He said, “I had an aversion to picking cotton. The first time I refused to pick cotton, I was placed in solitary confinement. I said I weren’t picking no cotton. For the whole cotton season, four months, I stayed in solitary confinement. Every time the cotton season came around and I found myself on hoe squad, then I opted out and found myself in solitary confinement.” He added, “I was truly experiencing modern day slavery. It was like, to me, to pick cotton was one of the symbols of slavery to me. I was trying to push back on what was basically a former reality for my ancestors and a present reality for me at that time.”⁴³³

Refusing to participate in a work assignment can have serious consequences for those preparing for reentry into society. For instance, an incarcerated person asserting their right to refuse work in Connecticut could lose their place in a community release program.⁴³⁴

California’s prisons provide incentives to incarcerated people to perform particularly dangerous labor—fighting the state’s raging wildfires—knowing that such incentives are not easily passed up by an incarcerated population with very

“You’re captive at the mercy of your jailer. You get what they give you and buy what they sell you. The only choice is to survive or not.”

— Romarilyn Ralston, Program Director, Project Rebound, formerly incarcerated at the California Institution for Women

few attractive alternatives. An incarcerated person who works as a firefighter under the California Prison Industry Authority (CALPIA) described the situation as such: “When you work as a firefighter, they promise to reduce your time behind bars. They dangle that freedom in front of you like a carrot on a stick; they bend your will to theirs.”⁴³⁵ He added: “Making the choice to not work comes with consequences. They can write you up for refusing a work assignment and take your good time away. If you keep refusing a job assignment, they use freedom as a bargaining chip. You are deemed a ‘failure to program.’”⁴³⁶

N’ashid Abdul Latif, a former hospice worker in California’s Medical Facility prison echoed this observation: “Often, it’s not a matter of choice. If you get assigned you have to work, otherwise you get a write-up, which can result in adding days to your

sentence.”⁴³⁷ Incarcerated workers report, again and again, being threatened with worse jobs or disciplinary action to ensure their compliance.⁴³⁸ One of them, Romarilyn Ralston, noted: “You’re captive at the mercy of your jailer. You get what they give you and buy what they sell you. The only choice is to survive or not.”⁴³⁹

Not only is work compulsory in many prisons but imprisoned workers report that illness, injury, disability, or a physical inability to work often does not relieve them of work duties. One formerly incarcerated worker recalled in an interview with NPR: “I was diagnosed with HIV right when I got into the prison, so I would have days where I physically did not have the energy to stand and work in the kitchen for 12 hours. But I had to work. You don’t get days off. You don’t get to have sick days. And if I didn’t go to work, it was a rule violation.”⁴⁴⁰ A worker incarcerated in Illinois reported she was punished with a rule violation for refusing to report to her job in the kitchen after testing positive for COVID-19.⁴⁴¹ A survey respondent incarcerated in Louisiana said he was placed in solitary confinement “over and over” because he was unable to perform certain work assignments due to problems with degenerative disks in his spine, anemia, and asthma.⁴⁴² Kelly Savage-Rodriguez, of the California Coalition for Women Prisoners, remembers one incarcerated woman being required to work as a porter almost immediately after having her leg amputated. Though she was not able to stand because her prosthetics had not yet arrived, she was denied her request to be released from the work assignment.⁴⁴³

At restitution centers, work is also not voluntary. Individuals housed at restitution centers are often not given a choice in whether they participate in the restitution center’s labor program.⁴⁴⁴ Nor, in some cases, are residents given a choice over what *kind* of work to accept, even when that work requires them to perform dangerous tasks or labor for long hours.⁴⁴⁵



A work crew of incarcerated workers from the Maricopa County Jail clears weeds and invasive grass species from a city park in Phoenix, Arizona.

Arbitrary and Discriminatory Allocation of Work Assignments

Not only are incarcerated people forced to work, but they also do not have a right to choose the type of work they are forced to perform. Incarcerated workers have a strong interest in choosing the type of work they will perform: Wages can differ substantially depending on the job assignment, and some jobs have particularly dismal working conditions, while others may offer desirable skills training. And yet, federal courts have generally ruled that incarcerated people do not have a right to a particular job assignment.⁴⁴⁶

As a result, the conditions of prison labor are often subject to the discretion and whims of prison administrators, resulting in favoritism, racism, sexual abuse, or complete arbitrariness in job allocation. Incarcerated workers can be subject to race, gender, and disability discrimination in job assignments. Incarcerated workers can suddenly find themselves punitively stripped of a job or demoted to significantly lower-paying jobs without any recourse. And incarcerated workers can also be subject to sexual abuse by corrections officers who demand sexual favors in exchange for better work assignments.

For James “JC” Cavitt, the Housing and Outreach Program coordinator at Project Rebound in California, the classroom was a one of his first safe spaces. As a child, he was drawn to school by the promise of two hot meals a day, and he would go with his sister when they began to feel hungry. Eventually, showing up led to learning. And a young Cavitt soon realized his potential for something great. His teachers validated his hard work and intelligence, planting a lifelong love of education that survived a harsh entry into the criminal justice system. By the time he was 19, Cavitt stood, scared and alone, in front of the California maximum security prison’s Institutional Classification Committee (ICC), a group of high-ranking prison officials who would review his young life, deliberate, and design a labor program that that would shape the rest of his time in prison. Cavitt, the boy who loved going to school with his

A 2016 study found that Black men have significantly higher odds of being assigned to lower-paid maintenance and other facility services work than white men.

sister, the man who would later put himself through college and now has a master’s in social work, faced an ICC that was on the verge of assigning him to a job wiping down tables in the kitchen. When Cavitt objected to his initial work assignment, the captain snapped back with “who are you to tell me what you aren’t going to do?”⁴⁴⁷ Although Cavitt did find another sympathetic ear on the ICC who allowed him to start a job as a teacher’s assistant, he admits that it could have easily gone the other way.

Race, Gender, and Disability Discrimination

Michael Gibson-Light, an ethnographer who spent 18 months observing a prison in the U.S. Sun Belt region, found that prisons allocate job assignments along racial lines, even when they have contrary policies in place.⁴⁴⁸ Desirable jobs, such as more highly paid work in the call center or the fleet garage where police vehicles are serviced, were more often allocated to white incarcerated people. This can result from biased decisions made by correctional officers as well as systems that rely on peer referral for consideration. Applicants to the call center who “don’t sound like they’re from the *ghetto*” were prioritized, one manager explained to Gibson-Light.⁴⁴⁹

Analysis using nationwide data sets from 2004 and 2005 on people incarcerated in prisons and

multilevel modeling to examine the nature of work assignments found that race significantly impacted work assignments.⁴⁵⁰ The 2016 study found that Black men have significantly higher odds of being assigned to maintenance and other facility services work than white men—41.2 percent of Black men and 35.3 percent of white men were assigned such jobs, which are typically paid the lowest wage, if at all. The study also found that a significantly lower percentage of Black men were assigned work in prison industries—2.8 percent of Black men versus 3.7 percent of white men had such jobs, which are typically the most sought-after and more highly paid jobs that may provide useful skills. Men who identified as a race other than Black or white were less likely than white men to be paid for their jobs. While the study did not find significant differences based on gender for most job categories, it did find that women who identified as a race other than Black or white had significantly increased odds of being assigned a maintenance or other facility services job assignment.⁴⁵¹

Allocation of work assignments can perpetuate racial and socioeconomic inequalities. Dolfinette Martin now works at Operation Restoration, a reentry organization for women in New Orleans. While

incarcerated in Louisiana, she was assigned to manual agricultural labor in the fields. She described how white women worked in “prestigious jobs”—the dining hall, housekeeping, or the “snack shack” for visitors. But “there weren’t a lot of white girls in the field,” she observed.⁴⁵² “The only people who could approach the Deputy Warden to ask for a job were white women,” she said.⁴⁵³

In Illinois’ Centralia Correctional Center, two incarcerated people separately confirmed the prevalence of racial bias in the allocation of jobs. Ronni Curry explained that prison officials “favor white inmates for the best jobs and positions,”⁴⁵⁴ and Jesus Duran observed that “any job outside the kitchen is given mostly to white inmates.”⁴⁵⁵ Such racially discriminatory assignments is not just an immediate affront to a person’s dignity—it can make a considerable difference in someone’s reentry prospects. A worker incarcerated at Western Illinois Correctional Center noted that “the white inmates get the plumbing, electrician, and carpentry jobs; and the Black and Latino inmates get the jobs like kitchen, yard gang, laundry, clothing, but none of the jobs that can actually train us to get a good job on the outside.”⁴⁵⁶

An incarcerated worker, part of a work crew, cleans debris left by homeless encampments in Eugene, Oregon.



Discrimination also occurs along gender lines. Gibson-Light notes that white male incarcerated workers are disproportionately more likely to be assigned to higher-paying, skilled, vocational labor assignments than their minority and female counterparts.⁴⁵⁷ Numerous women incarcerated at the South Idaho Correctional Institute reported to the ACLU of Idaho that there is a lack of training opportunities as compared to men. For example, men have an opportunity to obtain their commercial driver's license. That opportunity, however, is not available to incarcerated women. A transgender person incarcerated in a state prison in Illinois, where jobs are scarce, said that they were denied any job assignment because they are transgender. They said: "Every able body should be allowed to request a work assignment regardless of their gender. Here in Shawanee Correctional Center, transgender [people] like myself are not allowed to work a job assignment."⁴⁵⁸

Disability discrimination is common, and has resulted in unlawful categorical exclusion of incarcerated workers with disabilities from entire categories of work assignments or even any work assignment at all, in violation of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act.⁴⁵⁹ Both of these laws require jails and prisons to ensure that people with disabilities have an equal opportunity to participate in prison programming, including work assignments. Prison authorities routinely exclude incarcerated people with disabilities from work programs due to their disability, despite their wish to work. This can be because of stereotypes about what people with disabilities can and cannot do, or because prisons fail to provide the modifications that people with disabilities need to fully and equally participate in work or vocational programs. Exclusion based on stereotype, and the failure to make reasonable modifications, are both illegal under disability rights laws. Exclusion from categories of work assignments or from the work program entirely denies incarcerated people with disabilities the opportunity to earn a wage or a higher wage, to develop job skills, and to earn "good time" credit to reduce their sentences. Incarcerated people have challenged their exclusion from work and vocational

training programs due to disabilities such as mobility disabilities (walking with a cane and quadriplegia), diabetes, hearing disabilities, vision disabilities, HIV status, and hypertension.⁴⁶⁰ Courts have agreed that exclusion based on these disabilities can constitute disability discrimination.

Arbitrary Assignment, Sexual Abuse, and Favoritism

Incarcerated workers can also be subject to sexual abuse by the prison administrators who select their work assignments. Incarcerated workers in New York have reported that corrections officers have demanded sexual favors in exchange for better job assignments and threatened women with losing their jobs or demotion to a lower-paying job if they did not submit. For instance, a woman formerly incarcerated at Albion Correctional Facility reported that she repeatedly witnessed corrections officers make sexual advances, offering preferable job assignments as a quid pro quo for sexual favors. She told advocates from the 13th Forward Coalition that she was denied her preferred work assignments because she refused to perform sexual acts for prison staff.⁴⁶¹ "For a lot of the jobs that I tried to get, they wouldn't let me, just because I wouldn't do what they wanted me to do for them," she said.⁴⁶²

Another woman formerly incarcerated at Albion Correctional Facility corroborated this account. She said that corrections officers demanded oral sex from incarcerated women and punished those who did not submit by switching them to lower-paying jobs, taking away their jobs, or docking their payroll. "I've seen plenty of inmates giving oral sex to officers, girls doing something they don't want, girls in a position they didn't deserve," she said. "These officers will take advantage of you. They are the ones controlling your payroll, they are the ones submitting payroll. These officers had pull with certain people in program committee and would switch women out [of their jobs]. If you aren't doing what they want, they will set you up to lose your job. And if you lose your job, you lose your money."⁴⁶³

Overt abuse and discrimination aside, getting an acceptable job assignment can be as arbitrary as gaining favor with a particular correctional officer or being acquainted with someone with influence inside the prison.⁴⁶⁴ When it comes to the most coveted industry jobs, which are better compensated but much less accessible because they are fewer in number, personal connections are determinative: “Guys from the outside who run the industries simply handpick people whom they like.”⁴⁶⁵

As a result, job placements usually have little relationship with the skills or abilities of the worker. Someone with skills as a computer engineer may be assigned to work as a janitor—when someone enters prison, their skills and backgrounds hardly matter.⁴⁶⁶ “It’s as if we lived in a communist regime,” remarked a person incarcerated in California.⁴⁶⁷ Meanwhile, some job assignments may be arbitrarily restricted only to people with lengthy sentences or only to those who are close to release. One incarcerated worker noted, “Most of the industry jobs or high paying jobs are [reserved] for those who have the most time due (if not life) [but] those closest to going home would benefit from a high paying job so they are able to save some money and gain marketable skills.”⁴⁶⁸

Paid in Pennies

In addition to working under coercive and arbitrary conditions, incarcerated workers in U.S. prisons are often working for paltry wages or no wages at all. Alabama, Arkansas, Florida, Georgia, Mississippi, South Carolina, and Texas pay zero compensation to incarcerated people for the vast majority of work assignments. For instance, in Texas, only the approximately 80 workers employed by private companies through the PIECP program are paid a wage,⁴⁶⁹ while the rest of the state’s incarcerated workers—121,167 workers as of April 2019—are not paid.⁴⁷⁰ Even workers in Texas’s state correctional industries program—which reported more than

\$76.7 million in net sales in 2019—are not paid any wage.⁴⁷¹ In South Carolina, incarcerated people working in all institutional jobs, some correctional industries jobs, and on community labor crews are not paid any wage. As of June 2018, the most recent available data, more than 90 percent of South Carolina’s 14,786 incarcerated workers had these unpaid job assignments.⁴⁷² Several prisons in Maine do not pay at all for laundry, kitchen, cleaning, and grounds-keeping work.⁴⁷³ In Nevada, a number of jobs in the prison facilities are unpaid, including porter and maintenance jobs.⁴⁷⁴ In Louisiana, incarcerated workers who are not eligible for sentence reductions must work for an initial period of three years without pay. Those who are eligible to be paid are only paid two to four cents per hour for most jobs or may choose to forego wages and instead receive “good time” to reduce the length of their sentences.⁴⁷⁵

Incarcerated workers who do receive wages are paid cents, at most, for every hour of their labor. It is rare that a job pays even a dollar an hour. Our research found that the average minimum hourly wage paid to workers for non-industry jobs is 13 cents, and the average maximum hourly wage is 52 cents. The about 6.5 percent of workers with jobs in higher-paying state prison industries are paid 30 cents to \$1.30 per hour on average.⁴⁷⁶

The overwhelming majority of workers have jobs in prison maintenance, which pay anywhere from nothing to mere pennies per hour. The state of Connecticut pays incarcerated workers employed in maintenance jobs 75 cents per day.⁴⁷⁷ In Kansas, maintenance workers make 45 cents a day—just over five cents an hour, one-sixtieth the wage paid to incarcerated people working the best-paid



An incarcerated worker cleans bars at a guard station at Tucker Prison near Tucker, Arkansas.

Photo © AP/Danny Johnston

Our research found that the average minimum hourly wage paid to workers for non-industry jobs is 13 cents, and the average maximum hourly wage is 52 cents.

correctional industries jobs in the state.⁴⁷⁸ In California, all workers with jobs classified as “laborer,” which includes most maintenance jobs such as janitor, kitchen helper, landscaper, porter, server, gardener, and construction worker, are paid eight to 13 cents per hour.⁴⁷⁹ Incarcerated workers in Illinois laboring as “general laborers,” which includes jobs as janitors, lawn workers, laundry handlers, and commissary workers, are paid 85 cents to \$1.10 per day.⁴⁸⁰

Incarcerated workers’ wages remain stagnant for years, even decades. For instance, incarcerated workers in New York have not received a pay increase since 1993.⁴⁸¹ Incarcerated workers in South Dakota working in non-industry jobs have been paid \$0.25 per hour for at least the past 20 years.⁴⁸² Incarcerated workers with non-industry jobs in Virginia have been paid \$0.27 to \$0.45 per hour for decades.⁴⁸³ In Vermont, most incarcerated workers have been paid \$0.25 per hour since 1988, when the pay scale for non-industry jobs was last revised.⁴⁸⁴ In 2021, incarcerated Illinois workers in non-industry jobs received a pay raise for the first time in 11 years: merely 14 cents a day for general laborers, who are now paid \$0.85 to \$1.10 per day (\$17 to \$22 a month).⁴⁸⁵

Prisons also require workers to perform overtime labor without compensation. For instance, a worker incarcerated in a state prison in Danville, Illinois,

reported he made \$4.80 *per month* for working eight hours a day, seven days a week as a porter and on grounds crew.⁴⁸⁶ This amounts to less than one cent per hour. “You can barely afford laundry soap with that amount of pay,” he noted.⁴⁸⁷ Another worker incarcerated at Danville Correctional Center in Illinois said he is forced to work 12-hour shifts, six days a week, to cover for some of his co-workers who have contracted COVID-19. According to the incarcerated worker, instead of hiring new workers, the prison requires them to work overtime without any “pay raise or good time.”⁴⁸⁸ According to a newspaper published by people incarcerated at Angola prison in Louisiana, maintenance workers at Angola are “on call 24/7 to respond to whatever emergency may arise.”⁴⁸⁹ These emergency responsibilities are added to the maintenance work incarcerated people complete each day. As one supervisor admitted, “these guys are never really off work. When they leave here and go to their dorms, they often get called right back out. Day, night or even holidays.”⁴⁹⁰

The Wages Paid to Incarcerated Workers in Each State

The following table (Table 5), based on publicly available data and responses to FOIA requests we filed with the Federal Bureau of Prisons and state departments of corrections, details the wages paid to incarcerated workers in each state and in federal prisons. The chart indicates where data is not publicly available and the state department of corrections did not respond to our FOIA requests. For a more complete description of wages in each state and in federal prisons, including sources, see Appendix B, and for calculated average and hourly wages, see Appendix C.

The table divides work assignments into two categories: work for state-owned correctional industries and all non-industry jobs. State-owned correctional industries jobs have separate pay scales and generally pay higher wages; these account for about 6.5 percent of prison jobs overall. Non-industry jobs include all jobs operated by state correctional

agencies, a broad category that includes prison maintenance work and a variety of skilled or specialized work assignments. The vast majority of workers have jobs that support the operation of the

prison facilities and are generally compensated at the lower end of the non-industry pay scales noted in the table below. The pay scales for non-industry jobs include uncommon jobs that pay at the higher end of the pay scales noted in the table.

TABLE 5

The wages paid to incarcerated workers in each state and in federal prisons, by jurisdiction

State	Pay scale: non-industry jobs	Pay scale: Jobs in state-owned correctional industries
Federal Prisons	\$0.12 to \$0.40 per hour	\$0.23 to \$1.15 per hour
Alabama	\$0	\$0.25 to \$0.75 per hour
Alaska	\$0.30 to \$0.90 per hour	Alaska no longer has a correctional industries program.
Arizona	\$0.15 to \$0.45 per hour	\$0.23 to \$1.00 per hour
Arkansas	\$0	\$0
California	\$0.08 to \$0.37 per hour	\$0.35 to \$1.00 per hour
Colorado	\$0.33 to \$1.61 per hour	\$0.86 to \$2.49 per hour
Connecticut	\$0.75 to \$1.75 per day	\$0.30 to \$1.50 per hour
Delaware	Not publicly available	\$0.25 to \$2.00 per hour
Florida	\$0 for nearly all jobs; some jobs are paid up to \$50 per month	\$0.20 to \$0.95 per hour
Georgia	\$0	\$0
Hawaii	\$0.25 to \$1.00 per hour	\$0.50 to \$2.50 per hour
Idaho	\$0.20 to \$0.90 per hour	Not publicly available
Illinois	\$0.85 to \$2.50 per day	\$0.30 to \$2.40 per hour
Indiana	\$0.12 to \$0.25 per hour	\$0.30 to \$0.55 per hour
Iowa	\$0.28 to \$0.71 per hour	\$0.70 to \$0.95 per hour
Kansas	\$0.45 to \$1.05 per day	\$0.25 to \$3.00 per hour
Kentucky	\$0.48 to \$1.58 per day	Not publicly available
Louisiana	\$0.02 to \$0.04 per hour	\$0.02 to \$0.40 per hour
Maine	\$0 to \$220 per month	\$0.50 to \$2.80 per hour
Maryland	\$0.90 to \$2.75 per day	\$0.17 to \$1.16 per hour
Massachusetts	\$1 to \$2 per day generally; \$5 to \$25 per week	\$0.40 to \$1.55 per hour
Michigan	\$0.74 to \$1.77 per day	Not publicly available
Minnesota	\$0.25 to \$1.00 per hour	\$0.50 to \$2.00 per hour
Mississippi	\$0 for most jobs	\$0.20 to \$1.30 per hour
Missouri	\$7.50 to \$8.50 per month	\$0.30 to \$0.71 per hour
Montana	\$0.35 to \$0.45 per hour, \$1.25 to \$4.50 per day	\$0.40 to \$0.60 per hour, \$1.70 to \$5.00 per day
Nebraska	\$1.21 to \$4.72 per day; \$0.38 to \$1.50 per hour	\$0.38 to \$1.08 per hour
Nevada	\$0.00 for some jobs; pay scale for paid jobs is not publicly available	\$0.35 to \$4.50 per hour

State	Pay scale: non-industry jobs	Pay scale: Jobs in state-owned correctional industries
New Hampshire	\$0.85 to \$3.00 per day	\$1 to \$5 per day
New Jersey	\$1.30 to \$1.60 per day	\$1.30 to \$10.00 per day
New Mexico	\$0.10 to \$1.00 per hour	\$0.30 to \$1.10 per hour
New York	\$0.10 to \$0.33 per hour	\$0.16 to \$0.65 per hour
North Carolina	\$0.40 to \$1.00 per day	No more than \$3.00 per day
North Dakota	\$1.55 to \$7.07 per day	\$0.45 to \$1.79 per hour
Ohio	\$6 to \$24 per month	\$0.23 to \$1.35 per hour
Oklahoma	\$7.23 to \$14.45 per month	\$0.20 to \$0.60 per hour
Oregon	Instead of wages, compensation is paid via the Performance Recognition and Award system, through which workers may receive points that may be converted to a monthly monetary award.	\$8 to \$82 per month
Pennsylvania	\$0.19 to \$0.51 per hour	\$0.19 to \$0.51 per hour
Rhode Island	\$0.50 to \$3.00 per day	\$1.50 to \$3.00 per day
South Carolina	\$0 for nearly all jobs	\$0 to \$2.00 per hour
South Dakota	\$0.25 per hour	\$0.25 to \$0.50 per hour
Tennessee	\$0.17 to \$0.59 per hour	Not publicly available
Texas	\$0	\$0
Utah	Not publicly available	\$0.60 to \$1.75 an hour
Vermont	\$0.25 per hour	\$0.25 to \$1.35 per hour
Virginia	\$0.27 to \$0.45 per hour	\$0.55 to \$0.80 per hour
Washington	No more than \$55 per month	\$0.70 to \$2.70 to hour
West Virginia	\$13 to \$71 per month	\$0.25 to \$1.25 per hour
Wisconsin	\$0.12 to \$0.42 per hour	\$0.97 per hour on average
Wyoming	\$0.35 to \$1.00 an hour	\$0.50 to \$1.20 per hour
Average	\$0.13 to \$0.52 per hour	\$0.30 to \$1.30 per hour

Note: For all sources and a more complete description of wages in each state and in federal prisons, see the table in Appendix B. For calculated average and hourly wages, see Appendix C.

