Captive Labor

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

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

From the moment they enter the prison gates, they lose the right to refuse to work. This is because the 13th Amendment to the United States Constitution, which generally protects against slavery and involuntary servitude, explicitly excludes from its reach those held in confinement due to a criminal conviction. More than 76 percent of incarcerated workers report that they are required to work or face additional punishment such as solitary confinement, denial of opportunities to reduce their sentence, and loss of family visitation, or the inability to pay for basic life necessities like bath soap. They have no right to choose what type of work they do and are subject to arbitrary, discriminatory, and punitive decisions.
by the prison administrators who select their work assignments.³

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

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

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

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

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

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

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

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

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

**FOIAs.** Researchers submitted Freedom of Information Act (FOIA) requests to all 50 states of the United States, as well as the Federal Bureau of Prisons, seeking basic data on prison labor programs and participants. Twenty-three states replied to the request with varying levels of responsiveness; 27 states provided no information.

**DOJ survey analysis.** The authors conducted descriptive analyses on work assignments from a national survey of incarcerated adults in correctional facilities conducted by the Department of Justice Bureau of Justice Statistics in 2016 and published in September 2021. The sample for this report was limited to those incarcerated in federal or state institutions, resulting in a sample of 23,921.

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

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

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

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

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

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

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

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

State prison industries, also called “correctional industries,” constitute a second type of prison labor program that accounts for about 6.5 percent of prison jobs. The number of incarcerated workers employed in state prison industries programs has been dropping in recent years, from 91,043 in 2008 to 51,569 in 2021. These are jobs in state-owned corporations that produce goods, services, and...
commodities sold to other government agencies. Many states require all state agencies, political units, and public institutions to purchase manufactured goods, including furniture, cleaning supplies, printed materials, and uniforms, from their state correctional industries. Correctional industries programs are not limited to manufacturing, as states rely on incarcerated workers to provide a variety of services, such as data entry, repairing state-owned vehicles, and washing laundry for public hospitals and universities. For example, people incarcerated in New York and Oregon help staff the states’ Department of Motor Vehicles (DMV) call centers, fielding questions directed towards the department.

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

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

In Florida, for instance, about 3,500 unpaid incarcerated workers work on state road crews and “community work squads,” required to provide labor for hundreds of state and municipal agencies and dozens of state colleges and nonprofits. In North Carolina, nearly 1,000 incarcerated workers work on the state’s roads for the state Department of Transportation and on manual labor jobs for other state and local government agencies. In Arizona, 1,083 incarcerated people work on public works crews for the Department of Transportation and other state, local, and county entities through intergovernmental agreements with the corrections department. These workers logged more than 1.8 million hours of work for the community during fiscal year 2020. In Washington state, about 1,000 people work in similar community work programs through which incarcerated workers work on stream clean-up, land clearance, farming, and development of parks and recreation areas. In Mississippi, each state prison provides incarcerated workers’ labor for free to local towns and municipalities. In Arkansas, incarcerated people on “inmate work crews” logged nearly half a million hours in regional maintenance alone in 2020.

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

A fourth category of prison labor is work for private industries through the Prison Industry Enhancement Certification Program (PIECP), which allows private companies to produce goods and services using prison labor. There are several employment models within this category. Some
incarcerated people work directly for the private company while others are employed by the prison and are essentially contracted out to the company.\textsuperscript{33} PIECP employs the smallest number—only 4,860 workers, or less than 1 percent—of incarcerated people of any prison labor program.\textsuperscript{34}

\textbf{Agricultural work} fits within multiple categories of prison labor. Some incarcerated workers engage in field labor for the maintenance of the prison, cultivating and harvesting crops to be eaten by the people incarcerated there. Others engage in farming or ranching work for prison industries programs or for private corporations through PIECP programs to produce livestock, crops, and other agricultural products for sale. Twenty-seven percent of public prisons have work programs in farming and agriculture.\textsuperscript{35} Although only 2.2 percent of incarcerated workers are engaged in agricultural work in prisons nationwide, in some states, agricultural work constitutes a greater percentage of work assignments, such as in Arkansas, where 17 percent of job assignments for incarcerated people were in agricultural work in 2021.\textsuperscript{36} Some of this agricultural work takes place outside prison walls, while in states including Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, and Texas, incarcerated workers work on penal plantations or prison farms, some of which are situated on land that was originally the site of slave plantations.

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

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

\textbf{Paid in Pennies}

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

Our research found that the average minimum hourly wage paid to workers for non-industry jobs is 13 cents, and the average maximum hourly wage is 52 cents.\textsuperscript{41} The overwhelming majority of workers have jobs that support the operation of the prison facilities and are compensated at the lower end of prison pay scales. Prison maintenance jobs pay anywhere from nothing to pennies per hour. Several prisons in Maine do not pay at all for laundry, kitchen, cleaning, and grounds-keeping work.\textsuperscript{42} The state of Connecticut pays incarcerated workers employed in maintenance jobs 75 cents a day.\textsuperscript{43} And in Kansas, maintenance workers make just over five cents an hour.\textsuperscript{44}
The about 6.5 percent of workers with jobs in higher-paying state prison industries are paid 30 cents to $1.30 per hour on average. State-owned prison industries programs employ incarcerated people nationwide at a small fraction of the wages they would pay a regular employee. Oregon’s DMV center pays its incarcerated workers $4 to $6 a day, compared to the average pay of $80 a day for non-incarcerated employees doing the same job. An incarcerated worker in Louisiana making mattresses earns about 20 cents an hour, and another making dorm furniture in Arkansas is paid nothing at all.

