

## *Introductory Background Notes*

*1999 “National Symposium, The Economics of Inmate Labor Force Participation”*

*Into a world in which virtually every major interest group, including business, labor, human rights, religious, policy makers, criminal justice interests, the general public, and economists all either opposed inmates participating in the civilian labor force or tolerated it without complaint, the 1999 “National Symposium” presents - however tentatively given- perhaps the first modern economic argument for integrating inmates into the normal US labor force. And it did so involving highly prominent US labor economists from left to right, probably to the mutual surprise and discomfort of all participants.*

*Like others, my economic views on inmate labor arise from many sources, but among them three stand out, namely (1) my efforts to reconcile inmate labor policies with my education, that is, my understanding of the broader body of western microeconomic theory and history, (2) the theoretical work of 1992 Nobel economist Gary Becker’s work on discrimination, which saw discrimination as refusing to use otherwise productive people – able to competitively produce dollar-valued goods and services – because of the greater psychic value of denying them work; and (3) the work of Texas A&M economist Morgan Reynolds, who is the first economist in my experience arguing for business use of prison labor for the good of the overall economy.*

*Dawning for me was extraordinarily slow- from at least 1986 into 1999 - and further proof, I think, of the tremendous difficulty a priori in perceiving or recognizing discrimination, despite a posteriori, afterwards, its seeming obviousness all along. It reminds me today of the phenomenal difficulty inherent in thinking differently from all others around.*

*Having finally achieved my PhD in 1986, and despite my career turning away from prisoner statistics in 1979 to energy, I continued mulling about US prison labor going forward. I had been greatly blessed by the National Correctional Industries Association as observer to the National Work Group on inmate labor, a collaborative of prison industry stakeholders and opponents wrestling over inmate*

*labor issues, thereby giving me the opportunity of hearing debates by stakeholders of the underlying issues.<sup>1</sup> By 1998, however, I'd begun to suspect that the real problem in US prison labor was not the "normal" economy, but in fact the accumulation of differences from the normal economy that constituted US prison labor primarily providing discrimination benefits to arguing stakeholders. In fact, it began to dawn on me that what I was really observing was an ongoing tug among warring stakeholders for each gaining upper hands benefits from extracting preferred benefits from differential treatment of unprotected incarcerated workers, who continued to be treated primarily as not really needing money in the first place.*

*Thanks to an amazing opportunity afforded by a Soros grant from the Open Society Institute, we then were able to contract four prominent economists known for their wider expertise and with no known views on prison labor, and to obtain their view on whether the US economy – really GDP – would be better served if inmates were welcomed or excluded from the US labor force.*

*The four economists engaged were –*

- 1. Ray Marshall, University of Texas, former Carter secretary of labor and well known economist on race discrimination;*
- 2. Alan Krueger, Princeton, later Obama administration chair, Council of Economic Advisors (joined by Jeffrey Kling);*
- 3. Richard Freeman, Harvard, prominent labor economist; and*
- 4. Steven Levitt, U. Chicago, more recently of "Freakonomics" fame.*

*Professor Levitt was recommended to us by Gary Becker.*

*Study Suggestion: Conclusions barely emerge from individual presentations, but become clearer as the day's interactions proceed and authors and reviewers reflect. Therefore I suggest not stopping at reading each speaker's presentation, but to continue through the Q&A's as well as closing observations.*

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<sup>1</sup> I remain tremendously grateful to the National Correctional Industries Association and to US prison industries practitioners, whom I see as dedicated public servants trapped in an ossified and inherently failed social structure.

*Finally, even in my own case, the clarity of conclusions did not snap into place until some months later. And, while not disavowed, my impression is that neither the Open Society Institute or the speakers themselves found the topic – despite its breakthrough content – a lucrative or fruitful field for further pursuit.*

# **The Economics of Inmate Labor Force Participation**

**May 29, 1999**

**The George Washington University**

**The Center on Crime, Communities & Culture, of The Open Society Institute**

Chapter 1

Background

## Introduction

Most objections to jail and prison inmate open-market employment are fundamentally either economic or criminal justice objections. The May 21, 1999 National symposium, “The Economics of Inmate Labor Force Participation,” addresses the root economic question, whether allowing inmates to compete for (participate in) open market jobs is good or bad for the economy. Except for briefly touching on recidivism and rehabilitative effects, the project does not address criminal justice issues relating to inmate employment.

For the symposium, prominent mainstream U.S. economists provide introductory opinions and propose economically beneficial general policy directions for inmate labor force participation. The symposium also includes panelist views representing stakeholders affected by inmate labor policies, plus limited feedback from symposium participants.

The symposium was funded by the Center on Crime, Communities & Culture of the Open Society Institute (OSI) as part of its efforts spurring public debate on important issues affecting crime, poverty, and inner cities.

The event was hosted by the George Washington University Department of Economics, which also monitored project interactions with the economists.

## Background

Either by law or custom, inmates in U.S. jails and prisons are barred from open-market jobs. In addition to state prohibitions, the most stringent Federal restriction, the Sumners-Ashurst Act of 1948, prohibits the transport of prison-made goods in interstate commerce. Although a succession of Federal and state changes, beginning with “The Percy Amendment” in 1979,<sup>1</sup> allow inmates to hold open market jobs under specified conditions, fewer than 3,000 of the nation’s 1.8 million local, state, and Federal adult inmates held open market jobs in 1998.<sup>1</sup> About 600 thousand work in prison upkeep or in

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<sup>1</sup> Excluding about 40,000 inmates estimated to be on work release near the ends of their sentences. Source for inmate employment: draft, “Inmate Labor in America’s Correctional Facilities, A Preliminary Report of

traditional prison industries serving government purchasers. Inmates working in traditional prison industries go unpaid or receive small gratuities, usually far less than a dollar an hour.

Current arguments, particularly as articulated by business, organized labor, and human rights groups, generally oppose inmates holding open-market jobs. Primary objections arise from a criminal justice perspective (Unemployment is “good punishment”), for reasons of human rights (Prison labor is exploitative or abusive), or on economic grounds (Inmate employment takes jobs from civilian labor, is exploitative or abusive, and drives down the civilian wage rate).

Privately-owned industries oppose prison industries – and by extension, inmate employment – primarily because prison industries receive advantages (subsidies) not available to taxpaying firms, including exclusive rights to government markets, taxpayer provided land and capital equipment, exemption from taxes and regulation, and exemption from virtually all pay and benefits for the incarcerated labor force.

Organized labor generally opposes inmate labor on economic grounds, seeing the involuntary, unpaid, and unprotected inmate labor force – whose living costs are paid by taxpayers - as unfairly competing against civilian labor. Unions also oppose using inmate labor as strike breakers or to otherwise weaken unions, and they oppose prisons abusing the labor force with coercion, low or no pay or benefits, reduced conditions of safety and protection, and utter powerlessness (including a prohibition against union membership).

Human rights groups, such as the National Prison Project of the American Civil Liberties Union, generally oppose prison labor as a form of slavery, exploitation, and abuse. Further, human rights groups are particularly concerned that the state will use inmate earnings to fund additional expansion of the U.S. prison system.

Others see gains in inmate work. Foremost, corrections agencies strongly prefer inmate work to (1) cost-effectively reduce idleness – and prison violence, and (2) educate and rehabilitate inmates. Interestingly, unionized prison staff tend to prefer inmate work for the sake of improved inmate morale and safety, and thereby temper broader union opposition. Representatives of inmates often favor the education, training, discipline, and income – however slight – offered by work. And some argue that it is not employment but inmate unemployment that harms the economy, by reducing National output, reducing consumer opportunities and raising prices, decreasing civilian job opportunities and slowing employment growth, increasing welfare and taxes, and undermining both the economic welfare and the social fabric of low-income homes and communities, especially inner cities. They see inmates’ absence subtracting about 2 percent from the male labor force, de facto denying compensation to crime victims, leaving more unsupported minor children of inmates than inmates (about 2.2 million), shifting the

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the American Bar Association’s Subcommittee on Correctional Industries,” Washington, D.C., April, 1998. Source for inmate population: U.S. Department of Justice, Bureau of Justice Statistics Bulletin, “Prisoners in 1998,” NCJ 175687, Washington, D.C., August, 1998.

financial burden of supporting inmates and their children to taxpayers and about 1 million mostly lower income females (the mothers and grandmothers of inmates' children), and creating "unemployment" equaling 20 percent or more of the poorest neighborhood's minority male populations. They see inmate and inmate family poverty reducing the demand for goods and services, thereby reducing civilian employment and costing the Nation hundreds of thousands of civilian jobs. They also see inmate unemployment spawning conditions for future crime.

To date, inmate open-market employment has been minimal. Enabling legislation, overseen by the Federal "Prison Industry Enhancement Certification" (PIE) program, now allows private firms to use state and local inmate labor if the employment is voluntary, it pays locally "prevailing wages," does not displace existing civilian employment, requires consultations with business and organized labor, and imposes deductions from inmate earnings for taxes, victims compensation, board and room, and child and family support. About 40 states now permit inmates to hold open-market jobs under PIE requirements. Yet after more than twenty years, fewer than 3000 inmates - about two tenths of one percent of the Nation's 1,800,000 jail and prison populations - hold open-market jobs. And many of those jobs are hotly contested, with private businesses arguing that prison-facilitated firms are, in fact, displacing existing civilian employees and firms.

Further, while enlightening and illustrating stakeholder good will, an ongoing series of meetings, working groups, and forums on the subject has little budged public policies or noticeably softened debate.<sup>2</sup> Action on inmate employment appears stalled.

Therefore, in order to gain deeper understanding of at least some critical facets of the debate, and in order to spur more effective debate and policy change, more intense focus on clarifying economic aspects of inmate labor policies was devised.

### The Symposium, The Economics of Inmate Labor Force Participation

#### Design

Believing that (1) economic issues are central to the debate, (2) non economic aspects could be better understood if economic aspects were clearly distinguished, and that (3) entangling economics with other issues is a common source of confusion, the symposium and these written opinions on "The Economics of Inmate Labor Force Participation," were designed to focus on economic features of inmate labor.

Other critical design features include -

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<sup>2</sup> Recent ongoing groups include the American Bar Association Correctional Industries Subcommittee and the National Working Group on Inmate Labor (NWGIL); National meetings of the Correctional Industries Association (CIA) and the American Correctional Association and the May, 1998, "National Prison Industries Forum" in Washington, D.C. showcase recent debates on prison industries and inmate labor.

- The basis for judging “good” or “bad” is *competitive economic theory and experience*, accepting the objectives (primarily maximizing production of goods and services), means, and analytic tools of conventional Western economics. Positions reflecting a general opposition to the competitive model are excluded; for example, Marxist labor views would not be persuasive in the symposium setting.
- Economists are chosen for their *general prominence* in mainstream economics and not for views on inmate labor force participation. The choice reflects an intent to view inmate labor primarily as a standard economic issue.
- The process intends to be *objective* and *neutral*, beginning with the questions asked and the economists invited, and accepting whatever outcomes occur, so long as they emanate from competitive mainstream economics. For example, no economist was identified, interviewed, or chosen based on any declared or presumed position on inmate labor force participation.
- The primary focus is on *persons* as economic participants and not on institutions, that is, on the labor force participation of persons who are incarcerated, and not on the prison industrial structure in which employment occurs.
- The principal focus is on *labor force participation*, that is, the right to compete for employment, and not on the right to have jobs or to be “given” jobs.
- The focus is *overall economic consequences* and not criminal justice effects; therefore, the focus is on national output, income, and employment, as well as on broader economic consequences for major affected groups.

In sum, the design differs from typical debate in that it treats inmate labor as a standard economic issue in the broad context of general economic efficiency and not as a criminal justice or correctional issue. Therefore, economic consequences for Gross Domestic Product, employment, prices, and income are of greater importance to this presentation than traditional features such as prison order, rehabilitation, and compensation. By extension, the design emphasizes broader classes of economic winners and losers not traditionally identified or considered in inmate labor debate.

Throwing the issue of inmate employment into the general sphere of economics has the additional advantages of (1) setting the debate into a context and broader experience familiar to many, and (2) making the issue of inmate labor addressable by a far wider body of expertise than traditionally involved. Both for learning and for political utility, public policy makers, opinion makers, journalists, corrections and correctional industry representatives, and stakeholders of every stripe can turn to local universities, economic research groups, think tanks, and others for assessments, insights, and guidance on the

issue of inmate work, all while providing stakeholders from many sectors a common ground for review, analysis, and communication.

Although not originally highlighted, effects on future crime and recidivism became a prominent feature of the *economic* discussion, in the context of the economic costs and benefits of reducing future crime.

- A secondary objective of the effort is to entice the economics profession into more extensively examining issues of inmate labor and prison industries. Therefore, recognizing that the selected economists are not specialists in the area, their views for the symposium should be seen as *introductory opinions* clearly subject to additional insight and modification.

Recruiting economists began in late 1998 and concluded in January 1999. In March, the George Washington University (GWU) Department of Economics agreed to host the symposium and monitor interactions with the economists. The economists exchanged first drafts in late March and April; CRS staff briefly joined the interchange in late April, asking questions and recommending clarifications, in all cases monitored by GWU.

Two additional features joined the symposium late in the process. First, in order to represent key stakeholders within a tight schedule, the symposium added a panel of expert stakeholders, including of taxpayers, children and families, minorities, women, inmates, prison industries, business, and labor (Representatives of victims and the elderly were invited). Stakeholders were invited to represent the effects of actual and proposed inmate labor policies on constituencies of importance. Second, although interactive discussion among participants was always anticipated, professional facilitation services were added in early Spring.

The symposium was moderated by Amy Kaslow, an independent broadcast journalist on national and international economics issues. Ms. Kaslow is a regular contributor to National Public Radio's "Marketplace"; from 1989 to 1996, Ms. Kaslow was the lead economics correspondent for The Christian Science Monitor.

### The Questions

Each economist was asked to explicitly address four questions:

1. Applying your economic specialty, and separate from any criminal justice costs or benefits, are bans on prison inmate labor force participation "good" or "bad" for the U.S. economy? Please explain, identifying economic winners and losers, and state your opinion of the net overall economic gain or loss to the economy, along with any important limitations on the opinion.<sup>3</sup>

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<sup>3</sup> "Good" or "bad" came to be interpreted as with respect to output of material goods and services as measured by Gross Domestic Product (GDP), though its intended meaning by CRS staff was to distinguish



2. Specifically, from your economic specialty, will expanded inmate participation in the economy create, destroy, or have no effect on civilian employment in the United States? Explain.
3. Applying your economic specialty, what steps are essential to improve the economic contribution of the incarcerated labor force?
4. If there are any criminal justice or correctional effects distinguishable from economic aspects, please identify and explain them, particularly their effects on net social benefits or costs.

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material goods and services from immaterial economic “goods” such as the satisfaction from discrimination, punishment, or preference for dealing with some persons over others.

# **The Economics of Inmate Labor Force Participation**

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## Chapter 2

Presentation by Ray Marshall

*Preliminary Opinion on the Economics of Inmate Labor Force Participation*

### Biography

Ray Marshall is Professor Emeritus and Audre and Bernard Rapoport Centennial Chair in Economics and Public Affairs at the Lyndon B. Johnson School of Public Affairs of the University of Texas at Austin. Professor Marshall served four years as U.S. Secretary of Labor in the Carter Administration.

Professor Marshall has a Ph.D. in economics from the University of California at Berkeley. A member of the University of Texas faculty since 1962, he came to the LBJ School in 1981. He is a founder and member of the board of the Economic Policy Institute. He is a member of the Clinton Administration's Commission on the Future of Worker-Management Relations, co-chair of the Commission on the Skills of the American Workforce, chair of the board of the National Center on Education and the Economy, and past President of the International Labor Rights Fund.

Professor Marshall has authored more than thirty books and monographs, including *Thinking for a Living*, *Education and the Wealth of Nations*, *Losing Direction*, and *Families, Human Resources, and Economic Development*.

Professor Marshall retired from teaching at the LBJ School in August, 1998.

### Presentation

#### Introduction

This paper addresses the following priority questions on the economics of inmate labor force participation (ILFP) presented in the guidelines for this project:

1. Are bans on ILFP good or bad for the economy in terms of impact on the GDP?
2. What effect will the expansion of ILFP have on civilian unemployment?

3. What are the key steps in improving the economic contributions of the inmate labor force?
4. What non-economic (e.g., criminal justice, correctional or other) effects should be addressed regarding ILFP?

My responses to these questions are:

1) The overall effects of ILFP on the economy and the work force are likely to be relatively small and therefore less important, at least in the short run, than an examination of the effects of the expansion of ILFP on particularly affected groups: the inmates, their families and victims; workers, unions and companies in industries most heavily impacted by ILFP; the criminal justice system; and the general public. I have been asked to pay particular attention to the views of organized labor on ILFP.

2) The appropriate standard for assessing the impact of ILFP on the economy and particular groups should be the social benefits and costs of particular measures taken to expand ILFP. In other words, the appropriate policy question should be to seek a set of policies that will expand or contract ILFP while achieving specified public policy options and minimizing adverse effects for free labor markets. Expanding GDP is not, by itself, likely to be a significant policy objective; ILFP is, however, likely to influence human resource development objectives for disadvantaged workers.

3) As a labor economist primarily concerned with public policy, my approach will be to outline measures that might advance the public welfare by addressing the legitimate concerns of different parties without yielding to the illegitimate. Even though I have done very little work on the ILFP issue, I have done extensive work on labor markets—both as an academic researcher and as a designer and administrator of interventions to address particular problems. The approach that I have found useful in such work is to examine an issue from a variety of perspectives—theoretical, historical, quantitative and behavioral. Policy work also tends to be interdisciplinary. I do not think, for example, that we can or should separate purely economic analyses from criminal justice considerations since crime, incarceration and recidivism are serious economic, criminal justice, and human development problems. A good orienting hypothesis is that the present criminal justice and corrections system in the United States is not very efficient and does too little to rehabilitate offenders and prevent crime. The system apparently has interrelated, self-perpetuating components which make it difficult to change. It also seems that the American system is very different from its counterparts in other countries.<sup>1</sup> (Indeed, this subject could benefit greatly from comparative adaptive learning.) We therefore should attempt to develop policies that will help transform the criminal justice system and make it more effectively deter crime, rehabilitate and punish criminals, and reintegrate ex-offenders into society. Such policies would greatly reduce the enormous and growing human and economic costs of crime and incarceration.

4) As noted below, I do not have sufficient evidence to make adequate policy recommendations. My analyses, conclusions and recommendations are therefore based on very preliminary assessments of the evidence and designed more to stimulate discussion than to be serious policy proposals.

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<sup>1</sup> See, for example, Elliott Currie, *Crime and Punishment in America* (NY: Henry Holt & Co., 1999).

I will first give more complete answers to the first two questions and then devote most of my remarks to the last two. I start with a brief historical overview and then proceed to an analysis of some limited evidence on the pros and cons of expanding the industrial (i.e., non-institutional) employment of inmates. The evidence, preliminary as it is, suggests that an expansion of ILFP could be in the legitimate interests of all the parties and therefore in the public interest. My main caveat is that expansion should be done through a constellation of policies to transform the present criminal justice system while improving the conditions of all of the parties, except perhaps the illegitimate interests of those who benefit from present arrangements.

The first question is whether bans on ILFP are good or bad for the economy. As noted, the short answer to that question is that the bans on inmate labor have very little impact on GDP because prison industry output (\$1.6 billion in 1997) is a very small fraction of the GDP (over \$8 trillion). Moreover, the total prison labor force (611,000 in 1997)<sup>2</sup> is small relative to the civilian labor force of 136 million.

Critics of ILFP are concerned less about the absolute numbers of prison inmates working than they are the trends and the impacts on particular industries, places and groups. The number of federal prison inmates has increased from 66,000 in 1990 to 113,000 in 1997; the number of state inmates increased from 708,000 to 1,132,000 during those years.<sup>3</sup> There have been similar increases in the size of the inmate work force, though non-institutional work opportunities have not kept pace with rising inmate populations, so industrial work forces constitute a smaller percentage of the prison populations than they did ten years ago. At the federal level, where a larger proportion of inmates are employed, 33 percent of inmates were employed in 1988 but only 18 percent were employed in 1996.<sup>4</sup>

In addition to the trends, critics of ILFP are concerned that prisoners will be exploited and that low paid inmates will undercut free labor wages and working conditions. If they are paid at all, inmate workers generally earn less than \$1 per hour. The range in the five-step federal industrial pay scale is from \$0.23 to \$1.15 per hour.<sup>5</sup> Unions have long been concerned about the negative impact of convict labor on free workers' wages and working conditions, as well as the adverse affects of prison labor on workers' ability to organize and bargain collectively. It therefore is not surprising that the prohibitions on the employment of convicts in competition with free workers coincided with the growth of unions in the nineteenth century and during the 1930s. Before these

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<sup>2</sup> Of these, 498,000 were involved in support work in their institutions, 75,000 were assigned to traditional prison industries producing goods and services mainly for state and federal agencies, and only 2,429 were employed in state and local prisons by private firms producing goods and services for open markets (Rod Miller, Mary Shillon, and Tom Petersik, "Inmate Labor in America's Correctional Facilities," Discussion Draft, Preliminary report to the ABA's Subcommittee on Correctional Industries, April 1998.)

<sup>3</sup> *Prisoners in 1997*, Bureau of Justice Statistics Bulletin, August 1998.

<sup>4</sup> Hearings, House Subcommittee on Crime, September 18, 1996.

<sup>5</sup> In 1991 prison workers in non-industrial activities earned between \$0.12 and \$0.40 per hour; most (55%) earn \$0.12 while 5% earn \$0.40. ("Implications of the FLSA for Inmates, Corrections Institutions, Private Industry and Labor," Statement of Lynn H. Gibson before the U.S. Senate Hearings of the Committee on Labor and Human Resources, October 18, 1993, p. 18).

restrictions were imposed, it was not uncommon for convicts to be used to break strikes. Indeed, unions still complain about the use of inmate labor to weaken strikes, prevent unionization, and undercut wages.

In order to understand the nature and probable impact of relaxing the restrictions on the industrial employment of inmates, it is useful to review the history of convict labor, examine the circumstances that caused these restrictions, and to analyze some experiences with the employment of prison labor. It also is helpful to examine the arguments advanced by various interested actors. Such an examination reveals the nature of the evidence (as well as the political alignments) for and against relaxing the restrictions on the employment of inmates.

### Historical Overview

Early in American history, prisoners were assigned to hard work of various kinds, which was considered necessary to punish inmates for their crimes and to purge them of the evils that led to their criminality. In addition, work always has been considered an effective way to control prisoners.