The American judicial system has upheld these appallingly low wages. In 2010, a federal court ruled that “prisoners have no enforceable right to be paid for their work under the Constitution.”⁴⁹¹ Higher courts have held repeatedly that the Fair Labor Standards Act, which establishes basic worker protections such as minimum wage, overtime pay, and recordkeeping requirements, does not protect workers in prison.⁴⁹² Courts have reasoned that incarcerated people working full-time for the state are not employees but wards, and are thus not guaranteed any “standard of living” like free

workers.⁴⁹³ This leaves incarcerated people with the responsibilities, anxieties, and dangers of full-time employment without the basic labor protections or wages needed to sustain them.

Garnishing Already Low Wages

Prison workers make pennies by the hour—but even these low wages are not theirs to keep. Across the country, prisons deduct as much as 80 percent from incarcerated people’s paychecks for court-imposed

Prisons deduct as much as 80 percent from incarcerated people's paychecks for court-imposed fines, taxes, family support, restitution, and room and board, among other fees.

fines, taxes, family support, restitution, and room and board, among other fees. Over half of the incarcerated people surveyed for this report said funds had been deducted from their wages.⁴⁹⁴ These wage deductions often leave incarcerated workers with less than half of their gross pay. As a result, an incarcerated worker earning a wage of \$1 per hour might only *receive* 50 cents or less.⁴⁹⁵ After subtracting for basic necessities, this number is even lower.

For instance, West Virginia deducts 40 percent from incarcerated workers' earnings to cover financial obligations such as restitution.⁴⁹⁶ In Nevada, 80 percent of incarcerated workers' wages were deducted until the state legislature passed a law that went into effect in July 2021, capping wage deductions at 50 percent.⁴⁹⁷ One woman who testified before the legislature said her incarcerated friend earned \$50 in wages but received only \$1.17 after deductions.⁴⁹⁸

In many states the majority of these deductions are to pay down the costs of incarceration. In Minnesota, 77 percent (\$3.48 million) of wages earned by incarcerated workers were deducted in fiscal year 2021, about two-thirds of which went to "cost of confinement."⁴⁹⁹ More than 60 percent of the deducted wages earned by incarcerated

workers in the PIECP program from July 2020 to June 2021 went to room and board.⁵⁰⁰ The share of incarcerated workers' salaries in the PIECP program deducted to pay for room and board has increased in recent years: One study found that nearly a third of deductions went to room and board in 1998 to 2001, and cumulative deductions that went to room and board amounted to 26 percent from 1979 to 2001.⁵⁰¹ Notably, the federal government's regulations stipulate that "room and board" covers not only "sleeping accommodations and meals," but also "the costs of most necessities and some additional provisions covering most items for the security, justice, rehabilitation, and daily lives of State prison inmates."⁵⁰²

The federal UNICOR program makes deductions a central consideration in its operations. It prioritizes employing incarcerated people who owe a "significant financial obligation" to the government.⁵⁰³ Individuals who owe more than \$1,000 skip the 25,000-person waitlist.⁵⁰⁴ From their wages, the government deducts costs for fines and court fees, as well as child support, student loans, and unpaid federal income tax.⁵⁰⁵ In other words, the government ensures that incarcerated people who owe it money pay it back through their labor while in confinement.

In order to secure a UNICOR job, workers must enroll in its Inmate Financial Responsibility Program, which results in at least 50 percent of their monthly pay being deducted for any court-ordered financial obligation and a "cost of incarceration" fee that the Federal Bureau of Prisons may impose.⁵⁰⁶ For instance, Syrita Steib, co-founder and executive director of Operation Restoration, noted that she saw 50 percent of the wages she earned while working for UNICOR evaporate through deductions.⁵⁰⁷ If workers refuse to participate in the financial responsibility program, they lose essential "privileges," including eligibility to be paid above the maintenance pay level, to be placed into a community-based program, to receive better housing, and to have full access to the commissary.⁵⁰⁸

In the PIECP program, up to 80 percent of a worker's wages can evaporate through deductions.⁵⁰⁹ In fact, as wages in PIECP rise, so too do deductions—for

taxes, family support, restitution funds, and even room and board inside prisons. In the first half of 2021, 59 percent of the wages earned by incarcerated workers employed in the PIECP program was deducted.⁵¹⁰ In a single year (a one-year period from July 1, 2020, to June 30, 2021), over \$22.5 million was deducted from the wages of incarcerated workers in the PIECP program.⁵¹¹

At the state level, these deductions have been used to sustain and expand incarceration. For example, Florida has created a Prison Industries Trust Fund to collect funds from the small minority of incarcerated workers who are paid wages and administer these funds for the “construction or renovation of its facilities or for the expansion or establishment of correctional work programs.”⁵¹² In Nevada, wages earned by incarcerated workers are deducted not only for room and board and restitution, but also to cover (1) a capital improvement fund for prison industries; (2) to cover the costs to construct new prisons and to relocate, expand, or improve prison operations; (3) to fund prison industries if there is a shortfall in the fund for prison industries; and (4) to advertise and promote the goods and services provided by prison industries.⁵¹³

Excluded from Earning into the Social Safety Net

Most of the work prisoners perform is explicitly excluded as covered employment eligible for Social Security, Medicare, Social Security Disability Insurance (SSDI), and unemployment insurance benefits, which drastically limits incarcerated workers’ ability to earn toward and receive future benefits.⁵¹⁴ Incarcerated workers’ earnings also are excluded from refundable income tax credits. The exclusion of incarcerated workers from the right to earn into the social safety net afforded to other workers has a tremendous negative impact on incarcerated workers’ ability to support themselves and their families after their incarceration.

Because incarcerated workers are carved out of the protections offered by the Social Security, Medicare,

and disability insurance systems, the time they spend working while in prison generally does not contribute toward earning Social Security, Medicare, and SSDI benefits.⁵¹⁵ Because of the low wages they are paid, most incarcerated workers also are unable to meet the statutory income thresholds required to qualify for these benefits. Furthermore, the work they perform while incarcerated often does not constitute employment for the purposes of calculating quarters of employment for benefits, so some people may work for long stretches of their lives while incarcerated but, following their release, may no longer have sufficient time left in their working lives to earn the benefits of Social Security.⁵¹⁶ The only exception to these exclusions is the labor performed by some, but not all, workers employed in PIECP.⁵¹⁷

Incarcerated workers also do not qualify for the Earned Income Tax Credit (EITC) and the Child Tax Credit (CTC) because Congress explicitly excluded any wages earned while the person is incarcerated from the earnings that earn towards the EITC and the CTC.⁵¹⁸ Incarcerated workers have lost litigation challenging the denial of these benefits.⁵¹⁹ The EITC and the CTC are the largest redistributive social welfare programs in the United States and are intended to alleviate poverty. These benefits could be garnished for child support and other dependent obligations. The exclusion of incarcerated workers from these benefits denies critical financial support to workers and their children and other dependents.

Moreover, because the work performed by incarcerated workers is explicitly excluded from the statutorily defined employment that counts toward the accrual of unemployment insurance benefits under the Federal Unemployment Tax Act, incarcerated workers are ineligible to receive the protections offered by the unemployment insurance system if they cannot find work upon their release from prison or if they lose jobs while in prison through no fault of their own.⁵²⁰

Dangerous and Degrading

While incarcerated at a prison in Michigan, Glen Lilly was tasked with cleaning up a massive sewage spill at Michigan's Parnall Correctional Facility. To do so, he had to repair a damaged sewer line, which required wading through excrement. Made to perform this work without adequate protective gear, Lilly later contracted hepatitis C. "[T]here were no respirators and not enough protective suits to go around," he said.⁵²¹ When Lilly went down to open and clean backed up vents per prison officials' commands, sewage "shot onto the wall and was splattering all the way to the ceiling."⁵²² A Michigan State Occupational Safety and Health Administration investigation partially corroborated these reports.⁵²³

Not only is prison labor often compulsory, arbitrary, and discriminatory, it can be dangerous and degrading—and sometimes deadly—as well. Incarcerated people sometimes work in hazardous conditions which would be closely regulated by federal workplace health and safety regulations if the work were performed outside of the prison context.

Excluded from Basic Workplace Protections

The main U.S. federal statute that sets minimum standards and safeguards for health and safety in the workplace, the Occupational Safety and Health Act (OSHA), excludes most incarcerated workers—namely, those who work in state correctional facilities—from its coverage.⁵²⁴ Moreover, many health and safety workplace statutes at the state level do the same, resulting in gaps in protections for most incarcerated workers.⁵²⁵ Other federal statutes, such



Incarcerated firefighters from the California Department of Corrections and Rehabilitation, Fresno Kings Unit, Miramonte Camp, at a training site in Friant, California.

as the Fair Labor Standards Act (FLSA), Title VII of the Civil Rights Act of 1964, and the National Labor Relations Act (NLRA), contain standards that aim to protect the physical and mental health of workers, albeit indirectly, by providing for minimum wage, overtime pay, protection from discrimination, and the right to collectively bargain for improved work conditions—but the vast majority of incarcerated workers are excluded from these too.⁵²⁶ Such exclusion has severe implications for the basic safety, bodily integrity, and mental health of workers in prison.

Photo © U.S. Army National Guard/Staff Sgt. Edward Siguenza

The U.S. Constitution also provides little workplace protection for prison workers. Although the Supreme Court in *Farmer v. Brennan* explained that “prison officials must...take reasonable measures to guarantee the safety of the inmates,”⁵²⁷ the court’s “deliberate indifference” test makes incarcerated workers’ access to remedies based on an Eighth Amendment cruel and unusual punishment claim difficult. Under this standard, it is not enough for the incarcerated worker to establish the presence of unsafe working conditions by showing an absence of safety equipment, a lack of training in safety procedures, a pattern of similar injuries, or even the violation of state or federal safety regulations.⁵²⁸ The incarcerated worker must instead meet the much higher burden of proving that the prison official “knew of a substantial risk of serious injury and did nothing to protect [the incarcerated person].”⁵²⁹ Clearly, this standard makes proving a constitutional violation particularly difficult—if not impossible—for most incarcerated workers.

Dangerous Work Conditions and Preventable Injuries

The labor that administrators require incarcerated people to perform often takes place in dangerous industrial settings or other hazardous conditions that would be closely regulated by federal workplace health and safety regulations if they were not incarcerated. Sixty-four percent of incarcerated workers surveyed by the ACLU and the GHRC reported feeling concerned about their safety while working.⁵³⁰ Our research found that incarcerated workers with minimal experience or training are assigned work in unsafe conditions and without protective gear that would be standard in workplaces outside prisons.

Unsurprisingly, this leads to injuries. Incarcerated workers have been burned with chemicals, maimed, or killed on the job. Although lack of data related to workplace conditions and injuries in prisons makes it difficult to know the full extent of injuries and deaths, injury logs generated by the California Prison

Industry Authority (CALPIA) show that incarcerated workers reported more than 600 injuries over a four-year period, including body parts strained, crushed, lacerated, or amputated.⁵³¹ In numerous cases we documented nationwide, injuries could have been prevented with proper training, machine guarding mechanisms, or personal protective equipment.

Workers report injuries that would have been prevented had they been provided standard protective equipment. For instance, an incarcerated worker tasked with removing asbestos from a hot steam pipe in a New York state prison sustained a first degree burn because he was not provided with a high temperature glove.⁵³² Repeated injuries caused by objects becoming lodged in incarcerated workers’ eyes while using industrial grinders in California could have been prevented if they had proper safety goggles or visors.⁵³³

The conditions of work can be inherently dangerous. Incarcerated workers are employed at dangerous meat, poultry, and egg processing plants, where lack of adequate training or safety procedures has led to dozens of documented injuries and at least one death of incarcerated workers.⁵³⁴ In Georgia and North Carolina, there were at least 24 instances in which incarcerated workers were injured at poultry

Incarcerated workers with minimal experience or training are assigned work in unsafe conditions and without protective gear that would be standard in workplaces outside prisons.

plants from 2015 to 2018.⁵³⁵ Incarcerated workers have also suffered injuries and amputations from sewing and cutting machinery while working in garment factories.⁵³⁶ Incarcerated workers have been severely injured—even paralyzed and killed—by falling trees and tree limbs while cutting down trees on community work crews and in forestry and firefighting jobs.⁵³⁷ In California, where research has shown that incarcerated workers were more likely to be injured than professional firefighters, at least four incarcerated firefighters have been killed while fighting wildfires, and more than 1,000 required hospital care during a five-year period.⁵³⁸ Even work in industrial-scale prison kitchens and laundries can be dangerous because it involves huge industrial equipment that carries mechanical and electrical safety risks as well as risk of burns, lacerations, and exposure to hazardous chemicals.

In prison industries, reports of dangerous conditions of labor and workplace injuries involving incarcerated workers abound and often involve repeat players.⁵³⁹ For instance, several incarcerated workers working at egg factories in Arizona sued the factories' owner, alleging serious injuries.⁵⁴⁰ Robert McLaughlin, an incarcerated worker in Arizona working at Hickman's Family Farms' egg factory, claimed that he broke his leg in May 2019 when "a cart weighing several hundred pounds came loose and pushed him off a trailer that was six feet off the ground."⁵⁴¹ Michael Gerhart, another incarcerated worker assigned to Hickman's, alleged that in October of the same year he lost function in his left hand and fingers after they were caught in a machine that reportedly had "no safety mechanism, guard, or emergency shut-off."⁵⁴² Gerhart claimed that his hand was "sucked in and crushed" but, instead of being taken to the hospital, he was just returned to the prison.⁵⁴³ In what would amount to the third case of an incarcerated worker injury at Hickman's in the same year, Mary Stinson alleged she was forced to rip her own finger off rather than lose her whole hand to a piece of machinery she had never been trained on.⁵⁴⁴ Two other incarcerated workers filed lawsuits against Hickman's in 2019 and 2020 alleging they sustained serious hand injuries while working on a manure belt, one alleging he suffers from "permanent

disfigurement" and a "lack of function in his hands and fingers" and the other alleging he "suffered mangling and extensive fractures to his right hand" (both cases subsequently settled, according to court records).⁵⁴⁵

Even apparently routine maintenance work can be deadly when prisons are negligent. Ronni Curry, an incarcerated worker at Centralia Correctional Center, watched an incarcerated cook get electrocuted to death by a "faulty wire that staff neglected to repair [even while] knowing it was there."⁵⁴⁶ Latashia Millender, another incarcerated worker who confirmed this account, added: "I've seen a man get electrocuted by a faulty wiring. And I had to return to work the following day. I am nothing but a number to the people I am working for."⁵⁴⁷ Another worker incarcerated at Pontiac Medium Security Unit in Illinois, paints a picture of secrecy and neglect at prison work sites: "Supervisors simply 'cook the books' to make the department appear efficient and safe. At times I've been told to fill out false paperwork for supervisors to sign."⁵⁴⁸

Even though the Occupational Safety and Health Administration (OSHA) does not have jurisdiction over labor conditions inside most prisons, its limited investigations into businesses employing incarcerated workers under work-release programs have confirmed the endemic failure to protect these workers' health and safety.⁵⁴⁹ Between 2017 and 2020, OSHA has received at least 20 complaints and requests for investigations of dangerous conditions and workplace injuries involving prison industries.⁵⁵⁰ For example, CALPIA, the PIECP-certified entity that manages the joint venture program between private business and prisons in California, has been the subject of at least 13 OSHA complaints.⁵⁵¹

When incarcerated workers are hurt on the job, they may be denied medical care or receive substandard care. In one case in North Carolina, four incarcerated workers with severe chemical burns received nothing more than diaper rash ointment for their injuries.⁵⁵² In Georgia, a kitchen worker had his leg amputated due to improper medical care of a wound he sustained from slipping and falling while working in the prison kitchen.⁵⁵³ In Pueblo, Colorado, an incarcerated

worker assigned to a sawmill was told by a supervisor to reach into a conveyor belt area to dislodge a piece of wood. A blade sliced through her helmet and straight into her skull, nearly decapitating her.⁵⁵⁴ Instead of being rushed to the emergency room, a shift commander ordered her back to the prison infirmary. Given that the sawmill had no first aid kit, she was loaded onto the prison transport van with two feminine hygiene pads on her wound while fellow incarcerated workers made sure she did not pass out from blood loss. She later developed an antibiotic-resistant staph infection.⁵⁵⁵

64 percent of all incarcerated/formerly incarcerated individuals surveyed reported feeling concerned about their safety while working.

Incarcerated workers have also been exposed to dangerous toxins on the job. Incarcerated workers perform asbestos abatement in New York, Pennsylvania, Ohio, and Utah through each state's correctional industries program. In 2019, OSHA cited U.S. Battery Manufacturing Co., a local battery maker in Augusta, Georgia, for routine violations of health and safety standards resulting in exposure of incarcerated workers to dangerous levels of lead.⁵⁵⁶ In 2010, the Office of the Inspector General at the Department of Justice released a report on the federal UNICOR program's electronic-waste recycling program. Incarcerated people who disassembled and recycled computer parts were exposed to poisonous metals at the workplace, causing serious health problems.⁵⁵⁷ The report criticized UNICOR staff members, who had "failed to perform hazard assessments...or did so incorrectly."⁵⁵⁸ The report

also found that the program's managers and assistants went so far as to lie about toxic metals hazards to UNICOR staff and from incarcerated workers.⁵⁵⁹ Even after these hazards were identified, UNICOR failed to make the prompt, necessary changes to prevent further harm.⁵⁶⁰ The report stressed an overall "culture at UNICOR that did not sufficiently value worker safety,"⁵⁶¹ needlessly exposing men and women to dangerous toxins outlawed by OSHA's federal protections.

Incarcerated workers also endure brutal temperatures with inadequate water or breaks, while working outdoors and inside facilities without air conditioning. Incarcerated firefighters have been sickened and killed by heat exposure during routine training exercises in California.⁵⁶² In Texas, an incarcerated man working as a dog trainer died of severe hyperthermia; he had been wearing a 75-pound fight suit on a hot day and collapsed while training attack dogs to catch escaped prisoners.⁵⁶³

In Louisiana's Angola prison, the majority of incarcerated people work in the fields. They harvest vegetables and pick cotton, enduring temperatures that average 92 degrees Fahrenheit and can rise as high as 105 degrees.⁵⁶⁴ To make a 7:00 a.m. start time, incarcerated people get up at 5:00 a.m. and are typically out in the fields until 4:00 p.m.⁵⁶⁵ Water is scarce in the fields. Formerly incarcerated agricultural workers at Louisiana's Angola prison report witnessing other farm workers collapse from exhaustion or dehydration while working in the fields on hot days.⁵⁶⁶ "You just survived the day," said Hakeen Sukkar, who was incarcerated at Angola for 41 years.⁵⁶⁷ Sukkar recalls that if a corrections officer decided that an incarcerated worker who had collapsed was "faking," they could be sent to solitary, or simply left to lie unconscious. Those who protested these conditions saw a similar fate—they were either ignored or sent to solitary.⁵⁶⁸ When temperatures in the winter months fall below freezing, they are still required to work, sometimes without proper clothing. "Even if it was too cold, you stayed," recalled Wayne Thomas, who spent some of his 41-year term working in Angola's fields.⁵⁶⁹

Failure to Train

Prisons fail to adequately train incarcerated workers to perform the tasks they are assigned to complete, even when such tasks involve significant danger.

Incarcerated workers report receiving inadequate or no training on how to handle hazardous chemicals,⁵⁷⁰ operate dangerous equipment with cutting blades, operate specialized agricultural or manufacturing equipment, clean biohazardous materials like excrement and blood,⁵⁷¹ and use dangerous kitchen equipment.⁵⁷² In fact, almost 70 percent of currently incarcerated workers who participated in the survey circulated for this report indicated that they received *no* formal job training.⁵⁷³

A worker incarcerated in Chicago said he was surprised when his superiors at a prison food facility quickly put him to work with only minimal training. Not long after, he lost several of his fingers on a deli slicer.⁵⁷⁴ At a trial concerning the incident, he explained that he never received an orientation session or even an explanation of the facility's rules or safety precautions. Nevertheless, he was

denied any legal remedy.⁵⁷⁵ Tragedies like his workplace injury are not random accidents—they are the results of systemic failures to adequately train incarcerated workers, failures which have resulted in serious injuries and deaths, and which carry no accountability due to the lack of oversight mechanisms and judicial remedies.