Incarcerated workers’ wages remain stagnant for years, even decades. Incarcerated workers in New York state last received a pay increase in 1993. Workers in South Dakota have been paid $0.25 per hour for non-industry jobs for more than 20 years. In Vermont, most incarcerated workers have been paid $0.25 per hour since 1988, when the pay scale for non-industry jobs was last revised. Workers in Illinois received a pay raise in 2021 for the first time in 11 years, an increase of merely 14 cents per day for general laborers, who are now paid $0.85 to $1.10 per day.

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

In many states a majority of these wage deductions are for room and board. In a single year, over $22.5 million was deducted from the wages of incarcerated workers employed by private corporations through the PIECP program nationwide, more than 60 percent of which went to room and board. In Minnesota, 77 percent ($3.48 million) of wages earned by incarcerated workers was deducted in fiscal year 2021, about two-thirds of which went to “cost of confinement.” At the state level, wage deductions have also been used to sustain and expand incarceration. For example, Florida has created a Prison Industries Trust Fund to collect and administer funds for the “construction or renovation of its facilities or for the expansion or establishment of correctional work programs.”

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

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

Excluded from Basic Workplace Protections

Prison labor is a unique labor arrangement. The employer—usually the prison and sometimes a public agency or private corporation contracting with the prison—exercises complete control over the worker. Given the vast power disparity between prisoners and their employers, incarcerated workers are an exceptionally vulnerable labor force. And workers’ testimonies indicate that this vulnerability is too often abused and exploited by the facilities and their staff. Incarcerated workers report being assigned jobs and subjected to punishment in an arbitrary and
discriminatory manner. They also report laboring in dangerous conditions and without proper training or protective equipment, exposing them to serious injuries and health-related harms that are wholly preventable.

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

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

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

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

Dangerous Work Conditions and Preventable Injuries

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

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

In numerous cases we documented nationwide, injuries could have been prevented with proper training, machine guarding mechanisms, or personal protective equipment. Incarcerated workers report receiving inadequate training on how to handle
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hazardous chemicals, operate dangerous equipment with cutting blades, clean biohazardous materials like excrement and blood, and use dangerous kitchen equipment. In fact, almost 70 percent of currently incarcerated workers who participated in the survey circulated for this report indicated that they received no formal job training.

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

- An incarcerated worker assigned to an industrial workshop in a Minnesota state prison suffered mutilation of his hand and loss of three fingers while operating a beam saw to slice pieces of wood. He had never seen a beam saw in his life and never received official safety training from a prison official. Instead, he was taught on the job by another incarcerated worker who had been operating the saw without the plastic safety guards meant to protect the operator from the blades.

- A man incarcerated in an Illinois state prison assigned to work in a prison food facility lost several of his fingers on a deli slicer. At a trial concerning the incident, he explained that he never received an orientation session or even an explanation of the facility’s rules or safety precautions.

- On her second day of work on laundry porter duty at a Michigan state prison, an incarcerated woman suffered a traumatic brain injury, fractured skull and nasal bones, and internal cranial bleeding after a 400-pound laundry cart fell on her while she was unloading carts from a truck with a hydraulic lift. A federal court found that despite the dangerous work, prison officials provided “only limited, on-the-job training” and that the laundry truck lacked a stopper device to prevent the laundry carts from tipping.

- An incarcerated woman employed at a private egg factory in Arizona was forced to rip her own finger off rather than lose her whole hand to a piece of machinery she had never been trained on.

- A man who was incarcerated in a state prison in Alabama and sent to work a sanitation job at a private poultry processing plant was killed when a machine caught his arm and pulled him inside. When OSHA later investigated the incident, it found that employees at the plant might not have known how to correctly turn off the machine that killed him.

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

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

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

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

Workers have also been exposed to dangerous toxins on the job. Incarcerated workers perform asbestos abatement in New York, Pennsylvania, Ohio, and Utah through each state’s correctional industries program. An incarcerated man working at the electrical shop of a federal prison in Illinois filed suit after his supervisor ordered him to crush fluorescent bulbs containing mercury in an unventilated room. When he asked for a face mask, he was told that he was “shit out of luck.” Incarcerated workers employed at a battery manufacturing factory in Georgia were exposed to dangerous levels of lead, and incarcerated workers employed in the federal prisons’ UNICOR electronics-waste recycling program who disassembled and recycled computer parts were exposed to poisonous metals, causing serious health problems.

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

**Prison Labor During the Pandemic**

Incarcerated people, recognized as one of the populations most vulnerable to the COVID-19 virus, were on the front line of the pandemic response. Nearly every state in the country reported that incarcerated workers contributed labor to the pandemic response. Incarcerated workforces were widely used to meet the demands of protective equipment production early in the pandemic. Incarcerated workers were tasked with manufacturing hand sanitizer, masks, medical gowns, face shields, and other personal protective equipment that they were then prohibited from using to protect themselves. Incarcerated people also worked in morgues, transported dead bodies, dug mass graves, and built coffins. They washed soiled hospital laundry, disinfected supplies, and cleaned medical units.
At times, incarcerated workers had to perform work that put them at the highest level of exposure to the virus. In at least five states (Michigan, Missouri, New York, Oregon, and Texas), incarcerated workers participated in frontline health roles that put them at high risk of contracting COVID-19.\(^{100}\) Incarcerated people working in prison laundries in Oregon and Missouri were tasked with cleaning bedsheets, towels, and gowns from hospitals treating COVID-19 patients.\(^ {101}\) In Texas, previously unpaid incarcerated workers were paid $2 an hour to work in mobile morgues and transport bodies from the Medical Examiner’s Office in El Paso.\(^ {102}\) In New York, workers who were tasked with digging mass graves were transitioned from an hourly wage of $0.65 to $6. The Rikers Island jail offered personal protective equipment as a “privilege” to any incarcerated worker tasked with digging mass graves.\(^ {103}\)