In order to reduce the public costs of incarceration, various methods evolved to employ convicts in the production of goods and services to be sold in the public or private sectors. The first of these was the public-account system whereby governments sold the products of prison labor on the open market. The second was the state-use system, which prevails today, where inmates produce goods and services to be sold to or used by government agencies. The third was the contract system, making a comeback since federal enabling legislation in 1979, where the state sells prison labor to private firms. And the fourth was the lease system which vests in private companies the responsibility for the custody, care, discipline, and employment of inmates. Before the 1930s, the contract system predominated in the North and the lease system in the South.<sup>6</sup>

During the nineteenth century, reformers, businesses and unions successfully restricted the contract labor system. Union opposition moderated when contract bidding caused wage differentials between convicts and free workers to converge, but intensified when these differentials widened. Unions also naturally opposed the use of convicts as strikebreakers.

During the first half of the nineteenth century, campaigns against contract labor were particularly vigorous in states like New York where unions were strong. Unions became stronger throughout the United States after national and federal labor organizations were created in the last half of the nineteenth century. Unions gained wider public support for their campaigns against contract labor during the recessions of the 1870s and 1890s. The compromise worked out to settle the differences between the proponents and opponents of the commercialization of prison labor was the state-use system.

The convict lease system was eliminated gradually in the South by the 1930s, mainly because it had become uneconomical but also because of public outcries following well-publicized exposes of appalling working conditions and often corrupt relationships between prison businesses, politicians, prosecutors and courts. The system

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<sup>6</sup> Stephen P. Garvey, "Freeing Prisoners' Labor," *Stanford Law Review*, January 1998.

became unprofitable when employers bid up convict costs to approximate those of free workers.<sup>7</sup> As in the North, Southern states replaced the lease system with state-use policies, thus shifting the control and employment of convict labor from the private to the public sector. In the North, convicts worked behind walls in the state-use system, while in the South chain gangs and state farms predominated. However, by the 1940s, well publicized abuses and the increase in the proportion of white prisoners, especially during the Great Depression, caused chain gangs to virtually disappear, although they are making a comeback in some places.<sup>8</sup>

### Federal Policies

During and after the Great Depression the federal government adopted a number of measures to curtail the use of inmate labor in competition with free workers. The Hawes-Cooper Act of 1929 subjected the interstate shipment of prison-made goods to the restrictions on their sale in intrastate commerce previously imposed by many states. The 1935 Ashurst-Sumners Act added federal enforcement to Hawes-Cooper and made it a federal crime to knowingly export prison-made goods into a state that prohibited the sale of such goods. In 1940, Congress amended Ashurst-Sumners to make it a federal crime to transport and sell prison-made goods regardless of the provisions of state law. These laws greatly restricted the industrial employment of inmates. Garvey reports that “In 1885, 90% of the prison population worked. In 1997, the figure was only 6.2%.”<sup>9</sup> The failure of the state use system to provide more meaningful industrial employment to inmates is attributed to a number of factors, including mediocre management, poor legislative oversight, and the failure of state agencies to honor requirements that state agencies purchase prison-made goods. However, all of these problems appear to be related to the absence of effective competition for prison industries.

At the federal level prison labor is organized by Federal Prison Industries, Inc. (FPI—often referred to by its trade name, UNICOR), a nonprofit corporation created in 1934. In 1997 FPI operated 97 different factories in 46 locations but employed less than 20 percent of the federal prison population. FPI produces products to be sold exclusively to federal agencies. In 1996, 38 percent of FPI’s sales were in the furniture industry and 22 percent were in textiles and apparel.<sup>10</sup> Despite a requirement that federal agencies give preference to UNICOR products, FPI accounts for less than 2 percent of federal procurement.

In 1979 Congress passed the Prison Industry Enhancement (PIE) Act which allows certified private companies to employ state and local prison labor and to sell prison-made goods in interstate commerce, an action that some observers thought might restore the contract system. To be certified, a company must pay prevailing wages, demonstrate that inmates will not displace free workers, consult with unions, and make deductions from inmates’ compensation (not to exceed 80% of gross wages) for room

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<sup>7</sup> Ibid., p. 364.

<sup>8</sup> Ibid., p. 366.

<sup>9</sup> Ibid., p. 370.

<sup>10</sup> Hearings, House Subcommittee on Crime, September 18, 1996, p. 17.

and board, taxes, family support and contributions to victim compensation funds. Between the end of 1979 and June 15, 1995, about 1,600 PIE inmates had gross earnings of over \$44 million, \$23.6 million of which was deducted for victims' programs (\$3.6 million), costs of incarceration (\$10.5 million), family support (\$3.4 million), and taxes (\$6.1 million).

The 1994 Crime Bill largely deregulated prison industry and freed inmate labor from most federal restrictions, thus opening the sale of prison products to any private market. However, according to one prison labor expert, PIE's growth is restricted by the prevailing wage requirement, which does not permit companies to compensate for the additional costs of doing business in prisons (e.g., additional security costs); he concludes that "Few industries will find it worthwhile to set up shop behind prison walls if they are forced to pay inmates the prevailing wage—unless, of course, the state offers a subsidy to offset these higher costs."<sup>11</sup>

#### Arguments For and Against Removing the Restrictions on Inmate Labor

PIE and FPI supporters argue that these programs' safeguards prevent them from undercutting free labor wages and working conditions or from unfairly competing with private sector companies.<sup>12</sup> Critics, on the other hand, argue that UNICOR routinely violates PIE's prevailing wage and business protection requirements, rendering those safeguards largely ineffective.<sup>13</sup> Business representatives argue, in addition, that FPI's mandatory sourcing requirement gives UNICOR an unfair competitive advantage.

Unions: At the present time unions believe that inmates should work, but generally oppose the expansion of the sale of convict-made products in competition with private industry or the employment of convicts in competition with free workers.

The AFL-CIO has protested inmate working conditions as well as the threat expanded ILFP would pose to free workers. In 1997, for example, the federation's Executive Council adopted a resolution protesting "the widespread use of prison labor in the U.S. in unfair competition with free labor and...ask[ed] that a complaint be filed with the International Labor Organization charging that the U.S. has violated ILO convention No. 105, which prohibits the use of forced or prison labor for economic development."<sup>14</sup> Consistent with Samuel Gompers' declaration that organized labor wanted "more constant work and less crime, more justice and less revenge," national and state AFL-CIO affiliates encourage "the training of prisoners both to help in their rehabilitation and to reduce recidivism after their release. But, always with this caveat:

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<sup>11</sup> Ibid., p. 373.

<sup>12</sup> See Robert Grieser, "Do Correctional Industries Adversely Impact the Private Sector?" *Federal Probation*, March 1989, pp. 18-24.

<sup>13</sup> See House hearing, op cit. and Senate Committee on Labor and Human Resources, October 28, 1993.

<sup>14</sup> AFL-CIO Public Employee Department, *Issues and Answers*, March 1997.

Prison labor never should be used to compete with free labor nor to replace it.”<sup>15</sup> An AFL-CIO background paper specifically endorsed training programs like the South Central Iowa AFL-CIO’s apprenticeship partnership with the Iowa Department of Correction Prison Industries Division (discussed below), but noted that most prison training did not adequately prepare inmates for skilled work, partly because of an overemphasis on work at the expense of training. Union leaders have protested the use of prison labor to displace public as well as private employees and note that “From Alabama to New York, the old-fashioned chain or work gang is making a comeback.”<sup>16</sup> In addition, the AFL-CIO contends that “Prison security has been compromised to accommodate the shipping needs of private operators.”<sup>17</sup> Texas AFL-CIO president Joe Gunn alleges that “one high tech firm, American Microelectronics...closed its Austin facilities and laid off 150 employees to move its operation behind bars” in a private prison at Lockhart, Texas where “convicts end up with about 84 cents an hour for their work.”<sup>18</sup>

The AFL-CIO charged that PRIDE, a non-profit consortium of private companies in Florida (discussed below) “has the sole contract with Florida corrections for all work performed by prisoners in the state. In 1996...Inmates received from 15-50 cents an hour for their work, with no minimum wage protection and no workers’ compensation.”

John Zalusky of the AFL-CIO’s economic research department told the U.S. Senate Labor and Human Resources Committee that it was “wrong for state-owned prisons to create or support businesses paying convicts substandard wages to take jobs from free labor who have committed no crime...” The AFL-CIO agreed that inmates “should be working and should not be idle, and that the work they do should impart values that are useful to the free world. However, we believe that working at exploitive wages sends exactly the wrong message and bestows the wrong values. It says that hard work is unrewarding and that Government is an oppressor.”<sup>19</sup> Finally, “The AFL-CIO supports the self-use concept of prison labor with effective business and labor input in the decision process to ensure minimal adverse impact on free labor.”<sup>20</sup>

Of course, neither employers or unions take a uniform approach to the expansion of prison industries. Most unions oppose the sale of prison-made goods in open markets and the use of convict labor in competition with free workers. However, unions are more concerned about the wages and conditions of convict labor than they are about the fact that convicts are required to work, which they generally support. Moreover, unionized prison guards favor work by prison inmates because of its demonstrated effectiveness in improving prison safety, behavior and morale. Overcrowded prisons where inmates have nothing but idleness and boredom to occupy their time create dangerous and explosive situations for guards and inmates alike.

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<sup>15</sup> AFL-CIO Public Employee Department, *Prison Labor: Are We Heading Back to the Future?* February 1997, p. 1.

<sup>16</sup> *Ibid.*, p. 7.

<sup>17</sup> *Ibid.*, p. 8.

<sup>18</sup> *Ibid.*, p. 9.

<sup>19</sup> Senate hearing, *op cit.*, p. 31.

<sup>20</sup> *Ibid.*, p. 32.



Businesses: While business organizations like the U.S. Chamber of Commerce oppose the expansion of the sale of prison-made goods in open markets, some companies favor present arrangements because they profit from the use of inmate labor or sell supplies and materials to prison industries.

Industry critics of the FPI program argue that UNICOR's failure to honor the program's safeguards against unfair competition damages private businesses. Moreover, these critics argue, the mandatory sourcing requirement causes UNICOR to be a monopoly which produces poor quality products and service at inflated prices. For example, Michael Gale, Director of Government Relations for the Apparel Manufacturers Association alleged:

UNICOR steals jobs from...hardworking law-abiding, tax-paying citizens... We estimate that over the years, 7,000 private sector apparel workers have lost their jobs because of UNICOR's continued and unchecked expansion of apparel manufacturing... The [Defense Personnel Supply Command (DPSC)] estimates that it pays, on average, 15% more than the lowest private sector bid on almost 100% of what it buys from UNICOR... [I]n fiscal year 1995, UNICOR was delinquent in 46% of its contracts with DPSC. In... 1996 UNICOR was delinquent in 36% of its contracts. For both years the private sector was delinquent in only 9% of its contracts."<sup>21</sup>

Gale reported that a 1991 "Deloitte and Touche study indicates that UNICOR receives poor quality ratings from its customers."<sup>22</sup>

There are similar complaints about state prison industry products. According to a 1994 *Forbes* article on the California Prison Industry Authority (PIA), state agencies are required to give [PIA] first crack at supplying goods, regardless of price or quality...

A private furniture manufacturer offered to deliver...chairs [to California State Polytechnic University] within six weeks for \$54 apiece. But Cal Poly was obliged to buy [PIA's] chairs for \$92 each. Eight months after the orders were placed, 54 of the 213 chairs have yet to be delivered...

"[PIA's] cost is always higher [than private suppliers]," fumes Jerry Schroeder, a Cal. Dept. of Motor Vehicles purchasing officer. "Not sometimes—always."<sup>23</sup>

Inmate Advocates: Other critics allege that during the 1980s and '90s a combination of "get tough on criminals" policies and the expansion of industrial employment has led to the exploitation of inmates, who are powerless to protect themselves except through litigation, which is expensive, time consuming and uncertain. "Get tough" policies have contributed greatly to a prison population explosion, sharply increasing prison costs (a commonly cited figure is \$20,000-\$25,000 annual cost per prisoner), thus exerting great pressure to expand ILFP as a way to offset part of the added cost. These developments also enable corrections institutions to charge prisoners for court costs, the compensation

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<sup>21</sup> House hearing, op cit., pp. 102, 106.

<sup>22</sup> Ibid., p. 116.

<sup>23</sup> Nina Munk, *Forbes*, August 29, 1984, p. 82.

of victims, room and board, and medical care. These charges put great pressure on inmates to work but also limit their net compensation. As noted earlier, the AFL-CIO contends that the pressures to work limit the education and training needed for rehabilitation.

Industrial work by prisoners is voluntary, but inmates allege that a refusal to work often leads to abuse by prison officials. Moreover, all able-bodied prisoners are required to work, but are compensated much better for industrial than for institutional employment. These conditions cause some, especially the AFL-CIO, to believe that the United States is vulnerable to the charge that our prison labor policies are in violation of ILO Convention 105 on forced labor.<sup>24</sup>

### Arguments For and Against Relaxing Restrictions

Those who favor relaxing the restrictions on the employment of inmates make a number of arguments:

- 1) The expansion of paid employment would benefit inmates, their families, their victims, corrections institutions and the general public.
- 2) Under present arrangements, inmates and their families suffer because they are locked into self-perpetuating cycles of poverty and crime. According to one assessment, "...there are seven million children with a parent in jail or prison or recently released on probation or parole."<sup>25</sup> Having a parent behind bars, according to this report, puts children in much greater risk of a life of delinquency and crime. Indeed, this link is so strong that half of all juveniles in custody have a parent or close relative who has been in jail or prison. And 40 percent of the 1.8 million adult inmates have a parent or sibling behind bars.<sup>26</sup> Expanding paid employment, proponents argue, would provide marketable skills for inmates, income for them and their families, reduce recidivism and thus do much to break these self-generating and intergenerational cycles of poverty.

Perhaps the best evidence on the relationship between prison industries work and recidivism is from the Federal Bureau of Prisons' Post-Release Employment Project (PREP), a seven-year research and evaluation study published in 1991 and updated in 1996. This study compared inmates who worked in prison industries with those with similar backgrounds who did not participate in FPI work or receive vocational training. This study found that relative to releasees who were not involved in prison industries while incarcerated, FPI inmates demonstrated better institutional adjustment while in prison, were less likely to recidivate, had higher earnings and were more likely to be employed. The 1996 update tracked the same inmates for up to 12 years after release

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<sup>24</sup> See Daniel Burton-Rose, Dan Pens, and Paul Wright (eds.), *The Ceiling of America* (Monroe, ME: Common Courage Press, 1998); Christian Parenti, "Pay Now, Pay Later: States Impose Prison Peonage," *Progressive*, July 1996; Idem, "Making Prison Pay: Business Funds the Cheapest Labor of All," *Nation*, January 29, 1996; Idem, "Inside Jobs," *New Statesman and Society*, November 3, 1995

<sup>25</sup> Fox Butterfield, "As Inmate Population Grows, So Does a Focus on Children," *New York Times*, April 7, 1999, p. A-1.

<sup>26</sup> *Ibid.*

“and concluded that FPI inmates had a 20% greater chance of obtaining employment, earning higher salaries upon release...and remaining crime free.”<sup>27</sup>

In their 1997 study of PREP enrollees, William Saylor and Gerald Gaes found that participants had a recidivism rate of 6.6% compared with an overall federal inmate rate of 20% and 10.1% for a comparison group.<sup>28</sup>

Less controlled evidence on the relationship between recidivism and state prison industries employment comes from the Enterprise Prison Institute (EPI), “a private research and education organization focused on the management of our prison and criminal justice systems.”<sup>29</sup> EPI summarized general data from a number of states, including PRIDE, which compared 2,068 inmates who had worked for PRIDE for six months or more (between 1990 and 1994) before their release in 1995 with state prisoners who did not work for PRIDE. Two years after their release 11% of the PRIDE participants had returned to prison compared with 27% for non-PRIDE releasees.

According to a 1998 PRIDE report, “of the 560 ex-offenders who had worked for PRIDE for six months or more in fiscal year 1995, seventy-one or 12.7% recommitted within a two-year period.”<sup>30</sup> This compared with a Florida inmate recidivism rate of 18.8% for FY 1994-95, the most recent year for which data are available. There has, however, been no attempt to compare PRIDE enrollees with similar non-enrollee inmates. Such a comparison would provide a better assessment of PRIDE’s impact.

A somewhat more controlled study of Ohio Prison Industries (OPI) compared 744 releasees in 1992 who had worked for OPI at least 90 days with 7,839 non-OPI releasees who met the basic requirements for participation in OPI. Overall, the OPI participants recidivated 18 percent less—24.6% compared with 29.9% for non-OPI inmates. The skilled OPI releasees had a recidivism rate of 15%, about half that of the control group. Blacks with OPI experience recidivated at 26.8 percent compared with 36.5% for non-OPI blacks, a much greater impact than the comparable rates for whites, which were 22.3% and 23.1%.<sup>31</sup>

3) More paid work would enable prisoners to make restitution for their crimes. Once incarcerated, offenders have no way to make restitution or to support themselves or their families. As former Chief Justice Warren Burger put it: “To put people behind walls and bars and do little or nothing to change them is to win a battle but lose the war. It is wrong. It is expensive. It is stupid.”<sup>32</sup>

4) More private sector work might do much to improve the culture of correction institutions by relieving the tensions created by boredom and idleness, instilling a work ethic in prisoners, and helping defray the high and rising costs of incarceration.

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<sup>27</sup> Letter from Steve Schwab, Assistant Director, Federal Bureau of Prisons, to J. Michael Quinlan, May 12, 1997.

<sup>28</sup> “Training Inmates,” *Corrections Management Quarterly* 1, no. 2, 1997, pp. 32-43.

<sup>29</sup> Statement of Knut A. Rostad, President of EPI, Hearing, Subcommittee on Crime, U.S. House of Representatives, Committee on the Judiciary, September 18, 1996, pp. 43-50.

<sup>30</sup> <http://peol.com/Annual%20Report/1998Highlights.htm>

<sup>31</sup> *Ibid.*

<sup>32</sup> “Sullivan’s Sermon: Responsibility,” *Washington Post*, March 13, 1991.

Moreover, subjecting prison industries to the discipline of competitive markets might greatly improve the efficiency of prison industry and, depending on competitive strategies, the value of the training inmates receive. Market discipline might do much to change the prison culture, which many experts consider more to train inmates to be criminals than to rehabilitate them. According to this view, prison bureaucracies are self-perpetuating institutions concerned mainly with incarceration, not rehabilitation. It is conceivable that greater private employment, with proper safeguards, could cause prisons to be more concerned with better classifications and groupings of inmates. There can be little doubt that removing mandatory sourcing requirements and subjecting prison industries to competition would cause them to become less complacent and more efficient.

### What Kinds of Policies Might Accomplish These Outcomes?

Removing or offsetting unjustified competitive advantages and disadvantages between free market and prison industries also might facilitate expansion of industrial employment by reducing opposition to ILFP expansion. It is not clear what would be required to achieve this objective. For example, many, including Vice President Gore's National Performance Review, recommend eliminating the mandatory sourcing requirement for FPI. By contrast, FPI officials argue that eliminating mandatory sourcing would destroy prison industries which, they argue, must have this requirement in order to attract private partners and offset the economic disadvantages they suffer because of prison security conditions and the low quality of prison labor.

However, conceivably prison industries could compensate for these disadvantages by deductions from inmates' earnings, as is done now, and by using public revenues for education, training and other services to inmates. Because of the social returns to human capital formation, it is in the national interest to remove the financial barriers to education and training for all workers in and out of prison. These human capital services might, in effect, be subsidies to prison industry, as well as investments in the rehabilitation of inmates.

Competition also might be improved by requiring prison industries to observe the same labor standards—including the right to unionize—as their private sector competitors.

Some insight into the efficacy of procedures to balance compensation between inmates and free workers might be found in the U.S. experience with adverse effect wage rates (AEWR) for temporary foreign workers and prevailing wages for government contractors. The basic purpose of the AEWR is to prevent the employment of foreign workers from depressing domestic working conditions. Similarly, prevailing wage laws are supposed to prevent governments from using their economic power to depress labor standards. The application of prevailing and minimum wage requirements to prison industry could require these industries to compete by becoming more efficient rather than through lower labor standards. Some argue that prison industries cannot compete if they have to pay prevailing wages (from which prison officials could make deductions), but there is evidence from the PIE program that at least some private companies can compete

while paying prevailing wages, though how much PIE companies evade this requirement is not clear.

Another area that should be explored is the application of anti-discrimination policies and concepts to ex-offenders. These policies, like other labor standards, are justified as needed to cause labor market decisions to be based on productivity and merit instead of race, gender, age or other factors. This is a complex, controversial and important subject which would require careful study and debate, but we have a wealth of experience with anti-discrimination policies in other areas. To be useful for policy, a theory of discrimination should define discrimination and assess its impact on various actors, as well as explain why it occurs and how it changes.<sup>33</sup> There can be little doubt that ex-offenders have employment problems related to a combination of discrimination and legitimate labor market factors, which would have to be sorted out. An effective rehabilitation program would include measures to overcome human capital (education, training, health and motivation) disadvantages. It could be that anti-discrimination measures would cause human capital programs to be more effective.

Lessons from anti-discrimination policies in other areas that might be useful in developing such policies for ex-offenders include:

- 1) A careful understanding of the nature, meaning and relative importance of economic discrimination (ED). Some basic principles are applicable in all cases:
  - a) ED is caused by a combination of status and economic advantage for the discriminators; status, because people discriminated against have identifiable characteristics which cause victims to be considered inferior by discriminators..
  - b) ED varies in intensity between different groups of victims.
  - c) ED is difficult to identify and measure because it is part of a complex constellation of factors that cause victims to be disadvantaged.
  - d) It is important to distinguish institutionalized forms of discrimination from specific overt acts that can be proved in courts or administrative processes. Different policies are required to counteract institutional and overt ED.
  - e) Discrimination is an action while prejudice is an attitude, which may or may not lead to discrimination depending upon the power relationships between actors. Through cognitive dissonance in economic relationships, attitudes are more likely to flow from actions than actions are from attitudes.

There seems to be little doubt that some ED stems from misperceptions about the corrigibility of ex-offenders. These misperceptions might be overcome by better classifications of inmates based on profiles of the degrees of risk, public information campaigns and demonstrations of successful rehabilitation. Anti-discrimination demonstrations might start with private prison industry and government contractors, as was the case with race, gender and other forms of ED. There is little doubt in my mind that discrimination against ex-offenders is a barrier to their rehabilitation and reintegration into society or that the elimination of such discrimination would be in the

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<sup>33</sup> Ray Marshall, "The Economics of Racial Discrimination: A Survey," *Journal of Economic Literature* 12, No. 3, September 1974; Ray Marshall, "Civil Rights and Social Equity: Beyond Neoclassical Theory," in *New Directions in Civil Rights Studies*, Armstead L. Robinson and Patricia Sullivan (eds.) (Charlottesville, Va.: University Press of Virginia, 1991), pp. 149-174.

public interest. But I would need more information than I have to assess the importance of discrimination relative to human capital factors and to specify how an ex-offender anti-discrimination policy might work. The clearest and least controversial case would be to outlaw discrimination by private prison industries and government contractors. Some incentives (competitive advantage) might be given to non-discriminatory employers.