For example, in 2013, an incarcerated worker at the Faribault, Minnesota, correctional facility, found himself assigned the prison's industrial workshop. After one-and-a-half months, he was told to begin operating a beam saw, a large machine used to slice pieces of wood with sensor guided circular blades. He had never seen a beam saw in his life and had also never received official safety training from a prison official. Instead, he was taught on the job by another incarcerated worker who had previously been operating the saw without the plastic safety guards meant to protect the operator from the blades. On August 5, 2013, the saw blades caught his hand and mutilated it, severing three of his fingers and part of a fourth. Doctors were unable to reattach any of his fingers.⁵⁷⁶ He appealed to the judicial system for relief, but the court ruling on the case determined that more than a claim and proof of negligence were required for the state to be held liable.⁵⁷⁷

Frank Ellington, who was incarcerated in a state prison in Alabama, was sent through a work-release program to work at a private poultry processing plant.⁵⁷⁸ After almost eight years in prison, Ellington was looking forward to the possibility of parole if all went well at his new job.⁵⁷⁹ But this opportunity never came; five months later, Ellington was killed when a machine caught his arm and pulled him inside.⁵⁸⁰ When OSHA later investigated the incident, it found that employees at the plant “might not have known how to correctly turn off the machine that killed [Frank Ellington].”⁵⁸¹ The workers' health and safety agency pointed to the plant's failure to institute any relevant safety procedure.⁵⁸² In fact, OSHA found this failure constituted “the same problem, at the same plant, that led to a proposed fine 10 years earlier.”⁵⁸³ The Southern Poverty Law Center also investigated Ellington's death. Their investigation revealed that at least seven other states have a practice of sending



Photo © AP/Mike Groll

An incarcerated worker sews a laundry bag while working in a garment shop at Coxsackie Correctional Facility in New York.

their incarcerated people to work in the same type of dangerous poultry plant that Ellington was sent to, where inadequate training regularly puts their lives and limbs at risk.⁵⁸⁴

Another incarcerated worker in Alabama was tasked with clearing dead pine trees from near a county road while on a community work crew. No one had provided the incarcerated workers with any orientation or training about the use of chainsaws. He says that he told his work supervisor he did not feel he was qualified to use the chainsaw and feared for his safety because of the tree's precarious position. Still, he was ordered to cut the tree. He complied with the order because otherwise he would have received a written reprimand that would affect his parole eligibility. He was struck by a large fallen branch and severely injured, suffering a broken back and rendered a paraplegic for life.⁵⁸⁵ A federal court found that assigning incarcerated workers to use chainsaws without safety training raised a substantial and obvious risk.⁵⁸⁶

Incarcerated workers report receiving insufficient or no training for jobs inside prisons as well, with sometimes disastrous consequences. On her second day of work on laundry porter duty at a Michigan state prison, an incarcerated woman suffered a traumatic brain injury, fractured skull and nasal bones, and internal cranial bleeding after a 400-pound laundry cart fell on her while she was unloading carts from a truck with a hydraulic lift. A federal court found that despite the dangerous work, prison officials provided “only limited, on-the-job training” and that the laundry truck lacked a stopper device to prevent the laundry carts from tipping.⁵⁸⁷

Blanca Ruiz-Thompson worked in an optical laboratory operated by CALPIA.⁵⁸⁸ This included working with industrial machine cutters and other specialized equipment for which Ruiz-Thompson received no training. She recalls being paired with another incarcerated worker with more experience who was instructed to “train her.”⁵⁸⁹ She noted that whether any worker received good or adequate training depended on how much the “supervisor” was willing to share and teach. According to Ruiz-Thompson, there was no formal training program

to ensure every worker knew how to operate the equipment and perform the work safely.⁵⁹⁰

Lack of training endangers not just the incarcerated workers themselves—it puts *everyone* in the prison at risk. One incarcerated worker noted: “I was working with food but I [didn't] know how to properly check to see when the meat was cooked.”⁵⁹¹ Another worker added: “We should have received training on how to prevent the cross contamination of food.”⁵⁹² The “equipment is dysfunctional, work areas dirty, broken, and misused. But there is zero staff accountability.”⁵⁹³

Degrading Conditions

Prison labor comes with a daily dose of humiliation. At one facility, incarcerated individuals referred to the “strip shack,” where they were searched naked—“strip down, squat, cough”—every time they left or entered the prison.⁵⁹⁴ When surveyed about his time laboring in prison, a worker who is incarcerated at Western Illinois Correctional Center said, “I understand it's prison...but we still do have rights and we are human beings.”⁵⁹⁵

At Angola prison, the row-cropped fields in Louisiana where incarcerated workers toil under extreme heat, are completely devoid of restroom facilities or even portable toilets. Incarcerated workers are told to relieve themselves “off the side of the field.”⁵⁹⁶ In addition, prison officials have also been known to give incarcerated individuals humiliating “make-work” by sending many of them out into the fields with extremely dull blades to cut grass.⁵⁹⁷ “If you watch a slave movie, you'll have seen the same thing,” said Robert Jones, a community leader and co-founder of the Free-Dem Foundations, who himself worked in the Angola fields while incarcerated.⁵⁹⁸

Some incarcerated workers report racial harassment by correctional staff. A worker incarcerated at Angola said, “Now we are really slaves all over again. We work for free, hard labor, must work or you will be beaten.” He added, “Most of the deputies from warden on down are real racist and will let you know can't nothing we can do. One of the deputies told me

the reason they named this Angola because that's where slaves escaped from the motherland, and that will never happen again because it's legal now. So we lost."⁵⁹⁹

In interviews and correspondence with survey respondents, incarcerated workers almost universally complained of correctional officers' practice of belittling prisoners as a way to assert their authority. Jesus Duran, an incarcerated worker at Centralia Correctional Center, observed: "We is treated like slaves in here. Officers talk to us in any kind of way while working."⁶⁰⁰ Similarly, the wife of an incarcerated firefighter remarked: "They'll be out in a community fighting fires for 24 hours at a time and when they get back to their camp and they're treated like trash."⁶⁰¹ Ronni Curry, an incarcerated worker in Illinois, observed that prison "officers should be forced to wear body cameras to keep them professional. They usually start altercations and write us up for it. These officers have no oversight and constantly abuse their authority and get away with it."⁶⁰² A worker who is incarcerated at Calipatria State Prison in California wrote: "The officers lack understanding and training in how to interact with prisoners. They're supposed to be helping rehabilitate. Instead, they try to instill fear while trying to degrade us, creating contempt for authority instead."⁶⁰³

Insurmountable Barriers to Redress and Accountability When Rights Are Violated

Incarcerated people seeking to protect themselves from abuse through administrative or legal processes are often met with further callousness and indifference. There are two formal channels through which an incarcerated person can nominally access redress and accountability: internal prison grievance procedures and external lawsuits (through the judicial system). However, the two channels are inextricably linked in such a way that actually limits access to effective remedy and justice.

"Now we are really slaves all over again... One of the deputies told me the reason they named this Angola because that's where slaves escaped from the motherland, and that will never happen again because it's legal now."

— Worker incarcerated at Louisiana State Penitentiary

The Prison Litigation Reform Act (PLRA) of 1996 erected nearly insurmountable barriers to accessing relief through federal courts, and many states have subsequently enacted laws that similarly restrict prisoners' access to state courts.⁶⁰⁴ One of the most devastating features of the PLRA is its requirement that incarcerated people exhaust administrative remedies within correctional facilities before they bring suit in court—a requirement that has been used to dismiss countless lawsuits filed by incarcerated people seeking the protection of the courts against dangerous or unhealthy conditions of confinement.⁶⁰⁵

Meanwhile, the few administrative remedies available inside prisons tend to be burdensome and obscure. Grievance procedures vary, but generally they require that incarcerated individuals submit written complaints to a correctional official, followed by appeals to higher authorities such as a warden.⁶⁰⁶ Often these steps must be carried out within strict deadlines, which can be unreasonable for full-time incarcerated workers to meet. For example, in Georgia, the deadline for filing a grievance is 10

calendar days.⁶⁰⁷ In California, a person in prison has 30 calendar days from the date of the incident to submit a 602-grievance form and 30 days to appeal any denial.⁶⁰⁸ Although 30 days may sound like plenty of time, prison grievance procedures can be so complicated and opaque that even a team of 10 qualified lawyers needed 18 months to decipher Illinois' procedures.⁶⁰⁹

Moreover, while incarcerated people must adhere to established timelines, prison authorities face little or no consequences if they simply neglect to address those grievances.⁶¹⁰ At the California Institution for Women, run by the California Department of Corrections, the "grievance system is notoriously ineffective, according to those who have tried to lodge complaints."⁶¹¹ Data obtained in the last five years indicates that only about five percent of grievances reviewed by Illinois prison officials in seven out of the 15 largest state prisons were decided in part, or in whole, in an incarcerated person's favor.⁶¹² Most other complaints were simply ignored or "disappeared."⁶¹³

Beyond the sheer complexity and ineffectiveness of the grievance system, incarcerated people are further discouraged from pursuing complaints due to the threat of retaliation by correctional officers, who otherwise face little accountability for their actions.⁶¹⁴ One survey of people incarcerated in Ohio found that 70 percent of those who brought grievances suffered retaliation because of it.⁶¹⁵ This type of retaliation can and does include loss of desirable jobs and vocational opportunities.⁶¹⁶ For example, Blanca Ruiz-Thompson recalls being threatened with demotion to an undesirable kitchen job whenever she tried to complain about the dangerous work conditions in her Medi-Cal glasses manufacturing position.⁶¹⁷

Although the requirement that claimants exhaust internal grievance systems is likely the biggest hurdle incarcerated people face to accessing justice, the PLRA introduced a number of other barriers. First, the law requires that incarcerated individuals pay court filing fees in full. For those who are indigent or unable to afford these upfront costs, the law requires them to pay the filing fee over time, through monthly installments from their prison commissary account. Second, the law includes a three-strikes provision,

whereby each lawsuit or appeal filed and dismissed by a judge—because it is deemed frivolous, malicious, or simply insufficient to constitute a proper claim—counts as a "strike." After three strikes, an incarcerated individual is barred from filing another lawsuit unless they are prepared to pay the entire court filing fee upfront.⁶¹⁸

Third, the bar for showing enough physical injury to receive judicial redress is inordinately high: An incarcerated man working at the electrical shop of the federal prison in Marion, Illinois, filed suit after his supervisor ordered him to crush fluorescent bulbs containing mercury in an unventilated room. When he asked for a face mask, he was told that he was "shit out of luck."⁶¹⁹ The Seventh Circuit Court of Appeals, while recognizing these claims, nonetheless held that he "did not present sufficient evidence that he was exposed to an unreasonably high amount of mercury, that he had sustained injuries because of it, or that the exposure necessarily created a risk of serious future health complications."⁶²⁰ Likewise, when an incarcerated worker in Arkansas filed a federal lawsuit against his prison for forcing him to work in the freezing cold and blazing summer heat despite a blood pressure condition that made over-exertion a deadly prospect, the Eighth Circuit Court of Appeals denied his claim, finding that he had not been in imminent danger of physical injury.⁶²¹

Prison Labor During COVID-19

As of April 1, 2022, at least 802,575 incarcerated people and staff have been confirmed to have been infected with COVID-19, and at least 3,077 incarcerated people died due to the virus.⁶²² At least one in three people incarcerated in state prisons contracted COVID-19, and at least 39 percent of people incarcerated in federal facilities were infected.⁶²³ Meanwhile, incarcerated workers were tasked with manufacturing hand sanitizer, masks, medical gowns, face shields, and other personal protective equipment that they were then prohibited from using to protect themselves.⁶²⁴ Not surprisingly, the pandemic ripped through prisons like wildfire.⁶²⁵

Incarcerated people, recognized as one of the populations most vulnerable to the COVID-19 virus, were on the front line of the COVID-19 response.⁶²⁶ Nearly every state in the country reported that incarcerated workers contributed labor to the pandemic response. Incarcerated workforces were widely used to meet the demands of protective equipment production during the pandemic.⁶²⁷ Incarcerated people also worked in morgues, transported dead bodies, dug mass graves, and built coffins. They washed soiled hospital laundry, disinfected supplies, and cleaned medical units.

At times, incarcerated workers had to perform work that put them at the highest level of exposure to the virus. In at least five states (Michigan, Missouri, New York, Oregon, and Texas), incarcerated workers participated in frontline health roles that put them at high risk of contracting COVID-19.⁶²⁸ For instance, incarcerated people working in prison laundries in Oregon and Missouri were tasked with cleaning bedsheets, towels, and gowns from hospitals treating COVID-19 patients.⁶²⁹ In Texas, previously unpaid incarcerated workers were paid \$2 an

Incarcerated workers throw away biohazard material during a deep cleaning in a cell pod to prevent the spread of COVID-19 at the San Diego County Jail on April 24, 2020, in San Diego, California.



Photo © Sandy Huffaker/Getty Images

hour to work in mobile morgues and transport bodies from the Medical Examiner's Office in El Paso.⁶³⁰ In New York, workers who were tasked with digging mass graves were transitioned from an hourly wage of \$0.65 to \$6. The Rikers Island jail offered personal protective equipment as a "privilege" to any incarcerated worker tasked with digging mass graves.⁶³¹

Our research identified at least 40 state departments of correction and state prison industries programs that pivoted to manufacture personal protective equipment and hand sanitizer for healthcare workers and other state employees. Incarcerated workers at Great Meadow Correctional Facility in New York were working around the clock in eight-hour shifts to bottle 100,000 gallons of hand sanitizer every week for 65 cents an hour.⁶³² At the same time, regular reports from New York correctional facilities indicate that staff members were refusing to clean units while incarcerated people were being denied hand soap, sanitizer, and cleaning supplies. Worth Rises, a prison reform advocacy organization, gathered data showing that nearly every municipality in New York state purchased pandemic-related products made by incarcerated workers.⁶³³ Incarcerated workers at Green Haven Correctional Facility in New York built 1,400 coffins per week in April 2020 as COVID-19 spread through the prison and killed at least one incarcerated person on May 4.⁶³⁴

California prisons halted most programming in an effort to slow down the spread of COVID-19, while keeping open its state prison factories as incarcerated women worked seven days a week to produce masks and hand sanitizer, "until their bodies ached, and all they could do at night was collapse asleep in their cells."⁶³⁵ In Pennsylvania, while the state prison system was under quarantine, some incarcerated workers worked 12 hours a day, six days a week to manufacture masks, medical gowns, antibacterial soap, and disinfectant.⁶³⁶ Incarcerated workers in at least 15 federal prisons around the country manufactured masks, gowns, and sanitizer for \$0.23 an hour.⁶³⁷

Workers in Texas were not paid at all for their work manufacturing face masks and medical gowns for first responders.⁶³⁸

Incarcerated workers in Alabama,⁶³⁹ Alaska,⁶⁴⁰ Arizona,⁶⁴¹ Arkansas,⁶⁴² Colorado,⁶⁴³ Connecticut,⁶⁴⁴ Delaware,⁶⁴⁵ Florida,⁶⁴⁶ Georgia,⁶⁴⁷ Hawaii,⁶⁴⁸ Idaho,⁶⁴⁹ Indiana,⁶⁵⁰ Iowa,⁶⁵¹ Kansas,⁶⁵² Louisiana,⁶⁵³ Maryland,⁶⁵⁴ Massachusetts,⁶⁵⁵ Michigan,⁶⁵⁶ Minnesota,⁶⁵⁷ Mississippi,⁶⁵⁸ Missouri,⁶⁵⁹ Montana,⁶⁶⁰ Nevada,⁶⁶¹ New Mexico,⁶⁶² North Carolina,⁶⁶³ North Dakota,⁶⁶⁴ Ohio,⁶⁶⁵ Oklahoma,⁶⁶⁶ Oregon,⁶⁶⁷ Nebraska,⁶⁶⁸ South Carolina,⁶⁶⁹ South Dakota,⁶⁷⁰ Virginia,⁶⁷¹ Tennessee,⁶⁷² and Utah⁶⁷³ likewise manufactured masks, hospital gowns, face shields, and hand sanitizer.

Incarcerated workers performed this work at the height of early pandemic lockdowns, without personal protective equipment or the recommended social distancing, putting their health and lives at risk. In April 2020, the Arkansas Department of Corrections posted an image of incarcerated workers sewing a projected 80,000 masks while sitting in close proximity to each other.⁶⁷⁴ Video shared by the Arizona Department of Corrections similarly shows incarcerated women in Arizona making masks while working close to each other.⁶⁷⁵

In April 2020, incarcerated people working in Oregon's prison laundries—run by the semi-independent state agency Oregon Corrections Enterprises, which operates like a private sector business—were tasked with cleaning linens from hospitals across the state treating COVID-19 patients. Despite the risks, the prison laundries implemented few changes to working conditions and failed to adopt sufficient measures to protect incarcerated workers from the virus, such as personal protective equipment and social distancing.⁶⁷⁶ Paul Dawson, who worked in the prison laundry at the time, observed, "We're just stacked on top of each other. It seems like one of the worst places to be in the country [right now]."⁶⁷⁷ If Dawson had tried to quit for his own safety, he would have been prevented by Oregon's

Ballot Measure 17, which required incarcerated people to work full-time.⁶⁷⁸

In every state in the country, incarcerated workers whose job assignments are considered essential were required to continue working during COVID-19 lockdowns, including jobs in manufacturing, agriculture, firefighting, meat processing, food services, and construction.⁶⁷⁹ Although these incarcerated essential workers later met the Centers for Disease Control and Prevention's priority categories 1a and 1b for COVID-19 vaccine rollout, 16 states left incarcerated people out of their phase 1 vaccine distribution entirely.⁶⁸⁰

In late March 2020, Hickman's Family Farms, the Arizona egg production company mentioned in the above section about workplace injuries sustained by incarcerated workers, moved 140 incarcerated workers—more than half of its Perryville Women's Prison workforce—out of the prison and into the production facility itself to ensure they would continue working.⁶⁸¹ At least five of the incarcerated workers assigned to live and work onsite subsequently tested positive for COVID-19.⁶⁸² "The inmates are on top of each other, literally," said Carlos Garcia, executive director of the Arizona Correctional Peace Officers Association. "If these inmates had it, they've all been exposed."⁶⁸³

As COVID-19 spread in March and April 2020, in some prisons, incarcerated workers were required to continue even work that was nonessential, such as making office furniture or stamping license plates.⁶⁸⁴ For instance, in April 2020, Florida suspended family visits in the interest of safety while continuing to force incarcerated people to do "road maintenance, sewage treatment, and moving services for governmental buildings."⁶⁸⁵

Incarcerated workers labored during the pandemic under the threat of punishment if they refused their work assignments. For instance, incarcerated workers in Colorado who opted out of kitchen work assignments in 2020 due to health concerns lost "earned time," meaning their parole eligibility dates were pushed later.⁶⁸⁶ Workers who



Photo © Sandy Huffaker/AFP via Getty Images

Incarcerated workers sew protective masks at Las Colinas Women's Detention Facility in Santee, California, on April 22, 2020.

subsequently returned to their job assignments because of the threats of having to serve more time in prison, being placed in more restrictive housing units, and losing phone calls and family visits filed a class-action lawsuit alleging that state prison authorities violated the state ban on slavery and involuntary servitude by forcing them to work.⁶⁸⁷ DG Foods, a poultry processing plant in Bastrop, Louisiana, avoided shutting down operations at the height of COVID-19 by relying on incarcerated laborers who similarly faced loss of their earned-time credits should they refuse to work.⁶⁸⁸ Video recorded by an incarcerated person working on the line exposed the abysmal working conditions: no soap, no social distancing, and often no masks.⁶⁸⁹

Captive Market

The prison system does not just coerce and exploit labor through the overt mechanisms discussed in the previous sections, such as solitary confinement and loss of family visitation. It also exerts another insidious form of coercion—that of deprivation.

A 2018 study by the Brookings Institution based on IRS data found that in the two years prior to entering prison, the average reported annual income among those who worked prior to entering prison was \$12,780, while 56 percent of individuals age 18 to 64 had essentially no reported annual income (less than \$500).⁶⁹⁰ Once in prison, incarcerated people are then locked into a distorted economic system driven by privatization and price gouging. While state taxes are used to fund some aspects of prisons, prisons increasingly contract with private companies for the provision of basic services. These private companies, in turn, charge incarcerated people for their services directly. Some of these services are fundamental to normal human life: phone calls to family, medication, medical care, food, warm clothing, and basic hygiene products.⁶⁹¹

Incarcerated people are themselves captive consumers. Prison systems and their subcontractors have successfully leveraged this market, reaping vast profits by requiring incarcerated people to self-fund basic necessities at an inflated price while incarcerated. Even while paying exorbitant prices for these goods and services, incarcerated people have seen their quality worsen over the years.⁶⁹²

The cost to an incarcerated person of their own incarceration can run over \$10,000 a year and many cannot bear this cost alone.⁶⁹³ Almost 70 percent of our survey respondents said that they were not able

to afford basic necessities with their prison labor wages.⁶⁹⁴ This often means that families must step in. Most state prison systems ban or severely limit care packages from families to supply necessities; instead, families are required to go through prison commissaries and private vendors that offer care package programs.⁶⁹⁵ One study estimates that families with an incarcerated loved one, many of whom are impoverished themselves, spend \$2.9 billion a year on commissary accounts and phone calls.⁶⁹⁶ Over half of these families are forced to go into debt to afford a relative's conviction and subsequent incarceration.⁶⁹⁷



An incarcerated worker operates a sock-making machine in a garment shop at Cossackie Correctional Facility in Cossackie, New York.

Photo © AP/Mike Groll

This section lays out the myriad ways that the prison system bleeds dry a population already in dire financial circumstances, creating a need to work in the exploitative conditions of prison labor. It describes the inflated day-to-day costs of incarceration, which end up further impoverishing incarcerated people and their families.

Requiring Self-Payment for Basic Necessities

For a person earning mere pennies an hour, any additional reduction forces devastating choices—food versus soap, or medical care versus a phone call to family. There is a myth that incarcerated people spend their money on luxuries like candy or electronics, but the reality is that incarcerated people at both the federal and state levels must often pay for basic items such as food, toiletries, telephone calls, medication, and copays for health care—and at grossly inflated prices.⁶⁹⁸ One study of three states found that the average person spent almost \$1,000 per year on basic necessities at the prison commissary.⁶⁹⁹

People incarcerated across the country have repeatedly asserted, through lawsuits, surveys, and interviews, that they do not receive enough food of nutritional quality in prison to sustain themselves.⁷⁰⁰ The American Correctional Association recommends, but does not require, that incarcerated people receive three meals a day.⁷⁰¹ As a result of these lax standards, some prisons provide only two meals a day.⁷⁰² Numerous incarcerated people report feeling constantly hungry.⁷⁰³ A worker who is incarcerated at Centralia Correctional Center says he has already “lost 10lbs or so this past couple months.”⁷⁰⁴ A survey conducted by Impact Justice found that 94 percent of incarcerated people surveyed felt they could not eat enough in prison to feel full.⁷⁰⁵

Aside from the sheer lack of quantity, the food served to incarcerated individuals is sometimes inedible. Incarcerated people in Michigan, for example, have reported food spoiled by maggots, dirt, and mold.⁷⁰⁶ At the Pontiac Correctional Center in Illinois, incarcerated people described

“Inmates should not have to choose to have food, basic hygiene, certain clothing items, or needed nutritional supplements because they cannot afford to purchase it [even] after providing countless hours and labor.”

— Worker incarcerated at Western Illinois Correctional Center

seeing rat droppings “on the majority of the food” and cockroaches “crawling [through] the bread” after rats chewed holes in the storage bags.⁷⁰⁷ Incarcerated people are then forced to choose between hunger and purchasing supplemental food from the commissary at exorbitant prices.⁷⁰⁸

Furthermore, many prisons do not provide standard hygiene products—or provide products of extremely low quality—forcing incarcerated people to spend money on necessities such as toilet paper, over-the-counter medicine, and soap.⁷⁰⁹ For example, in Massachusetts, incarcerated people paid an average of \$22 each for soap throughout 2016 to supplement the meager rations of soap provided by the prison.⁷¹⁰ In Illinois, the average incarcerated person spends \$80 per year on toiletries and hygiene products, totaling half their average annual wages.⁷¹¹ Toiletries like toothpaste “[are] not essential,” according to standards issued by the National Institute for Jail Operations.⁷¹² “Teeth can be cleaned with baking

soda, salt, or tooth powders.”⁷¹³ One person formerly incarcerated in California remembers thinking of toilet paper as an occasional luxury.⁷¹⁴ And women in prison have been forced to purchase tampons and menstrual pads for years; in some cases, they have only been provided free menstrual products after having to undergo humiliating rituals, like turning in used products in exchange for new ones.⁷¹⁵

Table 6 details the costs of selected commissary items in federal prisons, including basic hygiene items, over-the-counter medications, food, clothing, stationary, and other necessities. State prisons have similar commissary menus with varying prices, some of which can be much higher than those listed below.