Our research identified at least 40 state departments of correction and state prison industries programs that pivoted to manufacture personal protective equipment and hand sanitizer for healthcare workers and other state employees. Incarcerated workers performed this work at the height of early pandemic lockdowns, often without personal protective equipment or the recommended social distancing, putting their health and lives at risk. Incarcerated workers at Great Meadow Correctional Facility in New York were working around the clock in eight-hour shifts to bottle 100,000 gallons of hand sanitizer every week for 65 cents an hour.\(^ {104}\) Incarcerated workers at Green Haven Correctional Facility in New York built 1,400 coffins per week in April 2020 as COVID-19 spread through the prison.\(^ {105}\) California prisons halted most programming in an effort to slow down the spread of COVID-19, while keeping open its state prison factories as incarcerated women worked seven days a week to produce masks and hand sanitizer.\(^ {106}\) In Pennsylvania, while the state prison system was under quarantine, some incarcerated workers worked 12 hours a day, six days a week to manufacture masks, medical gowns, antibacterial soap, and disinfectant.\(^ {107}\) Incarcerated workers in at least 15 federal prisons around the country manufactured masks, gowns, and sanitizer for $0.23 an hour.\(^ {108}\) Workers in Texas were not paid at all for their work manufacturing face masks and medical gowns for first responders.\(^ {109}\)

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

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

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

**Dead-End Jobs**

Despite all this, state governments describe their prison labor programs as rehabilitative. Incarcerated workers are eager to learn new job skills: More than 70 percent of incarcerated workers rank skills-learning as a very important reason for working. However, the promise of providing incarcerated people with transferable skills and work experience for their eventual reentry into society often proves illusory. In reality, the vast majority of work programs in prisons involve menial and repetitive tasks that provide workers with no marketable skills or training.

Our research shows that better-paid prison industries jobs are declining, while maintenance jobs increasingly represent a larger share of work assignments. Vocational training programs are declining in prisons across the country, cut from state correctional budgets. The rate of participation in job training programs has fallen nationwide among people incarcerated in state prisons, according to analysis of the Bureau of Justice Statistics surveys of people in prisons conducted periodically between 1986 and 2016.

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

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

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

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

The primary beneficiaries of the labor of incarcerated workers are federal, state, and local governments. Federal and state governments offset budget shortfalls by forcing incarcerated laborers to work to maintain the very prisons that confine them. State and local governments also rely on unpaid and low-paid incarcerated workers for a variety of public works projects. For instance, the Florida Department of Corrections estimates the value of the labor of the 3,500 unpaid incarcerated workers working on state road crews and community work squads to be about $147.5 million over a five-year period. “There’s no way we can take care of our facilities, our roads, our ditches, if we didn’t have inmate labor,” Warren Yeager, a former Gulf County, Florida, commissioner told the Florida Times-Union. State governments also rely on incarcerated workers as a low-wage labor force to respond to a variety of disasters and emergencies throughout the country. At least 30 states explicitly include incarcerated workers as a labor resource in their state-level emergency operations plans.

Prisons also provide a cheap and compliant labor force through correctional industries, the state-owned businesses that produce goods and services sold to other state entities. In fiscal year 2021, the federal government’s UNICOR prison industries program reported $404 million in net sales of goods and services produced by the 16,315 federally incarcerated workers who are employed in the program. In fiscal year 2020, Illinois’ correctional industries program sold over $33.5 million worth of goods and services from incarcerated workers to its own state agencies, state universities, and local governments, while California’s correctional industries program sold over $191 million in manufactured goods, services, and agricultural products produced by incarcerated workers in fiscal year 2020–21.

In 2021, the value of goods, services, and commodities produced by the incarcerated workers employed in state prison industries programs nationwide—who represent only about 6.5 percent of all incarcerated workers—totaled over $2 billion. The precise value of incarcerated workers’ labor to maintain the very prisons that confine them—work such as food preparation, maintenance, laundry, and cleaning—is unknown but totals vastly more. In 2004, the value of services provided by incarcerated workers laboring to maintain and operate the prisons that confine them was conservatively estimated to be $9 billion.
Prison Labor Masks the True Costs of Mass Incarceration

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

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

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

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

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

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

The Path Forward

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

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

Prison work programs that provide vocational training should be expanded to provide incarcerated workers with marketable skills and training that will help them to find employment after release. Research has found that joblessness is the single most important predictor of recidivism. Vocational programs can boost formerly incarcerated
individuals’ job prospects by almost 30 percent. A November 2021 study of California’s prison industry program found that “participants were significantly less likely to be arrested at one, two and three years post release” than incarcerated people who were waitlisted for the program. The federal government’s UNICOR prison industries program has been shown to reduce recidivism by 24 percent and participants in the program are more likely to be employed after release from prison than similarly situated individuals, yet the program has a 25,000-person waitlist and employs only 8 percent of workers incarcerated in federal prisons. Expanding these programs makes good economic sense: Money spent on vocational programs in the short term translates into long-term gains through reduced recidivism rates.

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

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

The best way to protect incarcerated workers is to treat them as much as possible like non-incarcerated employees. Incarcerated workers must receive the basic protections guaranteed in nonexploitative workplaces. They should be protected by occupational health and safety laws, and compensated for injuries on the job. Basic labor protections and meaningful access to redress when their rights are violated should be the minimum standard.

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

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

**Key Recommendations**

**End forced labor, without exceptions.**

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

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

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

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

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

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

Protect incarcerated workers from injuries and hazards.

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

Permit incarcerated workers to join labor unions.