The unionization of inmates might have several advantages. For one thing, an effective alternative dispute resolution process could reduce the cost of litigation by inmates, which some consider mainly trivial and very expensive for the states.<sup>34</sup> Unions also could become advocates for inmates within the prisons and perhaps accelerate prison reform. There is little doubt that prisoners need effective alternatives to the courts, which are expensive, uncertain and time consuming. Unions also could strengthen the enforcement of existing laws, supplementing the limited enforcement resources available to federal agencies. My limited investigations for this paper found numerous allegations of evasion of labor and private industry protections by prison industries.

Unions could, in addition, help with the rehabilitation process by providing skill development, especially through apprenticeship training, which would improve inmate earnings while in prison and after their release. Prototype programs have been created in Iowa and other places. Training in registered apprentice programs provide geographic and occupational mobility, as well as higher wages and the efficient acquisition of skills.

A system that permitted private industry to bid for the right to operate prison industries could increase efficiency and provide more paid jobs for inmates. Special attention might be given to targeting industries most likely to migrate out of the United States. An independent board representative of all stakeholders could accept bids from a variety of organizations, including those that already operate prison industries. The bid notices could specify the conditions necessary to protect and promote the interests of inmates, businesses, prison functions and the public. Along with the usual business qualifications, bid specifications should include labor standards, security requirements and other matters to facilitate inmate rehabilitation. For example, because education and training are so important to rehabilitation, special preference might be given to companies that provide effective training and post-release placement and support services for inmates. A prototype for at least some components of this activity could be the PRIDE Enterprises, a nonprofit conglomerate of private sector businesses created by the Florida legislature in 1981 to reduce the cost of state government and to achieve rehabilitative goals by “duplicating as nearly as possible the operating activities of a free-enterprise type of profit-making enterprise.” In FY 1998 PRIDE’s sales were \$81.2 million and it employed 4,890 inmates for 4,321,548 hours.<sup>35</sup> PRIDE also provides structured on-the-job training and education benefits, as well as post-release job placement, education assistance and support (over half of PRIDE’s inmate workers are placed “directly to the community and available for work”).<sup>36</sup>

<sup>34</sup> See statement by Senator Harry Reid, FLSA Hearing, p. 2. According to Sen. Reid, 40% of civil litigation in Nevada federal courts is by prisoners (p. 4).

<sup>35</sup> <http://peol.com/annual%20Report/1998Highlights.htm>.

<sup>36</sup> Letter to Michael Quinlan from T.J. Mann, Manager, PRIDE Inmate Training and Support, June 13, 1997.

A more detailed formal evaluation might show whether or not PRIDE is a suitable model for replication. While PRIDE apparently has some strong features, it is not clear that workers' interests are adequately protected, as suggested by the AFL-CIO's complaints noted earlier. It is equally questionable that a state-created monopoly is the most effective way to manage prison industries. With appropriate safeguards, a more competitive model might greatly improve education, training and inmate rehabilitation. Such a system also might provide greater incentives for inmates to improve their job skills and earnings.

2) More balanced competition is necessary but not sufficient to make significant improvements in prisons and the development of opportunities for inmates and their families. Rewards for the acquisition of work skills and knowledge as well as work performance could be a valuable component of a more effective rehabilitation system. Although there are unlikely to be enough industrial jobs for all inmates, an expanded work program could facilitate better classification and separation of workers (in terms of their probability for successful rehabilitation) from those who need closer supervision. Grouping inmates might create better peer pressure for successful work careers rather than for criminal activities.

A careful analysis of recidivism in Texas and elsewhere demonstrates that "since recidivism is caused by a complex constellation of factors it is unlikely that any single factor intervention strategy would be successful."<sup>37</sup> While employment is necessary for the successful reintegration of ex-offenders, it is not sufficient; other factors include counseling, education and training, drug treatment, and post-release support and placement services. Since an estimated three-fourths of inmates are considered to be functionally illiterate,<sup>38</sup> education is a much better way to occupy inmates' time than the make work and idleness that is characteristic of many prisons.<sup>39</sup> The labor standards for prison industries, including institutional occupations performed by inmates, could therefore ensure a proper balance between work, education, and rehabilitative counseling.

There is strong evidence that marginal low-wage work alone will not do much to improve the earnings of inmates or anyone else.<sup>40</sup> Real improvements depend on the acquisition of a strong work ethic and marketable skills. The best skill development programs are those like registered apprenticeships that combine the simultaneous development of standards-based knowledge with manual skills. Such a program for inmates has been developed by the Iowa Department of Corrections Prison Industries Division and the South Central Iowa Federation of Labor, AFL-CIO's Labor Institute for Economic Development. This is a registered apprenticeship program in established prison

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<sup>37</sup> Susan Marshall, "Reintegration of Ex-Offenders: The Role of Employment and Other Factors," Ph.D. dissertation, Brandeis University, 1992, p. i.

<sup>38</sup> See statement from the National Governors' Association, "A National Strategy on the Prison Crowding Problem," HR-16, n.d.

<sup>39</sup> See T.J. Flanagan and K. Maguire, "A Full Employment Policy for Prisons in the U.S.: Some Arguments, Estimates and Implications," *Journal of Criminal Justice* 21, pp. 117-130, 1993.

<sup>40</sup> See Garth Mangum, "A Thirty-Five Year Perspective on Workforce Development Programs," in Ray Marshall (ed.), *Back to Shared Prosperity: The Growing Inequality of Wealth and Income in America* (Armonk, NY: M.E. Sharpe, forthcoming).

industries in three of Iowa's correctional facilities. The first three programs were in machine tooling, printing and graphic design. The union takes responsibility for placing successful graduates through its hiring hall. According to South Central Iowa's AFL-CIO president, "It's our duty and our job to represent [prison inmate apprentices] in the job market."<sup>41</sup> Debate on the issue at union meetings transformed rejection of ex-offenders to acceptance of fellow union members who have successfully served apprenticeships highly valued by union members.

A number of states have developed what appear to be effective job training programs for inmates. In 1993, for example, Oklahoma had 570 inmates enrolled in skill training classes. The Oklahoma program is different from those of most states in that it is operated by the Oklahoma Department of Vocational and Technical Education instead of the Department of Corrections. All instructors and administrators are employed by the state vo-tech department. It would be interesting to examine Oklahoma's experiences in depth to determine whether or not a non-corrections education and training staff could be more effective, or how much it might affect the traditional prison culture. According to a 1993 report, the Oklahoma program, initiated by a state senator in 1970, had been beneficial to both the corrections and vo-tech departments. The most significant benefit of this arrangement was to ensure the "program's focus on education. Programs operated by corrections officials often tend to be measured in terms of their ability to address idleness, security issues and the institutions' maintenance needs."<sup>42</sup> The Oklahoma arrangement also has greatly enhanced student-teacher bonding and provides inmates access to state-of-the-art equipment that legislators often are unwilling to provide to corrections institutions. Their commitment to their program was sufficiently strong that student inmates protected the training facility during a riot in one of Oklahoma's prisons.

Students who enroll in the program receive an occupational plan for training in a variety of trades and occupations lasting from 18 to 32 weeks. Job placement is a major problem in the reintegration of ex-offenders into society. Oklahoma finds placement to be a challenge, but provides job placement specialists to help inmates who complete the program. It was reported in 1993 that 70 percent of all minimum security graduates are placed within 90 days of their release. Reviews in Maryland, Oklahoma and Illinois have found that inmates' performance in vo-tech programs is comparable to that of similar non-inmate students and that inmates who complete these programs recidivate at lower rates than other students.<sup>43</sup> In 1999, Oklahoma's vo-tech department operated three registered apprenticeship programs (meat processing, welding and food services). In April 1999, the department's acting director told me that they had no trouble placing certified apprentice graduate releasees.

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<sup>41</sup> Rostad, op cit., p. 50.

<sup>42</sup> Tom Freedman, "Corrections/Vo-Tech Partnership Offers Maximum Training Benefits," *Corrections Today*, July 1993, p. 123.

<sup>43</sup> Ibid.



## Conclusions

With this background, I can provide tentative answers to the questions posed for this project:

1. I believe the recommendations I have made could permit the expansion of ILFP to be good for most stakeholders. The main losers would be those companies that cannot, or do not wish to, compete on a level playing field. It remains to be seen, of course, whether private companies will be willing to hire inmates under the conditions I propose. However, I believe it possible to adjust prison programs and the inmate wage deduction system to make prison labor attractive to good employers, especially if employers, along with unions and other stakeholders, are involved in negotiating the actual terms of employment. And provided further that tight labor markets and the targeting of appropriate prison industries create incentives for companies to use inmate labor while protecting low wage workers in the private sector from surges in supplies of prison-made products. Inmates, their families and victims, and prison systems would all benefit from expanded paid employment. Unions could be major beneficiaries if they are given a larger role and are able to make themselves attractive to inmate workers. An expansion of employment is unlikely to be large enough to offset the high cost of incarceration, but it could greatly improve rehabilitation and free up resources for other prison activities. The reduced recidivism rate might moderate the rise in prison populations, but alternatives to incarceration for non-violent offenders also could relieve the pressures on prisons. Above all, these changes might make better use of prisoners' time for work, education, and training than the debilitating and dangerous idleness which seems to be the norm now.

2. I believe the key steps in improving the economic contribution of the inmate labor force are: expand paid employment within the framework of balanced competition and protective labor standards, strengthen employment and training, and promote the more effective reintegration of ex-offenders into the work force. In order to sell these recommendations to the public and to policy makers, we need to collect better evidence about what works and why in each of these processes. This could be done by more detailed research, followed by carefully designed pilot projects.

### Panel Remarks

In addition to his presentation, Ray Marshall also provided comment to panelists, extending the detail of his views on inmate labor force participation. A fuller sense of his views includes understanding both the remarks and questions of the panelists and his responses to panelists. His full responses, minimally edited, to the following panelists on the following issues can be found below in the chapter presenting the panel:

Panelist	Response Subjects
Harry Holzer	Minimum Wages and Wage Setting Labor Union and Labor Representation
Linda Haithcox	Inmate Participation in Deliberations

## Role of Mediation

Wendell Primus	Role of Measurement and Rewards International Labor Standards for Voluntary Labor
Steve Schwalb	Effects on Prison Culture Choosing Appropriate Prison Industries
Brenda Smith	Understanding Employment Effects on Female Inmates
Charles Sullivan	Education and Skill Development (Two part response, including to moderator's follow-up question) Computers and Technology Skills Building
Greg Woodhead	Unionization Publicly Funded Inmate Jobs

## **The Economics of Inmate Labor Force Participation**

**May 21, 1999**

**The George Washington University**

**The Center on Crime, Communities & Culture of The Open Society Institute**

### Chapter 3

Presentation by Richard Freeman

*Making the Most From Inmate Labor*

#### Biography

Professor Richard B. Freeman holds the Ascherman Chair of Economics at Harvard University. He is currently serving as Faculty Co-chair of the Harvard University Trade Union Program. Professor Freeman is Program Director of the National Bureau of Economic Research's Program in Labor Studies. He is also Co-director of the Centre for Economic Performance at the London School of Economics and Visiting Professor at the London School of Economics.

Professor Freeman is a member of the American Academy of Arts and Sciences. He has served on five panels of the National Academy of Science: high-risk youth; post secondary education and training in the workplace; employment and technical change; demographic and economic impacts of immigration; and national needs for biomedical and behavioral sciences.

Professor Freeman received his Ph.D. from Harvard University in 1969. Before returning to Harvard in 1975, he taught at the University of Chicago and Yale University.

Professor Freeman has published over 250 articles dealing with topics in youth labor market problems, crime, higher education, trade unionism, transitional economies, high skilled labor markets, economic discrimination, social mobility, income distribution, and equity in the marketplace. In addition, he has written or edited 21 books, several of which have been translated into French, Spanish, Chinese, and Japanese. Some of his recent books include *Labor Market Institutions and Economic Success* (1999), *What Workers Want?* (1999), *Generating Jobs: How to Increase Demand for Less-Skilled Workers* (1998), and *Differences and Changes in Wage Structures* (1995).

#### Presentation

Many prisoners work within prisons producing goods and services to maintain correctional facilities, reducing the costs to taxpayers of maintaining prisoners and gaining some

work skills. A much smaller number work in traditional correctional industry activities, such as for the Federal Prisons. The ABA Subcommittee on Correctional Industries estimated that total employment of prisoners in 1997 in traditional correctional industries amounted to about 75,000 in a workforce of over 136 million persons, while just 2,400 prisoners worked for private sector industries (ABA, figure 3). Federal Prison Industries, UNICOR, employs about 17,000 inmates. With nearly 2 million inmates in 1999 the majority of whom are in state and federal prisons where inmate work could be most readily increased, there is considerable potential scope for increasing the work activity of prisoners.

What are the likely economic consequences of an increase in the amount of work prisoners do for the market outside of prisons? Who would benefit? Who would lose? What would be the most efficacious way to increase the work activity of prisoners?

This short comment seeks to answer these questions. The main theme is that the effects of increased prisoner work activity on the economy depends on three critical economic parameters:

- the impact of prison labor on the wages/employment of competing labor;
- the effect of wages and employment on the criminal behavior of competing labor
- the effect of prison labor in reducing recidivism by prisoners.

The starting point for this analysis is the simple economic principle that if prison labor produces goods that reduce the wages/employment of competing labor, those outside workers suffer an economic loss. If this loss is small and those workers can find roughly comparable jobs elsewhere, prison labor will increase national output. If, in addition, prison labor reduces recidivism (or in some other way lowers crime) the economy will also benefit by being able to shift resources to more productive activities. To the extent that prison labor makes prisons more easy to manage, moreover, this will reduce the cost to taxpayers, and increase output. This is an Ideal Prison Labor scenario.

But if increased prison work reduces substantially the economic well-being of comparable non-prison labor if the workers competing with prisoners respond to lower wages/employment losses by engaging in crime, prison labor will reduce output. This is a Horror Prison Labor situation.

My calculations suggest that on net national output would increase if we increase prison labor, but the range of estimates for the critical demand and supply parameters is sufficiently wide to suggest that we cannot rule out either the Ideal Prison Labor or Horror Prison Labor situations. Hence, I stress that we consider ways to structure the use of prison labor to produce goods that bring the least harm to competing free labor and most reduce recidivism: that prison labor produce import-competing commodities and employ prisoners with the greatest potential for productive non-criminal careers outside of prison.

Underlying my analysis are two basic facts. First, that most prisoners are unskilled and can make only a modest productive contribution to national output, so that their impact on the

national economy will be rather slight. Second, that crime and the criminal justice system are sufficiently costly to society that effects of prison labor on crime must be a significant component in any assessment of the economics of prison labor.

### **Prison labor as trade/immigration**

I treat the effect of prison labor on the domestic economy from the perspective of the economics of trade or immigration. In trade/immigration analysis an increase in imports due to freer trade or increased competence of foreign labor or of immigrants from overseas raises national output **and** lowers the earnings of competing domestic factors. From the perspective of the free labor market, an increase in the work of prisoners is equivalent to an increase in imports/immigration from some foreign country.

As a starting point, consider the effect of prison labor on the earnings/employment of similarly skilled labor in the competitive market. Let  $S = A + e W$  be the supply curve of workers of inmate quality, where  $S$  is the (log) supply,  $W$  is (log) wages. Let  $D = B - \eta W$  be the demand curve for those workers, where  $D$  is the log of demand. The market clearing wage and employment are  $W = (B-A)/(e + \eta)$  and  $E = (eB + \eta A)/(e + \eta)$ .

If an increase in the supply of inmates raises the supply of workers producing the relevant products by  $I$  percent (ln points), this will drive down the wage by  $I/(e + \eta)$ . Non-inmate employment will fall by  $(e)/(e + \eta)[I]$  while inmate and non-inmate employment will rise by  $\eta/(e + \eta) I$ . In total, there will be  $\eta I/(e + \eta)$  extra workers, who will increase national output. The benefit of prison inmate labor is the increase in output, which benefits all citizens. The cost is the reduction in wages of competitors, which falls on a small number of close competitors.

Analysts of immigration distinguish between the gains to immigrants and the gains to natives from increased immigration. In the case of prisoners, the issue is more complicated, since the state can decide what proportion of prisoner marginal product goes to the prisoner, to recompensing victims, or to covering the expenses of incarceration.

In any case, the more elastic is the demand for labor, the smaller will be the gains to the country and the smaller the economic losses to competing labor from increased prison work. The effect of the supply of competing labor on the analysis is more complicated. The more elastic the supply of competing labor, the smaller will be the economic losses to them. If their next best alternatives are legitimate ones, GDP will rise more, but if next best alternatives are illegitimate ones, a high supply elasticity will show up in a large increase in crime. In this case the effect of prison labor on national output may be negative.

### **The effects of inmate labor on crime**

The analysis of prison labor diverges from the analysis of immigration and trade because prison labor can affect criminal behavior, which has large costs on the society. Indeed, because inmates are disproportionately less educated young men, with only modest productivity in

legitimate work, the economic effects of prison labor through its effect on criminal behavior may dominate any benefit-cost assessment of prison labor. Some rough calculations make this clear. Estimates of the ratio of output from prison industries to the number of prison workers by the ABA show that prison labor is about 1/3rd as productive as the average member of the work force: gross sales per inmate are around \$20,000 while gross sales per employee in the national economy are around \$60,000 (ABA, figure 12).

The marginal productivity/earnings of inmates is likely to be in the area of the minimum wage ~~is~~ say, \$10-15,000 per year. The cost of incarceration is about \$30,000 per year while the social cost of a criminal is likely to be at least \$30,000 per year. In addition, there are sizable costs to administering the non-corrections part of the criminal justice system. These magnitudes suggest that whatever increase in GDP we get from additional prison labor *could* be offset (or worse) if it induced additional crime from the competing work force.

But, by the same argument, the biggest potential benefit from prison labor will be in reducing recidivism and the costs of future crime. Assume that prison labor reduces recidivism by 20%. Then for each year after the prisoner is released, society will gain  $.20 \times 30,000 = \$6,000$ . Discounted at 10%, this gives a present value gain of some \$6,000 (ignoring the finite life correction term in the discounting).

How sizable is the likely effect of prison labor on the wages or employment of non-prison workers?

There are no studies of this issue, so we have to rely on other information. On the one side, minimum wage analyzes suggest that the elasticity of demand for low skill labor is rather small, -0.10 is a typical value found in some studies. This would imply that an increase in prison labor would have a huge effect on the wages/employment of competing workers. But on the other side, analyzes of the effect of immigrants on employment/wages of natives find small effects that imply a high elasticity of demand. If this were the case, an increase in prison labor would have little effect on the wages/employment of competing workers. There is no simple way to make these two differing estimates consistent.

How sizable is the supply responsiveness to crime of low skill workers, who would compete with prison labor?

While there is a growing body of evidence that economic factors in the form of unemployment and wages paid low skill workers affect crime, there is no professional consensus about the elasticity of crime to wages (Freeman, 1999). There are estimates as large as 1.0 but also estimates that suggest much smaller responsiveness. Most studies find that unemployment increases crime, so if competing workers lost their jobs, there would likely be some increase in crime, irrespective of the wage effects.

Given this imprecision, I shall simply take some ~~implausible~~ plausible parameter values to illustrate the forces at work. The reader can put in his or her own plausible values to see how

the results might vary. For my story, I assume that there are 1000 unskilled workers in the economy and 100 inmates (this is a reasonable proportion for high school dropout young men). I further assume that the supply elasticity of unskilled labor is 1 and the demand elasticity is also 1. In this case the market model predicts that the 10% increase in total supply due to inmates working would reduce the employment of unskilled workers in the economy by 5%. In equilibrium there will be 1050 workers in the sector, 100 inmates and 950 non-inmates. National output in the sector would rise roughly by  $50 \times \$15,000$  or \$750,000. The wage of the competing workers would fall by 5%.

The key is what happens to the 50 non-inmates who have left the affected sector. If all of these workers engage in crime and none found other productive work, the cost to the country would be  $50 \times \$30,000$  -- two times the gain! If the cost of crime is higher than \$30,000 the cost to the country is even larger. But the assumption that all of the non-inmates who leave the affected sector engage in crime is extreme. If a quarter of the 50 non-inmates no longer working entered crime and the others found some gainful work, national output would increase.

How sizable is the reduction in recidivism due to prisoners working while incarcerated?

Again, there is no firm widely accepted estimate, but at least one major study has found that prison labor does indeed reduce recidivism (Saylor and Gaes, 1995). The reduction in recidivism is about the same as the reduction due to providing job training to prisoners about 20 percent. This implies that annually 20 of the 100 inmates would eschew crime for a gain of  $20 \times \$30,000$  or \$600,000 to the economy. This gain is in the same ballpark as the estimated increase in output in the affected sector from prison labor.

### **Conclusion**

The preceding analysis directs attention at the following information, for us to assess the economics of prison labor:

- 1) Elasticity of demand for the goods/labor with which prison-made goods compete
- 2) The next best alternatives for workers who compete with prison labor, particularly the extent to which crime is an alternative, and thus the crime elasticity of low skill workers to the job market.
- 3) The effect of prison labor on inmate recidivism

My quantitative calculations suggest that the effects of prison labor through crime increasing the crime among workers competing with prisoners or reducing recidivism among inmates are of comparable magnitude to the increased production from prison labor. An ideally structured prison labor program thus would direct prison labor into areas that are as non-competitive with domestic production as possible towards producing goods that we currently import and would employ prisoners most likely to return to legitimate society and make use of the skills they learn from prison labor. Finally, prison labor should be used more in periods of economic boom, when the job/earnings opportunities for low skill workers are likely to be high, than in periods of national recession. On net, I believe that the gains from reduced recidivism and the gains to output probably exceed the cost of the additional crime that prison production is likely to create. But my assessment depends on the magnitudes of effects, so I could readily change given firm estimates of the relevant effects that differ greatly from those I use in this comment.

### References

William Saylor and Gerald Gaes, "The Effect of Prison Work Experience, Vocational and Apprenticeship Training" November 1995.

American Bar Association, Subcommittee on Correctional Industries, Inmate Labor in America's Correctional Facilities, April 1998.