TABLE 6
Federal prisons commissary menu, selected items

Item	Price
Soap bar	\$0.95 to \$1.50
Deodorant	\$3.05
Tampons	\$4.15
Pads	\$3.90
Toothpaste	\$1.50 to \$2.45
Toothbrush	\$1.00
Shampoo	\$1.65 to \$7.80
Disposable razors	\$2.15 to \$13.55
Sunblock	\$2.15
Ibuprofen	\$2.50
Antacid	\$3.40
Cream to treat vaginal yeast infections	\$10.75
Band-Aids	\$0.65
Decongestant	\$2.20
Ankle brace	\$10.80
Instant coffee	\$7.80
Chili beans	\$1.45
Oatmeal	\$3.15
Canned tuna	\$2.75
Bottled water	\$3.75
T-shirt	\$5.75 to \$13.00
Sweatshirt	\$15.35 to \$20.15
Socks	\$1.16 to \$1.65
Towel	\$5.35

Laundry detergent	\$1.50 to \$7.80
Reading glasses	\$4.50
Pen	\$1.15
Envelopes	\$1.95
Paper	\$1.90
Copy card	\$5.85

Source: Federal Bureau of Prisons Commissary List⁷¹⁶

The privatization of prison goods and services has warped the system’s priorities, placing profits above the respect for peoples’ basic human rights. Private entities lure cash-strapped correctional agencies with promises of kickbacks,⁷¹⁷ while securing for themselves lucrative monopolies or duopolies that ensure their access to a captive consumer base.⁷¹⁸ Commissary vendors do not just provide supplementary food—they are the only vendors of other basic supplies such as eating utensils, cleaning supplies, letter-writing supplies, and extension cords.⁷¹⁹

The simple act of calling loved ones is another opportunity to wring excessive profits from incarcerated people. Until the early 1980s, prisons were serviced by AT&T and charged rates inside prison similar to the outside market.⁷²⁰ Since then, however, two companies, Global Tel Link (GTL) and Securus Technologies, have come to dominate the communications market within prisons,⁷²¹ leading to shockingly expensive communications charges for incarcerated people and their families.⁷²²

The pricing of prison phone calls is largely unregulated—while the Federal Communications Commission has a cap of \$0.21 per minute for out-of-state phone calls from prisons and jails, there is no limit on what can be charged for phone calls *within* a state.⁷²³ This loophole is exploited by private companies. For example, while GTL charges an average of \$3.94 for a 15-minute local phone call nationally (or \$0.26 per minute), it charges an average of \$9.56 within New York (or \$0.64 per minute).⁷²⁴ This discrepancy is enabled by GTL’s virtual monopoly within New York county jails, as it has contracts with 85 percent of the counties, making it easy for the company to upcharge a captive consumer base.⁷²⁵ A recent breakthrough came in

June 2021, when Connecticut became the first state to make all prison phone calls free.⁷²⁶ This is a historic move towards keeping families connected, and all federal and state systems should follow suit.

Finally, even healthcare has become a revenue generator as at least 35 states authorize either state or correctional facilities to charge incarcerated people directly for fees associated with their medical care⁷²⁷—care to which incarcerated people have a constitutional right.⁷²⁸ In these states, incarcerated people can be forced to pay medical copays for physician visits, medications, dental treatment, and other services.⁷²⁹ In Arkansas, for instance, incarcerated people must pay a \$3 copay for any medical appointment, even though they receive no income in that state.⁷³⁰ A single visit to a doctor in a West Virginia prison costs almost an entire month’s pay for the many who make only \$6 a month.⁷³¹ These copays are grossly disproportionate when compared to the average salary of most incarcerated individuals.⁷³² Moreover, seven states expect incarcerated people who make no salary to pay medical copays.⁷³³ Faced with this situation, many incarcerated people opt to forgo healthcare and work while sick or injured.⁷³⁴

Some states have started to reckon with the perils of privatization. Michigan provides an illustrative case study. The state’s Department of Corrections contracted with Aramark Correctional Services and later Trinity Services Group to run its prisons’ kitchens and commissaries.⁷³⁵ This deal cut the state’s costs to just \$1.29 per meal.⁷³⁶ However, the Department of Corrections ended its contract with Aramark 18 months early because of “meal shortages, [] maggots in the kitchen, [] smuggling of drugs and other contraband by Aramark employees, [and] Aramark workers engaging in sex acts with incarcerated people.”⁷³⁷ Trinity Services Group, which later took up Aramark’s contract, was riddled with similar problems and ultimately fined more than \$2 million dollars for “unplanned meal substitutions, delays, staffing shortages and contract violations.”⁷³⁸ The Department of Corrections in Michigan has since abandoned the privatization of its food service and returned to a state-run food service. Other states should learn from that experience.

“We work long and hard hours without being able to support ourselves.”

— Worker incarcerated at Central California Women’s Facility

No Path Forward

At Central California Women’s Facility (CCWF) prison, Amika Mota was just another number in the eyes of those in charge of her life. She wore the same clothes, ate the same foods, and was subjected to the same daily indignities as the roughly 2,000 incarcerated women she lived with. It was not until Mota joined the prison firehouse as an institutional firefighter that she began to feel a change. Only then were the corrections officers willing to put aside old rules and demeaning treatment, which were meant to divide and diminish, for the sake of saving a home or a child’s life. Mota did not just respond to calls within the prison. She and her team were often

dispatched out into the surrounding Madera County community where the CCWF staff and their families lived. Mota recalls: “We knew we had this particular level of responsibility, and we knew we would get into situations where we would meet correctional officers at this human level rather than this power-dynamic level.”

One call led Mota to an almond orchard to save the daughter and granddaughter of a corrections officer who had crashed their car among the groves. Another call found her putting out a fire at an officer’s home on Christmas Eve. To watch her handle the water hoses, apply CPR, or pry open a mangled vehicle with the jaws of life would be to witness a first responder working hard like any other. The correctional counselor who referred her to the program explained that “we choose people for our fire program that we would trust to respond to fires and take care of our children out there.”⁷³⁹

Yet Mota, who had received the training equivalent to any non-incarcerated professional firefighter, was told that upon release, she would be unable to work in any municipal fire department. Her status as a formerly incarcerated person would disqualify her from all but the lowest paying jobs, like seasonal firefighting, which would pay \$12 an hour for dangerous work taking her far from her family for months at a time. This was a poverty wage for a mother trying to support her children after years in prison.⁷⁴⁰

States sell the benefits of their work programs in grand terms. In Louisiana, for example, the state’s Prison Industries program purports to “offer jobs that teach offenders valuable skills...which are



Incarcerated workers clean up after the police horses at the annual Labor Day parade in Okeechobee, Florida.

vital for eventual reentry to society.”⁷⁴¹ The alleged mission in California is to “facilitate the successful reintegration of the individuals in our care back to their communities...by providing education, treatment, rehabilitative, and restorative justice programs, all in a safe and humane environment.”⁷⁴² Incarcerated people are continuously told that their work will help *them*—that prison labor will teach useful job skills and lead to work providing a living wage upon release.

The evidence suggests otherwise. A study from 2017 looking at disparities in rates of unemployment in 2008 revealed that 27.3 percent of formerly incarcerated people were unemployed, compared to a 5.2 percent unemployment rate among the general population that same year.⁷⁴³ Furthermore, evidence suggests that this ongoing “prison penalty” is not uniform across race and gender: Whereas 43.6 percent of formerly incarcerated Black women were unemployed, only 18.4 percent formerly incarcerated white men were.⁷⁴⁴

Upon release, formerly incarcerated people are thrown into the labor market and essentially made to sink or swim. The states with the most generous “gate money” (money given to someone as they leave prison to help ease reentry) like California only give \$200.⁷⁴⁵ Alabama and Louisiana give as little as \$10.⁷⁴⁶ Formerly incarcerated people without external support are forced to prioritize their immediate needs, like food and housing, over investments in their employability, like a cellphone or professional clothing.⁷⁴⁷

Such mass unemployment of formerly incarcerated people comes at a high price. For the American economy, it costs about \$55.2 billion each year.⁷⁴⁸ For formerly incarcerated people, unemployment doubles their chances of recidivism.⁷⁴⁹ In fact, the best way to predict whether someone will return to prison may be to ask whether they have a job.⁷⁵⁰

Unemployment among the formerly incarcerated can be traced, in part, to the dearth of job training and skills development in prisons. Indeed, vocational programs increased employment prospects by up to a third.⁷⁵¹ Another significant cause of unemployment

comes in the form of “collateral consequences,” more than 44,000 civil penalties that weigh down incarcerated people long after they finish their sentences.⁷⁵² Under these statutes, states can deny formerly incarcerated people public benefits such as food stamps, exclude them from public housing, and bar them from holding a driver’s license.⁷⁵³ The most common and burdensome collateral consequences, however, are those related to employment.⁷⁵⁴ While not part of prison life itself, such collateral consequences play a key role in the criminal legal system. Long after someone leaves prison and ceases to be a captive laborer, they remain captive to this larger system.

Moreover, because the work performed by incarcerated workers is explicitly excluded from the statutorily defined employment that counts toward the accrual of unemployment insurance benefits under the Federal Unemployment Tax Act, incarcerated workers are ineligible to receive the protections offered by the unemployment insurance system if they cannot find work upon their release from prison or if they lose jobs while in prison through no fault of their own.⁷⁵⁵

Dead-End Jobs

The overwhelming amount of job assignments in prisons are monotonous and in areas that are not marketable upon release. As noted above, of the nation’s approximately 800,000 workers incarcerated in prisons, around 80 percent perform typically low-paid maintenance labor.⁷⁵⁶ Some workers pick up cigarette butts from cracks in the pavement outside; others rake rocks in the yard or are simply told to go outside and stand in the rain.⁷⁵⁷ According to one survey, over half of federally incarcerated people work to maintain the prison itself.⁷⁵⁸ Although the people who do this work still deserve as much respect and protection as those who perform typically higher-paid labor, generally prison labor simply does not provide the useful job training that incarcerated people are told they will receive.⁷⁵⁹

“They took away the better jobs over time—those that taught us engine repair and other valuable trades. They should bring back jobs people can use when they get home.”

— N'Ashid Abdul Latif, former hospice worker in California Medical Facility prison

There are, of course, exceptions—some vocational programs exist which are designed to pass on valuable skills. Jerome Morgan, a co-founder of Free-Dem Foundations, a youth-advocacy nonprofit in New Orleans, had the opportunity to learn a trade through one such program during the 20 years he was incarcerated in Louisiana’s prison system. Incarcerated people like Morgan benefit from vocational programs. Those who are able to participate have an easier time finding work after prison and a lower chance of committing another crime.⁷⁶⁰ One study found that vocational programs can boost formerly incarcerated individuals’ job prospects by almost 30 percent.⁷⁶¹ The government benefits as well—money spent on vocational programs in the short term translates into long-term gains through reduced recidivism rates.⁷⁶²

Currently, however, vocational programs fail to meet their full potential. “We were trained on stuff from the dinosaur era,” noted Morgan.⁷⁶³ His experience is not uncommon—incarcerated people report that vocational programs often involve training on outdated equipment no longer used outside of prison walls.⁷⁶⁴ An audit of the Louisiana Prison Enterprises program by the Legislative Auditor’s Office found that one-third of incarcerated people working in

the program are trained for jobs that are projected to decrease in the labor market, such as garment factory work and agriculture.⁷⁶⁵ “This means many of the offenders working for Prison Enterprises may not be learning job skills that could help them after they are released,” the Legislative Auditor’s Office found.⁷⁶⁶ A state legislative audit of Mississippi’s correctional industries program likewise found it is providing “work skills in occupations for which there were expected to be few to no job prospects in Mississippi.”⁷⁶⁷

Nor is access to vocational programs widely available. Only a fifth of incarcerated people nationwide participate in vocational programs, leaving the other 700,000 or so workers to stagnate doing typically lower-paid work.⁷⁶⁸ In Illinois, as state funding for vocational programs provided by community colleges has dropped, so too has participation in and access to these programs.⁷⁶⁹ In 2002, around 6,000 incarcerated people participated in over 130 vocational programs. But just seven years later, the number of vocational programs had fallen to 100, leaving over a thousand fewer incarcerated people with the opportunity to take part.⁷⁷⁰ N’Ashid Abdul Latif, a formerly incarcerated worker, shared his experience witnessing this regression first-hand in California: “They took away the better jobs over time—those that taught us engine repair and other valuable trades. They should bring back jobs people can use when they get home.”⁷⁷¹

In general, people in prison struggle to secure prison jobs that enhance their qualifications. UNICOR, a program offering jobs with higher wages and a semblance of skills training, has a waitlist of 25,000 people. Yet even within a program like UNICOR, advancement is difficult.⁷⁷² As a result, most cannot access opportunities to get higher levels of training and pay. Outside of coveted programs like UNICOR, the story is similar. In Illinois, a prison might have 1,200 incarcerated people “but only a handful of jobs” that provide vocational training.⁷⁷³ As with UNICOR, waitlists for vocational programming in Illinois can climb into the thousands.⁷⁷⁴

Licensing Restrictions

About a quarter of jobs nationwide require professional licenses—from cosmetology to barbering, physical therapy, and work as a home health aide.⁷⁷⁵ To perform one of these jobs, an applicant needs approval by a state-run licensing board.⁷⁷⁶ People with conviction records, however, are often denied such approval. Across the country, there are about 27,000 state licensing restrictions that keep people with conviction records from licensed work.⁷⁷⁷ Over two-thirds of these are permanent bans, completely barring people with criminal histories from certain professions.⁷⁷⁸

These state occupational licensing restrictions often bar people with conviction records from work in the very fields they trained in while incarcerated. For instance, in some states people who worked as hospice workers while incarcerated are categorically barred from later working as home health aides or in nursing homes simply because of their conviction records, despite their experience compassionately caring for sick, aging, and dying patients in prison.⁷⁷⁹

While some of these restrictions may be sensible—barring people with child abuse convictions from working with children, for example—many have no rational relation to the job itself.⁷⁸⁰ In Alabama, for example, engineers and land surveyors cannot have been convicted of *any* felony, even nonviolent ones unrelated to public safety.⁷⁸¹ Until 2016, incarcerated people trained as barbers in 14 states, spanning the country from Connecticut to Arizona, were barred from the profession upon release.⁷⁸²

Licensing requirements are steeped in arbitrary discretion. Applicants are often required to have “good moral character,” a standard without a nationally uniform definition.⁷⁸³ A 2019 report from the U.S. Commission on Civil Rights raised concerns that lacking “good moral character” can describe those convicted of “deadly weapons or firearms offenses” in one state to those accused of “petty offenses indicating an irresponsible attitude” in another.⁷⁸⁴

The problem of licensing restrictions is acute for California firefighters. Most counties in California require their firefighters to have an emergency medical technician license—a license that is off-limits to anyone with a single felony conviction from the previous 10 years or who has ever been convicted of two felonies.⁷⁸⁵ In September 2020, Governor Newsom signed a bill to allow some incarcerated firefighters to work professionally after serving prison time.⁷⁸⁶ This legislation, while a step in the right direction, still leaves unreasonable barriers in place. Incarcerated firefighters make up 43 percent of California’s fire crew,⁷⁸⁷ and until the bill was passed, only a handful of formerly incarcerated firefighters were allowed to continue working as firefighters upon release. The reform bill allows for those formerly incarcerated firefighters with certain low-level felonies on their records to get them expunged, allowing them to apply for the emergency medical technician license.⁷⁸⁸ Expungements require going to court, which can be difficult and time consuming, particularly for those who leave prison with no savings.⁷⁸⁹ Many remain barred from firefighting, including those who have not gotten their convictions expunged or are ineligible to do so, and in June 2022 a federal appeals upheld the licensing regulations barring these formerly incarcerated people from working as firefighters.⁷⁹⁰

Such draconian barriers take a toll on those denied work, the states they live in, and the U.S. economy as a whole. Licensed work pays between 10 and 15 percent more than unlicensed work—a wage gap that can cut recidivism rates by as much as 50 percent.⁷⁹¹ In fact, the more licensing restrictions a state has, the higher its rate of recidivism.⁷⁹² On a national level, studies suggest these occupational licensing laws cost the U.S. economy between \$34.8 and \$41.7 billion a year.⁷⁹³ But the impact on incarcerated people is by far the greatest. As Katherine Katcher, incarcerated person rights advocate and founder of Root and Rebound stated: “What’s the point of letting people out if there’s still an invisible prison around them?”⁷⁹⁴



An incarcerated worker assembles office desks at Turney Center Prison and Farm in Only, Tennessee.

Background Checks and Discrimination

Even when formerly incarcerated people find jobs they can apply for, reluctance by employers to hire a person who has spent time in prison significantly restricts access to these opportunities. Around half of American employers run criminal background checks on job applicants to screen them out.⁷⁹⁵ Despite there being no evidence showing that formerly incarcerated people perform worse than other workers, the stigma surrounding any interaction with the carceral system can be crippling. Aramark, for example, is a multibillion-dollar company that, among other things, serves food in prisons and buys food produced by incarcerated workers in prisons.⁷⁹⁶ On its website, it proudly states that it employs incarcerated people in prison kitchens, which “help[s] rehabilitate [offenders]” and “reduce[s] recidivism.”⁷⁹⁷ For decades, however, Aramark would not hire anyone who had committed a felony in the previous seven years.⁷⁹⁸ Aramark is not alone—many of America’s

largest companies rarely hire people with felony convictions.⁷⁹⁹

Daniel Tapia was incarcerated in Louisiana. While in prison, he was trained as an auto mechanic and worked outside the facility at a local auto shop. He was eventually promoted to supervisor of the shop, managing non-incarcerated workers.⁸⁰⁰ These days, Tapia works as a case manager for The First 72+, a reentry organization in New Orleans that provides housing and employment opportunities for men leaving prisons. He has received an honor by the U.S. Chamber of Commerce for his work on reentry services. And yet, he had been rejected for a job cleaning toilets because of his time in prison.⁸⁰¹

Even when employers do not maintain official policies against hiring formerly incarcerated individuals, they often discriminate against them. Research has shown that the mere presence of a criminal conviction on a job application—all else being equal—is enough to reduce a white applicant’s chances of being hired by about 50 percent and a Black applicant’s chances by about 66 percent.⁸⁰² Even employers who say they are willing to hire formerly incarcerated people end up hiring them at similarly low rates to employers who say they are not.⁸⁰³ As a result, people with a criminal conviction are half as likely to receive a callback after an interview or a job offer than people without one.⁸⁰⁴ The problem falls heaviest on Black applicants with criminal records, who are less likely to receive a callback from an employer who has expressed sympathy for their incarceration than similarly placed white applicants with criminal records.⁸⁰⁵

Recognizing such discriminatory impacts, 35 states and 150 cities and counties across the country have passed laws that prohibit employers from asking about a job seeker’s criminal record on their application form. These laws are commonly referred to as “ban the box” legislation, named after the checkbox on a job application that asks about criminal records.⁸⁰⁶ A number of jurisdictions have gone further and passed laws that stop employers from asking about applicants’ criminal records until after they have made a job offer.⁸⁰⁷

Yet their effectiveness in rooting out discrimination is not yet clear.⁸⁰⁸ While some studies show promising results, others have shown that ban-the-box laws push discrimination elsewhere. Instead of discriminating against people with conviction records in hiring, some employers have ended up discriminating against Black men.⁸⁰⁹ And as National Book Award finalist and formerly incarcerated activist Albert Woodfox put it, “people can just Google you. It doesn’t matter.”⁸¹⁰

How Prison Labor in the U.S. Violates Human Rights

After years of toiling in low-wage, undervalued work, people leaving prison continue to carry the weight of incarceration. Barriers—from job disqualification to formal and informal discrimination—push some back into prison, creating a vicious cycle of dead-end jobs inside of prison and broken promises of rehabilitation outside of it.

The United States has put in place a system of domestic laws and policies designed to exploit the labor of those incarcerated rather than to strengthen their capacity to productively participate in society and prepare them for reintegration after release. As detailed above, many U.S. domestic laws related to labor practices do not apply within prisons. International human rights laws enshrining fundamental protections—many of which are binding on the United States—generally do not suffer from these exemptions.

The conditions of labor inside U.S. prisons invoke protections under customary and treaty-based international law against slavery, forced labor, as well as cruel, inhuman, and degrading treatment. The Universal Declaration of Human Rights, which is globally championed by the United States, prohibits exploitative workplace practices,⁸¹¹ as well as “cruel, inhuman or degrading treatment or punishment.”⁸¹² Importantly, these rights apply to all persons “without distinction of any kind” by virtue of their “inherent dignity.”⁸¹³ The International Covenant on Civil and Political Rights (ICCPR), which the United States has ratified, reinforces the applicability of these rights and protections in the context of incarceration. Specifically, it provides that “[a]ll persons deprived of their liberty shall be treated with humanity and respect for the inherent dignity of the

human person.”⁸¹⁴ The ICCPR also states that the essential aim of the criminal justice system “shall be their reformation and social rehabilitation.”⁸¹⁵ The Human Rights Committee, the authoritative U.N. body that interprets the ICCPR, has further stated that the ICCPR “imposes on States parties a positive obligation towards persons who are particularly vulnerable because of their status as persons deprived of liberty.”⁸¹⁶ While the ICCPR does allow for the sentencing of imprisoned individuals to “hard” labor, it does not allow for that labor to be exacted under exploitative circumstances that violate basic tenets of human dignity.⁸¹⁷

The conditions of labor inside U.S. prisons invoke protections under international law against slavery, forced labor, as well as cruel, inhuman, and degrading treatment.

The Committee on Economic, Social and Cultural Rights, the authoritative U.N. body that interprets the International Covenant on Economic, Social and Cultural Rights, which the United States has signed

but not ratified, has explicitly stated that forced or compulsory prison labor violates states' obligation to respect prisoners' right to work. The committee said states "are under the obligation to *respect* the right to work by...prohibiting forced or compulsory labour and refraining from denying or limiting equal access to decent work for all persons...including prisoners."⁸¹⁸

The International Labour Organization (ILO) Forced Labour Convention, 1930 (No. 29) requires states parties to "suppress the use of forced or compulsory labor" and defines forced or compulsory labor as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily." However, the Convention excludes the labor exacted from any person as a consequence of a conviction in a court of law, provided that their work "is carried out under the supervision and control of a public authority" and that the person "is not hired to or placed at the disposal of private individuals, companies or associations."⁸¹⁹ The Convention does protect prisoners in privately run prisons or when private entities employ or control prison labor.⁸²⁰

Although the United States has not ratified the Forced Labour Convention (No. 29), the principles enshrined in the latter instrument are still binding. As a member of the ILO, the United States is bound by the ILO's Declaration on Fundamental Principles and Rights at Work, which requires all ILO member states to promote and realize, in good faith, the principle of the elimination of all forms of forced or compulsory labor irrespective of whether an ILO member state has ratified the Forced Labour Convention (No. 29).