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

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

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

- Invest in valuable work and education programs designed to enhance incarcerated individuals’ prospects of securing employment and becoming self-sufficient upon release.
- Eliminate occupational licensing restrictions, adopt comprehensive fair-chance hiring policies, and pass ban-the-box statutes to reduce discrimination against formerly incarcerated people and remove barriers to securing employment after release.
This report was produced jointly by the ACLU Human Rights Program and the Global Human Rights Clinic of the University of Chicago Law School. Findings are based on desk research, responses to open records requests, questionnaire responses, interviews, and fact-finding conducted between January 2019 and April 2022.

**FOIAs**

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

**Desk Research and Policy Analysis**

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

**DOJ Survey Analysis**

The authors conducted descriptive analyses on work assignments from a national, wide-ranging survey of people age 18 or older who are incarcerated in correctional facilities conducted by the Department of Justice Bureau of Justice Statistics in 2016 and published in September 2021. The sampling universe for the survey consisted of state and federal prisons housing 1,502,671 people and the final full survey sample was 24,115. For the purposes of this analysis, we limited the sample to those housed in federal or state prisons (thus those incarcerated in facilities run by U.S. Immigration and Customs Enforcement, U.S. Marshalls, and local authorities were excluded from our analysis), resulting in a sample of 23,921 incarcerated people.
The authors conducted more in-depth primary investigations in three case-study states—California, Illinois, and Louisiana. These states were selected because they represent different models of prison labor systems in different geographic areas of the United States. The authors designed a six-part questionnaire consisting of 27 questions that was sent to 600 people currently incarcerated in prisons in the three states: California, Illinois, and Louisiana. The questions included closed- and open-ended questions about their prison jobs, including questions about wages, other compensation or benefits, wage deductions, job training, voluntariness of the work, safety precautions, dangerousness of the work, and whether respondents could afford basic necessities with the wages they were paid. The individuals contacted were selected from online databases cataloguing the people incarcerated in each state: VINELink for Louisiana, the California Department of Corrections and Rehabilitation Inmate Locator for California, and Illinois Department of Corrections Inmate Search for Illinois. Names were selected at random using the following sampling criteria: 25 percent have served less than five years in prison and 75 percent have served more than five years; sampling from different prisons proportionally to their populations; and sampling proportional to the racial and gender breakdowns of each state’s prison population. Of the 101 surveys that were completed and returned, 48 were received from 20 different facilities across Illinois, 35 were received from 16 facilities across California, and 18 were received from nine facilities across Louisiana. Responses to the questionnaire were recorded, aggregated, and turned into percentages, which allowed the authors to observe and track trends across the three states. All individuals who responded to the survey provided written informed consent to participate. Survey respondents’ names are used when they provided written, informed consent to use their real name in the report, while most survey respondents’ names are not published in the report to preserve their anonymity at their request.

The authors interviewed 78 key stakeholders and experts, including formerly incarcerated individuals, representatives of advocacy organizations, academics, and leaders of reentry organizations. Of these, 26 interviewees are in California, nine in Illinois, 17 in Louisiana, and 26 in other states. These interviews were conducted between October 2019 and November 2021. Members of the team traveled to Louisiana to conduct 17 interviews in person. Plans to conduct interviews in person in other locations were changed due to COVID-19 and these interviews were instead conducted over phone or Zoom. Interviewers followed an interview protocol and took notes during and immediately following the interview. Interviews were typically between one and 1.5 hours. All individuals interviewed provided verbal informed consent to participate and did not receive any compensation for participating in interviews. Individuals interviewed were offered the option of using their real name in the report or remaining anonymous. Separate interview questionnaires were formulated for each interview, and the content of the questions were tailored to each interviewee’s personal situation/experience, relationship to the criminal legal system, or area of expertise.
There are roughly 800,000 people working while incarcerated in state and federal prisons in the United States, where they are stripped of practically all control over their lives. Within prisons, everyday decisions like when to eat, sleep, and bathe become subject to the arbitrary and unpredictable policies, practices, and whims of correctional officers. Incarcerated people are often told what they can and cannot read, and whether and when they can communicate with loved ones.

In addition to being stripped of these basic freedoms, incarcerated people also lose the right to refuse to work when they enter prison. They have no right to choose what type of work they do and are subject to arbitrary, discriminatory, and punitive decisions by the prison administrators who select their work assignments.¹⁶⁶

The vast majority—more than 80 percent—of incarcerated workers labor as cooks, dishwashers, janitors, groundskeepers or plumbers; or in laundries, kitchens and hospitals, keeping the facilities that confine them running. Others are put to work producing goods and services sold by the federal and state governments and the private sector for a profit. They provide public services such as repairing roads, clearing land, planting trees, or fighting wildfires. They carry out industrial work, manufacturing products like office furniture, mattresses, license plates, and uniforms. They labor on prison farms and work in meat, poultry,
dairy, and egg processing. Although prison labor has undergone various permutations throughout U.S. history, the model in U.S. prisons for labor has remained far too close to its “chain gang” origins.

Prison Labor by the Numbers

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

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

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

To arrive at our estimate, the authors analyzed data from a national, wide-ranging survey of people age 18 or older who are incarcerated in state and federal correctional facilities conducted by the Bureau of Justice Statistics in 2016 and published in September 2021. 65.1 percent of people incarcerated in federal and state prisons who were surveyed by the Bureau of Justice Statistics reported that they have work assignments. The sampling universe for the survey consisted of state and federal prisons housing 1,502,671 people (the final full survey sample was 24,115 incarcerated people). Since 2016, the prison population dropped to 1,215,821 people at yearend 2020, according to the most recent available data published by the Bureau of Justice Statistics in December 2021.