Freeman, Richard, "Economics of Crime" in Orley Ashenfelter and David Card, eds. Handbook of Labor Economics, Vol 3. (General Series Editors, K. Arrow and M.D. Intriligator) Amsterdam, Netherlands: Elsevier Science B.V. Publishers, 1999 (forthcoming).

### Panel Remarks

In addition to his presentation, Richard Freeman also provided comment to panelists, extending the detail of his views on inmate labor force participation. A fuller sense of his views includes understanding both the remarks and questions of the panelists and his responses to panelists. His full responses, minimally edited, to the following panelists on the following issues can be found below in the chapter presenting the panel:

Panelist	Response Subjects
Harry Holzer	Reduced recidivism justifying inmate work subsidies
Wendell Primus	Requirements of firms hiring inmates Wage and deduction setting to motivate inmates' work
Steve Schwalb	Identifying appropriate foreign-made products for U.S. Inmate manufacture



Charles Sullivan    Complications providing inmates computers for education

Gregory Woodhead    Education, treatment, and jobs policies for inmates vs public  
policies for non-offenders

Thomas Petersik    Inmate participation in labor unions

## **The Economics of Inmate Labor Force Participation**

**May 29, 1999**

**The George Washington University**

**The Center on Crime, Communities & Culture, of The Open Society Institute**

### Chapter 4

Presentation by Alan B. Krueger and Jeffrey R. Kling

*Costs, Benefits and Distributional Consequences of Inmate Labor*

#### Biographies

Alan Krueger holds a joint appointment as the Bendheim Professor of Economics and Public Affairs in the Economics Department and Woodrow Wilson School at Princeton University. He also serves as Director of the Survey Research Center at Princeton University and editor of the *Journal of Economic Perspectives*. He served as chief economist at the U.S. Department of Labor, 1994-1995. He has also been named a Sloan Fellow, a National Bureau of Economic Research Olin Fellow, and a fellow of the Econometric Society. In 1997, he was awarded the Kershaw Prize by the Association for Public Policy and Management.

Professor Krueger received his Ph.D. from Harvard University in 1987.

Professor Krueger's primary research and teaching interests are in the general areas of labor economics, industrial relations, and social insurance. His current research projects include an examination of the effect of education on economic growth, a study of the relationship between class size in the elementary grades and students' subsequent success, a study of the causes and consequences of the high-pressure U.S. labor market of the 1990's, a study of the payoff to attending a selective college, and an analysis of the impact of technological change on the labor market.

Jeffrey Kling is Assistant Professor of Economics and Public Affairs of the Woodrow Wilson School of Public and International Affairs, Princeton University. He is also a faculty associate of the Industrial Relations Section and the Office of Population Research at Princeton, and a Faculty Research Fellow in the Labor Studies Program at the National Bureau of Economic Research. He has previously served as assistant to the Chief Economist at the World Bank and special assistant to the Secretary of Labor.

Doctor Kling received a Ph.D. in Economics from the Massachusetts Institute of Technology in 1998.

Doctor Kling's interests are in the fields of Public Economics, Labor Economics, and Econometrics. His research focuses on development of methodologies that combine econometrics and creation of new quantitative data with qualitative interviews and institutional knowledge in order to identify causal mechanisms through which behavior is affected by public policy. These methods are applied in assessing the impacts of particular policies affecting employment, crime, and well being of families in poor urban neighborhoods.

### Presentation

The primary question we have been asked to address for this Symposium is:

Are bans on inmate labor force participation  
'good' or 'bad' for the U.S. economy?

Our answer to this question, subject to qualifications discussed below, is that a ban on prison labor is probably 'bad' for the economy in the narrow sense that it slightly reduces the total output of goods and services in the domestic economy as officially measured by figures for the Gross Domestic Product (GDP). As the following calculation suggests, however, the potential effect of permitting prison labor on GDP is likely to be quite small. To derive an upper bound estimate of the effect of encouraging prison labor on GDP, suppose that all inmates work full time, year round (i.e., 2,000 hours per year), and produce output per hour equivalent to the minimum wage (\$5.15). Under these assumptions, inmate labor would produce \$19 billion of output. In 1998, total GDP was \$8.5 trillion in the U.S., so the potential addition of inmate labor to GDP is only 0.2 percent of total U.S. GDP.<sup>1</sup> This figure is less than the typical magnitude of "statistical discrepancy" in the National Income Accounts; it is barely noticeable.

We should stress that our calculation probably provides a substantial overestimate for several reasons. First, labor force participation of inmates is likely to be well under 100 percent even if employment of inmates is encouraged since relatively few inmates work when they are not incarcerated. Second, the average inmate may produce less output per hour than the minimum wage, especially once possible additional security costs or prison modifications are taken into account.<sup>2</sup> Third, prison industries already

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<sup>1</sup> 1998 GDP is reported by the U.S. Commerce Department in "National Income and Product Accounts Tables," *Survey of Current Business*. The very small amount of output relative to the total in the U.S. economy is the same point made by Rod Miller, Mary Shelton, and Tom Petersik, "Inmate Labor in America's Correctional Facilities: A Preliminary Report of the American Bar Association's Subcommittee on Correctional Industries," Community Resource Services, April 1998.

<sup>2</sup> Inmates worked for wages that averaged 78 cents per hour in prison industries in 1997, so the minimum wage may overstate the average productivity of inmates. This figure is derived from the ratio of total inmate wages paid in 1997 (Miller *et al.*, 1998, Figure 12) to total inmate labor hours (Correctional Industries Association, 1998, p. 108).

produce goods worth about \$1.6 billion, so time used to produce this output should be deducted from total potential available hours.<sup>3</sup> Finally, inmates already perform a great deal of uncompensated general work assignments in and around prisons (e.g., cleaning the facilities and preparing food) which are not included in GDP as far as we know, so this time would also have to be deducted from potential available hours.<sup>4</sup>

Even if prison industries contribute a small amount to total output, they are not necessarily ‘good’ for the economy. For example, in a traditional government-operated industry, if extra security and supervision costs are required to create an environment that permits work compared to the costs of maintaining an environment in which inmates are not working, then these extra security costs might exceed the value of the output from the industry. In this case where the industry is not profitable for the government, it should be shut down even though some output was being produced, and total GDP raised.

A narrow focus on GDP is not very informative. We believe a more important economic question to address is:

**Is the economic value of the social benefits of inmate labor  
greater than the total costs to society?**

If the social costs outweigh the benefits, then the government should ban inmate labor. Conversely, as long as the social benefits are greater than the costs, then the government should encourage inmate labor. We believe it is critical to focus on social costs and benefits and not on GDP, because many of the most economically significant aspects of inmate labor are not captured by the dollar value of the goods produced by inmates.<sup>5</sup>

What do we mean by social benefits and costs? The answer is that policy-makers need to estimate as well as possible the dollar value of the various consequences of allowing inmate labor. Some of these values are easily observed, such as the wages that private firms are willing to pay the laborers. Other values are less easily observed, but verifiable in principle, such as the net change in the cost of security to the prison for

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<sup>3</sup> Gross sales are reported in: Correctional Industries Association. *1998 Directory: Producing Productive People*. Baltimore, Maryland: Correctional Industries Association, 1998; hereafter abbreviated (CIA 1998).

<sup>4</sup> A more accurate measure of GDP would include the value of the service performed by inmates engaged in general work assignments. In principle, general work assignments in prison are services that would require performance by at least some non-inmate workers if there were a ban on general work by inmates. It appears to us that a ban on general work by inmates combined with performance of exactly the same activities by non-inmate labor that received wages would increase measured GDP, but this is a flaw in the measurement of GDP because the output of economic activity is unchanged regardless of whom performs the work.

<sup>5</sup> This question essentially combines two of the four main questions we were asked to address. One question was: “Are bans on inmate labor force participation ‘good’ or ‘bad’ for the U.S. economy?” Another question was: “If there are any criminal justice or correctional effects distinguishable from economic aspects, please identify them -- particularly their effects on net social benefits and costs.”

inmates who are working in comparison to those who are not working. Still other values are not directly verifiable, such as the cost of pain and suffering caused by different numbers of crimes committed after release by inmates who engaged in inmate labor in comparison to those who did not work as inmates; it is possible that permitting prison labor could reduce subsequent crimes and recidivism because released prisoners who have work experience fare better in the non-institutional economy. Despite the difficulty of precisely quantifying these effects, it would be a mistake ignore these non-verifiable values (implicitly assuming they are zero) so there have been many studies that try to obtain rough estimates of these values. We specifically refer to “social” benefits and costs because some consequences of inmate labor may affect society-at-large even though they do not directly affect the inmate laborer or the employer. These benefits may be realized at the time the labor takes place, or in the future. For example, if the experience of inmate labor decreases criminal activity after release, then there would be future benefits from the reduction of pain and suffering associated with crime. These benefits should be discounted to present values.

In the context of the decision about whether to allow inmate labor, the decision is much easier if the government allows private employers to bid for the services of the inmate labor, provided that the bidders bear any changes in security costs. When the government is not the employer of labor and producer of the goods, it requires much less information because it does not need to know the details about the profitability of the specific product to be made in order to make decisions about allowing inmate labor. Even when the employer is a private firm, the government still needs to assess whether there are important social benefits and costs beyond those taken into account by the employer (in its decisions about the production of goods and the number and wages of inmate laborers) that suggest whether the production should be subsidized or taxed because of the government’s interest in other consequences of the employment of inmate labor.

We have identified two types of social consequences from inmate labor. (1). Partial equilibrium consequences can be thought of as due to one small enterprise that would not have been undertaken if inmate labor were not available. (2). General equilibrium consequences may occur if there were many enterprises using inmate labor, cumulatively large enough to affect the product and labor markets in which they compete.

We believe the most important partial equilibrium social benefits are crime reduction, earnings by inmate laborers, and security cost reductions, which are discussed below.

Possible reduction in the number of crimes committed by offenders after release. Research suggests that offenders commit 12-15 crimes per year after release, which have a large economic cost to society.<sup>6</sup> There is some evidence that participation in inmate

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<sup>6</sup> For example, see Steven Levitt, “The Effect of Prison Population Size on Crime Rates: Evidence from Prison Overcrowding Legislation,” *Quarterly Journal of Economics*, 1996, 319-251.

labor provides skills and experience that help former prisoners to forgo crime. For example, the recidivism rate appears to be 3-8% lower for former inmate laborers than for those with similar characteristics who were not inmate laborers.<sup>7</sup> The economic value of this crime reduction could be quite substantial. For example, if just five percent of released prisoners were induced to commit no crimes after being released, compared to a situation in which they would commit an average level of crime (say, costing \$35,000 in the first year after release and gradually declining to zero after fifteen years), the net present value that could be saved over the 15 year period would be about \$11,000 *per released inmate*.<sup>8</sup> Moreover, if five percent of released prisoners avoided a two-year prison term after participating in inmate labor, the present value of future incarceration costs would be reduced by about \$2,800 *per released inmate*.<sup>9</sup>

It may also be true, however, that this relationship is not causal and that those who choose to participate in inmate labor would have had a lower propensity to engage in criminal activity even if they had not worked. Further study of this recidivism issue should be a high priority. If there were a waiting list of inmates who wanted to work, then a random lottery for participation would be both equitable and facilitate study of the issue since the group not chosen in the lottery would be a natural control group. Alternatively, the opportunity for inmate labor could be made available at some prisons, and researchers could compare the experiences of these inmates to that at otherwise similar prisons.

Wages paid to inmate labor. Benefits accrue to inmates, who have savings to draw upon after release, and to their dependents in the form of support payments. Transfers can also be made to victim compensation programs and to the government through taxes and payments for room and board. In the past two decades, prison industry enhancement programs have been operating in which \$84 million dollars were paid in wages, of which

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<sup>7</sup> A study of the federal PREP program (for work experience, vocational and apprenticeship training) found that participants had a recidivism rate of 6.6%, in comparison to 10.1% for comparison group with similar demographics and criminal history (and 20% overall rate for all prison inmates). See William Saylor and Gerald Gaes, "Training Inmates," *Corrections Management Quarterly*, 1:2, 1997, 32-43. See also: Stephen Anderson. *Evaluation of the Impact of Participation in Ohio Penal Industries on Recidivism*. Columbus, OH: Ohio Department of Rehabilitation and Correction, 1995. Comparisons were made between inmates with similar reading scores at admission who did and did not later participate in Ohio Penal Industries (OPI) work. For inmates ages 26-30 (22% of the sample) the recidivism rate was 22% for the OPI group and 30% for the non-OPI group. For ages 31-40 (29% of the sample) the recidivism rate was 24% for the OPI group and 29% for the non-OPI group. For other ages, the recidivism rates appear to be similar.

<sup>8</sup> The dollar value estimate of \$35,000 per year is conservative in the sense that it is somewhat lower than the \$43,100 estimate of the average dollar value of the cost of crimes excluding murder committed by released inmates from Levitt (1996). This illustrative calculation assumes straightline depreciation in the dollar value of crime over 15 years, and a discount rate of four percent.

<sup>9</sup> For this calculation, the annual cost of incarceration is assumed to be \$30,000. (See Levitt 1996 for citations to estimates ranging from \$23,500 to \$35,000). Five percent of prisoners are assumed to be released for one year, and then in prison for two years, with a four percent discount rate.

8% were contributed to victims programs, 6% to family support deductions, 12% to withheld taxes, and 22% to room and board.<sup>10</sup> There may also be an increase in employment and earnings in the legitimate labor market after release that would have many of the same benefits, as suggested by research on offenders released from federal prisons.<sup>11</sup> As suggested above, further study to determine the causal effect of inmate work programs on later outcomes is a high priority for future research.

Possible reduced security provision by prisons for inmate laborers. Employing firms may have to provide special security when inmates are working. Another aspect of the security issue, however, is that the operating costs of corrections facilities could be lower when firms are occupying 6-8 hours per day of inmates time. Furthermore, even when inmates are not at work, their morale and behavior may have improved so that the costs of security are reduced, as suggested by research in New York.<sup>12</sup> The quantitative magnitude of costs savings from this reduced need for security have yet to be assessed.

In partial equilibrium, we do not believe there are important social costs. The real question for the viability of small enterprises in a partial equilibrium analysis is whether enough private firms will choose to employ inmate labor at prevailing wages. The combination of paying prevailing wages for low skills with extra security costs in the workplace may not be attractive to employers relative to alternatives. The social benefits provided from reduced crime, redistribution of inmate wages, and reduced prison security costs suggest that there could be under-provision of inmate employment and that society could be better off if the government provides a subsidy to employment.<sup>13</sup>

We believe the most important general equilibrium social benefit in the long run is the efficiency of production. Benefits accrue to consumers in the form of lower prices and to employing firms who have a larger supply of less-skilled labor willing to work at

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<sup>10</sup> CIA 1998, p. 99.

<sup>11</sup> Saylor and Gaes (1997) find that PREP program participants had an employment rate of 72% one year after release while non-participating inmates with similar background characteristics had an employment rate of 63%.

<sup>12</sup> Kathleen Maguire, "Prison industry programs and inmate institutional behaviour." *Forum on Corrections Research* 8:1, 1996. The study compares inmates above the 80<sup>th</sup> percentile in their number of institutional infractions prior to participating in inmate labor to a sample of inmates with a similar number of infractions during that time period. In a follow-up, the group that participated in inmate labor had incurred 3.3 infractions while working and those who did not work incurred 5.0 infractions. While the results for this high infraction subgroup were statistically significant, there were not significant changes for those with a lower number of infractions prior to the inmate labor experience.

<sup>13</sup> One type of subsidy that may be feasible here is a simple wage subsidy. In general, the wage subsidy is thought to be an unattractive policy instrument because it can be easily extorted by an employer who reports fraudulently low hours and a high wage -- since usually information on hours is difficult to verify. In the case of inmate labor, there is directly accounting for the time the inmate spends with the employer, so this usual issue can be resolved.

low wages. As pointed out earlier, however, the effect of permitting prison labor on the overall economy is likely to be quite small.

It is also our opinion that there are important potential social and distributional costs from encouraging prison labor, due to an outward labor supply shift of (mainly) unskilled inmate workers that will have consequences for less-skilled civilian workers.<sup>14</sup> The first two columns of the following table compare the education distribution of the jail and prison inmates to the general population in 1991. Inmates are 2.4 times more likely to lack a high school diploma or GED than are those in the non-institutional U.S. population.<sup>15</sup> In the third column, we use the education distribution of inmates in 1991 to infer the education levels of the 1.72 million men in jail or prison in 1998, and then report the ratio of the number of inmates at each education level relative to the number of men in the civilian labor force in the same education category.<sup>16</sup> These figures provide an indication of the potential magnitude of the labor supply shift due to prison labor by education class. Clearly, because so many inmates have a low level of education, the supply shift due to permitting prison labor will be greatest for the least skilled non-institutional workers.

	<u>Education</u> <u>Inmates</u>	<u>Distribution</u> <u>Population</u>	<u>Inmates as a Proportion of the</u> <u>Civilian Male Labor Force, 1998</u>
Less than High School Graduate	.47	.21	.105
GED or High School graduate	.38	.36	.033
At least some college	.16	.43	.008

We estimate that if inmates join the labor force, the number of high school dropouts in the labor force will expand by 10.5 percent. In the long run, this increase in supply will probably have a greater effect on wages for less-educated workers in the non-institutional workforce, than on their employment (except, of course, for those who voluntarily chose to withdraw from the workforce because of the decline in wages). If the labor demand elasticity for this group of workers is -0.5, then wages could fall by as much as 5 percent for workers with less than a high school degree if all prisoners join the workforce.<sup>17</sup> This is an upper bound for several reasons: (1) the relevant labor market

<sup>14</sup> Our discussion of this social cost addresses one of the questions posed to us for this symposium: “Will expanded inmate participation in the economy create, destroy, or have no effect on civilian employment in the United States?”

<sup>15</sup> U.S. Department of Justice. *Profile of Inmates in the United States, England, and Wales, 1991*. Washington, D.C.: Bureau of Justice Statistics, 1994 (NCJ-145863).

<sup>16</sup> The number of prison and jail inmates by sex is reported in: U.S. Department of Justice. *Prison and Jail Inmates at Mid-year 1998*. Washington D.C.: Bureau of Justice Statistics, 1999 (NCJ 173414). The number in the civilian male labor force by education is reported in: U.S. Department of Labor. *Employment and Earnings*. Washington D.C.: Bureau of Labor Statistics, January 1999, p. 174.

<sup>17</sup> An elasticity of -0.5 for total labor demand was the median estimate in a survey of 65 labor economists. See Table 2 of Victor Fuchs, Alan Krueger and James Poterba, “Economists’ Views about Parameters, Values, and Policies: Survey Results in Labor and Public Economics,” *Journal of Economic*



also includes women; (2) inmates probably have less skill than non-institutional workers with the same level of education; (3) only a proportion of inmates will work; (4) some fraction of civilian workers may choose to withdraw from the labor force rather than take a job that pays 5 percent less; (5) the minimum wage provides a floor below which wages cannot fall in many companies. Despite these caveats, this back-of-the-envelope calculation provides a rough estimate of the potential impact of prison labor on the less-skilled non-institutional labor force. Moreover, if civilian workers who withdraw from the formal labor market because of deteriorating wages are pushed into a life of crime, the social costs could be substantial.

Overall, however, despite the large increase in incarceration in the U.S., inmates still would be a small fraction of the labor force even if many of them were working. While the proportion of the population in prison or jail has doubled since 1985, the number of adult men in prison or jail equaled 2.3 percent of the number in the male labor force.<sup>18</sup> For workers with some college, that ratio is under 1 percent. The 1998 overall employment to population rate is predicted to be 70.6 percent had the prison population been included in the estimates, compared to the Bureau of Labor Statistics estimate of 70.9 percent for the non-institutional population in the hypothetical situation in which all incarcerated individuals were added to the civilian, non-institutional population, and 35 percent were employed.<sup>19</sup>

In assessing the economic value of the social costs and benefits, the government also must consider the distributional consequences. In this case, the less-skilled labor adversely affected by the presence of inmate labor may also as a group be the recipient of some of the social benefits. The reason for this is that they are the same group that is most likely to benefit from any reduction in criminal victimization resulting if participation in inmate labor programs lowers criminal activity after release. Some members of this group will also benefit from the family support payments made by inmate laborers. A concrete recommendation about the decision the government should

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*Literature*, 56 (September 1998), 1387-1425.

<sup>18</sup> U.S. Department of Justice. *Sourcebook of Criminal Justice Statistics, 1997*. Washington, DC: Bureau of Justice Statistics, 1998 (NCJ 171147).

<sup>19</sup> This analysis is based on Lawrence Katz and Alan Krueger, "The High Pressure U.S. Labor Market of the 1990s," forthcoming *Brookings Papers on Economic Activity*, 1999. The original analysis considered what would have happened to employment if inmates had been released. Here we consider the implications of including inmate laborers in the labor force statistics. We focus on men because about 90 percent of those in prison or jail are men. Administrative earnings data collected by the California Employment Development Department show that 35 percent of individuals who served 12 year sentences in California for federal crimes were employed prior to being arrested. This figure is similar to the employment rate those convicted but not sentenced to prison time, two years after their case was filed. Consequently, we assume that 35 percent of those in prison or jail would be working if given the opportunity. See Jeffrey Kling, "The Effect of Prison Sentence Length on the Subsequent Employment and Earnings of Federal Criminal Defendants," Woodrow Wilson School Economics Discussion Paper 208, January 1999. For U.S. employment and population figures, see the Bureau of Labor Statistics website at [www.bls.gov](http://www.bls.gov).

make would be based on the magnitude of these costs and benefits, and a social welfare function that places weights on the welfare of the various distributional groups. It would also be important to investigate the relative cost effectiveness of alternatives such as education and training for prisoners, which could in principle provide some of the same benefits without the distributional consequences for other less-skilled workers who may be competing with inmate laborers. Any serious recommendation would require much further research on these issues.

Another question we've been asked to address is:

What steps are essential to improve the economic contribution  
of the incarcerated labor force?