The ILO Abolition of Forced Labour Convention, 1957 (No. 105), which the United States ratified in 1991, requires all ratifying countries to immediately and completely abolish any form of forced or compulsory labor (a) as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social, or economic system; (b) as a method of mobilizing and using labor for purposes of economic development; (c) as a means of labor discipline; (d) as a punishment for having participated in strikes; or (e) as a means of racial, social, national, or religious discrimination.⁸²¹

The ILO's Committee of Experts on the Application of Conventions and Recommendations explicitly stated, "This covers prison labor as well as other forms of forced labour involving discrimination."⁸²² Under the treaty, such forced or compulsory labor must be abolished even if the person concerned was convicted in a court of law and "even where the offence giving rise to the punishment is a common offence which does not otherwise come under the protection of Article 1(a), (c), or (d) of the Convention."⁸²³ The Committee of Experts later clarified that the treaty "requires the abolition of any discriminatory distinctions made on racial or other grounds 'in exacting labour' for the purpose of production or service, and that situations in 'which punishment involving compulsory labour' is meted out more severely to certain groups defined in racial and other terms, fall within the scope of the Convention."⁸²⁴

Other authoritative international sources and instruments are relevant to clarifying the rights of incarcerated workers under international



An incarcerated worker mops the floor at the Brewster County Jail in Alpine, Texas.

human rights law. The U.N. Basic Principles for the Treatment of Prisoners, adopted by U.N. General Assembly in 1990, sets forth that “Conditions shall be created enabling prisoners to undertake meaningful remunerated employment which will facilitate their reintegration into the country’s labour market and permit them to contribute to their own financial support and to that of their families.”

⁸²⁵ The Nelson Mandela Rules, adopted in 2015 by the United Nations General Assembly, set forth the international community’s contemporary standards on prisoners’ rights and the role of labor in detention facilities. ⁸²⁶ The earlier Standard Minimum Rules for the Treatment of Prisoners, before the 2015 revision, contained a requirement for all prisoners to work; however, in the version of rules that applies today, the emphasis is on the need for work in prison to be *voluntary* and for the purposes of rehabilitation. ⁸²⁷

Regarding incarcerated women, the Nelson Mandela Rules also have provisions regulating their treatment. ⁸²⁸ Women’s treatment in prison is further regulated by a separate U.N. Guidelines: the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules). Although these rules do not contain any specific regulations regarding women’s work or working conditions, they do stress the reintegration of women into society upon release. ⁸²⁹

The expectations articulated by the Nelson Mandela Rules, the Bangkok Rules, and other authoritative international instruments are grounded in core international standards of human rights and human dignity. Moreover, principles like respect for human dignity and prohibitions on forced and exploitative labor are arguably at the core of established U.S. constitutional protections. Yet when it comes to incarcerated workers, their exclusion from fundamental domestic legal protections, the absence of regulation and accountability, and a thirst for cost-savings and profit, have led the U.S. system of prison labor down a very different path.

In the survey circulated among incarcerated workers as part of this study, 97 percent of respondents expressed their view that work programs in prisons needed to change. Indeed, prison labor in the United States could look different. The following recommendations, if enacted, would help ameliorate the exploitative conditions of workers in U.S. correctional institutions to ensure that these conditions are brought up to par with those of workers elsewhere. These recommendations were developed in consultation with advocates and incarcerated workers interviewed for this report.

Forced Labor—Recommended Reforms

Repeal federal and state constitutional clauses excluding incarcerated people from bans on slavery and forced labor.

- Congress should pass legislation repealing the exception clause of the 13th Amendment to the U.S. Constitution allowing slavery and involuntary servitude to be used as punishment for a criminal conviction, and states should ratify the constitutional amendment.
- The legislatures and voters of the 20 states whose constitutions contain language mirroring the 13th Amendment exclusion of incarcerated people (Alabama, Arkansas, California, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Nevada, North Carolina, North Dakota, Ohio, Oregon, Tennessee, Vermont, and Wisconsin) should pass legislation and approve voter referendums removing these exception clauses from their state constitutions.
- The legislatures and voters of states whose constitutions do not categorically ban slavery and forced labor (such as Florida, New York, New Jersey, and Texas, among others) should pass legislation and approve voter referendums to amend their constitutions to ban slavery and forced labor with no exceptions.

Recommendations

Ensure that all work in prisons is fully voluntary by eliminating any laws and policies that require forced labor or impose adverse consequences on incarcerated workers who are unable or unwilling to work.

- State departments of corrections and the Federal Bureau of Prisons should eliminate rules, policies, and procedures that impose disciplinary measures for work-related infractions such as refusal to work or failure to complete work in a satisfactory manner.
- Ban the use of disciplinary segregation/solitary confinement for work-related infractions.
- Eliminate policies that negatively impact good time, other reductions of sentence, parole eligibility, or otherwise extend a person’s incarceration for refusal to work and other work-related infractions.

Prison authorities should ensure incarcerated workers who seek exemptions from work duties are granted such exemptions when they are unable to carry out their assigned jobs due to illness, injury, disability, or other physical or mental limitations.

- State departments of corrections, the Federal Bureau of Prisons, and prison administrators should adopt policies and comply with existing laws that require:
- Notice to incarcerated people of their right to ask for reasonable modifications due to a disability.

“Can we as a culture say we believe in forgiveness and second chances yet continue to allow these processes to go unchallenged? I say we cannot.”

— Worker incarcerated at Ironwood State Prison

- Policies ensuring that incarcerated people who seek exemptions from work duties are granted such exemptions when they are unable to do their jobs due to illness, injury, disability, or other physical or mental limitations.
- Training for staff on those policies and how to implement them, along with monitoring to ensure that prison health authorities provide approval for work exemptions when incarcerated people are unable to carry out assigned work duties and seek such exemptions.

Arbitrary and Discriminatory Allocation of Work Assignments—Recommended Reforms

Provide reasonable accommodations to incarcerated people with disabilities who wish

to work, to allow them to fully and equally participate in work programs.

- Prison authorities must comply with federal disability rights laws, including the Americans with Disabilities Act and Section 504 of the Rehabilitation Act. All prison activities, programs, and services must be equally accessible to all incarcerated people with disabilities.
- When an incarcerated person with a disability wishes to work or participate in vocational or educational programs, prisons must have a system to provide reasonable modifications to allow them to fully and equally participate in such programs, such as modifying the job requirements to make them accessible.
- While it is possible that some jobs may not be possible to modify for every or any individual (e.g. a job driving a bus is not an option for a blind person), prisons have the obligation to ensure a range of jobs are equally accessible and available to incarcerated people with disabilities.
- Prisons must ensure that they are not excluding people with disabilities from work based on stereotypes or assumptions about people with disabilities.

Adopt laws and policies to ensure work assignments are not allocated or taken away in an arbitrary or discriminatory manner and take incarcerated people’s preferences into account when selecting job assignments.

- State departments of corrections and the Federal Bureau of Prisons should adopt policies that require prison officials to take incarcerated individuals’ preferences into account when selecting job assignments and programming, setting their workload, and before making changes to or taking away their jobs.
- Prison authorities should permit incarcerated individuals to choose education, vocational, or rehabilitation programming in lieu of work

assignments and require equitable pay for those enrolled in such programs.

- State departments of corrections and the Federal Bureau of Prisons should adopt policies ensuring that incarcerated workers’ work assignments are not changed or taken away arbitrarily and provide a meaningful process for incarcerated workers to appeal decisions about their work assignments.
- Correctional institutions should adopt and implement robust measures to eliminate discrimination, racial profiling, sexual harassment and abuse, and arbitrary decision-making by prison officials responsible for allocating job assignments and supervising incarcerated workers on the job.
- Congress should enact legislation that ensures that all incarcerated workers are protected under Title VII of the Civil Rights Act of 1964 and that requires that any grievances related to discrimination in job allocation and treatment are responded to in an efficient and impartial manner by prison authorities.

Work Conditions and Labor Protections—Recommended Reforms

Amend federal and state laws to ensure that incarcerated workers enjoy the standard labor protections available to other workers in the United States with regard to minimum wages, overtime pay, health and safety standards, unionization and collective bargaining, and protection from discrimination and retaliation, among other protections.

- Congress should clarify the meaning of “employee” in all labor-related legislation (including the Fair Labor Standards Act, the National Labor Relations Act, Title VII of the Civil Rights Act of 1964, and the Occupational Safety and Health Act) to explicitly include incarcerated workers within that definition.
- State legislatures should similarly clarify the meaning of “employee” in all labor-related

legislation, including state minimum wage laws, union legislation and collective bargaining laws, health and safety laws, sexual harassment and anti-discrimination laws, to explicitly include incarcerated workers within that definition.

- Congress should enact further legal protections for incarcerated workers considering their particular vulnerabilities as a captive labor force, such as anti-retaliation protections for incarcerated workers who report unsafe working conditions to relevant authorities.

Ensure incarcerated workers are paid prevailing wages no less than the minimum wage of the state where they work and eliminate or limit wage deductions.

- Congress should amend the Fair Labor Standards Act to include incarcerated workers or otherwise pass legislation ensuring that workers in federal prisons are paid prevailing wages no less than the minimum wage of the state where they work or the federal minimum wage, whichever is higher.
- State legislatures should pass legislation ensuring that workers in prisons receive the prevailing wages in the states or territories where they work, no less than the minimum wage of the state where they work.
- Until incarcerated workers are paid the state minimum wage, states and the federal government may phase in the wage increase, starting with a wage of no less than half of the state minimum wage.
- Congress, state legislatures, the Federal Bureau of Prisons, and state departments of corrections should adopt policies eliminating or limiting wage deductions to no more than 20 percent of incarcerated workers' wages, solely to be used to cover legal obligations such as child support. Cease all deductions for room and board, costs of incarceration, prison capital improvement or construction funds, to support prison industries, or to otherwise sustain and expand incarceration.

- Private companies that employ incarcerated workers or otherwise benefit from their labor should ensure that workers are paid prevailing wages for their labor even if employers are not PIECP-certified. Private employers should ensure that wage deductions are limited to no more than 20 percent of workers' wages.

Amend occupational health and safety and workers' compensation laws that exclude most incarcerated workers from their coverage, ensure federal and state occupational health and safety administrations monitor conditions in all workplaces inside prisons, and provide adequate personal protective and safety equipment to incarcerated workers.

- Congress should amend the Occupational Safety and Health Act to include correctional institutions operated by state and local governments as employers under the law.
- The U.S. Department of Labor should issue a regulation granting the Occupational Safety and Health Administration jurisdiction over the labor conditions of all workers incarcerated in federal, state, and local prisons.
- State legislatures should amend state occupational health and safety and workers' compensation laws to include incarcerated workers.
- Federal, state, and local governments should ensure that their respective occupational health and safety administrations conduct routine and comprehensive inspections of all workplaces inside prisons and should make the results of these investigations public.
- Prison authorities should ensure that all incarcerated workers receive adequate personal protective equipment and safety equipment to minimize risks and exposure to hazards that cause workplace injuries and illnesses.

Institute mandatory safety standards and comprehensive safety training programs for all work assignments in correctional institutions.

- Comprehensive safety training should include mandatory safety standards, injury and illness prevention, job-specific training on identified hazards (e.g., industry, construction, agriculture, hazardous chemicals), and proper use of personal protective equipment and safety equipment.
- Correctional institutions should make safety training available as part of orientation in any work assignment and provide supplementary and recurrent training as needed.
- Correctional institutions should ensure that this training is delivered by competent professionals who treat incarcerated workers with respect for their dignity and rights.

Include work performed by incarcerated workers under covered employment eligible for Social Security, Medicare, disability, unemployment insurance, Earned Income Tax Credit, and Child Tax Credit benefits, making it possible for incarcerated workers to earn toward and receive future benefits.

- Congress should amend the Federal Insurance Contributions Act (FICA) to remove the exclusion of work performed by incarcerated workers as covered employment, so that the time incarcerated workers spend working while in prison may contribute toward earning Social Security, Medicare, and Social Security Disability Insurance (SSDI) benefits. Also amend FICA to require employers—either prisons or private businesses employing incarcerated workers—to pay both employer and employee contributions to FICA when incarcerated workers are not earning minimum wage.
- Congress should amend the Social Security Act so that incarcerated workers qualify for four quarters of credit each year to earn Social Security, Medicare, and SSDI benefits when incarcerated workers are not earning minimum wage.
- Congress should amend the Federal Unemployment Tax Act (FUTA), and state legislatures should amend state unemployment statutes to ensure that work performed by incarcerated workers counts toward the accrual of unemployment insurance benefits, so that incarcerated workers receive the same protections as other workers offered by the unemployment insurance system if they cannot find work upon their release from prison or lose their jobs while in prison through no fault of their own.
- State unemployment agencies should interpret existing state unemployment statutes to mean that incarcerated workers will be able to collect unemployment insurance benefits if they are later released from prison and unable to find work.
- Congress should amend the FUTA, and state legislatures should amend state unemployment statutes to waive or adjust base period earnings requirements, so that incarcerated workers being paid below minimum wage will be eligible to earn toward and receive future unemployment insurance benefits.
- The Social Security Administration, the Department of Health and Human Services’ Centers for Medicare and Medicaid Services, the Department of Labor, and state unemployment agencies should adopt or endorse policies that make it possible for incarcerated workers to earn towards and receive Social Security, Medicare, and unemployment insurance benefits, including the waiver or adjustment of base period earnings requirements.
- Congress should amend the Internal Revenue Code to remove the exclusion of wages earned while the worker is incarcerated from the earnings that earn toward the Earned Income Tax Credit and the Child Tax Credit.

Recognize incarcerated people’s right to associate and permit incarcerated workers to form labor unions and bargain collectively so that workers can negotiate improved working conditions for themselves.

- Prison authorities including state departments of corrections, the Federal Bureau of Prisons, and prison administrators should allow incarcerated workers to organize and form or join labor unions, meet regularly, and form collective bargaining units.
- The National Labor Relations Board should declare that incarcerated people are employees who are eligible to join a union.
- State public employee relations boards should declare that incarcerated workers who are employed by the state are public employees who are eligible to join a union.
- State legislatures should amend public employee collective bargaining statutes to include incarcerated workers employed by the state in their definition of “public employee” and to permit the association of incarcerated public employees to engage in collective bargaining.
- Existing labor unions, including public sector unions, should endorse the right of incarcerated workers to join a union.

Work Programs— Recommended Reforms

Invest in valuable work and education programs designed to enhance incarcerated individuals’ prospects of securing employment and becoming self-sufficient upon release.

- The federal and state governments should allocate funding for prison work programs that provide incarcerated workers with marketable skills and training that will help them to find employment after release.
- Programs should provide opportunities for advancement, certifications of completed training,

certifications of work performance achievements, and employment-based recommendation letters from supervisors. Programs should provide vocational training in professions that are forecast for job growth.

- Expand post-release employment services to connect incarcerated workers to long-term employment after their release. Incarcerated workers should be released from prison with a guaranteed, secure job placement.
- The federal and state governments should expand access to post-secondary education in prison by reinstating Pell grants in all U.S. states and territories, to increase employment rates and earnings for the formerly incarcerated.

Access to Remedies—Recommended Reforms

Ensure that incarcerated workers have adequate and speedy access to redress when their rights are violated.

- Congress should repeal the Prison Litigation Reform Act so that incarcerated individuals have equal access to judicial and broader administrative agency (beyond state departments of corrections) avenues for redress when their rights are violated. State legislatures should repeal similar legislation.
- Correctional institutions should eliminate burdensome administrative barriers, such as strict timelines and fees, from internal grievance processes.
- Correctional institutions should ensure that complaints regarding unsafe conditions and abusive staff treatment are processed and addressed by correctional administrators in a timely fashion.
- The federal and state governments should recognize and implement the right of incarcerated individuals to receive workers’ compensation when they are injured or killed on the job.

Reentry Policy—Recommended Reforms

Eliminate occupational licensing restrictions, adopt comprehensive fair-chance hiring policies, and pass ban-the-box statutes to reduce discrimination against formerly incarcerated people and remove barriers to securing employment after release.

- Federal and state governments should eliminate occupational licensing restrictions that categorically disqualify people with convictions. At a minimum, ensure that any licensing restrictions and permanent bans from certain professions are rationally related to the requirements of the job.
- Occupational licensing boards should ensure conviction and arrest records are not an automatic disqualifier from occupational licensing, particularly if the conviction has no relation to the responsibility and qualifications for the license or certification being sought.
- States that have not already done so should adopt comprehensive fair-chance hiring laws or policies for public-sector employment.
- State legislatures that have not already done so should pass ban-the-box statutes prohibiting private employers from asking about an applicant's conviction or arrest record on job applications and requiring private employers to delay inquiring about conviction and arrest history until later in the hiring process, usually after a conditional offer of employment has been made.
- Federal and state governments should monitor the existence of barriers to securing employment and formal and informal discrimination against formerly incarcerated individuals in hiring, access to promotions, and other aspects of the labor market, and should take steps to eliminate those practices.

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Appendix

Number of Incarcerated Workers by State

The following Table A, based on publicly available data and responses to FOIA requests we filed with state departments of corrections, details the number of incarcerated workers in state and federal prisons for the jurisdictions where we were able to

obtain such data. Numerous state departments of corrections and the Federal Bureau of Prisons either did not respond to the FOIA requests we filed or claimed not to be able to provide such data. The year for the data differs by state, which varies from 2018 to 2021 and is specified in the endnotes. The table contains the most recent available data for each state.

TABLE A

State	Number of incarcerated workers	Notes on distribution of jobs by type
Federal prisons	Total not publicly available	16,315 employed in Federal Prison Industries, Inc. (UNICOR) in fiscal year 2021. ⁸³⁰ These UNICOR workers constitute only 8 percent of work-eligible people incarcerated in federal prisons; the rest work in Federal Bureau of Prisons (BOP) institutional jobs to support the running and maintenance of the prison facilities. ⁸³¹ BOP has not published data on institutional job assignments and did not respond to the FOIA request we filed.
Alabama	Total not publicly available	313 work for Alabama Correctional Industries, 955 employed in the work-release program, and 1,485 employed in work centers. ⁸³² The Alabama Department of Corrections has not published data on other work assignments and did not provide the data requested in our FOIA.
Arizona	18,097 ⁸³³	15,035 employed in the Work Incentive Pay Program, which are assignments on prison grounds to support the running and maintenance of the prison facilities. 1,083 work for other local, county, or other state agencies through Intergovernmental Agreements. 1,979 work for Arizona Correctional Industries (ACI), 974 of whom work for outside employers through labor contracts and 1,005 of whom work for ACI-owned and -operated industries.
Arkansas	7,837 ⁸³⁴	2,804 work in agriculture and on “hoe squads,” 1,650 work in building maintenance, 1,272 work in kitchen/food service, 1,959 work as porters, and 421 work for prison industries.
California	64,788 ⁸³⁵	7,048 work for California Industry Prison Authority prison industries, 57,740 work for the California Department of Corrections and Rehabilitation, ⁸³⁶ which includes 1,600 working for conservation fire camps. ⁸³⁷
Colorado	10,392 ⁸³⁸	1,541 work for Colorado Correctional Industries. ⁸³⁹

State	Number of incarcerated workers	Notes on distribution of jobs by type
Florida	Total not publicly available	2,579 work for PRIDE prison industries and about 3,500 work on state road crews and community work squads. ⁸⁴⁰ Florida Department of Corrections has not published data on other work assignments and did not respond to the FOIA request we filed.
Illinois	Total not publicly available	1,120 work for Illinois Correctional Industries each year. ⁸⁴¹
Kansas	Total not publicly available	1,100 work for Kansas Correctional Industries, which constitutes 13 percent of the incarcerated workforce in Kansas prisons. ⁸⁴²
Maryland	13,242 ⁸⁴³	11,726 work for the Maryland Department of Corrections and 1,516 work for Maryland Correctional Enterprises (prison industries).
Missouri	Total not publicly available	1,432 work for Missouri Vocational Enterprises (prison industries). ⁸⁴⁴ Missouri Department of Corrections has not published data on other incarcerated workers and did not respond to the FOIA request we filed.
Montana	16,430 ⁸⁴⁵	About 700 incarcerated workers are employed in Montana Correctional Enterprises, with job assignments in agriculture, wildland fire crews, vehicle restoration services, laundry, canteen, food factories producing meals for public institutions, manufacturing, and other industrial work for government agencies and private sector businesses. ⁸⁴⁶
Nebraska	3,092 ⁸⁴⁷	About 500 incarcerated workers are employed in Cornhusker State Industries (prison industries) per year. ⁸⁴⁸
Nevada	Total not publicly available	1,500 employed per year in the Nevada Division of Forestry conservation camps and 655 work for Silver State Industries (prison industries). ⁸⁴⁹ Nevada Department of Corrections has not published data on other incarcerated workers and did not respond to the FOIA request we filed.
New Hampshire	1,244 ⁸⁵⁰	627 incarcerated workers with unskilled facilities jobs, 284 with skilled facilities jobs, 203 with correctional industries jobs, and 28 with unskilled jobs and two with skilled jobs for entities other than the Department of Corrections.
New York	About 31,000 ⁸⁵¹	1,850 employed in Corcraft, the New York correctional industries program. ⁸⁵²
North Carolina	13,142 ⁸⁵³	5,592 work in unit services performing janitorial and general maintenance duties; 2,624 work in food service, preparing and serving meals; 1,559 work in prison maintenance such as groundskeeping, light construction, repair, and maintenance projects at the prisons; 1,245 work inside the prison in industry jobs for Carolina Correction Enterprises; 161 work on new prison construction projects; and 1,006 have jobs categorized as “other jobs.” ⁸⁵⁴ Up to 73 at a time work as firefighters through the BRIDGE Program, a cooperative effort between the North Carolina Forest Service and the North Carolina Department of Public Safety. ⁸⁵⁵ During fiscal year 2020–2021, jobs outside the prisons were significantly curtailed due to COVID-19 restrictions, and only 207 worked for state and local governments to provide janitorial services and groundskeeping, 204 worked on road squads, and 544 worked on work release. ⁸⁵⁶ Prior to the COVID-19 pandemic, in fiscal year 2019–2020, 466 worked on road squads for the state Department of Transportation, 514 worked on manual labor jobs for state and local governments, and 1,218 were employed in work-release programs. ⁸⁵⁷
North Dakota	1,505 ⁸⁵⁸	About 170 work for Rough Rider Industries (prison industries). ⁸⁵⁹
Ohio	Total not publicly available	1,382 work for Ohio Penal Industries. ⁸⁶⁰ Ohio Department of Rehabilitation & Correction has not published data on other work assignments and did not provide the data requested in the FOIA we filed.