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

Today, almost all U.S. prisons have work programs that employ incarcerated workers: Nearly 99 percent of public adult prisons and nearly 90 percent of private adult prisons have work programs that employ incarcerated workers, according to the Bureau of Justice Statistics census of state and federal correctional facilities conducted in 2019 and published in November 2021. According to this census, more than 1.2 million people are incarcerated in adult prisons that have work programs employing incarcerated workers.
Although the Federal Bureau of Prisons and nearly all state departments of corrections also refused to provide data on the race of prisoners with work assignments, the incarcerated labor force is undoubtedly disproportionately made up of people who are Black, relative to their overall representation in the general population. Black Americans are incarcerated in state prisons at nearly five times the rate of whites, and in 12 states, more than half the prison population is Black, despite constituting 13 percent of the nationwide general population.189

History of Incarcerated Labor in the United States

Incarcerated labor has a long and problematic history in the United States, rooted in racial oppression. The roots of modern-day labor programs can be traced to the end of the Civil War and the passage of the 13th Amendment to the Constitution in 1865. The 13th Amendment outlawed slavery and involuntary servitude, “except as a punishment for crime whereof the party shall have been duly convicted.”186 Given this gaping loophole, states turned to incarcerated labor as a means of partially replacing chattel slavery and the free labor force slavery provided.

In the North, incarcerated people were contracted out to private individuals and entities to perform labor in industrial factories.182 Under this contract system, incarcerated laborers were often forced to work 14 to 16 hours a day and were brutally punished for not working fast enough, for accidentally damaging equipment, and sometimes for no reason at all.183 These severe punishments, which included hoisting incarcerated individuals “up by the thumbs with fishing line and a pulley mechanism attached to the ceiling,”184 allowed Northern states to produce in one year alone what, in today’s dollars, amounts to over $30 billion worth of prison-made goods.185 By the late 1800s, over 75 percent of the North’s incarcerated population worked in these factories. This economic exploitation fell largely upon impoverished, immigrant, and African American communities who made up the majority of the incarcerated population in the North.186

In the South, conditions for incarcerated people were just as brutal, with incarcerated workers being forced to labor for up to 17 hours each day, building factories, laying railroads, and mining coal.187 Under the convict leasing system, this work was conducted under the supervision of private employers who could bid on and “lease” incarcerated people for days, months, or years to work on plantations and at coal mines, turpentine farms, sawmills, phosphate pits, railways, and brickyards.188 These private employers had unfettered control over unpaid, predominantly Black workers and subjected them to brutal punishments such as whipping and branding and, in many cases, worked incarcerated people to death.189 In Mississippi, not a single leased convict lived long enough to serve a 10-year sentence.190 Because the leasing system was so profitable for Southern states and lessees alike, new laws known as Black Codes were passed which permitted sheriffs to arrest Black men on specious charges and indirectly allowed states to expand their convict leasing programs.191
Organized free labor, disgruntled by having to compete with incarcerated labor, was the driving force behind the fall of the contract system in the North and the convict leasing programs in the South. By the 1890s, 35 states capitulated to rising union pressure to scale back incarcerated labor programs as a way to reduce competition in the labor market. The result of this concession was the implementation of the “state-use system,” in which the state became the only lawful purchaser of incarcerated labor and goods. When Congress established the first federal prisons in 1891, a similar system was adopted in which incarcerated people could be forced to work and produce certain commodities, provided that these workers were “employed exclusively in the manufacture of such supplies for the Government.”

As state corrections systems expanded, so too did the number of state-sponsored incarcerated labor programs. Work crews, commonly known as chain gangs, were first established in the 1890s in Georgia and spread throughout the South as states began to phase out the convict lease system. These chain gangs consisted of prisoners, the vast majority of whom were Black men, shackled together with chains wrapped around their ankles, day and night, even while working, sleeping, or eating. They were forced to engage in unpaid labor in brutal conditions outside of the prison, such as road construction, ditch digging, rock breaking, highway maintenance, and farming, under the supervision of correctional officers armed with shotguns and whips. Chain gangs became more prevalent in the early 20th century as states gradually abolished the convict leasing system, as Georgia did in 1908 and later Alabama in 1928. By 1923 every state except for Rhode Island had used chain gangs to build and repair roads, but the practice was most widely used in the South.

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

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

Like the state-use system, this program drew intense criticism from powerful union groups who were concerned that prison labor would displace “free labor.” The American Federation of Labor’s executive council said in 1928, “The manufacture and sale of commodities produced by convict labor in competition with free labor is a menace to working
men and women.” In response, Congress passed several pieces of legislation that outlawed the use of prison labor to maintain federal highways and prohibited the interstate sale of prison-made goods, but made certain exceptions which allowed states and the federal government to continue benefitting from prison labor. The 1935 Ashurst-Sumners Act, for example, made it a federal crime to transport prison-made goods into or out of states which had outlawed this practice, but made an exception for “commodities manufactured in a Federal, District of Columbia, or State institution for use by the Federal Government, or by the District of Columbia, or by any State or Political subdivision of a State.

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

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

## Types of Prison Labor

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

**FIGURE 1:**

### Types of prison labor by category

<table>
<thead>
<tr>
<th>Type</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maintenance labor</td>
<td>80.0%</td>
</tr>
<tr>
<td>Public works assignments</td>
<td>8.0%</td>
</tr>
<tr>
<td>State-owned prison industries</td>
<td>6.5%</td>
</tr>
<tr>
<td>Work-release programs</td>
<td>2.0%</td>
</tr>
<tr>
<td>Agriculture</td>
<td>2.2%</td>
</tr>
<tr>
<td>Private Industries</td>
<td>0.6%</td>
</tr>
</tbody>
</table>

Sources: Bureau of Justice Statistics and National Correctional Industries Association