As we noted above, we see no theoretical rationale for the government to be the employer of inmate labor. We suspect the contribution of inmate labor to economic output would be greater if they were employed by the private sector. Shifting to an open system of private sector employers could also have the benefit of placing all prospective employers on a level playing field, without preferences for particular employers or for the purchase of prison-made goods. *In concert with privatization, we suggest that inmate workers be covered by all relevant labor legislation that applies to private sector firms: including the right to form a union, fair labor standards, and workplace safety regulations.*

Because inmate laborers do not have the option to "vote with their feet" or shop around for alternative, better paying jobs, the potential for inmate labor to be exploited is great. In this situation, unionization may also provide important benefits and protections. In order to maximize their economic contribution, inmate labor needs a negotiating agent aligned with its interests, and a union could serve as that agent. A union could take responsibility for handling outreach to employers and specialize in handling additional security arrangements for inmate labor that would be unfamiliar and costly for each private sector employer to undertake. If the government were to subsidize inmate labor because of social benefits, one way to administer the subsidy would be make payments to the union that could be used to pay for security and make inmate labor more attractive to potential employers. A union could also provide continuity in managing relations with the employer even when there is high turnover in the workforce. We note that since inmate labor is not a critical component of any one private sector industry (in the way that, say, airline mechanics are to the airline industry) they would probably not reach agreements that lead to supra-competitive wages since employers could substitute with other unskilled labor relatively easily. On the other hand, unionization may lead to a more accurate valuation of the general work tasks performed in prisons, although it is not clear that this would actually raise prison costs since increases in payments could probably be taxed away through charges for room and board. A union may also be more effective in convincing inmates to participate in educational programs that would raise their wages, since inmates may (accurately) perceive that this advice is coming from a party that has their self-interest in mind.

Another important step in improving the economic contribution of inmate labor

would be to set the “tax rate” for wage deductions at an appropriate level. Further research will be necessary to better understand their labor supply elasticity (the sensitivity of inmate labor force participation to the after-tax pay that they receive), perhaps using research designs as described above for studying recidivism, but instead varying the wages instead of the availability of work. As documented above, many former inmates do not work after release in the legitimate labor market, but their opportunity costs (e.g. other ways to make money, value of leisure time) may be substantially different while incarcerated. If the tax rate is set too high, the maximum social benefits may not be produced. Even the total revenue for available transfers will not be maximized if inmate laborers choose not to work at a high tax rate and would have worked more at a somewhat lower tax rate.

One final point is that, since the economic contribution of inmate labor is likely to be a very small addition to GDP, and since the main economic effect of inmate labor would follow from a possible reduction in recidivism rates, the government should consider whether there are more efficient and effective means than inmate labor to reduce future recidivism rates. For this reason, we wish to reiterate that other strategies for reducing recidivism rates and integrating inmates into mainstream society after release should also be considered and studied. Some of these strategies may complement inmate labor – such as requiring employers to provide specific on-the-job-skills training – and others may be a substitute for inmate labor because they take time that diverts inmates away from work – such as requiring general classroom courses in basic reading or the control of aggression. Identifying ways to integrate inmates into mainstream, law-abiding society upon release should be a priority from an economic as well as social perspective.

### Panel Remarks

In addition to their presentation, Alan Krueger and Jeffrey Kling also provided comment to panelists, extending the detail of their views on inmate labor force participation. A fuller sense of their views includes understanding both their remarks and their responses to panelist questions. Their full responses, minimally edited, to the following panelists on the following issues can be found below in the chapter presenting the panel:

- Responses to Panelists by Alan Krueger:

Panelist	Response Subjects
Gus Faucher	Minimum Wages and Wage Setting Human Capital and Education Exploitation and Labor Abuse
Steve Schwalb	Repatriating Offshore Jobs (Import Substitution)
Brenda Smith	Female Inmate Labor Force Participation

Greg Woodhead      Unions

- Responses to Panelists by Jeffrey Kling:

Brenda Smith      Female Inmate Labor Force Participation

# **The Economics of Inmate Labor Force Participation**

**May 29, 1999**

**The George Washington University  
The Center on Crime, Communities & Culture, of The Open Society Institute**

## Chapter 5

Presentation by Steven D. Levitt

### The Economics of Inmate Labor Participation

#### Biography

Steven Levitt is Professor of Economics, University of Chicago. He is also a research fellow of the American Bar Association. From 1995 to 1997 he was a junior fellow in the Harvard Society of Fellows and a John M. Olin Research Fellow in Law and Economics at the Harvard School of Law. In 1998 he received the Quantrell Award recognizing outstanding undergraduate teaching at the University of Chicago.

Professor Levitt has a Ph.D. in economics from the Massachusetts Institute of Technology, 1994. He received his Bachelor's degree in economics (Summa Cum Laude, Phi Beta Kappa) from Harvard University in 1989.

Professor Levitt has published extensively, including on sentencing, the effects of demographic change on crime, crime and urban flight, juvenile crime and punishment, guns and violence, and the effect of imprisonment on crime rates. A recent article is "An Economic Analysis of a Drug-Selling Gang's Finances," coauthored with Sudhir Venkatesh.

#### Presentation

- I. Introductory Remarks
- II.

Let me begin with a caveat. Although I have written widely on economic issues related to crime and criminal justice, prior to the invitation to participate in this project I was only casually acquainted with the complex issues surrounding inmate labor. I have spent a great deal of time thinking about these questions in recent months and offer my opinions below. My opinions are based upon my training and experiences as an economist, as well as a careful reading of materials I have obtained. I do not, however, have first-hand experience "in the trenches" with respect to prison labor. Consequently, I have attempted to limit my discussion to broad issues, staying away from the nuts and bolts of implementation which I am unqualified to address.

With that important limitation in mind, my comments on prison labor are structured as follows. I begin by laying out what I believe to be the important stylized

facts concerning inmate labor. These facts will serve as the basis for my judgments about a number of questions. First, how big an effect on Gross Domestic Product do bans on prison labor have? Second, how might prison labor policies be designed to create the greatest economic benefits? Third, who would be the winners and losers if existing limitations were removed? Fourth, what other issues besides narrow economic considerations need to be taken into account when determining optimal policies with respect to prison labor.

## II. Stylized Facts

There are a number of key stylized facts related to inmate labor that will dictate many of the conclusions I later present. I begin by outlining these “facts.”

*Fact 1: By any macroeconomic measure, prison labor is currently and will almost certainly remain a small (though not necessarily trivial) fraction of the economy even if restrictions on prison industries are abolished.*

Given the current set of restrictions on how prison labor can be utilized, at the present time most prisoners do not work in jobs producing output that will be sold. Miller, Shilton, and Petersik (1998) report that in 1997, 76,519 inmates worked in correctional industry jobs, generating gross sales of \$1.6 billion dollars. These 76,519 inmates represent less than 6/100ths of one percent of the United States labor force. Moreover, because prisoners tend to have lower output per worker, the impact of prison labor as a fraction of GDP is less than half as large as its share of the labor force. In the U.S. economy, about one billion dollars of output are produced each hour. Thus the total annual output of prison industries represents less than two hours worth of U.S. GDP.

A separate question is how important prison labor might be in the future if restrictions on its use were removed. Once again, the answer is that prison labor will be a small part of the overall economy. Even if every prisoner in the United States were employed full-time (assuming here constant output per worker-hour), prison-produced goods and services would account for only 0.4 percent of GDP.

*Fact 2: Prison labor, on average, is relatively unproductive due both to the composition of the prisoner pool and the structural impediments that prisons pose as workplaces.*

While many prisoners are no doubt highly motivated and productive workers, prisoners are not an ideal work force. Prisoners tend to have less education than the U.S. workforce as a whole.<sup>1</sup> They also tend to have uneven past work histories and labor-force attachment. As a consequence, the pool of prison labor is a relatively unskilled one, making it an unattractive workforce for employers, at least at prevailing wages,

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<sup>1</sup> Jeffrey Kling and Alan Krueger provide an excellent discussion of this issue in their paper prepared for this symposium.

Also, there are important structural impediments to producing goods in prisons. First, turnover rates among prison workers are high due to release from prison: roughly forty percent of the prison population is released each year. In private sector manufacturing, a turnover rate of production workers above twenty percent annually would be deemed unacceptable. Such turnover is costly to employers and also discourages training since the employer will have less time to recoup any investment made. There are also disruptions to production as a result of periodic lockdowns.

Given these facts, it is not surprising that prison labor, on average, is not very productive. By my rough calculations, output per prisoner-hour worked is about one third as great as for the typical American worker.<sup>2</sup> Because of this low productivity level, prison industries tend not to be profitable. Evidence of this lack of profitability comes from the fact that the Prison Enhancement Industries (PIE) program, which requires prison industry to compete on relatively equal footing to private industry, has not thrived. As of June 30, 1997, less than 3,000 prisoners were employed in all PIE programs across the United States.

*Fact 3: The current system of prison industry is characterized by a non-level playing field.*

When an economist speaks of a “level playing field,” it means that all competitors have access to the same set of rules, resources, and markets for their products. A level playing field also requires keeping the government out of decisions that can be made by the market, such as determining who will produce a particular good or be given access to a particular set of workers. As a general economic proposition, a level playing field is an important ingredient of economic efficiency.

It is clear that the current situation with respect to prison labor is not characterized by a level playing field. Prisoners are not covered by the same set of labor laws as the rest of the work force. Prisoners are exempt from the Fair Standards Labor Act (FLSA) that dictates a minimum hourly wage and imposes other constraints on employer behavior. Prison-made products are often given preferential treatment with respect to government purchases. At the same time, in many states prison industries are restricted as to the markets they are allowed to serve. Finally, it is unclear how or why certain private companies are granted access to prison laborers and others are not. Because there is no free market for prisoner labor, allocation of such labor is likely to be governed primarily by political rather than economic considerations.<sup>3</sup>

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<sup>2</sup> Prisoners may also be disproportionately employed in jobs that are not capital intensive. This would also contribute to the lower marginal product of prison laborers.

<sup>3</sup> Although PIE programs come closer to achieving a level playing field, the rules governing PIE industries nonetheless retain some undesirable aspects. For instance, given that prison labor is generally less productive than the workforce available to private companies, the requirement concerning paying prevailing wages in PIE programs tilts the

*Fact 4: Reasonable estimates suggest that the social costs of crimes committed by criminals when not incarcerated are far greater than the typical prisoner's contribution to GDP.*

A series of academic studies have attempted to calculate the frequency with which the incarcerated population commits crime when not behind bars (DiIulio and Piehl 1991, Levitt 1996, Piehl and DiIulio 1995, Spelman 1994), as well as the costs that such crimes impose on victims (Cohen 1988, Miller, Cohen, and Rossman 1993). My reading of this literature is that the “marginal” criminal (i.e. the inmate who would be let out if the prison population were reduced by one using whatever arbitrary procedure is currently in place for determining who goes to prison and for how long) commits 1-2 violent crimes and roughly 10 property crimes annually. The cost of these crimes to victims (in lost property, injuries, psychic costs, lost years of life, and missed work) is roughly \$35,000 per criminal per year. If one focuses on the “average” inmate rather than the “marginal” inmate, the costs of crime to victims are much higher: perhaps \$80,000 per criminal per year.<sup>4</sup> For purposes of comparison, the average annual output per prison worker in 1997 was approximately \$20,000 – smaller than the damage done in crime when free. While these numbers do not speak directly to the question of whether or not prisoners should be allowed to work while incarcerated, these facts will be relevant in the final section of the paper where I highlight the importance of thinking not just about the narrow economic issues, but also on the relationship between prison labor and recidivism. Because the social costs of crime are so high, a policy that reduces recidivism can have a social benefit that far outweighs a prisoner's narrow contribution to GDP.

### III. How big an effect on Gross Domestic Product do bans on prison labor have?

I approach answering this question by (1) establishing a likely upper bound on the amount of GDP that might be generated by prisoners under ideal circumstances, (2) considering a range of issues that make it likely the upper bound estimates are too large, and (3) thinking about the winners and losers.

#### An upper bound

A simple back-of-the-envelope calculation as to the potential contribution of

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playing field against prison industry. If prisoners are less skilled, than output per worker will be lower and prevailing wages are not appropriate (perhaps prevailing wages per unit of output, rather than unit of time worked would be more fitting). On the other hand, PIE industries do not appear to pay their full share of the overhead costs of prison management, which tilts the playing field in their favor.

<sup>4</sup> The difference between the marginal and the average prisoner suggests that judges, juries, and parole boards are able to determine which prisoners are most dangerous and tend to lock these individuals up for greater periods of time.



prison labor to GDP takes output per inmate-hour as fixed and makes some assumption on how many inmates might reasonably be employed in industry jobs. Given the high turnover rates in jails, it is likely that jail-based production will be economically inefficient. The prison inmate population as of December 1997 was approximately 1.2 million. Although it is unrealistic to think every prisoner could be employed full time, I will begin with that premise. Given current output per prisoner-hour (based on numbers presented in Miller, Shilton, and Petersik (1998)) of \$14.56, if every prisoner worked full-time, then annual prison industry output would be \$35 billion annually. In my opinion, this represents an extreme upper bound that is unlikely ever to be realized.

To put this number into perspective, even in the extreme case where we went from a situation where no prisoners worked to one in which all prisoners worked, GDP would increase by about 0.4 percent. In comparison, between 1991 and 1997, the U.S. economy grew 18.3 percent in real terms. So the potential economic impact we are talking about is small relative to the macroeconomic changes that have taken place in recent years. On the other hand, the potential output that could be generated by prisoners is by no means trivial. Divided equally across all Americans, this translates into an additional \$125 per person annually. This is a substantial amount of production, and if it were straightforward to achieve this increment to GDP it would absolutely be a goal worth pursuing.

#### A more realistic conjecture

There are many reasons, however, to think that the estimates above dramatically overstate the probable increase in GDP associated with lifting prison labor restrictions. First, it is unlikely that all prisoners would be employed in industry jobs. Fifty percent participation might be a more reasonable assumption. Second, it may be that as the prison labor force is expanded, the marginal worker has fewer skills and a lower commitment to working, translating into a lower level of output per worker. Third, not all of the prison industry output would necessarily represent a true increase in GDP. Some of the output is likely to be replacing other production that would have otherwise taken place outside of the prison (perhaps at a higher cost). In other words, just as some U.S. jobs are lost when production moves to foreign countries, a parallel story could hold for prisons. Fourth, only a portion of the total value of goods and services produced in prison truly reflects “value added” on the part of the prisoners. If a prison industry buys a widget for \$10, adds bells and whistles to the widget, and resells the widget for \$15, then the actual increment to GDP associated with the prison industry is only \$5 per widget.

Taken together, I think that these factors suggest that a reasonable estimate of the true increment to GDP that would result from putting prisoners to work without restrictions might be \$5-10 billion dollars a year, or less than one-third of the upper-bound estimate presented above. Nonetheless, an additional \$5-10 billion dollars annually is a substantial amount of production and if there is a way to achieve this production it should be pursued.

#### IV. How might prison labor policies be designed to create the greatest economic benefits?

As noted in the introduction, I do not intend to offer specific opinions about the day-to-day operation of prison industry. Rather, I focus here on a few “big picture” issues anchored in one fundamental economic principle: economic efficiency requires a level playing field.

Economic efficiency begins with production being done by the lowest-cost producer. By costs, I don’t mean accounting costs, but rather true resource costs. For instance, if the government allows one producer access to prison labor that is subsidized by virtue of the government paying the costs of the physical plant and requiring prisoners to work for extremely low wages, then that producer may be able to sell output more cheaply than a competitor. But it may be economically inefficient because the producer is being subsidized by taxpayer dollars spent on maintaining the prison. It also may be inefficient because a second producer, given access to cheap prison labor, could have produced at even lower cost. Finally, it may be inefficient because different producers spend money attempting to lobby the government for the right to gain access to the cheap prison labor.

The current system of prison labor regulation has all of these potential inefficiencies built into it. As well, by giving preferences to prison-made goods in some cases (e.g. government purchases), and restricting the sale of prison-made goods in other instances, the present set of rules further distorts economic choices in ways that are likely to adversely affect economic efficiency. My advice, therefore, would be to dismantle the current set of regulations, put all competitors on a level-playing field, and let the market dictate the outcome.

Putting all competitors on a level-playing field would entail the following four changes.<sup>5</sup> It is important to note that I view each of the four elements as critical to a successful transition to a more rational utilization of prison labor. If any one of the elements were to be omitted, the program would be unlikely to be completely successful.

First, I would privatize prison industry. As long as the government is in charge of prison industries, it will be difficult if not impossible to avoid decisions being made with political rather than economic justifications. Furthermore, the difficulty in allocating costs between prison overhead and the prison industry will be impossible to solve.

Second, every prison system that wants to have inmates employed in prison industries should put the rights to use those workers out to a competitive bid of

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<sup>5</sup> To reiterate my definition of level playing field is a situation where everyone plays by the same rules and the government stays out of decisions that are better made by the market.

prospective employers. The prison would stipulate certain conditions (e.g. the length of contract, types of training required, wages to be paid, etc.), and subject to agreeing to those terms, the highest bidder would obtain the rights to access the prison labor.<sup>6</sup> Individual prisoners would have the right to choose whether or not they wanted to participate in the prison labor force, just as individuals who are not incarcerated have this choice. It would be incumbent on the private company to provide wages and working conditions that are attractive enough that prisoners would choose to accept the jobs. Voluntary participation on the part of prisoners is especially important given the potential exploitation of prison labor that has sometimes occurred in the past.

In my opinion, this competitive bidding system is critical to any proposal to liberalize the regulation of prison labor. This system has a number of attractive features: no company can complain that another company has an unfair advantage because of access to prison labor since the complaining company had their chance to bid, it brings revenue directly to the state via bids, and if it is economically inefficient to use prison labor then there will be no bidders and production will not occur. Under this system it would be fine for the government to pay the costs of guards and the physical structure. If they do so, private companies will bid higher for the right to use the prison labor, so in the end the market will take care of it.

The third change that would be useful in leveling the playing field would be to extend current civilian labor laws to cover prisoners. In particular, I think minimum wages dictated by the Fair Labor Standards Act (FLSA) should apply, as should employer requirements concerning workers comp, contributions to Social Security, etc. While not critical to my proposal, perhaps prisoners would also be allowed to unionize (how this might be best accomplished is one of the factors I feel unqualified to address). It is quite reasonable for the government to garnish prisoner wages to pay for maintaining prisons, providing support to dependents of those incarcerated (there are more children of inmates than inmates), or victim compensation.<sup>7</sup> The key point is not to pay the inmates a particular wage, but rather to put the choice between prison labor and civilian labor on an equal footing. If the prison labor is more profitable given the same set of rules, then the prison labor should be used rather than civilian labor and vice versa.

The fourth and final change that I propose would be to eliminate all preferences and restrictions with respect to prison-made goods. No one should be required to buy prison-made goods and no one should be prohibited from doing so if they want to. Since prison industries would be producing on the same terms as all others, they should be able

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<sup>6</sup> It may even be the case that the government would be willing to accept negative bids if prison industries have other social benefits, such as reduced recidivism or making it easier to control prisons.

<sup>7</sup> Dividing up the prisoner's wage is a very tricky and important issue. In my opinion, it is fundamentally a political decision rather than an economic one. The various stakeholders would undoubtedly want to be involved in such a decision.

to sell their goods on the same terms.

### Winners and Losers

Economic winners and losers from a liberalization of prison labor depend critically on the way in which the program is implemented. Given that I outlined what I think is a reasonable set of rules for liberalizing inmate labor in the preceding section, I will focus my efforts here on describing what I think would be the likely distributional consequences of the program outlined above, rather than attempt to conjecture about the full range of possible liberalization schemes.<sup>8</sup>

I think the single most likely outcome of the liberalization I propose is that very little prison labor will actually be utilized if competitive bids are required to be positive. In other words, I believe that most prison industries, if they had to pay the minimum wage, would not be profitable. So for the sake of argument, let me take a case where bids to use prison labor can be negative (i.e. the government pays a company to produce using prisoners) and the bulk of prisoners are employed.

Relative to the current situation, the only clear losers that I see in my scheme are the executives at UNICOR and state-run prison industries (which would cease to exist in my framework, or at least would have to compete with private companies for prison labor), and the handful of private companies that currently use prison labor at government subsidized rates. With competitive bidding, these companies will be forced to pay the full value of the access to prison labor.

The clear winners in this program are the businesses that previously competed against prison industries, the government, prisoners and their families, consumers, and taxpayers. Businesses no longer have to face subsidized competitors and now have equal access to prison labor. The government is better off since private companies are likely to produce more efficiently than government run industries, and therefore these private prison industries will be willing to pay more (or perhaps accept lower subsidies) than would be required for the government to directly run the business. Also, by putting the inmate labor out to competitive bids, the government will capture much of the surplus that existing privately-run prison industries have likely been collecting. Since the government will still be able to garnish wages from the prisoners, having more prisoners working generates more government revenue. Prisoners are better off because more of them will be working and given that the prison industries are run by private companies, the way in which the businesses run are likely to be more similar to civilian jobs than is currently the case. Although prisoner wages will be heavily garnished as is currently the

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<sup>8</sup>For example, if we keep our present system of preferences and subsidies, but remove all restrictions on the markets to which prison industries can sell, the companies that compete with the prison industries, as well as their workers, are likely to be hurt. How badly depends critically on how concentrated the output of prison industries would be if such a liberalization occurred.

practice, in my scheme prison labor would qualify for social security benefits. Furthermore, working conditions might improve if existing labor laws are applied to prisoners. Finally, consumers should benefit from the fact that the playing field has been leveled, resulting in production being done as efficiently as possible. This should manifest itself in lower prices for goods and lower taxes to pay for prisons.

The final stakeholder that I have not yet talked about is civilian workers/labor unions. The impact on such workers is unclear. By enforcing FLSA and other labor laws, my scheme eliminates many of the existing subsidies to prison labor. From that perspective, it reduces low-wage competition and benefits labor. It would also allow prison workers to unionize, which would be beneficial to organized labor. On the other hand, by eliminating restrictions on the sale of prison-made goods, my plan is likely to generate some competition as well. Indeed, if the number of prison workers go up as I envision would be the case, the overall level of competition with private labor will have increased. The effect is likely to be relatively minor, however. The rise in the labor force associated with putting prisoners to work is about one percent. The labor market frequently absorbs shocks of this magnitude with ease. Low-skilled civilian workers are likely to be hurt more since prisoners are largely unskilled and will compete directly with these workers. The impact on low-skilled workers requires further study to make an accurate assessment. In general, labor economics suggests that any adverse impact on civilian employment is likely to occur primarily in the short run (five years or less). Over time, labor markets will move back into equilibrium with little impact on civilian employment, but potentially some small permanent decline in wages of low-skilled civilians.

#### V. Beyond narrow economic considerations: does prison labor reduce recidivism?

To this point, I have focused exclusively on the narrow question of economic efficiency, as the organizers of this conference have requested. In my opinion, however, the question of whether putting prisoners to work reduces recidivism is also of critical importance.