State	Number of incarcerated workers	Notes on distribution of jobs by type
Pennsylvania	30,491 ⁸⁶¹	28,840 work in institutional jobs for the Pennsylvania Department of Corrections; 1,651 work in prison industries jobs.
Rhode Island	2,163 ⁸⁶²	154 work in prison industries jobs.
South Carolina	14,786 ⁸⁶³	13,011 work in institutional jobs; 562 work for the labor crew/work program; 647 work for prison industries private sector; and 566 work for state prison industries.
Tennessee	At least 7,724 ⁸⁶⁴	5,000 work in support services inside the prisons; more than 1,000 work as teacher aides, counselor aides, clerks, and library assistants; and 1,724 work for TRICOR prison industries.
Texas	121,247 ⁸⁶⁵	121,167 incarcerated workers work for the Texas Department of Criminal Justice on duties related to agriculture, industry, maintenance, food services, laundry, and other forms of unit and agency support. ⁸⁶⁶ 2,701 of these workers work for Texas Correctional Industries. ⁸⁶⁷ About 80 people work in the PIECP program.
Virginia	About 16,000 ⁸⁶⁸	1,100 work for Virginia Correctional Enterprises (prison industries).
Washington	8,392 ⁸⁶⁹	6,039 have facilities jobs (Class 3); ⁸⁷⁰ 542 have jobs on community work crews and as forestry/fire camp workers (Class 4); ⁸⁷¹ and 1,811 work for Washington Correctional Industries (Class 2). ⁸⁷² The total figure excludes workers working for private companies through the Prison Industries Enhancement Program (Class 1), as the number has not been made public.
West Virginia	1,010 ⁸⁷³	58 are employed in correctional industries.
Wisconsin	15,724 ⁸⁷⁴	14,284 institutional job assignments; 569 work assignments in Badger State Industries (prison industries); and 871 work-release assignments. These numbers, provided by the Wisconsin Department of Corrections, are the total number of work assignments for calendar year 2021. The actual number of workers with work assignments may be lower because workers may hold more than one work assignment.

The Wages Paid to Incarcerated Workers in Each State and in Federal Prisons

The following Table B, based on publicly available pay scales and wage policies that apply to incarcerated workers in state and federal prisons, as well as responses to FOIA requests we filed with the Federal Bureau of Prisons and state departments of corrections seeking such information, details the wages paid to incarcerated workers in each state and the federal prison system. The table indicates a few instances in which data is not publicly available and the state department of corrections did not respond to our FOIA requests.

The table divides work assignments into two categories: work for state-owned correctional

industries and all non-industry jobs. State-owned correctional industries jobs usually have separate pay scales and generally pay higher wages; these account for about 6.5 percent of prison jobs overall. Non-industry jobs include all jobs operated by state correctional agencies, a broad category that includes prison maintenance work such as janitorial duties, grounds maintenance, food preparation, other kitchen duties, laundry, and repair jobs; a variety of skilled or specialized work assignments; commissary jobs; work camps; and other off-site jobs.

The vast majority of workers have jobs that support the operation of the prison facilities and are generally compensated at the lower end of the non-industry pay scales noted in the table below. The pay scales for non-industry jobs include uncommon jobs that pay at the higher end of the pay scales noted in the table. State departments of correction report non-industry

compensation policies differently—some by the hour, others by the day, week, or the month—and the table follows the format of reported pay scales.

Excluded from this table are work-release jobs and jobs working for private companies through

the Prison Industry Enhancement Certification Program (PIECP); the latter pays prevailing wages by law and constitutes less than 1 percent of all work assignments.

TABLE B

State	Pay scale: Non-industry jobs	Pay scale: Jobs in state-owned correctional industries	Notes
Federal prisons	\$0.12 to \$0.40 per hour ⁸⁷⁵	\$0.23 to \$1.15 per hour ⁸⁷⁶	Only 8 percent of work-eligible people incarcerated in federal prisons have correctional industries jobs with Federal Prison Industries, Inc. (UNICOR). ⁸⁷⁷ The rest work in Federal Bureau of Prisons institutional jobs to support the running and maintenance of the prison facilities and are paid on the non-industry pay scale. ⁸⁷⁸
Alabama	\$0 ⁸⁷⁹	\$0.25 to \$0.75 per hour ⁸⁸⁰	All institutional and community work crew assignments are unpaid. Only workers in work-release or work-center programs and prison industry jobs are paid. ⁸⁸¹
Alaska	\$0.30 to \$0.90 per hour ⁸⁸²	Alaska no longer has a correctional industries program.	Work for long-term construction projects pay up to \$0.75 to \$1.25 per hour. Community work projects pay up to \$1 per hour.
Arizona	\$0.15 to \$0.45 per hour ⁸⁸³	\$0.23 to \$1.00 per hour ⁸⁸⁴	Workers who are not literate are paid \$0.10 per hour.
Arkansas	\$0 ⁸⁸⁵	\$0 ⁸⁸⁶	Correctional agency-operated correctional industry jobs are unpaid; only PIECP jobs in which incarcerated workers are directly employed by private companies are paid. ⁸⁸⁷
California	\$0.08 to \$0.37 per hour ⁸⁸⁸	\$0.35 to \$1.00 per hour ⁸⁸⁹	Laborers are paid \$0.08 to \$0.13 per hour; semi-skilled workers are paid \$0.11 to \$0.18 per hour. Some jobs are unpaid, including vocational student assignments. Firefighters are generally paid \$1.45 per day and \$1 per hour for emergency firefighting.
Colorado	\$0.33 to \$1.61 per hour ⁸⁹⁰	\$0.86 to \$2.49 per hour ⁸⁹¹	Pay differs by job; the majority of jobs pay \$0.86 per hour. Under a new law passed in March 2022, incarcerated workers employed by private companies (“an external program for a private person or entity”) through Colorado Correctional Industries must be paid the state minimum wage. ⁸⁹²
Connecticut	\$0.75 to \$1.75 per day ⁸⁹³	\$0.30 to \$1.50 per hour ⁸⁹⁴	Jobs in prison commissary pay \$0.30 to \$0.90 per hour.
Delaware	Not publicly available	\$0.25 to \$2.00 per hour ⁸⁹⁵	
Florida	\$0 for nearly all jobs; some jobs are paid up to \$50 per month ⁸⁹⁶	\$0.20 to \$0.95 per hour ⁸⁹⁷	Nearly all regular non-industry jobs are unpaid. The only jobs that pay are work-release center assignments, canteen assignments, and staff barbers and staff shoe shiners, which are compensated at a maximum of \$50 per month. Public works jobs are generally unpaid but may be compensated up to \$20 per month. ⁸⁹⁸

State	Pay scale: Non-industry jobs	Pay scale: Jobs in state-owned correctional industries	Notes
Georgia	\$0 ⁸⁹⁹	\$0 ⁹⁰⁰	Nearly all jobs are unpaid, including firefighters and community work crews. ⁹⁰¹ Correctional agency-operated correctional industry jobs are unpaid; only PIECP jobs in which incarcerated workers are directly employed by private companies are paid. ⁹⁰²
Hawaii	\$0.25 to \$1.00 per hour ⁹⁰³	\$0.50 to \$2.50 per hour ⁹⁰⁴	Facility jobs are paid \$0.25 per hour. Community work jobs are paid \$0.25 to \$1.00 per hour.
Idaho	\$0.20 to \$0.90 per hour ⁹⁰⁵	Not publicly available	Non-industry jobs in the prisons are paid \$0.20 to \$0.40 per hour. Work camps pay \$0.50 to \$0.90 per hour. Vocational work crews working outside prisons pay \$0.50 (for low-skilled workers) to \$1.50 (for fire crew lead workers). ⁹⁰⁶
Illinois	\$0.85 to \$2.50 per day ⁹⁰⁷	\$0.30 to \$2.40 per hour ⁹⁰⁸	General laborers (which includes jobs as lawn workers, laundry handlers, janitors, commissary workers, and others) are paid \$0.85 to \$1.10 per day, or \$17 to \$22 per month. Correctional industries jobs in laundry and meat processing are based on pounds laundered/produced.
Indiana	\$0.12 to \$0.25 per hour ⁹⁰⁹	\$0.30 to \$0.55 per hour ⁹¹⁰	
Iowa	\$0.28 to \$0.71 per hour ⁹¹¹	\$0.70 to \$0.95 per hour ⁹¹²	
Kansas	\$0.45 to \$1.05 per day ⁹¹³	\$0.25 to \$3.00 per hour ⁹¹⁴	
Kentucky	\$0.48 to \$1.58 per day ⁹¹⁵	Not publicly available	Four-hour jobs are paid at \$0.48 to \$0.97 per day; eight-hour jobs are paid at \$0.79 to \$1.58 per day. Special assignments are \$1.21 to \$2.42 per day.
Louisiana	\$0.02 to \$0.04 per hour ⁹¹⁶	\$0.02 to \$0.40 per hour ⁹¹⁷	Work in cellblocks and field lines pays \$0.02 per hour. Vocational programs pay \$0.04 per hour. Legal workers and educational tutors are paid on a different pay scale, at \$0.25 to \$0.80 per hour. ⁹¹⁸ Some incarcerated workers must work for an initial period of up to three years without pay until they are eligible to be paid. ⁹¹⁹ Eligible incarcerated people may choose between earning a wage and receiving “good time” credits off their sentence. ⁹²⁰
Maine	\$0 to \$220 per month ⁹²¹	\$0.50 to \$2.80 per hour ⁹²²	Pay varies by prison. Some prisons do not pay at all for laundry, kitchen, cleaning, and grounds-keeping work.
Maryland	\$0.90 to \$2.75 per day ⁹²³	\$0.17 to \$1.16 per hour ⁹²⁴	Jobs classified as unskilled pay \$0.90 to \$1.15 per day; semi-skilled are paid \$0.95 to \$1.25 per day; skilled are paid \$1.05 to \$1.35 per day.
Massachusetts	\$1 to \$2 per day generally; \$5 to \$25 per week ⁹²⁵	\$0.40 to \$1.55 per hour ⁹²⁶	Pay varies by prison.
Michigan	\$0.74 to \$1.77 per day ⁹²⁷	Not publicly available	The standard pay scale is \$0.74 to \$1.77 per day. Food service jobs are paid \$0.18 to \$0.38 per hour. Jobs with advanced education/training pay \$2.08 to \$3.34 per day.

State	Pay scale: Non-industry jobs	Pay scale: Jobs in state-owned correctional industries	Notes
Minnesota	\$0.25 to \$1.00 per hour ⁹²⁸	\$0.50 to \$2.00 per hour ⁹²⁹	
Mississippi	\$0 for most jobs ⁹³⁰	\$0.20 to \$1.30 per hour ⁹³¹	Unpaid jobs include unit maintenance workers, dining hall workers, tutors for literacy, chaplain workers, gym workers, administrative workers, central kitchen, and infirmary workers, among others. Instead, eligible incarcerated workers may earn Meritorious Earned Time or Trusty Earned Time for a reduction of sentence for satisfactory participation in selected work programs. ⁹³²
Missouri	\$7.50 to \$8.50 per month ⁹³³	\$0.30 to \$0.71 per hour ⁹³⁴	
Montana	\$0.35 to \$0.45 per hour, \$1.25 to \$4.50 per day ⁹³⁵	\$0.40 to \$0.60 per hour, \$1.70 to \$5.00 per day ⁹³⁶	Most wages are set daily, while others such as food service and laundry jobs are set daily.
Nebraska	\$1.21 to \$4.72 per day; \$0.38 to \$1.50 per hour ⁹³⁷	\$0.38 to \$1.08 per hour ⁹³⁸	Most non-industry jobs are paid per day. Laborers are paid \$1.21 per day, and skilled non-industry workers are paid \$2.24 per day. Health porters and workers on designated work detail are the only non-industry workers who are paid hourly.
Nevada	\$0 for some jobs; pay scale for paid jobs is not publicly available ⁹³⁹	\$0.35 to \$4.50 per hour ⁹⁴⁰	A number of jobs in the prison facilities are unpaid, including porter and maintenance jobs. ⁹⁴¹ The pay scale for the 1,682 jobs paid by the Nevada Department of Corrections is not publicly available. ⁹⁴² Industry jobs in hanger operations pay \$10 per day, and jobs in the cardroom pay per completed case or pallet built. ⁹⁴³ Jobs with the Nevada Division of Forestry conservation camps pay \$2.10 per day for natural resource projects and \$24 per day for fighting wildland fires. ⁹⁴⁴ Incarcerated workers employed by the State Public Works Division, Buildings and Grounds Section are paid an average rate of \$1.32 per hour, while workers employed on Department of Transportation work crews are paid \$2.23 per day. ⁹⁴⁵
New Hampshire	\$0.85 to \$3.00 per day ⁹⁴⁶	\$1 to \$5 per day ⁹⁴⁷	
New Jersey	\$1.30 to \$1.60 per day ⁹⁴⁸	\$1.30 to \$10.00 per day ⁹⁴⁹	Wages for non-industry jobs are for general job assignments and are sourced from a 1990 New Jersey Department of Corrections policy that was still in effect in 2017 and may be outdated; no revised pay scale has been made public since then.
New Mexico	\$0.10 to \$1.00 per hour ⁹⁵⁰	\$0.30 to \$1.10 per hour ⁹⁵¹	Maintenance jobs pay \$0.10 to \$0.60 per hour.
New York	\$0.10 to \$0.33 per hour ⁹⁵²	\$0.16 to \$0.65 per hour ⁹⁵³	Food service workers are paid \$0.16 to \$0.25 per hour. ⁹⁵⁴ A small number of jobs classified as Grade 5 are paid a flat rate of \$2.00 per day. ⁹⁵⁵
North Carolina	\$0.40 to \$1.00 per day ⁹⁵⁶	No more than \$3.00 per day ⁹⁵⁷	An incentive wage of up to \$3.00 per day is paid for jobs that require special skill or training; this includes workers assigned to correctional enterprises and the construction program.

State	Pay scale: Non-industry jobs	Pay scale: Jobs in state-owned correctional industries	Notes
North Dakota	\$1.55 to \$7.07 per day ⁹⁵⁸	\$0.45 to \$1.79 per hour ⁹⁵⁹	
Ohio	\$6 to \$24 per month ⁹⁶⁰	\$0.23 to \$1.35 per hour ⁹⁶¹	Assignments pay at least \$6 per month for less than 60 hours per month, at least \$9 per month for 60 to 89 hours per month, at least \$12 per month for 90-139 hours per month, and \$12 to \$22 per month for at least 140 hours per month. Up to 3 percent of the institution's population may be paid \$24 per month for full-time assignments requiring a great degree of skill or responsibility.
Oklahoma	\$7.23 to \$14.45 per month ⁹⁶²	\$0.20 to \$0.60 per hour ⁹⁶³	Some jobs that require a higher skill level, such as mechanics or law clerks, may be paid \$27.09 per month. ⁹⁶⁴
Oregon	See note	\$8 to \$82 per month ⁹⁶⁵	Oregon does not pay wages to incarcerated workers. Compensation is paid via the Performance Recognition and Award system, through which workers may receive points that may be converted to a monthly monetary award. ⁹⁶⁶
Pennsylvania	\$0.19 to \$0.51 per hour ⁹⁶⁷	\$0.19 to \$0.51 per hour ⁹⁶⁸	
Rhode Island	\$0.50 to \$3.00 per day ⁹⁶⁹	\$1.50 to \$3.00 per day ⁹⁷⁰	
South Carolina	\$0 for nearly all jobs ⁹⁷¹	\$0 to \$2.00 per hour ⁹⁷²	All institutional jobs, some traditional correctional industries jobs, and on community labor crews are not paid any wage. As of June 2018, the most recent available data, more than 90 percent of South Carolina's 14,786 incarcerated workers had these unpaid job assignments. ⁹⁷³ Workers in the prison industries service program are paid \$0.35 to \$2.00 per hour.
South Dakota	\$0.25 per hour ⁹⁷⁴	\$0.25 to \$0.50 per hour ⁹⁷⁵	All institutional assignments pay \$0.25 per hour; all prison industries workers also start at \$0.25 per hour. Only people assigned to construction work for the South Dakota Housing Development Authority are paid \$0.40 to \$0.50 per hour, and firefighters assigned to wildland fire duties are paid \$12 per day. Staff may assign incarcerated people duties without pay.
Tennessee	\$0.17 to \$0.59 per hour ⁹⁷⁶	Not publicly available ⁹⁷⁷	Jobs classified as unskilled are paid \$0.17 to \$0.34 per hour; semi-skilled are paid \$0.25 to \$0.42 per hour; and highly skilled are paid \$0.42 to \$0.59 per hour.
Texas	\$0 ⁹⁷⁸	\$0 ⁹⁷⁹	Only PIECP workers employed by contracting private companies are paid wages. ⁹⁸⁰ An exception to this policy was granted to incarcerated workers tasked with working in mobile morgues during COVID-19, who were paid \$2 per hour after refusing to work unpaid. ⁹⁸¹
Utah	Not publicly available	\$0.60 to \$1.75 per hour ⁹⁸²	

State	Pay scale: Non-industry jobs	Pay scale: Jobs in state-owned correctional industries	Notes
Vermont	\$0.25 per hour ⁹⁸³	\$0.25 to \$1.35 per hour ⁹⁸⁴	Most job assignments pay no more than \$0.25 per hour. Community Service Crews working on contracts processed by the Correctional Industries Division can be paid up to \$0.40 per hour. Food service assignments with regular seven-days-per-week schedules may be paid the same as correctional industries jobs with the same schedule. Most correctional industries jobs are paid \$0.25 to \$0.85 per hour; mentor/team leaders may be paid up to \$1.25 per hour.
Virginia	\$0.27 to \$0.45 per hour ⁹⁸⁵	\$0.55 to \$0.80 per hour ⁹⁸⁶	
Washington	No more than \$55 per month ⁹⁸⁷	\$0.70 to \$2.70 to hour ⁹⁸⁸	Compensation for workers assigned to blood/body fluid or potentially infectious material cleanup will not exceed \$2.40 for each cleanup.
West Virginia	\$13 to \$71 per month ⁹⁸⁹	\$0.25 to \$1.25 per hour ⁹⁹⁰	
Wisconsin	\$0.12 to \$0.42 per hour ⁹⁹¹	\$0.97 per hour on average ⁹⁹²	Industry workers employed as agricultural and logistics workers with the Bureau of Correctional Enterprises earn \$1.22 per hour. ⁹⁹³
Wyoming	\$0.35 to \$1.00 per hour ⁹⁹⁴	\$0.50 to \$1.20 per hour ⁹⁹⁵	

Calculated Average and Hourly Wages Paid to Incarcerated Workers

The following Table C details the average and hourly wages paid to incarcerated workers, with calculated hourly wages for the state departments of correction that report compensation policies by the day, week, or the month. For states that report wages on a daily,

weekly, or monthly basis, the authors calculated hourly rates based on work hours per day and work days per month, based on the state's published policies on work hours. For the states where the authors could not find published information on work hours, we assumed 22 work days per month, an average work day of 6.35 hours per day for non-industry jobs, and an average work day of 6.79 hours per day for industry jobs. The table below uses the same sources as the detailed wage table in Table B.