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

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

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

<table>
<thead>
<tr>
<th>Type of work assignments reported by incarcerated workers</th>
</tr>
</thead>
<tbody>
<tr>
<td>General janitorial duties (cleaning, orderly, sweeping)</td>
</tr>
<tr>
<td>Food preparation or kitchen duties (kitchen, bakery, butchery, etc.)</td>
</tr>
<tr>
<td>Other services such as library, stockroom, store, office help, recreation, sew shop, barber or beauty shop, etc.</td>
</tr>
<tr>
<td>Grounds or road maintenance</td>
</tr>
<tr>
<td>Goods production / industries / contract services (telemarketing, tag shop, print shop, etc.)</td>
</tr>
<tr>
<td>Maintenance or repair / construction</td>
</tr>
<tr>
<td>Laundry</td>
</tr>
<tr>
<td>Hospital, infirmary, or other medical services</td>
</tr>
<tr>
<td>Farming, forestry, ranching</td>
</tr>
<tr>
<td>Other</td>
</tr>
</tbody>
</table>

Note: Survey respondents could check multiple work assignments
Source: ACLU analysis of Bureau of Justice Statistics Survey of Prison Inmates, United States, 2016 (data published September 2021)

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

Incarcerated workers carry loads of cardboard to recycling bins at Camp Waterloo, a deteriorating former state prison. Prison work crews cleared trash and scrap metal from the abandoned prison facility in Waterloo, Michigan.
constitute work in three other categories of prison work: work in state-owned prison industries, work for private industries, and a small fraction of the work performed through work-release programs. Another 7.3 percent reported engaging in undefined “other” work, which likely includes some public work assignments and work-release jobs.

**State-Owned Prison Industries**

State-owned prison industries, which constitute a second type of prison labor program that accounts for about 6.5 percent of prison jobs, employ 51,569 incarcerated individuals in state-owned corporations that produce goods, services and commodities sold to other government agencies as of 2021, down from 70,507 in 2011 and 91,043 in 2008. According to the National Correctional Industries Association, the value of saleable goods and services produced by incarcerated workers in prison industries programs nationwide totaled $2.09 billion in 2021.

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

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

### TABLE 2

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

<table>
<thead>
<tr>
<th>Work Program</th>
<th>Public</th>
<th></th>
<th>Private</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Facilities</td>
<td>Prisoners</td>
<td>Facilities</td>
<td>Prisoners</td>
</tr>
<tr>
<td></td>
<td>Number</td>
<td>Percent</td>
<td>Number</td>
<td>Percent</td>
</tr>
<tr>
<td>Any</td>
<td>1,058</td>
<td>98.7%</td>
<td>1,200,367</td>
<td>99.7%</td>
</tr>
<tr>
<td>Maintenance/ facilities support</td>
<td>1,022</td>
<td>95.2%</td>
<td>1,176,098</td>
<td>97.6%</td>
</tr>
<tr>
<td>Prison industries</td>
<td>536</td>
<td>50.0%</td>
<td>789,541</td>
<td>65.5%</td>
</tr>
<tr>
<td>Public works assignments</td>
<td>474</td>
<td>44.2%</td>
<td>550,529</td>
<td>45.7%</td>
</tr>
<tr>
<td>Farming/agriculture</td>
<td>294</td>
<td>27.4%</td>
<td>341,839</td>
<td>28.4%</td>
</tr>
</tbody>
</table>

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

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

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

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

In Florida, for instance, about 3,500 unpaid incarcerated workers work on state road crews and “community work squads,” required to provide labor for hundreds of state and municipal agencies and dozens of state colleges and nonprofits. In North Carolina, nearly 1,000 incarcerated workers work on road squads for the state Department of Transportation and on manual labor jobs for state and local government agencies. These contracted services include patching potholes, clearing rights-of-way, and picking up litter on state roads; janitorial services; cleaning parks and streets; working for county schools; undertaking construction, cleaning, and yard work for the Department of Social Services; and refurbishing restrooms and picnic areas for the Department of Agriculture.

In Washington State, about 1,000 people work in similar community work programs through which incarcerated workers perform work in farming, stream clean-up, land clearance, and development of parks and recreation areas. In Arizona, 1,083 incarcerated people work on public works crews for the Department of Transportation and other state, local, and county entities through intergovernmental agreements with the corrections department. These workers logged more than 1.8 million hours of work for the community during fiscal year 2020. In Mississippi, each state prison provides incarcerated workers’ labor for free to local towns and municipalities. Workers incarcerated at Mississippi State Penitentiary provide more than 100,000 hours of free labor each year to state agencies and adjacent municipalities and counties. In Arkansas, unpaid incarcerated workers on “inmate work crews” logged nearly half a million hours in regional maintenance alone in 2020. These workers filled sandbags, dug ditches, cleaned highways and parks, and assisted with clean-up from severe storms and demolition of buildings.

Through such programs, incarcerated workers also perform critical work preparing for and responding to natural disasters and emergencies, including sandbagging, supporting evacuations, clearing debris, and assisting with recovery and reconstruction after hurricanes, tornadoes, mudslides, or floods. For example, in Florida, hundreds of unpaid incarcerated workers were tasked with picking up fallen trees and other debris after Hurricane Irma, and in Texas, hundreds of unpaid incarcerated workers filled sandbags in preparation for Hurricane Harvey, forced to work in the storm’s path while people outside prisons were evacuated. Incarcerated firefighters also fight wildfires in Arizona, California, Colorado, Georgia, Idaho, Montana, Nevada, North Carolina,
Oregon, South Dakota, Tennessee, Washington, and Wyoming. For instance, Georgia’s incarcerated firefighter unit responds to over 3,000 calls annually, assisting with wildfires, structural fires, and motor vehicle accidents—for zero pay.\textsuperscript{258} Indiana turned to incarcerated workers during an avian flu outbreak, tasking them with culling and disposing of infected chickens.\textsuperscript{259}