As noted in the stylized facts presented in the beginning of this paper, existing estimates of the social costs of crime committed by prisoners when free are on the order of \$30,000 a year. If working a prison job has even a relatively small impact on recidivism, the social benefits could be enormous. For instance, if working a prison job resulted in 10 percent of prisoners dropping out of crime upon their release, then the annual social benefit from reduced crime would be \$6.1 billion.<sup>9</sup>

My reading of the (very limited) existing literature on recidivism and prison labor, however, leads me to believe that working in prison industry is unlikely to yield a large

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<sup>9</sup> One rationale for allowing negative bids in the auction for prison labor described earlier in the paper is that putting prisoners to work might have a beneficial impact on future recidivism.

recidivism benefit. Although there are a handful of studies of federal, Florida, and Ohio prisoners that find lower recidivism rates among prison workers relative to non-workers, the critical concern in interpreting these studies is whether the prisoners who worked are in fact comparable to those who did not work. In particular, one worries that the workers were more motivated than the non-workers and that motivation is itself an important determinant of recidivism likelihood. Consequently, the impact of having a prison job on later recidivism may not be causal. Evidence presented by Maguire et al. (1988) tends to support this less sanguine interpretation of the data. Looking at almost 2,000 New York inmates, they find that those who worked in prison were less likely to recidivate than non-workers, but once a range of prisoner characteristics such as prior felony arrests, military service, time served, and marital status are controlled for, having worked in prison no longer predicts lower recidivism rates.

It is surprising that so little research has been devoted to this important question. The ideal way to attempt to answer this question in the future is through randomized experiments in which prisoners are divided into two pools: one that is eligible to participate in prison industry and another which is not.<sup>10</sup> By comparing future recidivism across these two groups, an estimate of the independent contribution of prison labor in determining future criminal involvement could be obtained.

#### Panel Remarks

In addition to his presentation, Steven Levitt also provided comment to panelists, extending the detail of his views on inmate labor force participation. A fuller sense of his views includes understanding both his remarks and his responses to panelist questions. His full responses, minimally edited, to the following panelists on the following issues can be found below in the chapter presenting the panel:

Panelist	Response Subjects
Wendell Primus	Voluntary Labor Structuring Incentives
Brenda Smith	Female Inmate Labor Force Participation Distribution of Inmate Earnings

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<sup>10</sup> There may be some ethical concerns associated with prohibiting some prisoners from working, but to the extent that there are fewer jobs than prisoners, this may be less of a concern since not all prisoners would have worked anyway.

# **The Economics of Inmate Labor Force Participation**

**May 29, 1999**

**The George Washington University**

**The Center on Crime, Communities & Culture, of The Open Society Institute**

Chapter 6

The Panel

## Introduction

Following their presentations, the five economists were queried by a panel of key stakeholder interests. The panel was designed to identify key applications, extensions, problems, inconsistencies, and unresolved issues affecting inmate labor force participation. Listed alphabetically (and also in their order of appearance), the panelists and their interests were -

- Gus Faucher, U.S. Department of Treasury (Taxpayers)
- Linda Haithcox, National Association for the Advancement of Colored People (NAACP, Minorities)
- Harry Holzer, U.S. Department of Labor (Labor)
- Wendell Primus, Center on Budget and Policy Priorities (Children and Families)
- Steve Schwalb, Federal Prison Industries (FPI)
- Brenda Smith, American University (Women)
- Charles Sullivan, Citizens United for Rehabilitation of Errants (Inmates and Inmate Families)
- Gregory Woodhead, American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)

A scheduled panelist from the U.S. Chamber of Commerce was unable to participate.

The speakers were also joined by Neal H. Rosenthal, Associate Commissioner for the U.S. Department of Labor, Bureau of Labor Statistics (BLS). Mr. Rosenthal introduced the morning session with statistics on the composition of and forecasts for the U.S. labor force. Amy Kaslow, moderator of the symposium, interjects a few questions, and Thomas Petersik, organizer of the symposium, adds two questions at the end.

Each panelist was allotted 10 minutes for query and for interactions with other panel members.

The text below presents the panel as it occurred, minimally edited for clarity. The unedited version is available on the web.

### Biographies

Gus Faucher is a senior economist for labor market issues in the Office of Policy of the U.S. Department of Treasury. The Office of Policy provides general economic analysis on policy issues to senior Treasury staff, including to the Secretary and Deputy Secretary of Treasury.

Linda Haithhcox is Director of Economic Development for the National Association for the Advancement of Colored People (NAACP). Starting in 1981, the NAACP Economic Development Program began turning to the private sector as a foundation for economic advancement of African Americans, with principal objectives of promoting entrepreneurship among African Americans and employment opportunities with private sector companies, including minority vendor programs, aggressive affirmative action, and opportunities for advancement.

Harry J. Holzer is currently Chief Economist at the U.S. Department of Labor. He is on leave from Michigan State University, where he is professor of Economics. His interests include employer hiring practices and the labor market for disadvantaged workers, including at-risk youth and ex-offenders.

Wendell E. Primus is Director of the Income Security Division of the Center on Budget and Policy Priorities, a nonpartisan research and policy institute analyzing government policies, emphasizing effects on low and moderate income people. The Income Security Division researches issues in Social Security, unemployment insurance, income and poverty trends, Federal policies under the 1996 welfare reform, and income assistance and human service programs.

Steve Schwalb is the Assistant Director and Chief Operating Officer of Federal Prison Industries, Inc. FPI is a wholly-owned government corporation of the Federal Bureau of Prisons operating under the trade name UNICOR, primarily as a correctional program teaching marketable work skills by providing job training and useful employment opportunities in diversified work programs for inmates



serving in the Federal Bureau of Prisons. At the end of Fiscal Year 1998, FPI operated 99 factories in 64 prisons and employed over 1,600 staff and 20,200 inmates.

Brenda V. Smith is an Associate Professor at the Washington College of Law at the American University, former Director of the Women in Prison Project of the National Women's Law Center, and author of several publications on women in prison.

Charles Sullivan is Executive Director of CURE (Citizens United for Rehabilitation of Errants), a National prison reform organization with 30 chapters and over 10,000 members. CURE goals are (1) to use prisons only for those who absolutely have to be in them, and (2) to give those who absolutely have to be in them all the opportunities they need to turn their lives around.

Gregory Woodhead is a Senior Economist in the Public Policy Department of the AFL-CIO, a voluntary federation of national and international labor unions representing affiliate unions in the creation and execution of national and international policies. The Public Policy Department provides economic research and analysis supporting AFL-CIO policy positions.

### The Panel

MR. FAUCHER: I am Gus Faucher, an economist at the Treasury Department, specializing in labor market issues. Tom Petersik asked me to give the taxpayer perspective.

There were three points that struck me in this morning's discussions from the papers. The first is at least we think that it is a good idea for inmates to work, particularly that it might reduce recidivism. And Jeff Kling raised the point that it might be interesting to conduct a random experiment and to find out if indeed it does work. As an economist, I would find that an interesting topic. So we think that it is a good idea for inmates to work, both for themselves, but also for society in general.

We are also concerned, however, about unfair competition. We are concerned about subsidies that go to employers of prison labor. And we are concerned about the effect that inmate labor might have on, particularly, low-skilled workers in the economy.

Third, and Richard Freeman and Alan Krueger brought this point up, that we think that inmates are going to have low productivity, which makes a lot of sense. Obviously, if they are committing crimes they probably don't have good labor market opportunities.

They tend to be poorly educated. So we are concerned about what they will be producing.

If we are concerned about unfair competition, we want inmates to earn minimum wage. However we also think that employers probably won't be willing to hire them at the minimum wage. And my question is, what is the interaction there and how do we prevent the unfair competition and yet ensure that these inmates are going to be hired and what is the interaction with minimum wage in prison labor? I think Alan Krueger has done a lot of work on the minimum wage, and I would be particularly interested in hearing his thought on this.

MR. KRUEGER: Thanks. I think that Gus raises a number of important points. On the minimum wage, what I would recommend is that, I think he is right that a number of inmates would have trouble earning minimum wage in prison, in part because of their low human capital and in part because of the circumstances in prison would prevent some types of businesses from operating. You can't run a McDonald's, I presume, in prison.

I don't think that prison labor is for everyone.

And I think that, especially if we take a longer horizon, one would want to try to raise the skills of those people who are in prison. So I would think about ways of trying to raise the human capital of those who are in prison who would earn so little that they couldn't get a job in the labor force anyway after they are out of prison. So I think that is one partial answer for that question.

There are some circumstances, I suppose, where one would entertain permitting a sub-minimum wage. This is, I think, in part why Richard recommended trying to compete with non-American labor, which in many cases is paid less than the American minimum wage. And that is something that I would consider.

But I think as a general policy, one has to worry about inmate labor being exploited since they can't pick and choose their employers, which would make me think very seriously about extending as many of the labor standards as

MR. HOLZER: Thank you. As a representative of the Department of Labor, I was very pleased that all four speakers spoke sympathetically about applying fair labor standards to prison workers. And I believe all four speakers, at least as a broad concept, expressed some interest in the possibility of trying to unionize prison laborers, though I have a little hard time seeing how that might work in reality. But at least as a general principal it was an interesting thought.

I would try to push that consensus toward next steps in terms of specific policy actions. What I think I heard is maybe that all four speakers would favor, on the one hand, relaxing the protections that UNICOR now enjoys, not only to its monopoly status in federal procurement, but also in terms of its ability to pay prison workers, well below minimum wage standards.

At the same time, maybe the speakers would favor some relaxation of the restrictions on private employers in the Prison Industries Enhancement Act, so whether it leaves room there for some trade off, again, of putting more pressure on UNICOR at the same time of some lifting of restrictions in the private sector, all within the context of maintaining labor standards, and is there a sort of practical way of doing that?

The other brief question, what I heard all the speakers saying, that by far the big effect would be on recidivism

of ex-offenders. And what I heard was a subtext of potential for positive externalities [benefits] for the rest of society, which runs a little bit counter to the kind of level-the-playing-field argument that Alan [Krueger], Jeff [Kling], and Steve [Levitt] were making. If you believe that there is a real possible externality, is there, in fact, some reason for government subsidies here to help, or what is the most appropriate form of government subsidy or government investment in these workers to offset any of those disadvantages that they are going to experience in the labor market?

MR. FREEMAN: I thought that Steve [Levitt] put this correctly. He said that some contracts with all the externalities were great, the contracts could very well be the real way to pay you to run a prison industry operation. And I think the same is true of minimum wage, since you are deducting, you will be taking away some money from the people for their room and board, there are a lot of places to cut deals to make subsidies or otherwise make them more competitive. Because I am sure that one could, let's say

the prison labor really was below minimum wage, but we thought there were these big externalities.

We have just two studies that one finds credible on recidivism. One is a pretty big effect, the one Jeff [Kling] mentioned. And then there is a state study that doesn't show these effects. So I think it is absolutely critical, on the government side, to first decide do we really get a big recidivism effect. And the federal prison industry study said just a big effect from trading. It was about the same magnitude as was the effect from the work. So that gets to this human capital thing that Alan [Krueger] mentioned. That looked as effective as did the actual prison inmate thing itself.

So then you want to say well, which one of those two is cheaper to run and which would you have to subsidize less. But given that, I can imagine there are many ways to write contracts here that would enable us to accomplish what we want socially and to provide subsidies to hopefully to the right people to do what we want done.

MR. MARSHALL: It seems to me that there are several problems involved in the assumption that people couldn't earn the minimum wage. One is to compare the whole prison population. You have got a selective workforce in prison industries. So that is not the same population at all. So you have to look at that.

Then the second problem with many of the studies is that they are based on the system as it exists, not the way it could be. So that is the reason I prefer the design project. Let's try some things to see if it can, in fact, work because there is nobody arguing that the present system is as good as it could be, even if you don't believe that it is a horrible system. It certainly could be improved a good bit.

And the concept of balancing competitive forces is fairly well established in trade policy. I mentioned the adverse effect wage rate, and I think we could learn some things from that.

As to what you subsidize, we should have learned a lot from economic development. You subsidize human capital development, not industry. You don't need to subsidize the industry. The subsidy you give the industry doesn't have to pay the full cost of developing the people, but you could negotiate the balancing part of that process.

It is not hard to see how the unionization would work either. One advantage of studying history and of having been around and take part in a good bit of it is that I remember when they told us that government employees could never unionize. And therefore, it would never happen, Franklin Roosevelt said, and should not. You shouldn't

allow, and even though he is reported to have said, "If I were a working American today, the first thing I would do is join a union," he was ready to make an exception for government employees. Today, government employees are unionized. They don't all strike. They don't all have the right to strike.

I would also point out that a careful study of that would be to say what kind of strikes are going on now in the prisons. Even if you don't have a formal strike, you get informal strikes, what industrial nations people call a strike in detail. That is, protest against the system as exists now because you have no other way to have an outlet for your grievances.

I think that it would be useful. That is where I think some comparative work would pay off. It could very well be that you greatly improve the process by giving inmates voice in the formulation of the rules in the industries where they work. I am not talking about organizing, unionizing all prisoners. That is a different matter. But if they are going to be competing with unionized employers in the private sector, it is hard for me to see what the justification is for them not to be able to form unions.

Now, I also learned as a mediator if a word is causing you trouble, drop it. So if union causes trouble,



let's say an inmates council. And then see how you would need to structure that so that it would really be effective. The worst inmates council could very well be a company union. That is to say, something the warden created and picked the people on it to tell him what he wanted to hear. Well, that is not very useful to the warden. It is not useful to improving the performance of the system. The logic to the collective bargaining is that the people who have the problem formulate the rules to deal with it. And that if the parties bring to the table their relative interest and perspectives, you get much better rules than you would get any other ways. And I think that a logical case can be made.

I think it needs to be made voluntary just like it is in the private sector. If inmates saw the needs for an inmates council, they could then participate in it. I think what you have to guard against with a population that is easily exploited is that what appears to be voluntary might be very involuntary. It is like it was when I was in the Navy. They say everybody wants to take out life insurance step forward. Company forward, march! It wasn't voluntary at all. So there are all kinds of ways, and I think that requires that the inmates really have an independent source of power, independent from the system, to make it possible for it to work most effectively.

And as I say, I don't know it can be done, because the other lesson I have learned is that the obvious is often wrong and that you never can tell by deductive logic what will really work. That is the reason I have a preference for the experiments, for actually doing it to see if you can make it work someplace.

MS. HAITHCOX: Good morning. My name is Linda Witherspoon Haithcox. I direct the economic development programs of the NAACP. And before I make my brief comments on the issues that have been discussed here, I would like to at least make a point of saying that I think in these kinds of forums the presenters and the panelists should be reflective of the issue that is at hand. And although the presenters are very educated and very astute economists, I am very curious to know if any of the panel has, in fact, interviewed or been in a prison system, talked with an inmate, and that that is really who needs to be here to discuss the issue. I did not hire them, but I am concerned because certainly representing people of color, representing women, and discussing an issue that impacts our communities more so than others, we need to make sure

that all voices are being heard. So on that note, I will move on and discuss or comment on the presenters' issues.

I would like to commend Mr. Marshall and Mr. Freeman for their models. I agree that there does need to be some standardization. Unionization is a little too far out for me. A little too far out. Everybody can't be part of a union. But I do appreciate that all of the presenters obviously had similar findings, which leads you to believe that there needs to be other research and other studies. And also, the panel should be reflective of Corporate America.

In fact, as you were talking, Mr. Marshall, I thought about the privatization of the prison system, and what impact that would have on profit margins and on the labor force. Let's just take an example that if a company decided to make an investment into a prison system and then were able to utilize that workforce and call them employees, and they could do that, what impact would that have?

One of the other issues and concerns I have is re-entry. That is always the issue in our community. Once inmates are in the process or being prepared for re-entry into their community, the skill, and their skill level or no

level at all in some cases. And we joke a lot and look at the programs like the HBO "Oz". And I was talking with one of the other people in the audience about another HBO series that came on recently about Lorton prison. And that is the real sign of what is going on. We can sit here and talk about all of the tax issues, all the economy and how it impacts the world. The reality is these are people who have to come back into their communities. There is not a manufacturing company in Southeast D.C., on the west side of Chicago, and they have to be prepared to deal with the reality of their life. And that is not a discussion that we like to have, but it is something that is very real. It is something that the NAACP as an organization deals with everyday.

Just a quick question. How many of you in here have had direct family members or someone close to you who have been through a federal or a state prison system. Just raise your hand. Okay. I have to raise my hand too. And it does make a difference, it really does, as to how you address the reality of what is going on in society. Privatization, and I am not trying to change the subject at all, but privatization of prisons is very critical, and labor force.

MR. MARSHALL: I think you raise very good points, and therefore I would like to respond to it. I did talk with prisoners and inmates and read their materials. I had letters from them. My daughter, who wrote her dissertation on this, interviewed a large number of them and she actually worked in the Massachusetts prison system while she was there.

In the kind of work I do, you would never think about designing an intervention or a program without bringing the people to the table who are affected by it. That is the reason I believe in this kind of representative democracy, the most effective things are the people who have programs, have the problems that bring them to the table. And I think there are some good writings by inmates. One that I read in connection with my paper is called, *The Celling of America*, written entirely by inmates. And they bring a perspective that nobody else has. I think if you are going to try to design a program, you don't design it entirely from their perspective, because their perspective is narrow and out of focus. They have inadequate information.

Another advantage of the kind of negotiation process is

that everybody comes away with better information than when they went into it. In fact, as a mediator, I have two rules that I always use to start with. The first rule, nobody recommends anything until we agree on the facts. And frequently, if you can get agreement on the facts, you narrow the range of the conflict.

The other good rule of mediation is no blame casting. I don't care why you got the way you are. Let's agree that there is enough blame to go around, that we are all part of a system that has not served us well, and what we ought to be here to talk about is what do we do to fix it and to move forward. And as a mediator, if you can do those things, you can usually get the parties moving in the right direction. But I think you are absolutely right about that who is at the table, and to bring that perspective to balance it with other perspectives.

MR. ROSENTHAL: Well, we are talking about such a small part of the population. I think that is basically what everybody has pointed out, that the numbers of people in prison, when you deal with the total number of people in the economy, is really very, very small. And I think this issue is no different than every other issue that is based in the economy. It is just part of the whole.

MS. HAITHCOX: Just a follow up. People of color are not a small part of the economy. And by far, the inmate population is certainly, there is a disparity in the inmate population in people of color and the economy and the labor force. So we can't pretend like the numbers are so great

and our numbers are so insignificant that we don't need to talk about this in real world numbers.

MR. PRIMUS: For 13 years I had the privilege of working for Dan Rostenkowski, the chairman of the Ways and Means Committee. And one of the comments I will never forget that he said after being incarcerated for about a year, he said we are letting these young black men rot in jail. Meaning we were doing very little to help them become rehabilitated and move into our society.

The perspective that I am bringing to this conversation today is we think we have estimates that about 1.5 million children have one of their parents in jail. And the thing that I have been doing a lot of work in the past year is thinking about how to increase the level of earnings of non-custodial parents in general, their involvement with the child support enforcement program, and how to help those kinds of parents meet their parental responsibilities.

I also am told there is research that says that a prisoner who has a close connection to family and gets a job quickly after leaving the prison is less likely to return. Those are two very important factors.

Having said that, the two questions I have, of

this wage, the minimum wage, how would that be divided as a policy matter, between the prisoner, his children on the outside, the victims, maybe, of the crime, and room and board? How would you determine that policy? I also believe we are a little unrealistic, because we expect welfare mothers to work, that work shouldn't be compulsory here. It can't just be voluntary, at least from a political matter.

The second question is how much of our efforts in this contract that you want to write should be geared toward building the skills, et cetera, of the prisoner, versus a make-work kind of pay situation? How would you write the contract that strikes the appropriate balance, trade off, between those two objectives?

MR. FREEMAN: If I were writing these contracts, I would say to the person of the group, be it a private or governmental group, you are going to be paid in part by how well these prisoners are reintegrated into society, recidivism, their employment because I don't think you can micro-manage this. And certainly economists can't. As one of us said, we are very abstract stuff. I had trouble putting that [projector] button on, and somebody had to tell me to push the yellow thing or the red thing. But I think the contract would have to be that you are putting on to the providers of "the prison services" that they will be paid and there will be more profits for that group, whatever the group was - it could be state or federal or private - on the basis of the outcomes. And the outcome that we want is that these people, in larger numbers, reintegrate in their communities, get jobs and don't recidivate.

I wouldn't dare think of how we can cut up the, say, \$6 an hour. I think that's, we could do experiments, in a sense we could try different ones. Prisoners have to be motivated. You want to give money back to the families, obviously, and the taxpayers have got to get their cut from the lower charge so it is less expensive to house them. But I would let that be determined empirically.

MR. MARSHALL: Let me make a couple comments. One, one of the things economists do and have demonstrated, is that reward systems matter, and that you get what you reward. And that is ordinarily what you would measure. I used to say to my pupils, if you don't want it, don't measure it, because that is what we are going to reward. And it is not hard to establish kind of general principles that you would

create opportunity structures for inmates, for the prisons,  
with the reward system.

Our problem now is that we get what we reward, and what we  
reward is incarceration and a continuation of the



system. We don't reward rehabilitation, reintegration into society, or any of those things that we say.

In my school reform work I have found that you get no brownie points for student learning. You are rewarded for average daily attendance, not student learning. And therefore, in fact, you get a perverse incentive. The more the students learn, the less you get because the quicker they get through. And therefore, a perverse reward system is heavily built into all of our systems, including the criminal justice system.

One of the first things I would do would be to look for the present rewards, the implicit rewards, and see what you are getting for that, and how that perpetuates the system and think if we can conceive of a different set of rewards. One reward that seems to be fairly clear is that if you can't get a job, you go into crime. Well, that is an incentive structure. That is a reward system. So if we don't reward people for working, then we shouldn't be surprised that they then get into crime.

Now, with respect to the voluntary, you raise a very serious point here. Because if this labor is not voluntary, it would be in violation of international law for us to let those goods to be sold in the open market. It violates ILO Convention 105. And, in fact, the AFL CIO has

lodged a complaint with -- I think they have lodged it, they said they were going to -- with ILO that the same, that is the charge we are making against China. That is a fairly well established principle in U.S. trade law, is that you cannot import things in the United States made with forced labor. That was even in the so-called Smoot-Hawley Tariff Act. Which is the way we kept a lot of stuff out of South Africa until they changed their laws to do away with forced labor. The contract that the South African Mine Company signed with their workers was a civil contract with a criminal penalty. And we said until you change that law, none of the stuff produced in South African mines would come into the United States. That caused them to change it faster than prayer did or wishful thinking. And they called a special session and changed their law. So I think that we have to pay pretty close attention to this question of whether it really is voluntary or not. And if it is not going to be voluntary, then we have got a serious problem with working in the open markets.