TABLE C
Calculated average and hourly wages paid to incarcerated workers

State	Pay scale: non-industry jobs	Pay scale: Jobs in state-owned correctional industries
Federal Prisons	\$0.12 to \$0.40 per hour	\$0.23 to \$1.15 per hour
Alabama	\$0	\$0.25 to \$0.75 per hour
Alaska	\$0.30 to \$0.90 per hour	N/A
Arizona	\$0.15 to \$0.45 per hour	\$0.23 to \$1.00 per hour
Arkansas	\$0	\$0
California	\$0.08 to \$0.37 per hour	\$0.35 to \$1.00 per hour

State	Pay scale: non-industry jobs	Pay scale: Jobs in state-owned correctional industries
Colorado	\$0.33 to \$1.61 per hour	\$0.86 to \$2.49 per hour
Connecticut	\$0.12 to \$0.90 per hour	\$0.30 to \$1.50 per hour
Delaware	N/A	\$0.25 to \$2.00 per hour
Florida	\$0 to \$0.32 per hour	\$0.20 to \$0.95 per hour
Georgia	\$0996	\$0997
Hawaii	\$0.25 to \$1.00 per hour	\$0.50 to \$2.50 per hour
Idaho	\$0.20 to \$0.90 per hour	N/A
Illinois	\$0.13 to \$0.39 per hour	\$0.30 to \$2.40 per hour
Indiana	\$0.12 to \$0.25 per hour	\$0.30 to \$0.55 per hour
Iowa	\$0.28 to \$0.71 per hour	\$0.70 to \$0.95 per hour
Kansas	\$0.06 to \$0.13 per hour ⁹⁹⁸	\$0.25 to \$3.00 per hour
Kentucky	\$0.10 to \$0.30 per hour ⁹⁹⁹	N/A
Louisiana	\$0.02 to \$0.04 per hour	\$0.02 to \$0.40 per hour
Maine	\$0 to \$1.57 per hour	\$0.50 to \$2.80 per hour
Maryland	\$0.14 to \$0.43 per hour	\$0.17 to \$1.16 per hour
Massachusetts	\$0.16 to \$0.79 per hour	\$0.40 to \$1.55 per hour
Michigan	\$0.12 to \$0.38 per hour ¹⁰⁰⁰	N/A
Minnesota	\$0.25 to \$1.00 per hour	\$0.50 to \$2.00 per hour
Mississippi	\$0 for most jobs	\$0.20 to \$1.30 per hour
Missouri	\$0.05 to \$0.06 per hour	\$0.30 to \$0.71 per hour
Montana	\$0.16 to \$1.12 per hour ¹⁰⁰¹	\$0.21 to \$1.25 per hour
Nebraska	\$0.16 to \$1.50 per hour ¹⁰⁰²	\$0.38 to \$1.08 per hour
Nevada	\$0.00 to N/A	\$0.35 to \$4.50 per hour
New Hampshire	\$0.21 to \$1.00 per hour ¹⁰⁰³	\$0.25 to \$1.60 per hour ¹⁰⁰⁴
New Jersey	\$0.20 to \$0.25 per hour	\$0.38 to \$2.00 per hour
New Mexico	\$0.10 to \$1.00 per hour	\$0.30 to \$1.10 per hour
New York	\$0.10 to \$0.33 per hour	\$0.16 to \$0.65 per hour
North Carolina	\$0.05 to \$0.13 per hour	\$0.05 to \$0.38 per hour
North Dakota	\$0.19 to \$0.88 per hour ¹⁰⁰⁵	\$0.45 to \$1.79 per hour
Ohio	\$0.10 to \$0.17 per hour ¹⁰⁰⁶	\$0.23 to \$1.35 per hour
Oklahoma	\$0.05 to \$0.10 per hour	\$0.20 to \$0.60 per hour
Oregon	N/A	\$0.05 to \$0.47 per hour
Pennsylvania	\$0.19 to \$0.51 per hour	\$0.19 to \$0.51 per hour
Rhode Island	\$0.08 to \$0.47 per hour	\$0.22 to \$0.44 per hour
South Carolina	\$0 for nearly all jobs	\$0 to \$2.00 per hour
South Dakota	\$0.25 per hour	\$0.25 to \$0.50 per hour
Tennessee	\$0.17 to \$0.59 per hour	N/A
Texas	\$0	\$0
Utah	N/A	\$0.60 to \$1.75 per hour
Vermont	\$0.25 per hour	\$0.25 to \$1.35 per hour
Virginia	\$0.27 to \$0.45 per hour	\$0.55 to \$0.80 per hour

State	Pay scale: non-industry jobs	Pay scale: Jobs in state-owned correctional industries
Washington	N/A to \$0.39 per hour	\$0.70 to \$2.70 to hour
West Virginia	\$0.09 to \$0.51 per hour	\$0.25 to \$1.25 per hour
Wisconsin	\$0.12 to \$0.42 per hour	\$0.97 per hour on average
Wyoming	\$0.35 to \$1.00 per hour	\$0.50 to \$1.20 per hour
Average	\$0.13 to \$0.52 per hour	\$0.30 to \$1.30 per hour

Endnotes

- 1 U.S. CONST. amend. XIII (“Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction”).
- 2 U.S. Dep’t of Justice, Bureau of Justice Statistics, Survey of Prison Inmates, United States, 2016. Inter-university Consortium for Political and Social Research [distributor], (Sept. 2021), <https://doi.org/10.3886/ICPSR37692.v4>. This figure is based on the American Civil Liberties Union’s (ACLU) analysis of the published raw survey data.
- 3 See, e.g., Wallace v. Robinson, 940 F.2d 243, 246-7 (7th Cir. 1991); Williams v. Meese, 926 F.2d 994, 998 (10th Cir. 1991).
- 4 California Department of Corrections and Rehabilitation (CDCR), *Conservation (Fire) Camps*, <https://www.cdcr.ca.gov/conservation-camps/>.
- 5 The following states replied to the Freedom of Information Act (FOIA) requests, with varying degrees of responsiveness: Alabama, Colorado, Illinois, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Montana, Nebraska, New Hampshire, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Utah, Washington, West Virginia, Wisconsin and Wyoming. The remaining states did not respond to the FOIA requests.
- 6 U.S. Dep’t of Justice, Bureau of Justice Statistics, Survey of Prison Inmates, United States, 2016. Inter-university Consortium for Political and Social Research [distributor], (Sept. 2021), <https://doi.org/10.3886/ICPSR37692.v4>.
- 7 According to the Prison Policy Initiative in 2022, there are almost 2 million people held behind bars, including roughly 1,042,000 in state prisons, 547,000 in local jails, and 208,000 in federal prisons and jails. See, Prison Policy Initiative, *Mass Incarceration: The Whole Pie 2022*, by Wendy Sawyer and Peter Wagner (Mar. 14, 2022), <https://www.prisonpolicy.org/reports/pie2022.html>.
- 8 According to the Bureau of Justice Statistics prison census, 98.7 percent of state and federal public adult correctional facilities offer work programs for people incarcerated in those facilities, while 89.7 percent of private facilities offered such programs as of midyear 2019. The work programs measured include facility support services to maintain the prisons where workers are confined; prison industries; public work assignments; and farming or agriculture. U.S. Dep’t of Justice, Bureau of Justice Statistics, Census of State and Federal Adult Correctional Facilities, 2019 – Statistical Tables (Nov. 2021) at 13, <https://bjs.ojp.gov/content/pub/pdf/csfac19st.pdf>.
- 9 U.S. Dep’t of Justice, Bureau of Justice Statistics, *Prisoners in 2020—Statistical Tables* (Dec. 2021) at 7, <https://bjs.ojp.gov/content/pub/pdf/p20st.pdf>. See also Prison Policy Initiative, *Mass Incarceration: The Whole Pie 2022*, by Wendy Sawyer and Peter Wagner (Mar. 14, 2022), <https://www.prisonpolicy.org/reports/pie2022.html>.
- 10 U.S. Dep’t of Justice, Bureau of Justice Statistics, Survey of Prison Inmates, United States, 2016. Inter-university Consortium for Political and Social Research [distributor], (Sept. 2021), <https://doi.org/10.3886/ICPSR37692.v4>. This estimate is based on ACLU analysis of the published raw survey data.
- 11 *Id.* This estimate is based on ACLU analysis of the published raw survey data, which revealed that 65.1 percent of survey respondents reported having a work assignment. We applied this percentage to the most recently published data on the state and federal prison population, which totaled 1,215,821 at yearend 2020, according to data from the Bureau of Justice Statistics published in December 2021, arriving at an estimated 791,499 incarcerated workers. U.S. Dep’t of Justice, Bureau of Justice Statistics, *Prisoners in 2020—Statistical Tables* (Dec. 2021) at 7, <https://bjs.ojp.gov/content/pub/pdf/p20st.pdf>.
- 12 The Sentencing Project, *The Color of Justice: Racial and Ethnic Disparity in State Prisons* (Oct. 13, 2021), <https://www.sentencingproject.org/wp-content/uploads/2016/06/The-Color-of-Justice-Racial-and-Ethnic-Disparity-in-State-Prisons.pdf>.
- 13 U.S. Dep’t of Justice, Bureau of Justice Statistics, Survey of Prison Inmates, United States, 2016. Inter-university Consortium for Political and Social Research [distributor], (Sept. 2021), <https://doi.org/10.3886/ICPSR37692.v4>. This figure is based on ACLU analysis of the raw survey data.
- 14 *Id.* These percentages are based on ACLU analysis of the raw survey data. Because some of these Bureau of Justice Statistics survey categories likely encompass a proportionately small percentage of workers engaged in work outside the prison on public works assignments, such as in forestry, groundskeeping, maintenance, or road maintenance, we estimate that the percentage of incarcerated people working to maintain the prisons is somewhat lower than their sum of 86.1 percent.
- 15 Data is for fiscal year 2008. National Correctional Industries Association (NCIA), *2009 NCIA Directory* (Baltimore, MD: NCIA, 2009).
- 16 Telephone interview with Wil Heslop, interim executive director, National Correctional Industries Association (NCIA), Nov. 18, 2021, citing 2021 NCIA Directory.
- 17 Many states require their state agencies and entities to purchase goods and services from their correctional industry. See, e.g., Wis. Stat. § 303.01 Va. Code Ann. § 53.1-59; see also Ill. Comp. Stat. 5/3-12-7 (2010). See also Illinois Correctional Industries, *FAQ: Frequently Asked Questions* (2015) <http://www.icicatalog.illinois.gov/documents/faq.pdf>.
- 18 Otak, *Coffee Creek Correctional Facility* (2020), <https://www.otak.com/about/projects/coffee-creek-correctional-facility/>; Todd Clear, Michael Riesig, and George Cole, *American Corrections* (Boston: Cengage Learning, 2019).
- 19 These states are Alabama, Alaska, Arizona, Arkansas, California, Connecticut, Florida, Georgia, Hawaii, Idaho, Indiana, Illinois, Iowa, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.
- 20 U.S. Dep’t of Justice, Bureau of Justice Statistics, Census of State and Federal Adult Correctional Facilities, 2019 – Statistical

- Tables (Nov. 2021) at 3, 13, <https://bjs.ojp.gov/content/pub/pdf/csfacf19st.pdf>. In 2005, the last year for which such data was made public, over half of these prisons were located in the South. Of 798 correctional facilities with public works programs in 2005, 447 were located in the South, 98 in the Northeast, 133 in the Midwest, and 120 in the West. U.S. Dep't of Justice, Bureau of Justice Statistics, Census of State and Federal Correctional Facilities, 2005 (Oct. 2008) at Appendix Table 16, <https://bjs.ojp.gov/content/pub/pdf/csfcf05.pdf>.
- 21 U.S. Dep't of Justice, Bureau of Justice Statistics, Survey of Inmates in State Correctional Facilities, 2004 (Feb. 2007), <https://bjs.ojp.gov/data-collection/survey-inmates-state-correctional-facilities-sisfcf>.
- 22 Ben Conark, *Work Forced: A Century Later, Unpaid Prison Labor Continues to Power Florida*, FLORIDA TIMES-UNION (May 26, 2019), <https://stories.usatodaynetwork.com/workforced/>.
- 23 North Carolina Department of Public Safety, *Fiscal Year 2019-2020 Annual Statistical Report* (2020) at 16-17, <https://files.nc.gov/ncdps/FY-2019-20-Annual-Statistical-Report.pdf>.
- 24 Arizona Department of Corrections Rehabilitation and Reentry, *Corrections at a Glance, February 2022* (Mar. 8, 2022), <https://corrections.az.gov/sites/default/files/REPORTS/CAG/2022/cagfeb-22.pdf>.
- 25 Total hours logged by incarcerated workers on community labor through their work on fire crews, public sector work crews, and Arizona Department of Transportation work crews was 1,829,348 in FY 2020. Arizona Department of Corrections, *Corrections at a Glance, June 2020* <https://corrections.az.gov/sites/default/files/REPORTS/CAG/2020/cagjune-20.pdf>.
- 26 Washington State Department of Corrections (WDOC), *Participation by Program Summary* (2020), <https://www.doc.wa.gov/docs/publications/reports/700-SR002-second-quarter.pdf>; WDOC, *Class IV Off-Site Work Crew*, Policy Document 700.400 (2019), <https://www.doc.wa.gov/information/policies/files/700400.pdf>.
- 27 Mississippi Department of Corrections, *Inmate Work Crews*, <https://www.mdoc.ms.gov/Institutions/Pages/Inmate-Work-Crews.aspx>.
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- 61 Incarcerated workers do not qualify for the Earned Income Tax Credit (EITC) and the Child Tax Credit (CTC) because Congress explicitly excluded any wages earned while the person is incarcerated from the earnings that earn towards the EITC and the CTC. §32(c)(2)(B)(iv); §24(d)(1)(B)(i). See also Stephanie Hunter McMahon, *Prison Work is Taxing and Should Be Taxed*, manuscript in preparation, 2022 (on file with authors).
- 62 The vast majority of incarcerated workers labor within correctional institutions operated by state and local governments, which are not considered “employers” under OSHA. See 29 U.S.C. § 652(5)-(6) (“(5) The term “employer” means a person engaged in a business affecting commerce who has employees, but does not include the United States (not including the United States Postal Service) or any State or political subdivision of a State. (6) The term “employee” means an employee of an employer who is employed in a business of his employer which affects commerce.”). See also U.S. Department of Labor, OSHA, Standard Interpretations, in letter to William Linn, *Clarification on whether an employer with multiple facilities needs a separate written ECP for each facility*, Standard number 1910.1030; 1960 (2011), <https://www.osha.gov/laws-regs/standardinterpretations/2011-12-13> (“Federal OSHA does not cover state or local government-operated prisons.”). See also U.S. Department of Labor, OSHA, Standard Interpretations, in letter to Deleon James Mintz, *OSHA Does Not Have Jurisdiction Over State Employees or Inmates*, Standard number 1975.5 (1992), <https://www.osha.gov/laws-regs/standardinterpretations/1992-12-16-1> (“The definition of an ‘employer’ under Section 3(5) of the Occupational Safety and Health Act specifically excludes a State or any political subdivision of a State from coverage under the OSHA Act. Therefore, OSHA does not have jurisdiction over the State of Colorado or its employees, including inmates in correctional institutions, either paid or nonpaid.”). However, according to an OSHA instruction from 1995, “when inmates are required to perform work similar to that outside of prisons, e.g., farming, industries, machine operations, etc., the applicable protections open to anyone else in similar situations should apply, including the right to file a report of hazards with appropriate safety and health officials.” See U.S. Department of Labor, OSHA Directives, *Federal Agency Safety and Health Programs with the Bureau of Prisons*, U.S. Department of Justice, Directive number FAP 01-00-002 (1995), <https://www.osha.gov/enforcement/directives/fap-01-00-002>.
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- employee. New York State Department of Labor, *Public Employee Safety and Health Field Operations Manual* (2021), <https://dol.ny.gov/system/files/documents/2021/04/peshfom.pdf>; N.Y. Lab. Law § 27-a (McKinney). Virginia Occupational Safety and Health (VOSH) interprets the exclusion of incarcerated individuals as employees under the Virginia Minimum Wage Act, § 40.1-28.9 to extend to VOSH. However, it considers VOSH to be responsible for prisoners employed by a public employer in a work-release program. Virginia Department of Labor and Industry, Virginia Occupational and Health Program, *VOSH Administrative and Regulations Manual* (Sep. 21, 2006), https://www.vaasphalt.org/wp-content/uploads/2012/10/DOLI_Admin_Regs_Manual_hitching_ride_on_paver_issue.pdf. In California, unlike other states, California Division of Occupational Safety and Health Administration (Cal/OSHA) may make recommendations to the Department of Corrections to improve the safety of the working conditions and work areas of state prisoners. Cal/OSHA may also conduct hearings and adopts special orders, rules, or regulations if the Department of Corrections and Rehabilitation fails to comply with recommendations. Cal. Code Regs. tit. 8, § 344.46.
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- 404 *See, e.g., United States v. Reynolds*, 235 U.S. 133, 149 (1914) (“There can be no doubt that the State has authority to impose involuntary servitude as a punishment for crime”); *Pollock v. Williams*, 322 U.S. 4, 17 (1944) (“Forced labor has been sustained as a means of punishing crime”). *See also Williams v. Henagan*, 595 F.3d 610 (5th Cir. 2010); *Murray v. Mississippi Department Of Corrections*, 911 F.2d 1167 (5th Cir. 1990); *Vanskiike v. Peters*, 974 F.2d 806, 809 (7th Cir. 1992) (“The Thirteenth Amendment excludes convicted criminals from the prohibition of involuntary servitude, so prisoners may be required to work... Further, there is no constitutional right to compensation for such work; compensation for prison labor is “by Grace Of The State””); *Ruark v. Solano*, 928 F.2d 947, 949–50 (10th Cir. 1991) (“The thirteenth amendment’s restriction on involuntary servitude does not apply to prisoners”), overruled on other grounds by *Lewis v. Casey*, 518 U.S. 343 (1996); *Omasta v. Wainwright*, 696 F.2d 1304, 1305 (11th Cir. 1983) (holding “that where a prisoner is incarcerated pursuant to a presumptively valid judgment and commitment order issued by a court of competent jurisdiction and is forced to work pursuant to prison regulations or state statutes, the Thirteenth Amendment’s prohibition against involuntary servitude is not implicated”); *Draper v. Rhay*, 315 F.2d 193, 197 (9th Cir. 1963) (“Prison rules may require appellant to work but this is not the sort of involuntary servitude which violates Thirteenth Amendment rights...where a person is duly tried, convicted, sentenced and imprisoned for crime in accordance with law, no issue of peonage or involuntary servitude arises”).
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- 407 Ca. Const. art. 1, § VI
- 408 28 C.F.R. § 545.20(a)(2) (2020).
- 409 *See* U.S. Dep’t of Justice, Bureau of Justice Statistics, Data Collected Under the First Step Act, 2019, at 12 (Mar. 2020), <https://bjs.ojp.gov/content/pub/pdf/dcfesa19.pdf>.
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- 412 28 C.F.R. § 541.3 (2020).
- 413 *See* 28 C.F.R. § 541.3 (2020).
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- 491 *Serra v. Lappin*, 600 F.3d 1191 (9th Cir. 2010).
- 492 The exclusion of prison workers is not explicitly provided for in the FLSA but has developed from judicial precedent. There has been no specific guidance from Congress or the Supreme Court as to whether the language of FLSA is meant to exclude incarcerated workers from its protections. However, most appellate courts have ruled that prison workers are excluded from the definition of “employee” in that Act, thereby excluding them from protection. *See* Timothy M. Hall, *Coverage, Under Fair Labor Standards Act (FLSA)* (29 U.S.C.A. § 201 et seq.), of Prisoners Working for Private Individuals or Entities Other Than Prisons, 110 A.L.R. FED. 839, 2a (2018); Matthew J. Lang, *The Search for a Workable Standard for When Fair Labor Standards Act Coverage Should be Extended to Prisoner Workers*, 5 U. PA. J. BUS. L. 19 (2002); Renee Elaine Henson, *Picking Cotton for Pennies: An Exploration into the Law's Modern Endorsement of a Free-Prison Workforce*, 2 BUS. ENTREPRENEURSHIP & TAX L. REV. 193, 200–01 (2018).
- 493 *See, e.g., Ndambi v. CoreCivic, Inc.*, 990 F.3d 369 (4th Cir. 2021) (affirming the district court's dismissal of an action brought by ICE detainees to recover wages under the FLSA for work performed while detained, on the grounds that the FLSA does not apply to custodial settings); *Harker v. State Use. Indus.*, 990 F.2d 131 (4th Cir. 1993) (rejecting the prisoners' claim by distinguishing the employee-employer relationship covered in the FLSA from the “custodial relationship” of incarcerated workers); *Sanders v. Hayden*, 544 F.3d 812, 814 (7th Cir. 2008) (noting that the 2nd, 3rd, 4th, 7th, 8th, 11th, and D.C. Circuits had all held that prisoners are not covered by the FLSA); *Bennett v. Frank*, 395 F.3d 409, 409–10 (7th Cir. 2005); *Villarreal v. Woodham*, 113 F.3d 202, 205–07 (11th Cir. 1997); *Gambetta v. Prison Rehab. Indus. & Diversified Enters.*, 112 F.3d 1119, 1124–25 (11th Cir. 1997); *Henthorn v. Dep't of Navy*, 29 F.3d 682, 687 (D.C. Cir. 1994); *Harker*, 990 F.2d at 133–36; *Vanshike*, 974 F.2d at 807–12; *Gilbreath v. Cutter Biological Inc.*, 931 F.2d 1320, 1324–27 (9th Cir. 1991). The Fifth circuit has developed a more nuanced posture, using the “economic reality” from the Supreme Court test in *Goldberg v. Whitaker House Coop.* to determine whether incarcerated workers are under an employer-employee relationship. *See, e.g., Henagan*, 595 F.3d at 620; *Watson v. Graves*, 909 F.2d 1549, 1553-56 (5th Cir. 1990) (holding that prisoners who had not been sentenced to hard labor and were employed by a private firm while on work release were “employees” of the private employer for the purposes of FLSA coverage). The “economic reality” test originates in the Supreme Court's holding that “economic reality” should govern the determination of employer status under the FLSA. *Goldberg v. Whitaker House Coop.*, 366 U.S. 28, 33, 81 S. Ct. 933, 936 (1961).
- 494 Data is calculated from the three-state survey conducted by the ACLU and the Global Human Rights Clinic.
- 495 Prison Policy Initiative, *How Much Do Incarcerated People Earn In Each State?*, by Wendy Sawyer (Apr. 10, 2017), <https://www.prisonpolicy.org/blog/2017/04/10/wages/>.
- 496 West Virginia Division of Corrections, Policy Directive 111.06, *Financial Responsibility Program for Inmates* (Nov. 1, 2014), FOIA response document (on file with authors).
- 497 Nevada Senate Bill 22, <https://www.leg.state.nv.us/App/NELIS/REL/81st2021/Bill/7197/Overview>; Nev. Rev. S. 209.247; Sean Golonka, *Inmate Advocates and Family Members Seek to Lower Deductions from Offender Accounts*, NEVADA INDEPENDENT (Mar. 4, 2021), <https://thenevadaindependent.com/article/inmate-advocates-and-family-members-seek-to-lower-deductions-from-offender-accounts>; Dana Gentry, *Cannizzaro Challenges Prison Director on Inmate Money Seizures*, NEVADA CURRENT (Mar. 4, 2021), <https://www.nevadacurrent.com/blog/cannizzaro-challenges-prison-director-on-inmate-money-seizures/>; Michael Lyle, *NDOC Hasn't Implemented Law Capping Deductions on Inmate Bank Accounts*, NEVADA CURRENT (July 12, 2021), <https://www.nevadacurrent.com/2021/07/12/ndoc-hasnt-implemented-law-capping-deductions-on-inmate-bank-accounts/>.