**Private Industries**

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

**Work-Release Programs and Restitution Centers**

A fifth category of prison labor is work carried out by incarcerated people being held in “**restitution centers,**” as well as those taking part in “**work-release**” programs provided by the prison, jail, or community facility where they are confined. In both instances, workers leave correctional facilities to work at a place of employment and return to the facility when their shift is complete. These programs cover only a small minority of incarcerated workers—around 2 percent.\textsuperscript{265} Because these programs sometimes involve incarceration at correctional facilities other than prisons, this report does not attempt to give an extensive description and analysis of them, but it does reference them where relevant. As of 2019, there were 451 correctional facilities nationwide (27 percent of all correctional facilities) whose main function is work release and community corrections; this number does not include state prisons that operate work-release programs as well.\textsuperscript{266}

There is wide variation in how these types of institutions and programs manifest across states\textsuperscript{267}—including in terms of who manages them, which individuals are eligible, the structure of work assignments, and wage deduction policies—but there are certain features that tend to characterize them both.\textsuperscript{268} Restitution centers and work-release programs alike involve work conducted outside of the prison by mostly those convicted of misdemeanors but also people convicted of low-level felonies as well. Workers are generally paid a wage—although not always—and these wages are often collected by the state, county, or private facility where they are housed.\textsuperscript{269} The facility then deducts rent, restitution, court fines and fees, child support, and other costs before the worker ever sees the wages.\textsuperscript{270}
Restitution centers and work-release programs can be distinguished, in most cases, by how individuals end up working there. Restitution centers are generally discussed at the initial sentencing stage as an alternative to jail or prison or following supervision revocation (generally for failure to pay or absconding violations), while work-release programs tend to become relevant near, or at the end of, an already incarcerated person’s sentence. People often are assigned to work release for a transitional period when they are nearing the end of their sentence. But this is not always the case; some work-release programs function like traditional restitution centers in that they are used as an alternative to jail or prison and confine incarcerated individuals to a corrections facility for a set term (usually equal to the length of the sentence they would have received had they been sent to jail or prison). Some work-release programs may even allow individuals to reside at home, as opposed to being confined in a corrections facility, as long as they continue to report to work each day. Similarly, restitution centers in some cases function like traditional work-release programs in that they are sometimes made available to those nearing (or at the end of) their jail or prison sentence who are in need of transitional services.

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

**Agricultural Work**

Agricultural work fits within multiple categories of prison labor. Some incarcerated workers engage in field labor for the maintenance of the prison, cultivating and harvesting crops to be eaten by the people incarcerated there. Others engage in farming or ranching work for prison industries programs or for private corporations through PIECP programs to produce livestock, crops, and other agricultural products for sale. Twenty-seven percent of public prisons and nearly 9 percent of private prisons have work programs in farming and agriculture. Although only 2.2 percent of incarcerated workers are engaged in agricultural work in prisons nationwide, in some states, agricultural work constitutes a greater percentage of work assignments, such as in Arkansas, where 17 percent of job assignments for incarcerated people were in agricultural work in 2021.

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

In Georgia, about 5,000 incarcerated workers were employed in the Georgia Correctional Industries’ Food and Farm Operations division as of 2015, the most recent year for which data is available. More than 300 of these incarcerated workers are employed each year in the agribusiness program. Incarcerated workers in the farm services and agribusiness programs labor unpaid on six prison farms totaling nearly 14,000 acres of land. These workers farm crops and hold jobs in canning and meat processing plants, cattle and swine operations, milk and egg production, feed and grits mills, and fresh vegetable processing. In addition to the production of profitable farm-grown commodities, these workers produce over 40 percent of the ingredients used in Georgia state prisons’ food service operations.

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

Some agricultural work is for private corporations. For example, incarcerated workers cultivate and harvest alfalfa, rye, wheat, and triticale for the Barnum Land and Cattle of California. In Idaho, incarcerated workers process potatoes, frozen onions, and peppers for Dickinson Frozen Foods through the Idaho Correctional Industries Agricultural Program. In Arizona, Hickman’s Family Farms—the fourth-largest U.S. egg producer—has contracted with Arizona Correctional Industries to employ incarcerated workers for over 20 years. Dairy Farms of America, which markets one-third of the milk sold in the United States, purchases milk from correctional industries.
Penal Plantations

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

For example, at the Louisiana State Penitentiary, known as Angola, the nation’s largest maximum-security prison situated on 18,000 acres of land that was originally the site of slave plantations, incarcerated workers work field crops including cotton, corn, soybeans, and sugarcane for only two cents an hour. Every person incarcerated in Angola, 74 percent of whom are Black293—and most incarcerated across Louisiana—starts work in the fields, and switching jobs is difficult.294 Field laborers work with limited access to water, minimal rest, and no restroom facilities, under the supervision of armed correctional officers on horseback.

Workers report being placed in solitary confinement if they are unwilling or unable to perform work in the fields, or if they do not work fast enough.286 One incarcerated worker in Louisiana reported, “In the field each inmate is given a number to a row of crops to be cultivated or pulled and bagged which is about a half mile. The gun guard on the horse said she wanted 30 sacks of greens and was keeping count. I was on sack 23 before the specified time and was transported to segregation.”296

In Arkansas, about 3,000 incarcerated workers labor on 20,344 agricultural acres spread across
In Mississippi, incarcerated workers plant, harvest, and process crops including soybeans, corn, blueberries, pecans, tomatoes, turnip greens, and field peas. The farming work takes place at Mississippi State Penitentiary (known as Parchman Farm) in Parchman, and South Mississippi Correctional Institution in Leakesville. Parchman was built in the early 20th century and modeled after antebellum slave plantations; the governor of Mississippi at the time the prison opened referred to it as running “like an effective slave plantation.”

Today it is located on 18,000 acres and leases an additional nearly 8,000 acres for its agricultural work, and 67 percent of the incarcerated population is Black.