MR. LEVITT: Just one comment with respect to the compulsory versus voluntary. I think what I would envision is there are educational programs. There is prison work, it is not labor, mopping the floor, things like that. And then there is the prison industry. And one of the ways in which

to make it voluntary in the sense of the welfare mother parallel, is that they are not forced to work, they just don't get welfare anymore if they don't work. So if there is a higher wage for working within the prison, in the industry sector than, say, in the educational sector, now that might be the wrong way. We might want it just the opposite. We might want to pay higher wages to the skill development. But it is a way to make it voluntary and yet, perhaps, politically acceptable, just to give a menu of choices.

MR. PRIMUS: I appreciate Ray Marshall's comment about the voluntary-involuntary. I still have some difficulties that if this dad, typically, has a child support order and he refuses to follow through on that obligation and were making the mother who is, let's say, on the outside basically work, that seems to me a bit inequitable. And I guess I would argue that most of you have ducked the question, I mean, at some point we do have to really decide. Yes, I would like to run experiments, too, to see which would reward the prisoner more. Obviously, if we gave most of it to him, that would be the most reward. But he also has obligations. And the question is how do you really balance that. So I think that you have argued, you ducked the question.

MR. MARSHALL: Well, say we can probably do it better than we do it now. We do it now, don't we, by fiat, you know, by somebody decides. But you don't do any kind of bringing all the people to the table to make the decision.

MR. PRIMUS: I guess the question is how is that being decided. Because the prison officials maybe care about the room and the board, and you have got other institutions that care about the family and the child support. I mean, are all of those, when that decision is made, are they all at the table with an equal voice in terms of how we are going to do this?

MR. MARSHALL: I don't think so. And that is the reason I say I think we can do better than we do. We are doing it now, aren't we? You do make the adoptions. I don't know enough about it, but I do know enough about how these things work, is that, and I would find that out before

I became serious about a policy proposal. You need to take all of these things into consideration. The question I would raise is not whether you do it, but can you improve on the way you are doing it now.

MR. SCHWALB: Thank you. My name is Steve Schwalb. I am the chief operating officer, Federal Prison Industries. And let me, first of all, commend all of the speakers this morning. I want to, at least on my slant and perspective, and perhaps some of my colleagues in the prison industries work in the audience, dispel one myth some of you may be laboring under, and that is that somehow any or all of your suggestions, with perhaps the suggestion of unionizing inmates, that any of the rest of those are necessarily threatening or problematic or that there is resistance on our part to those ideas. We are very intrigued by those, and I think they all make a lot of sense and have a lot of merit.

The overriding consideration from prison administrators and prison industry managers' perspective is to have sufficient work opportunities to not have rampant inmate idleness on your hands, because we all know often the outcomes of idleness. So we are not particularly focused, speaking especially for federal prison industries, on what type of product, what type of wage, what type of market --

all things are on the table as far as we are concerned, as long as it is not just all theory and we have idleness on our hands because none of it works.

I was particularly intrigued by Professor Freeman's suggestion. I would like to hear the reaction of the other economists, especially since he covered it, about the idea of having inmates focus their work opportunities on import-competing commodities. And that is an idea that has intrigued us for some time. Obviously it would take a change of authority and statute.

The question is, is there or should there be viewed as the difference on the impact on the domestic economy of the United States between inmates producing products with low wages and imported products being made by people in foreign countries at low wages and imported? And I ask that question sort of in two parts. One is how do we segregate out the work so that we properly identify that we are, in fact, competing with imports?

Secondly, even if we don't, since there are domestic companies that are competing with imports today, low wage imports, why is it economically attractive from a broad trade perspective to encourage that and it is so important to have inmate labor engaged in the same thing, in many cases, as some of you suggested, wages that are even higher, frankly than are paid in civilian labor rates in foreign countries?

MR. KRUEGER: Let me make an initial response to that. I told Richard before, I liked his suggestion. The way I interpret it is he wants to focus on industries that are, in economic jargon, outside the "Cone of Diversification." And what that means is that industries in the U.S. no longer produce it because our general level of productivity or wages or endowments have brought us to a point where it is more efficient for us to import in those industries. For example, we no longer make TVs, or very few TVs in the United States. If you choose an industry which is outside the cone of diversification -- sounds like something on "Get Smart" -- if you choose an industry where the U.S. is no longer in that business, then as Richard said, the inmate labor is not competing with domestic labor and we don't have these negative implications that we are concerned about. The difficulty is, as a practical standpoint, is much trade takes place within industries, both imports and exports. It is a major puzzle in the field of international trade why so much intra-industry

trade takes place.

You can't just look at an industry and say we only import there, so we will focus on that. And as you pointed

out, if you choose an industry where we have both imports and exports, then I think it has very little difference than choosing an industry where we are by and large producing domestically in terms of the ramifications for the rest of the private sector. I also think that in the long run, there would be a lot of pressure to try to expand this set of industries, to bring it back within the cone of diversification, industries where we are producing. So I think that is a perfectly sensible principle. I don't know how far it takes us in practice.

MR. FREEMAN: I am a little less dubious on how practical it could be because part of this industry thing is the definition of industries in our data. And think of an industry that is 90% imports at this point, shoes. There are 10% American shoe people there. But if we quickly can tell you that they still make Texas boots in Texas, and I can name the American shoe companies still around and the kinds of shoes that they would make in this country. And the vast bulk of the inexpensive, not immediately fashionable shoes are made in Romania, China, a whole set of countries actually that do it. And that is what you would do, in that these are the sets of products outside this cone of diversification. We couldn't even imagine the American industry being able to go simply because our workers are so much more skilled and their wages are so much higher that barring a breakdown of international trade, will never go back to a certain set of industries.

One worries a little bit, apparel. But there, also, where the Americans are producing things, it is in niche parts of the markets. This cone of diversification - Alan is absolutely right - given any definition of industries, we will find some American producers, and so there is a problem. But then if you look a little more deeply, and the reason I picked the Chinese, the largely Chinese-made now, these little plastic toys, I know any, if you do, raise your hand. Has anybody picked up a little plastic toy and seen it say "Made in USA"? A couple of years ago it was made in Taiwan. But the Chinese have a complete market on that type of thing. I can't imagine that ever coming back to the U.S.

So I think we could, indeed, find products. The question, obviously, is could prison-made goods in the U.S. in these areas compete with the foreign products, and that would have to be looked at case by case. And some business-type people are going to have to make some judgments that we hope would be correct. But there are a lot of products there. We are running such a huge trade deficit at this

point, there are many, many products that are outside this cone of diversification.



MR. KRUEGER: One other follow up point I was thinking as Richard was describing this. One of the main reasons for trying to encourage prison labor is to reintegrate people into the community when they leave. And to the extent there are some specific skills that they learn while they are in prison, it would be very difficult if they take a job which is only available in China outside of the prisons. So I think that is another cost of this.

MR. MARSHALL: It seems to me that if you did these other things, I will make two observations to your comments. One is I don't conceive anything that I have recommended as necessarily threatening to prison industry system. I can see where the prison industry system threatens the prisons and the culture of the institution itself. And since I applaud that, I think that it would do the prisons a lot of good to have them subjected to a different set of rewards and a different set of institutional response. But if you do the things to balance the competition, you shouldn't really be concerned that much about what the effects are going to be because you minimize the adverse effects that you could likely have on the society.

But part of the thing that would have to be done then is to take the industries that would have the least effect. And that way, I think, and it is a strategic activity where you are talking about change. The best rule I have ever found is organize your friends and disperse your enemies. And in picking industries, it would be useful to do that. Don't concentrate them in places where you know you are going to organize a lot of opposition to it.

MS. SMITH: Good morning. First, I thought that I was going to have to use Steve Levitt's anecdote because I was so far down the line and I was trying to think of a substitute for Sophia Lauren. One of the things is that this has been very interesting. And I really applaud the efforts of all of the presenters. And this is not generally sort of the dialogue that I hear. I am a professor at American University and I teach in the Civil Practice Clinic. Prior to that, I was a litigator and I sued prisons. And primarily what I sued prisons about was about discrimination against women. One of the things that I would note is that in the analysis that has been presented, the conversations have been primarily about men. There has been very little analysis at all about women. And I think that when we talk about the structural impediments in the prison system, and also the structural

impediments in our community in our world at large, one of the big ones is sex discrimination. For all of you who have gone in prisons, I am sure you have gone in prison industries and seen women, probably not in federal systems as much, but women making underwear and boxer shorts while men are making cabinets, doing metalworking. And so what I would like you to do is take that as a context and talk about whether there is any difference in the social benefits or social costs for women inmates as opposed to men.

The other thing we also need to mention is that there is an impact, I mean, we know that the numbers of women are increasing. We seem to talk about this as a very small population. But when you think about, again in terms of the social cost and the people who are impacted, you are not talking about just those women. You are also talking about children and their families.

Another interesting statistic is that when women are incarcerated, their children, about 76% of them, are cared for by their family members, by their mothers. When men are incarcerated, about 89% of their children are cared

for by the mothers of those children. So there is a tremendous social cost on families that are taking care of those kids and also on single female-headed households who are sort of bearing the brunt of the absence of those prisoners, whether they are male or female, from the community. And so I would like you to talk about that.

And then finally, I was so glad that Wendell raised that question about how do you split the pie. On Wednesday, I was at the Eastern Regional Conference on Enforcement of Child Support. And I was doing a panel on collecting child support from jailed parents. And one of the things that I think is very important here is that we be very clear that as soon as it becomes clear that this is a source of money, that there are going to be all kinds of people lining up. It is not just room and board. It is medical expenses, it is clothing, it is child support, it is victims services. And so in doing that, in having those people lined up, one of the basic assumptions that you have made is that improvement in the system is really going to be about improvement in morale.

People work in order to learn things, to have those relationships that you get from jobs. But I work for money. And that is what most people work for. And so if you have a system where of the \$300 they make they may get 5, aren't you really creating, in some ways, almost a system of peonage where there really is no incentive for people to work?

MR. LEVITT: I will take the first question with respect to women and men. I think given our charge and given that we are economists, what we did was abstract from the 90% of the prison population that is men and we kind of threw out the 10% that is women. And we did all of that independently. But let me talk about it now, let me revisit that.

One key point is that the crimes that women and men are in prison for tend to be different. I don't know the exact numbers, but the number of violent offenders among women is much lower, proportionately, than men. The number of drug-related offenses is much higher for women than men. Also taking that point about the fact that child care is done primarily by women and by the women's family when they are in prison.

The way I would interpret this is to say there is a lot better reason for having men in prison than women because the social costs associated with violent crime are most

likely much higher than those related to drug-related crime. And so in the broader perspective, I would say we maybe should reallocate the prison population to stress more violent offenders, and that would help the side effect of having fewer women inmates.

Now, from the perspective of the social benefits of work, I think the opposite is true, that in fact the social benefits of prison industry would be greater for men than for women, that there is more to be gained by having men not recidivate than women not recidivate. And so it is because men are the worst criminals and men are the ones that aren't supporting their children, that we actually wanted to give them the bigger boost, then we could take it away and give it to the women who are not incarcerated. So, and it is probably not the answer you want to hear, but I think that is, sort of, that is what the economics suggest.

Now, in terms of splitting the pie, again, talking as an economist, it is just not an economic issue. Splitting the pie is somewhat an economic issue just because of incentives. But really it is a political issue. There is a fixed amount of money out there and you want to split it and there are a lot of people who want to get their hands on it. And I don't think that is something that economists necessarily have a lot of intelligence to provide guidance on.

MR. KLING: I will say one other thing about the benefits that might accrue to women, which is that it is really true that there are fewer crimes being committed by people who have participated in inmate labor programs, that the victims of those crimes will tend to be women as well as men. And so there is the potential for them to reach some of those kinds of benefits as well, if that in fact turns out to be true. But that is, as I tried to indicate earlier, something about which we have a shred of suggestive evidence but really need to know a lot more about in order to base policy on something like that.

MR. KRUEGER: I just wanted to say two quick points. One is that the social cost for encouraging more women inmate laborers to work is smaller in that if you look at the spillover effects on the private sector, women tend to be in different occupations and industries in the private sector than men. They are a much smaller proportion of that workforce. So I think some of the social consequences that we talked about earlier, about depressing wages for

less skilled workers would also be smaller.  
Then the other point which Richard Freeman whispered in my ear, and Wendell Primus is probably more familiar with this literature than I am, many of the interventions that have been tried for low income populations, job training and so

forth, seem to be more effective for less skilled women. So for that reason, I wouldn't be surprised if programs such as work while in prison or training more generally have higher payoffs for women than they do for men.

MR. MARSHALL: But this also indicates that they know more about subjects. That is, in doing my quick search for this I found very little on women and differentiating. So it is clear to me that this is an area that if you really work on trying to design an effective program, you would need to know a lot more about it. And we could probably do comparative work, see what they do in other countries. Or in some states, I notice, you have much higher rate of incarceration of women than others. Why? It would be useful to pursue that and see what they do.

Moderator, MS. KASLOW: Most of the answers overlap with your second question, but if you want to re-ask it, perhaps a bit more focused, you will get a more focused answer. And then reiterate your third, because I think we have all forgotten it.

MS. SMITH: Right. I guess one of the things that I would like to do just in terms of clarifying a couple of things is that while women are definitely in, there are smaller numbers of women who are in for violent offenses. We know that women are primarily in for economic offenses, drugs, passing bad checks. And so it seems to me that your

point that the benefits to them of increasing inmate labor will be probably higher. I think that that is also true given that women are slightly better educated, have less behavioral problems in a prison system, and so would have probably a quicker learning curve.

One of the things that I think we have to be clear about is that while we might want to re-engineer the system and sort of redistribute the prison population because it really is of less social value -- and I say this because I am talking in this context -- to have women incarcerated than men, even though I argue that most of the people who are incarcerated, there is not much social cost in having them there because they are primarily drug offenders, that there really isn't a distinction in reality for women as opposed to men. And I think that there are also some very clear things that happen to women as opposed to men in a public policy context that I hope that the economists would take a look at.

So for example, when you have in the welfare reform bill that people who are convicted of felony drug offenses are not eligible for public benefits, this has a much greater impact on women than it does on men. The ban on these inmates getting into public housing if they have a drug offense also will have a greater impact on women than men because they are primarily drug offenders and they are

primarily the people who have care for children.

MR. SULLIVAN: My name is Charlie Sullivan and I direct CURE, Citizens United for Rehabilitation of Errants. And in fact, as Mr. Marshall knows, we met with you before we expanded to a national organization. I guess it has been close to 15 years ago. We started in Texas and we always say if we can survive prison reform in Texas we can survive it anywhere. So we do have an organization of about 12,000 members, most of them all prisoners and their families. We have, I think, state chapters presence in most states.

I would like, if I could, mention people that are missing at the table. And one person who has been my teacher in this issue for many years is not here and I would just like to share with you who he is and encourage you to visit his factories, his inmate work factories in Kansas City. Fred Braun is a wonderful guy. He is also a Republican, and I guess I consider myself a liberal, radical I guess, Democrat. But it is a bipartisan issue. I think there are many people here from all political persuasions. And I think that is very important. We don't have a lot of issues that both the Republicans and Democrats can get on board on. But it has been my experience that it seems to be very, very bipartisan. Fred Braun went to the governor of Kansas and asked what he could do, and the governor, 25 years ago, even before the beginning of PIE programs by the Justice Department, suggested to Fred that he go into the prisons and train prisoners. So he has been doing this for over 25 years. So, in fact, he always says to me, and this is something I think is a great line that you want to use when you talk to middle America, the Kiwanis or whatever, if you really want to punish these guys, and women too, make them taxpayers. And I think that is very important to hammer away at.

Let me say, too, that he also, in his factories, he has the ESOP program, which I think is great. And we have the expert here, Norm Kurland, who is the expert from the council, for Mr. Kelso, worked for him many years and could tell us about it where prisoners actually, and also we are talking about united whatever, but Norm could tell you about this at break or whatever, but employees actually own shares in the company, and that is happening out in his factories.

Fred Braun also has started something for which I serve on his board, it is called the Workmen's Fund, where he will give to small businesses up to \$50,000 to go into the prisons. And so he has really been someone who is not only



an activist but also has a vision. And let me say the final point -- which I think Congressman Scott's aide is here, Bobby Vassar, we had quite a discussion at the break that this issue of minimum wage or prevailing wage is really a bogus issue -- but Fred Braun feels very strongly that the minimum wage is the only thing that is going to get businesses to go into prisons. And basically I think he is saying that by seeking the prevailing wage was killing the good by seeking the perfect.

I realize you are looking at the economic side of this, but the victim impact has really been minimized in today's presentations. And I am talking about not only the impact to victims of violent crimes, but the impact to non-violent crimes. I think it is very, very important. And anyone who has ever had their house broken into or their car or whatever, you never forget it. And I don't think that has been measured today.

And the good side, the benefits of being able to turn a prisoner around and not have that in the future, I think it is just incredible to be able to, you just can't document that. And also, at the same time, I don't think you can document the rehab role models to prisoners, individuals.

Don Taylor was the first chair of our organization and he was chairing, he was in eight jails before the age of 14. He went down to the Texas Department of Corrections three times for drug offenses. When he died two years ago, he was chairing a national advisory committee to legislators. And he did it by going to the LBJ School of Public Affairs, got his Masters Degree in Public Affairs. And I have been encouraging the head of the prison system in Texas to name a program after Don. I think we need role models. We don't, you know, in Texas, of course they are building so many prisons, but they have got to name the ex-governor. Why don't we name it after a successful prisoner, a program, education. And the way Don did it was through education. And we ought to begin to realize that we are looking at this 2 million prison force and we need to, they are looking for role models, people that have made it. And so I don't think that has been mentioned today.

And let me get to my question. My question is education, which Don was involved very much in. That is how he got himself out of this hole. He dug himself out through education. And I just feel, I just heard and read The Lexus and the Olive Tree, which is on the best seller list. I just encourage you to read this book and anybody that reads this book and realizes the importance of how things

have changed since 1989, that we are in a new era. I just do not see how a prisoner today can be educated without access to computers. I just feel very strongly. And I realize there can be abuses. And I know, for example, Steve Schwalb, you probably have had to worry about computers, et cetera, but there has got to be, I think Congressman Cleo Fields ran in Louisiana for governor on a computer in every prison cell. Now, that is what we have got to, and that is going to be a very important issue in all of this because of the security problems. But I still think that they can be taken care of and still prisoners can have access to computers.

Also, when they get out, I think besides being able to have a good job, there is also a move to provide voting rights for them, which Congressman Conyers had introduced. I think that is extremely important. And also there has been a little bit of a move toward doing something about restrictions. Of all things the federal government now has an optional form whereby you can go in and you do not have to put your criminal background there. That will get you into the interview so that that person who is interviewing and sees you is not prejudiced that says this is an ex-con, I am not going hire him, an ex-felon or whatever. They are going to check, certainly. They are going to get to the criminal justice system and access it, but you know that we now have community notification with regard to sex offenders, et cetera. So there are a lot of things that I think we can begin to move away, to remove restrictions with regard to employment. And the federal government in this particular incident by having this optional form where you don't have to put your criminal background down is a first step.

So the question I am getting to is this. How in this day and age is it essential, in your opinion, that prisoners are able to have access to computers, looking at the economy, where we are going, et cetera?

(Moderator) MS. KASLOW: Why don't we broaden that question a bit because you raised so many interesting issues.

MR. SULLIVAN: Well, let me make a further issue. We just eliminated Pell grants for prisoners in 1994. I mentioned to my wife who is here. She said she thought there was too much emphasis on low-skilled workers. They are low-skilled because they don't have access to education. So what I am saying is in regard to the education part of this, the other side of the same coin with work, what is the role of

education in the privatization of prison?

MR MARSHALL: Well, I think the role of education is very important. And I don't think we ought to concentrate on low-skilled jobs at all. I think we ought to concentrate on improving the skills of the workers. And it is very clear to me from my work in education, particularly the Job Corps, for example, which had developed a very effective education system using computers and using teaching machines, that we can move people, if we do it right, if it is based on what we know about how people learn, much faster than we do in ordinary schools. This is a non-traditional learning process, and I would give maximum attention to that in prisons. But I think that time that you spend taking people as far as they can go in whatever time they have got, and you can, with an efficient learning process.

The other experience that we have had with this is that the immediate barrier that you have to overcome in educating people from low wage and low education backgrounds is to convince them that they can, in fact, learn anything and learn it in a hurry because most of these folks have been programmed for failure from birth and don't believe they can learn. So in all these, all of our activities, the first thing that we do is to illustrate the principle that any person can learn and that the only way you can cause them to really believe that is to show them.

Now, I don't know if you know. We have got an experimental program in Ft. O'Connor, Texas using these techniques about what we learn. It is teaching algebra and geometry to the Kindergarten and 1st Graders. They are one-third poor White, one-third poor Black, one-third poor Hispanic, and they are doing very well. I had a Ph.D. mathematician come to work with me, said he didn't believe that they could do that. I said, "Well, be scientific. Go see. And I will tell them you are going to show up one day, you pick your day." And he went into a room, a little five-year old Black girl was working away at something. He said, "What are you doing?" She said, "Well, today I am multiplying fractions." He said, "You can't multiply fractions." And she grabbed her pencil and squinted her eyes and said, "Give me some."

Well, you see, that is a hump that you have to overcome with many of these. It is what my daughter found out in the Massachusetts prison system, and in the Texas prison system. Once you show them that they can, in fact, learn, and we learned that in the Job Corps, then you have to

drive them out of the rooms at midnight, you know, because they get so excited about the fact that they really can do it. And we ought to take the best of what we know about the learning technology and put it into the prisons.

MR. SULLIVAN: The only thing I would say is that I don't think that computers, I think computers, if there are any in prisons right now, they are very few and they are being eliminated every day. And they could be, like you say, self-education, where you could go into the night, teaching yourself, et cetera. And I think we have got to be able to keep those computers in.

MR. MARSHALL: Yes. And what you have to do, though, with any technology, is to have a good theory of it, what is it for and what is your use of it. And if you go in with the wrong theory, you do the wrong thing. The typical assumption is that the purpose of the technology is to replace people. If that is your theory, you lose. If your theory is that the use of the technology is to extend human capabilities, you will win, because that is what it is exactly designed to do, or that is the most effective use of it. And so it is not just the computer, that is the point I would make. We found in the Job Corps case, I think about 95% of the kids, the youngsters in the Job Corps took to the machine learning in a hurry. And it was so different. See, the machines are self-paced, non-judgmental, and color blind. And in our learning systems, all of those things are barriers to learning, is you get judgmental learning. And I can see where a lot that we have learned about the use of the technology in learning and the use of learning processes could be applied, and I would be surprised if it weren't. I think probably, if you did a proper study, you would find some of the most progressive prison systems already doing some of these things. Here or in some other countries.