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- 499 Filiberto Nolasco Gomez, *An Update on Prison Labor in Minnesota*, WORKDAY MINNESOTA (Jan. 5, 2022), <https://workdayminnesota.org/an-update-on-prison-labor-in-minnesota/>.
- 500 Over a one-year period from July 1, 2020 to June 30, 2021, deductions from the wages of workers in the PIECP program totaled \$22,545,080, of which \$13,631,910 was paid to room and board. *Id.*
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- 503 28 C.F.R. § 345.33.
- 504 U.S. Dep't of Justice, Federal Bureau of Prisons, *Work Program for Inmates – FPI*, at 16 (2017), https://www.bop.gov/policy/progstat/8120_003.pdf.
- 505 28 C.F.R. § 545.11(a) (2020).
- 506 U.S. Dep't of Justice, Federal Bureau of Prisons, *Program Statement: Financial Responsibility Program, Inmate* (2000), https://www.bop.gov/policy/progstat/5380_008.pdf; U.S. Dep't of Justice, Federal Bureau of Prisons, *Program Statement: Cost of Incarceration Fee (COIF)* (1999), https://www.bop.gov/policy/progstat/5380_006.pdf.
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- 509 18 U.S.C. § 1761(c)(2).
- 510 Nationally, incarcerated workers employed in the PIECP program earned \$10,034,501 in gross wages in Q1 of 2021 and \$11,689,205 in Q2 of 2021, of which \$5,947,107 and \$6,884,581 was deducted respectively. National Correctional Industries Association (NCIA), *PIECP Certification & Cost Accounting Center Listing for the Quarter Ending June 30, 2021* (Dec. 2, 2021), https://www.nationalcia.org/statistical-reports,https://4c99dc08-46a7-4bd9-b990-48103d668bb3.filesusr.com/ugd/569cf7_7722ec64545745f780ef9e63e75e7482.pdf; NCIA, *PIECP Certification & Cost Accounting Center Listing for the Quarter Ending March 31, 2021* (2021), https://www.nationalcia.org/statistical-reports,https://df1d6e07-2d3a-49dd-bb43-170ddf635f64.usrfiles.com/ugd/df1d6e_e0d06d60f81e41cab23b5ec50294401b.pdf.
- 511 *Id.*; NCIA, *PIECP Certification & Cost Accounting Center Listing for the Quarter Ending December 31, 2020* (2021), https://www.nationalcia.org/statistical-reports,https://df1d6e07-2d3a-49dd-bb43-170ddf635f64.usrfiles.com/ugd/df1d6e_581cb12b96244d80bf38ed972e18fef6.pdf; NCIA, *PIECP Certification & Cost Accounting Center Listing for the Quarter Ending September 30, 2020* (2020), https://www.nationalcia.org/statistical-reports,https://df1d6e07-2d3a-49dd-bb43-170ddf635f64.usrfiles.com/ugd/df1d6e_e2b3759067374286b6578b24ea6ae87a.pdf.
- 512 Fla. Stat. § 946.522-3 (“The trust fund shall consist of moneys authorized to be deducted pursuant to 18 U.S.C. s. 1761(c) and the applicable federal guidelines, to be appropriated by the Legislature, and moneys deposited by the corporation authorized under this part to manage and operate correctional work programs. The appropriated funds shall be used by the corporation for purposes of construction or renovation of its facilities or for the expansion or establishment of correctional work programs as described in this part or for prison industries enhancement (PIE) programs as authorized under s. 946.523.”).
- 513 Nev. Rev. S. 209.463, 209.4841, 209.192. Nevada SB 140, *Exhibit, Introductory Presentation by Senator Dina Neal* (Mar. 10, 2021), https://www.leg.state.nv.us/App/NELIS/REL/81st2021/ExhibitDocument/OpenExhibitDocument?exhibitId=48392&fileDownloadName=SB140_Introductory%20Presentation_Senator%20Dina%20Neal.pdf.
- 514 I.R.C. §§ 3121(b)(6)(A), 3121(b)(7)(F)(ii), 3121(u)(3), 3121(u)(2)(B)(ii)(II).
- 515 Work performed while incarcerated does not earn toward benefits for two reasons. First, it is excluded from the Federal Insurance Contributions Act (FICA) statute defining covered employment. See Federal Insurance Contributions Act, I.R.C. § 3121(b)(6)(A), § 3121(b)(7)(F)(ii), § 3121(u)(3), (u)(2)(B)(ii)(II). Second, even when this work may constitute covered employment (as in the case of some PIECP jobs, the only category of work not excluded from the statute), most incarcerated workers “do not earn sufficient income per quarter to surpass the statutory thresholds.” Stephanie Hunter McMahon, *Inmates May Work, But Don't Tell Social Security*, 72 SOUTH CAROLINA L. REV. 757, 773 (2021); Social Security Act of 1935, 42 U.S.C. § § 410(a)(6)(A), 418(c)(6)(B).
- 516 Stephanie Hunter McMahon, *Inmates May Work, But Don't Tell Social Security*, 72 SOUTH CAROLINA L. REV. 757, 759-760 (2021).
- 517 The work of incarcerated people working for PIECP is generally, but not always, subject to the Federal Insurance Contributions Act (FICA), the payroll tax that finances Social Security, disability benefits, and Medicare. § 3121(b)(7)(C)(i); U.S. Social Security Administration, *Program Operations Manual System*, <https://secure.ssa.gov/apps10/poms.nsf/lnx/0301901560>; 20 C.F.R. § 404.1007(a) (2021).
- 518 26 U.S.C. § 32(c)(2)(B)(iv); § 24(d)(1)(B)(i) (carving out from the earnings that earn towards the EITC and CTC any “amount received for services provided by an individual while the individual is an inmate at a penal institution”). See also Stephanie Hunter McMahon, *Prison Work is Taxing and Should Be Taxed*, manuscript in preparation, 2022 (on file with authors).
- 519 Rogers v. Comm'r, T.C. Memo. 2004-245; Wilson v. Comm'r, T.C. Memo. 2001-139; Taylor v. Comm'r, T.C. Memo. 1998-401; Skaggs v. Comm'r, 148 T.C. No. 15 (2017) (cited in Stephanie Hunter

McMahon, *Prison Work is Taxing and Should Be Taxed*, manuscript in preparation, 2022).

- 520 26 U.S.C. § 3306(c)(21). *See also* National Employment Law Project, *Radical Inequality, Records, and Recovery* (Oct. 2020), <https://s27147.pcdn.co/wp-content/uploads/FAQ-Recovery-and-Records-2020-10-20.pdf>; Isabelle Holt, *The Case for Unemployment Insurance for Incarcerated Workers*, ON LABOR (Mar. 23, 2022), <https://onlabor.org/the-case-for-unemployment-insurance-for-incarcerated-workers/>.
- 521 Paul Egan, *Inmate Who Led Prison Sewage Cleanup Says He Now Has Hepatitis C*, DETROIT FREE PRESS (June 3, 2017), <https://www.freep.com/story/news/local/michigan/2017/06/04/hepatitis-c-inmate-glen-lilly/362663001/>.
- 522 *Id.*
- 523 Michigan’s OSHA investigated the reports in response to the initial claim filed by a Corrections Department special activities director at Parnall Correctional Facility where Glen Lilly is incarcerated. *Id.*
- 524 The vast majority of incarcerated workers labor within correctional institutions operated by state and local governments, which are not considered “employers” under OSHA. *See* 29 U.S.C. § 652(5)-(6) (“(5) The term “employer” means a person engaged in a business affecting commerce who has employees, but does not include the United States (not including the United States Postal Service) or any State or political subdivision of a State. (6) The term “employee” means an employee of an employer who is employed in a business of his employer which affects commerce.”). *See also* U.S. Department of Labor, OSHA, Standard Interpretations, *Clarification on whether an employer with multiple facilities needs a separate written ECP for each facility*, 1910.1030; 1960 (2011), <https://www.osha.gov/laws-regs/standardinterpretations/2011-12-13> (“Federal OSHA does not cover state or local government-operated prisons.”). *See also* OSHA, Standard Interpretations, *OSHA Does Not Have Jurisdiction Over State Employees or Inmates*, 1975.5 (1992), <https://www.osha.gov/laws-regs/standardinterpretations/1992-12-16-1> (“The definition of an ‘employer’ under Section 3(5) of the Occupational Safety and Health Act specifically excludes a State or any political subdivision of a State from coverage under the OSHA Act. Therefore, OSHA does not have jurisdiction over the State of Colorado or its employees, including inmates in correctional institutions, either paid or nonpaid.”). However, according to an OSHA instruction from 1995, “when inmates are required to perform work similar to that outside of prisons, e.g., farming, industries, machine operations, etc., the applicable protections open to anyone else in similar situations should apply, including the right to file a report of hazards with appropriate safety and health officials.” *See* OSHA, Directives, *Federal Agency Safety and Health Programs With the Bureau of Prisons, U.S. Department of Justice*, Directive No.: FAP 01-00-002 (1995), <https://www.osha.gov/enforcement/directives/fap-01-00-002>.
- 525 For example, Arizona Revised Statutes provide that in the employ of the state, the term “employment” does not apply to services performed by “inmate[s] of a custodial or penal institution.” *See* Ariz. Rev. Stat. Ann. § 23-615 (B)(6). The Michigan Supreme Court and Court of Appeals have held that there is no employer/employee relationship between incarcerated individuals and the state since the relationship is custodial and rehabilitative. *See, Thompson v. Bronk*, 126 Mich 455, 456-457; 85 NW 1084 (1901); *Cadeau v. Boys’ Vocational School*, 359 Mich 598, 608-609; 103 NW2d 443 (1960); *Green v. Department of Corrections*, 30 Mich App 648; 186 NW2d 792; aff’d 386 Mich 459; 192 NW2d 491 (1971); *Prisoners’ Labor Union at Marquette v. Department of Corrections*, 61 Mich App 328; 336; 232 NW2d 699; lv den 394 Mich 843 (1975). New York state’s Department of Labor Public Employee Safety and Health Field Operations Manual excludes incarcerated people from the definition of public employees, even though the Consolidated Laws of New York do not explicitly exclude them from the definition of employee. New York Department of Labor, *Public Employee Safety and Health Field Operations Manual* (2021), <https://dol.ny.gov/system/files/documents/2021/04/peshfom.pdf>; N.Y. Lab. Law § 27-a (McKinney). Virginia Occupational Safety & Health (VOSH) interpret the exclusion of incarcerated individuals as employees under the Virginia Minimum Wage Act, § 40.1-28.9 to extend to VOSH. However, it considers VOSH to be responsible for prisoners employed by a public employer in a work-release program. Virginia Department of Labor and Industry, Occupational Safety and Health Program, *Administrative Regulations Manual* (Sep. 21, 2006), https://www.vaasphalt.org/wp-content/uploads/2012/10/DOLI_Admin_Regs_Manual_hitching_ride_on_paver_issue.pdf. In California, unlike other states, Cal/OSHA may make recommendations to the Department of Corrections to improve the safety of the working conditions and work areas of state prisoners. Cal/OSHA may also conduct hearings and adopts special orders, rules, or regulations if the Department of Corrections fails to comply with recommendations. Cal. Code Regs. tit. 8, § 344.46.
- 526 In the case of the Fair Labor Standards Act, there has been no specific guidance from Congress or the Supreme Court as to whether the language is meant to exclude incarcerated workers from its protections. However, most appellate courts have ruled that prison workers are excluded from the definition of “employee” in that Act, thereby excluding them from protection. Lang MJ, *The Search for a Workable Standard for When Fair Labor Standards Act Coverage Should be Extended to Prisoner Workers*, 5 U. Pa. J. Bus. L. 19 (2002); Renee Elaine Henson, *Picking Cotton for Pennies: An Exploration into the Law’s Modern Entrenchment of a Free-Prison Workforce*, 2 BUS. ENTREPRENEURSHIP & TAX L. REV. 193, 200–01 (2018). *See also* Jackson Taylor Kirklín, *Title VII Protections for Inmates: A Model Approach for Safeguarding Civil Rights in America’s Prisons*, 111 Colum. L. Rev. 1048, 1048–1089 (2011); Andre Montoya-Barthelemy, Letter to the Editor, *The Occupational Health of Prison Inmates: An Ignored Population and an Opportunity*, 61 J. of Occupational Envtl. Med. e74 (2019). In the case of the National Labor Relations Act, which protects the right of workers to engage in collective bargaining, there has also been little Congressional or Supreme Court guidance as to whether its protections include incarcerated workers. Given that the protections only apply to those who meet the specific legal definition of an “employee,” some lower courts have recognized incarcerated workers employed in private companies through work release as eligible for the NLRA’s protections. However, the vast majority of incarcerated workers who labor within prisons and jails are currently not covered given that federal and state governments, when acting as employers, are excluded from the NLRA. Kara Goad, *Columbia University and Incarcerated Worker Labor Unions under the National Labor Relations Act*, 103 Cornell L. Rev. 177 (2017).
- 527 *Farmer v. Brennan*, 511 U.S. 825, 832 (1994) (internal quotation marks and citations omitted).
- 528 *See, e.g., Kulkay v. Roy*, 847 F.3d 637, 643–645 (8th Cir. 2017).
- 529 *Bratchett v. Braxton Envtl. Servs. Corp.*, 564 F. App’x 229, 232 (7th Cir. 2014).

- 530 Data is calculated from the three-state survey conducted by the ACLU and the Global Human Rights Clinic.
- 531 Spencer Woodman, *California Blames Incarcerated Workers for Unsafe Conditions and Amputations*, THE INTERCEPT (Dec. 28, 2016).
- 532 *Brown v. State*, N.Y. Ct. Cl., Claim No. 125765, #2018-054-097 (Sept. 11, 2018).
- 533 Spencer Woodman, *California Blames Incarcerated Workers for Unsafe Conditions and Amputations*, THE INTERCEPT (Dec. 28, 2016).
- 534 See, e.g., Kristi Graunke and Will Tucker, *Why Incarcerated People At Poultry Plants Deserve Better*, MARSHALL PROJECT (Aug. 13, 2018), <https://www.themarshallproject.org/2018/08/13/why-incarcerated-poultry-workers-deserve-better>; Elizabeth Whitman, *More Arizona Inmates Report Serious Injuries While Working at Hickman's Egg Farm*, PHX. NEW TIMES (Oct. 4, 2019), <https://www.phoenixnewtimes.com/news/arizona-inmates-report-serious-injuries-hickmans-egg-farm-osha-11367976>; Southern Policy Law Center, *The Kill Line*, by Will Tucker (July 26, 2018), <https://www.splcenter.org/news/2018/07/26/kill-line>.
- 535 Southern Policy Law Center, *The Kill Line*, by Will Tucker (July 26, 2018), <https://www.splcenter.org/news/2018/07/26/kill-line>.
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- 539 Kristi Graunke and Will Tucker, *Why Incarcerated People At Poultry Plants Deserve Better*, MARSHALL PROJECT (Aug. 13, 2018), <https://www.themarshallproject.org/2018/08/13/why-incarcerated-poultry-workers-deserve-better>.
- 540 Josh Kelety, *Hickman's Family Farms' Reliance on Prison Labor is Starting to Yield Lots of Lawsuits*, PHX. NEW TIMES (June 18, 2021), <https://www.phoenixnewtimes.com/news/hickmans-family-farms-hit-with-new-lawsuits-over-inmate-worker-injuries-11563930>.
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- 542 *Id.* See also Michael Gerhart v. Hickmans Egg Ranch Inc. et al., Maricopa Cty. Sup. Ct. (Compl. filed Sept. 25, 2019).
- 543 *Id.*
- 544 Elizabeth Whitman, *Barely Trained Inmate Loses Finger Working at Hickman's Egg Farm*, PHX. NEW TIMES (Sep. 12, 2019), <https://www.phoenixnewtimes.com/news/inmates-maricopa-county-arizona-injured-labor-hickman-egg-farms-11354362>. See also Mary Stinson v. Hickmans Egg Ranch Inc. et al., Maricopa Cty. Sup. Ct. (Compl. filed Aug. 22, 2019).
- 545 Josh Kelety, *Hickman's Family Farms' Reliance on Prison Labor is Starting to Yield Lots of Lawsuits*, PHX. NEW TIMES (June 18, 2021), <https://www.phoenixnewtimes.com/news/hickmans-family-farms-hit-with-new-lawsuits-over-inmate-worker-injuries-11563930>. See also Nathan Peshlakai v. Hickmans Egg Ranch Inc, Maricopa Cty. Sup. Ct. (Compl. filed Nov. 19, 2019; Notice of Settlement filed Jan. 5, 2021); *Noah Moore v. Hickmans Egg Ranch Inc*, Maricopa Cty. Sup. Ct. (Compl. filed Nov. 4, 2020; Notice of Settlement filed Nov. 3, 2021).
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- 547 Written survey response by Latashia Millander, incarcerated at Centralia Correctional Center, IL (on file with authors).
- 548 Written survey response by [Name withheld to preserve anonymity, at survey respondent's request], incarcerated at Pontiac Correctional Center, IL (on file with authors).
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- 550 Number of cases was derived from searching on the OSHA database by typing the name of each prison industry in all 50 states under the "establishment" search box. See <https://www.osha.gov/pls/imis/establishment.html>.
- 551 This is based on a search of OSHA's complaint database, <https://www.osha.gov/pls/imis/establishment.html> (In database, enter 'California Prison Industry Authority' for Establishment, 'California' for State, and set start date as far back as database will allow).
- 552 Kristi Graunke and Will Tucker, *Why Incarcerated People At Poultry Plants Deserve Better*, MARSHALL PROJECT (Aug. 13, 2018), <https://www.themarshallproject.org/2018/08/13/why-incarcerated-poultry-workers-deserve-better>.
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- 563 Michael Barajas, *Death of Dog Trainer Highlights Strenuous Heat and Working Conditions at Texas Prisons*, TEXAS OBSERVER (July 2, 2019), <https://www.texasobserver.org/death-of-dog-trainer-highlights-strenuous-heat-and-working-conditions-inside-texas-prisons/>.
- 564 Interview with Wayne Thomas, New Orleans, LA, (Nov. 8, 2019) (on file with authors); *Weather History Baton Rouge – January 2019*, U.S. CLIMATE DATA, <https://www.usclimatedata.com/climate/baton-rouge/louisiana/united-states/usla0033/2019/1>.
- 565 Interview with Hakeen Sukkar, New Orleans, LA, (Nov. 8, 2019) (on file with authors).
- 566 Interview with Hakeen Sakur, New Orleans, LA, (Nov. 8, 2019) (on file with authors); Interview with Wayne Thomas, New Orleans, LA, (Nov. 8, 2019) (on file with authors).
- 567 Interview with Hakeen Sakur, New Orleans, LA, (Nov. 8, 2019) (on file with authors).
- 568 *Id.*
- 569 Interview with Wayne Thomas, New Orleans, LA, (Nov. 8, 2019) (on file with authors).
- 570 Written survey response by [Name withheld to preserve anonymity, at survey respondent's request], incarcerated at Menard Corrections Center, IL (on file with authors).
- 571 Written survey response by [Name withheld to preserve anonymity, at survey respondent's request], incarcerated at Stateville Correctional Center, IL (on file with authors).
- 572 Written survey response by [Name withheld to preserve anonymity, at survey respondent's request], incarcerated at Lincoln Correctional Center in IL (on file with authors).
- 573 Data is calculated from the three-state survey conducted by the ACLU and the Global Human Rights Clinic.
- 574 *Jackson v. Birkey*, No. 1:14-cv-01108-MMM, 2019 WL 2305135 (C.D. Ill. May 30, 2019).
- 575 Trial Tr. Vol. 1 at 100, *Jackson v. Birkey*, No. 1:14-cv-01108-MMM, 2019 WL 2305135 (C.D. Ill. May 30, 2019).
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- 996 Georgia Department of Corrections, which did not respond to a FOIA request we filed, does not have any published work policies on pay for any job assignments other than assignments with the PIECP work program. See Georgia Department of Corrections, *Policy 409: GCI Inmate Workers*, <http://www.dcor.state.ga.us/content/409-policy-gci-inmate-workers>; Georgia Department of Corrections, *Prison Industry Enhancement Program*, Policy 409.05.01, SOP VJ01-0001. State law governing incarcerated people’s work does not mention wages or other compensation. See Ga. R. & Reg. § 125-3-5. The Georgia Department of Corrections Inmate Handbook similarly does not mention wages for work. See Georgia Department of Corrections, *Inmate Handbook*, http://www.dcor.state.ga.us/sites/all/files/pdf/GDC_Inmate_Handbook.pdf. Numerous news sources also state that nearly all incarcerated workers’ job assignments are unpaid. See, e.g., Adrian Drepaal, *I Had a Shitty Job in Prison*, MARSHALL PROJECT (Aug. 8, 2019), Christie Thompson, *Do Prison Strikes Work?*, MARSHALL PROJECT (Sept. 21, 2016); *Use of Unpaid Inmate Labor Scrutinized in Athens-Clarke County*, GRADY (Apr. 5, 2019); Erin Paige McGonigle, *First Responders, Second Priority: Georgia’s Inmate Firefighter Program and International Human Rights Standards*, 48 GEORGIA J. INTL. & COMP. L. 189 (Apr. 11, 2021); Spencer Donovan, *UGA Agriculture College Evaluates Research Program that Uses Unpaid Inmate Labor*, RED & BLACK (Jul. 20, 2021); George Lavender, *Alabama Prison Work Strike ‘Stalls’ But Wins Support from Wobblies*, IN THESE TIMES (Apr. 25, 2014), Adam Crisp, *Georgia Inmates Strike in Fight for Pay*, CHATTANOOGA TIMES FREE PRESS (Dec. 14, 2010).
- 997 Bill Torpy, *Georgia Inmates’ ‘Free’ Work Has a Price*, ATLANTA JOURNAL-CONSTITUTION (Oct. 20, 2011); Jamani Montague, *Mapping Georgia Carceral Facilities Partnered with GCI (Georgia Correctional Industries)*, Feb. 6, 2018, <https://jamanimontague.wordpress.com/2018/02/06/mapping-georgia-carceral-facilities-partnered-with-gci-georgia-correctional-industries/>.
- 998 Facility jobs and correctional industries jobs are on a 40-hour work week schedule. Kansas Department of Corrections, *Internal Management Policy & Procedure: Resident Work Assignments*, Policy 10-109A (effective Jan. 21, 2022), <https://www.doc.ks.gov/kdoc-policies/AdultIMPP/chapter-10/10-109a-resident-work-assignments.pdf/view>.

- 999 Four-hour jobs are paid at \$0.48 to \$0.97 per day; eight-hour jobs are paid at \$0.79 to \$1.58 per day. Special assignments are \$1.21 to \$2.42 per day. Kentucky Corrections, *Policies and Procedures: Inmate Wage/Time Credit Program*, Policy 19.3 (effective Jan. 4, 2019), <https://corrections.ky.gov/About/cpp/Documents/19/CPP%2019.3%20PDF.pdf>.
- 1000 A full-time assignment is six hours per day. Michigan Department of Corrections, *Prisoner Work Assignment Pay and School Stipend*, Policy 05.02.110A (effective Oct. 5, 2020), https://www.michigan.gov/documents/corrections/05_02_110_704259_7.pdf.
- 1001 A full work day is between four and eight hours. Montana Department of Corrections, FOIA response document (on file with authors).
- 1002 Most assignments are for 7.8-hour days for five days per week, but some are 9.5-hour days for four days per week. Five-day assignments are paid \$1.21 to \$3.78 per day. Four-day assignments are paid \$1.51 to \$4.72 per day. Nebraska Department of Correctional Services, *Inmate Jobs* (detailing all job assignments and wages), FOIA response document (on file with authors); Nebraska Department of Correctional Services, Policy 113.17, *Inmate Work/Program Assignments and Stipends* (revised November 30, 2021), https://corrections.nebraska.gov/system/files/rules_reg_files/113.17_2021.pdf.
- 1003 Each shift is three to four hours. New Hampshire Department of Corrections, FOIA response document (on file with authors).
- 1004 *Id.*
- 1005 The work day is typically 8 hours, up to 10 hours at most. North Dakota Department of Corrections and Rehabilitation, *Payroll Data 2014-2019* and *North Dakota State Penitentiary Pay Grades 02-01-2019* (FOIA response documents) (on file with authors).
- 1006 Assignments pay at least \$6 per month for less than 60 hours per month, at least \$9 per month for 60 to 89 hours per month, at least \$12 per month for 90-139 hours per month, \$12 to \$22 per month for at least 140 hours per month. Up to 3 percent of the institution's population may be paid \$24 per month for full-time assignments requiring a great degree of skill or responsibility. An average month has 22 work days. Ohio Laws and Administrative Rules, Administrative Code Rule 5120-3-08, *Prisoner Employment: Inmate Compensation for Work Program Assignments and Related Matters*, <https://codes.ohio.gov/ohio-administrative-code/rule-5120-3-08>.

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