MR. FREEMAN: Many of the prisoners get their GEDs. That is obviously a big thing. There is a certain amount of education going on. And the numbers that Alan and Jeff put up, it was very implicit. They said high school degrees and GEDs. And the typical non-prisoner got theirs through a high school degree. I don't know what the prisoner break is, but it is going to be very many people getting their GEDs.

There is a problem you raise with the computer, which is generalized from computers. Because gee, if you said to me a computer in every prison cell, I would say wait a minute,

we haven't got a computer on every school desk. And I think there is an issue of the prison thing, I do not think we want generally to provide certain things to prisoners that we are not providing equally to equally low-skilled, disadvantaged people outside who decided even though they didn't get high wages and didn't have a good opportunity they weren't going to commit crimes. So I think that that cuts on other issues as well.

My personal view would be computers are real cheap nowadays and that we would like to see computers everywhere. It would make Bill Gates happier, and we all know, he is a Harvard dropout, proof that you don't have to get too much education to be a success. But maybe there can be some general discussion of this issue of if you are going to provide something for the people in prison that is better than, we have got to make sure that the poor people outside have the same opportunities, et cetera. Otherwise, we set up a funny system.

MR. KRUEGER: Let me comment a little bit on computers. Most of what I do for a living is study the way computers impact the labor market. Over half of all jobs now require some knowledge of computer use. Harry Holzer did a study in inner cities where he found that what employers are looking for by and large or in large part is people who have computer skills, not just executives, but all the way down the line. So I think it is quite an important skill. I don't know if I would say it is essential to get a job, but it certainly helps.

There is a program that a Princeton alum -- the Detweiler Foundation -- started to take obsolete computers, spiff them up, make them faster, and then give them to schools. It is primarily done in California. But one of the things they do is to have inmates do some of the work on the computers, changing the hard drives and so forth. A program like that, expanding it, where the inmates also learn how to repair computers, which is a job that is in demand, as well as have the benefit of the formerly obsolete computers I think is potentially very attractive. It also is different than what you have outside. It is not better. You have more obsolete equipment.

(Moderator) MS. KASLOW: Just that one more general question, was you raised so many issues about preparing would-be workers for the workforce eventually, and computers being, obviously, one tool, but one of many tools. What, in the economists' views, how far should we

be going from public expenditure, private sector investment, various businesses taking this on, who should be supplying the wherewithal for inmates to prepare, to beef up their workforce preparedness? I mean, are we talking about donations of technology, are we talking about donations of time, expertise, mentoring, apprenticeships? We have heard a lot of things mentioned today. The Job Corps example is a splendid one. What are the nuts and bolts of this in terms of, what do you think? It is an open question.

MR. MARSHALL: Well, I would say all of the above. Whatever. And different industries will have different motives for making the equipment available. We find that in most of our employment training programs now, that you have to use some combination of public funds to make this available to people.

But I would say a good way to explore it, I don't know enough about it to know where this would come out, but those people who benefit most from prison industry ought to have some obligation to help reintegrate the ex-offenders

into society, including training, education. That might, if you were putting together this bid process, which I think has a lot of merit, you would put that down as one of the things that you were expected to do if you were going to be involved in this industry, to help give people the kinds of education and training they need to make it in society.

MR. WOODHEAD: Well, after all the speakers, I kind of feel like the eighth prospective husband, especially after Charlie's presentation, so many provocative ideas. It is going to be difficult keeping it interesting. My name is Greg Woodhead. I work at the Department of Public Policy at the AFL CIO, and we try to fashion policy in the interest of working families in America. We are the voice of working families and we are especially the voice of organized labor.

We represent free labor. We represent the service sector and manufacturing workers in the private sector, and we also represent the public sector workers who work in correctional industries, both at the federal level and at the state level. We have AFGE and we have AFSME, very important representation. And so we have to balance the interests of our federated union members to craft policy that is beneficial for our members and also beneficial for prisoners.

One thing that we have come to find out from



looking at this issue very carefully is that there is really no simple answer to this problem. It is a complex problem. It is a difficult problem. It does need more study. I can suggest a few areas. I think we need more longitudinal studies of the effects on employment and re-employment, not just on the effects of reducing recidivism, because I think in Ray Marshall's paper there was an interesting study from Ohio that indicated that the rates dropped among Black inmates released from 36% to 26%, but a good controlled study showed that the rates did not drop at all amongst White prisoners. So I think more of these studies need to be done.

I think we need to look more carefully at joint apprenticeship programs. We have to look at the possibility of teaching entrepreneurship to prisoners. Why should they only be relegated only to working on the outside for somebody else? Teach them how to support themselves in the private sector. This is where job creation is.

And I think we need to study more carefully what is going on in the state prison industry programs that may, in fact, be selling goods across state lines in direct violation of federal law and not be enrolled or participating in an established PIE program.

Having said all that, I think we have a task ahead of us to find out what is going on right now, and maybe craft some policies to work to the benefit of prisoners while protecting free labor and protecting the safety of correctional officers inside the prisons.

I would commend you to Ray Marshall's paper. When Ray Marshall says he doesn't really know that much about prison industry, it reminds me of Sam Irving, Senator Irving, saying he doesn't know that much, he is just a country lawyer. I think Ray Marshall's paper really fairly characterizes free labor's position on this issue and he spells out what happened in the Iowa system, when, in fact, the issue of apprenticeship and placing released prisoners into private jobs was debated in union halls. And those union members came to accept these graduates of apprentice programs, which are very highly valued amongst union members. So it can be done. And I think this is a program that should be expanded.

The AFL CIO is, however, very concerned about the potential expansion of prison labor. After all, we did lose 400,000 manufacturing jobs in the United States in the last year alone. In that context, that economic context, being a

manufacturing worker and being asked to compete with expanding prison industries is not a good prospect. At the same time, we always have to be concerned with guard safety, because we know that prison work is good and prison work provides for guard safety.

I will make a couple of observations about the panelists' presentations. At the macro-level, yes, the size of prison industries is not overwhelming relative to the size of the GDP. But at the micro-level the dislocation can be devastating, especially if you can make a direct link, like a case in Wisconsin with fabric gloves where a private factory closed and a company ramped up production inside the prison walls. So free labor was directly impacted. Those cases are not good, especially if you are in a rural area and your job prospects are not very good and you have seniority in manufacturing and the transition to whatever jobs are available is going to be very difficult. We have real problems with privatization of prisons. The inability to organize those privately run prisons, the abuses, the potential abuse is well-documented in television programs. That can be very problematic. I am also concerned about just the notion of bidding out prisoners to private companies. That just has a connotation to it that is just disturbing if you follow through with the implications of that.

Prevailing wages can be paid to prisoners. The PIE program shows that. Maybe we have to have some imputed wage to level the playing field somewhere between prevailing wage and minimum wage. But we can't just say that the minimum wage is enough and we just, that is the cap on

wages.

If any of you are interested in the latest position of the AFL CIO with regard to prison industries, I have those papers available if you give me a card sometime when we are, in the afternoon --

MS. KASLOW: Greg, why don't you pose a question to the panel? Do you have a question for the panel economists?

MR. ROSENTHAL: I think that Greg brought up something that maybe I can chastize my economist friends here. Most of the models that they have been talking about in terms of prison work has been on manufacturing, manufacturing little things that are made in China, shoes, industries that are leaving the United States. It has all been on manufacturing, which economists tend to do in terms of their economic models.

A very small percent, or not a very small percent, but a smaller percent each year of our economy is associated with manufacturing. And a large percent, as I showed in my numbers, is outside manufacturing. Many of those jobs can be done, are done, off the work site, especially using computers. There are a lot of things that can be done which don't focus on one industry.

You get into one industry, it is the type of thing that Greg was bringing up, somebody is going to get upset, you are on my turf. But if you can get some type of work that spreads around, that is in a lot of industries, you don't have that one focus getting in some type of work that can be done everywhere. And I think maybe the welfare reform, the type of success of the program is something that deals with it. It is low skill level jobs because of the educational background of the individuals, yet it is spread out into lots of different jobs all over the country and has been successful because they exist all over the country as you see in the numbers.

And if that type of thing can be done, it has to be done off the work site, obviously, in many cases. All of the jobs don't get there. But computers is one. It has the educational value. 50% of the workers or perhaps even more -- I would bet you 90% or more of the people in this room have a computer at their desk. And that is, it gets into more and more different jobs. It gets to the education

for higher level jobs, and I think that is something we have to consider. It is not just focusing on one industry, but on something that cuts across.

MR. KRUEGER: I am just curious if the AFL-CIO had a position on what Ray Marshall called inmate councils or unions for inmates.

MR. SULLIVAN: Company unions are bad idea in any form.

MR. KRUEGER: I think Ray would agree.

MR. SULLIVAN: I think it would be better served to look very carefully at these joint apprenticeship programs, because we are very much interested in what happens to prisoners upon release. And this is a real source of union membership and it is a real source of stable jobs, good paying jobs with benefits, union jobs. So I like that idea, but I don't like the idea of company unions.

MR. MARSHALL: But I will remind you, a lot of unions started out as company unions. That is another advantage of looking at the history. Communications Workers used to be a company union. Steel Workers used to be a company union. And the first stage in the development of many unions was initially the workers had some way to represent their interest in the workplace. Then they saw they needed an independent source of power. And I think

that is the natural history of it. There is a natural history that it is hard to have a long range collaborative relationship between parties with unequal power. So as soon as it works, so long as you didn't deal with any important issue with the company unions. And as soon as they got to tough issues, like whether we have a wage cut, it fell apart and then they went and got steel workers or communications workers, they organized an independent union.

MR. PRIMUS: Can I make one more comment on a question? And that is back to my issue of child support. I think, since I have probably prison officials in the room, one of the things that happens lots of times when these dads become incarcerated is that the child support order isn't changed. And so a year, two or three years after, when they get out, they have an arrearage of five, ten thousand dollars. And then, I know of one situation in Colorado, they have that arrearage, they have their normal child support order, then they also have a payment to the victims, and so, and then they have the federal income tax, and they typically, because their children don't reside with them, don't get the EITC or any other kind of wage subsidy. Their net wage, after leaving prison, assuming they get a job, is very, very small. And I think we have got to be concerned about these different institutions being better coordinated.

I have come to the conclusion again from this, my efforts on non-custodial parents, is that for many of the men coming out of prison, we may need a bridge job, a publicly funded job, to ease the transition, if you will, given that they have got a conviction, et cetera, into the paid labor force. I know, Secretary Marshall, you talked about publicly funded jobs in the late-80s. What about that idea, again, to help bridge the transition into, and help them meet their parental responsibilities?

MR. MARSHALL: I believe that there is an important role to be played for publicly funded jobs. In fact, a lot of jobs are publicly funded that are called private jobs, like the construction industry. But I think the best approach is to have an array of policies available so that if you are unable to find bridge jobs in the private sector, then it might make some sense to have a public service job doing useful things.

Our experience with the public service jobs actually has been pretty good, in spite of all of the rhetoric about it. Most of the evaluations showed that they did what they were supposed to do. And I believe it is important to have the bridge process that would make it possible for people to get work.

But the first preference would be to get private jobs, that is, to get a job that would lead somewhere. And I think we ought to concentrate on that. But then if you are unable to that, then I think the public job makes sense.

MR. WOODHEAD: We start down a slippery slope on that argument because there is unemployment now in the free world. That means we are going to have prisoners employed. I mean, where does that stop? Drug treatment, there is need for drug treatment in the free world. That means prisoners don't qualify for drug treatment. I think you start going down that line, you are going to end up with an idle workforce with all kinds of behavioral problems that we are not going to address because we are not addressing these in the free world.

But if, like the data shows, if they come out, these particular individuals, and commit two violent offenses, and I think they said ten non-violent offenses, I think society in its self-interest ought to be focusing in on their problems, just from a self-interest. I think the Pell grant argument, removing them, was used, that argument was a very, very strong argument and they took them out

because of that.

MR. FREEMAN: Yes, I would, I mean, the Pell grants, any normal thing that society is offering to citizens you don't want to see removed. The right to vote is a very interesting one because now they are back as citizens and you would like to give them the right to vote. You are back and you are part of the body politic and part of the nation.

MR. WOODHEAD: And that is, and getting back to international law, that is Article 25 of U.N. Declaration of Human Rights, says that there should be universal suffrage throughout the world. And so, I mean, I think that issue, there are four states that do allow prisoners to vote.

MR. FREEMAN: Yes, but let me put your thinking another way. I can see all the economists here agreeing that if we gave them a \$25,000 check in two years for not committing crimes, that that would pay off if they didn't commit crimes. But now there is no way that would ever be approved in the country, and it would, you know, because there are other equally, no, more deserving folks, including the victims. So there is a balancing act, I think, that has got to be done. It has got to be done carefully and cautiously.

I was thinking when you did the computer thing, telemarketing. That could be done inside prisons, and is done in some prisons. And that requires some, et cetera. We could do other computer jobs using the internet that prisoners could do that would not, the opposite of, you



know, non-manufacturing. There are all sorts of things. But I think they all have to be careful. I have a friend that runs a telemarketing firm. He might be upset if you tell him the local prisoners are going to be doing it unless we establish all the kinds of things that Steve had so that it becomes a fair competition and doesn't adversely effect the current people who are doing the telemarketing who also will tend to be low educated folk.

MR. SULLIVAN: But I think that argument, I disagree very much with that approach.

MR. PETERSIK: I am going to ask two really quick questions. The first one is just a clarifying question. When you all talk about participation in unions, do you mean, in a sense, company unions or unions of inmates, or were you primarily talking about being members of unions which also exist beyond the walls?

MR. LEVITT: I think I was thinking of unions beyond the walls. But I am open-minded about it.

MR. MARSHALL: Yes, I was, too. And I would say that just as there are degrees of representation of workers now, the workers at Saturn have much different kinds of powers than the workers in a regular General Motors plant, and therefore it is possible to think about an array of ways for workers to be represented. I would say that the essential ingredient, if it is going to be successful over the long haul pull, is that whatever you call the organization that represents the inmates, that it has to have some independent source of power, independent from the system, just like the company unions didn't work because they didn't have an independent source of power, didn't even work for the companies in the long run.

So I think it is possible to design a system so that you would have degrees of representation just like we have in the public sector now. And it would be a voluntary system. I think it ought to be that if they want to have it and see that it has a role. We develop a system to make that possible. Another part of the system that I would think would be beneficial to everybody involved is an alternative dispute settlement process that would avoid litigation, or at least minimize litigation.

MR. FREEMAN: Yes. It is a question for people who know more than I do because the obvious easy way to deal

with this is to say something like there is a pretty good prisoner or set of prisoners. They come work in a normal workplace with free labor. They are paid the going rate. It is the unionized workplace. Fine, they join the union. If it is not a unionized place, they have the same right to form a union as other people.

But the question is, to what extent do we have through various work release programs prisoners working in normal, free settings and then going back to prison at night. Is that common, frequent, or totally rare? Could somebody enlighten me, please?

MR. WOODHEAD: It is extraordinarily rare, I believe. I mean, if you are not counting work release.

MS. SMITH: He is counting work release. I think that is pretty standard, though. I think that depending on what kinds of incidents you have had, like you have had a major incident where someone who is out on work release went out and committed some offense, I mean, those programs either expand or constrict depending on what has happened in terms of the public opinion. But that is fairly routine. I think that it is an interesting question because

I know, for example, for inmates who work in prison industries, they, of course, are not considered as employees for purposes of discrimination laws or whatever. I think that is an interesting question about whether if somebody were on a work release program and they went out and they were working whether they could join a union. And I wouldn't be surprised if there were some restrictions in terms of the department in terms of whether they could do that.

MR. SCHWALB: From the practical standpoint of a prison manager, I don't think we care what job the prisoner has on work release, what they make, and who they are affiliated with. The reality is at the county and state level is where you see most of that, because the only people that feel comfortable enough from a public safety perspective, or the judge feels comfortable enough in terms of sanctioning options at sentencing, even putting in on work release, are people who are usually misdemeanors serving relatively short periods of time. So as soon as you have a population, like at the federal system, which is 100% felons, it is really not an option. But I don't see why from a prisoner manager standpoint, it would make any difference what they were affiliated with, doing on the outside, as long as it was legal.

# The Economics of Inmate Labor Force Participation

May 29, 1999

The George Washington University

The Center on Crime, Communities & Culture, of The Open Society Institute

## Chapter 7

### Afternoon Small-Group Sessions

After the panel (and lunch) afternoon small-group sessions identified key viewpoints and action recommendations from varying stakeholder perspectives. The sessions were organized and assisted by professional facilitators from The Public Conversations Project, of Watertown, Massachusetts. Speakers from the morning sessions were available for consultation.

Because of (1) the wide range of stakeholders with widely differing perspectives, (2) the newness of the issue to many participants, (3) the novelty of the economists' views, and (4) the limitations of time, goals for afternoon sessions were defined *within* rather than *across* stakeholder groups. Participants were assigned based on registration information, to groups including corrections, correctional industries, corrections reform, economics, economic development, education and training, families, fathers, health and substance abuse, inmates and inmate labor, labor economics, labor unions, lawmakers, victims, women and children, and others.

Groups were to identify (1) important features of promise in the economics of inmate labor, (2) principal issues of concern, and (3) key actions to be taken. A verbatim record of stakeholder views is provided in the symposium transcript. In general, groups emphasized the following points:

#### Positives – Points of View or Alternatives Viewed Favorably

- Most were encouraged that the economists viewed inmate employment as a good.
- Assessing inmate employment's minor effects on the larger economy was viewed *favorably*, as eliminating concerns of threat to the overall society.
- Most were encouraged that inmate employment would likely reduce recidivism.
- Inmates' ability to contribute to child and family support was favorably viewed.
- Some were encouraged by the need for and emphasis on education and training.

#### Negatives – Issues of Concern

- Participants repeated concerns that the benefit of reduced recidivism through employment may be assumed rather than demonstrated.
- Ignorance of prisons and of the specific components of work yielding success weakened the more general optimism for the posed benefits of inmate work.

- Concerns were raised about the absence of specific implementation steps necessary for success.
- Transitional and post-release adjustment issues were repeatedly raised as concerns, including education and training, and support in reintegrating to families, jobs, and communities.
- In the symposium, the absences of participation by and attention to minorities and females were raised as key issues of concern.
- Lack of attention to experiences outside the United States was raised as a serious concern.
- Concerns were raised about the possibility of affording market-wages for inmate employees.

### Recommended Actions

In general, participants found existing evidence on either the benefits or the costs of inmate employment to be fairly thin and not fully convincing and a lack of specifics in both the bases and recommendations for action. Therefore, the major recommendations for action focused on learning and research.

- Both the *measurement* of recidivism effects of inmate employment and the *explanation* of the components of employment reducing recidivism need much more research.
- The social processes of adjustment, including via education, need additional research.
- Demonstration programs are sorely needed, in education and training, in employment, and in transition and community integration.
- Effects of inmate unemployment and employment on children, families, and family reintegration after release badly need research attention.

## Executive Summary

### *The Economics of Inmate Labor Force Participation*

May 21, 1999

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On May 21, 1999 at the National Symposium on “The Economics of Inmate Labor Force Participation,” five prominent U.S. economists provided introductory opinions on: (1) whether inmates participating in the labor force would be good or bad for the U.S. economy, (2) what would happen to civilian labor if inmates were to participate, and (3) their recommendations for U.S. inmate labor force policies.

Although reading each economist’s opinion is necessary to gain a full appreciation of their conclusions, there was general agreement that -

- **Inmate labor force participation would be *good* for the U.S. economy because it would increase the Nation’s output of goods and services.** Inmate employment would increase Gross Domestic Product (GDP) and be generally good for consumers, business, government and taxpayers. Inmate participation would have special significance for compensated victims, prisoners, and prisoners’ children and families. However, the overall *economic gain would likely be small*, because the inmate population is a small percentage of the U.S. workforce and inmates are, on average, less productive than the overall labor force. According to the economists, the increase in Gross Domestic Product (GDP) would likely be small, equaling much less than 1 percent of GDP.
- **The greatest social and economic benefit from inmate labor force participation would likely come from reduced *future* crime and recidivism resulting from the improved post-release behavior of offenders.** The magnitude of this benefit is uncertain. Moreover, in the event that lower incomes for low-wage civilians resulted in additional crime, the possibility of net harmful effects could not be excluded.
- **Inmate labor force participation would have little or no discernible effect on U.S. civilian labor overall, but might slightly reduce the wage rate and employment levels for low-wage civilian workers.** But because inmates disproportionately come from lower-income populations, losses to low-wage civilians might be offset (to an

unknown degree) by reduced crime and the positive income benefits to these same populations from inmate employment.

- ***Policy Recommendations: The roots of inefficiencies in current inmate labor and prison industries are: (1) the absence of a free market; and (2) rules favoring government-owned prison industries. Therefore, public policies in inmate labor and prison industries should introduce the free market and use the same rules for prison industries as for private industry competitors.*** Specifically, the economists generally recommended -
  1. **Privatize prison industries or remove all competitive advantages of government-owned prison industries, particularly--**
    - Eliminate preference in sale to government markets
    - Use open-market bidding for use of the inmate labor force
  2. **Apply the same standards for inmates as for civilian labor, including--**
    - Identical wage standards, including application of the Federal minimum wage
    - Identical application of civilian labor law, including the Fair Labor Standards Act, Workers Compensation, and health and safety standards.
  3. **Allow inmates to join unions** or an alternative form of organization, to provide some representation in bargaining employment and terms
  4. **Invest in raising inmate productivity** with access to training, education, counseling, and treatment

In addition, each economist offered additional comments. Ray Marshall emphasized the importance of recognizing the historical context of stakeholders and issues. Alan Krueger, Jeff Kling, and Steven Levitt recognized the possibility of subsidizing inmate labor if social benefits (such as crime reduction or reduced costs of prison operation) exceeded private benefits. Richard Freeman offered the alternative of inmates recapturing jobs previously lost to foreign firms, noting the possibility of inducing crime if low-wage domestic civilian labor were severely harmed.

Afternoon discussion groups allowed participants and speakers to explore issues in more detail. In general, participants found existing evidence on the benefits or costs of inmate employment to be lacking and less than convincing. Therefore, their recommendations for action focused on learning and research:

- Both the *measurement* of recidivism effects of inmate employment and the *explanation* of the components of employment reducing recidivism need much more research
- The social processes of adjustment, including via education, need additional research



- Demonstration programs are sorely needed, in education and training, in employment, and in transition and community integration.
- Effects of inmate unemployment and employment on children, families, and family reintegration after release badly need research attention.

The economists' opinions are also available on [www.correction.org](http://www.correction.org)