Incarcerated workers at Parchman supply food to Parchman, two other state prisons, 10 community work centers, and four restitution centers. While the Mississippi Department of Corrections touts the farming operations as a way to feed prisoners and reduce food costs, more than 98 percent of the total acreage farmed by incarcerated workers is devoted to cash crops to sell for a profit, not vegetables for consumption. The revenue generated by cash crops such as soybeans and field corn produced by incarcerated workers in Mississippi totaled $1.06 million in fiscal year 2020, over 1 million dollars more than the value of vegetables farmed and consumed by people incarcerated in Mississippi prisons, which totaled $33,255 that same year.

The former commissioner of the Mississippi Department of Corrections noted that the Mississippi Prison Agricultural Enterprises (MPAE) program’s cost savings is critical to support the rising prison and jail population—in a state that now has the second highest
incarceration rate in the country due to dramatic increase in its rates of imprisonment in the last 40 years. "With a nearly $30 million deficit this fiscal year because of inmate growth, two federal court orders and critical capital improvement needs, every dime counts," then-Commissioner Christopher B. Epps told the *Mississippi Link* newspaper, "Standing programs like MPAE are critical to our savings."*307*

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

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

Today, more than 2,100 incarcerated workers from 24 prisons work without pay at Texas state prison farms spanning 139,000 acres. In 2019, incarcerated workers laboring on prison farms in Texas produced 7.8 million pounds of vegetables; processed 4 million dozen eggs and more than 23 million pounds of meat; and harvested 69.5 million pounds of cotton, grains and grasses. They also canned vegetables and tended cattle, swine, laying hens, and horses. A state audit of the Texas Department of Criminal Justice’s agribusiness program found that 46 percent of the agricultural products produced by incarcerated workers cost more to grow than they are worth, and the state could have saved millions by simply buying them. Despite losses in field crops and canning, the prison system’s agricultural operations generated $160.3 million in cost savings over a five-year period, in part because of highly profitable beef and pork processing work performed by incarcerated workers."
The chief beneficiaries of prison labor are (1) the prison system itself; (2) state, local, and federal governments; and (3) private sector companies which can exploit a captive labor force that has much to lose and little to expect. As the prison population has ballooned over time, so have available prison workers. This increase has enabled a parallel growth in commodities and services produced by incarcerated people. In the early 20th century, the value of commodities produced by incarcerated workers was estimated to be around $650 million. In 2021, the value of goods, services, and commodities produced by the 51,569 incarcerated workers employed in prison industries programs—who represent only about 6.5 percent of all incarcerated workers—totaled over $2 billion. The precise value of incarcerated workers’ labor to maintain the very prisons that confine them—work such as food preparation, maintenance, laundry, and cleaning—is unknown but totals vastly more. In 2004, the value of services provided by incarcerated workers laboring to maintain and operate the prisons that confine them was conservatively estimated to be $9 billion. In 2017, Steven Prator, a Louisiana sheriff opposing new sentencing and parole laws made the operating logic clear: Incarcerated laborers are a “necessary evil to keep the [prison] doors open.”

The Prison System

Daniel Tapia was incarcerated in Louisiana for decades. In the mornings, he helped with prison upkeep, and in the afternoons, he serviced the local police force’s fleet of vehicles. Joel Jackson spent time in Illinois’ prisons, where he sliced meat for prison lunches. And Kelly Savage was incarcerated in California, where she worked cleaning the prison yard and in the prison kitchen where she suffered several burns to her hands and arms. Across the country, incarcerated people like Tapia, Jackson, and Savage work day in and day out to maintain the prisons that incarcerate them.

Of the nation’s roughly 800,000 incarcerated laborers, more than 80 percent perform low-skilled maintenance labor for the facilities in which they are held. This maintenance labor allows prisons to significantly offset their operating costs. When
incarcerated people serve as janitors, plumbers, electricians, and food servers—often involuntarily and typically for little or no pay—facilities are spared hiring outside market-rate laborers. According to the Bureau of Justice Statistics, state governments spend nearly $50 billion a year to keep over 1 million people in prisons (the United States spends over $81 billion to run its corrections system—including prisons, jails, parole, and probation—that keeps nearly 2 million people behind bars). More than two-thirds (68 percent) of state prison expenditures is spent on wages and benefits for the public sector staff who operate prisons and jails. Payroll for state correctional staff alone totals over $2 billion each month.

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

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

Incarcerated people not only replace workers needed for typically lower-paid maintenance work, but they also perform work that is typically well remunerated, saving prisons even more money. Many prisons, for example, employ their incarcerated workforce as auto mechanics and plumbers. Outside of prison, such work typically pays over $20 an hour, but in prison, it pays between $0 and $1.24 an hour. This fact is well known by incarcerated workers and their families. Latashia Millender, who is incarcerated at Centralia Correctional Center in Illinois, noted:

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

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

State, Local, and Federal Governments

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

Prison labor not only saves federal and state governments money by funding their bloated prison systems, it also provides a cheap and compliant labor force in correctional industries, the state-owned businesses that produce goods sold to other state entities. Many states require all state agencies, political units, and public institutions to purchase manufactured goods, including furniture, cleaning supplies, and uniforms, from their state correctional industries. In fiscal year 2020 alone, Illinois’ correctional industries program sold over $33.5 million worth of goods and services from incarcerated workers to its own state agencies, state universities, and local governments, while California’s correctional industries program sold over $191 million in manufactured goods, services, and agricultural products produced by incarcerated workers in fiscal year 2020–21. Table 3 shows the state correctional industries programs with the highest net sales for fiscal year 2019, the most recent data we were able to obtain for all states.

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

Foods produced by incarcerated workers in correctional industries’ agricultural and food processing programs are also sold to state hospitals, state-run psychiatric hospitals, veterans’ homes, and residential treatment programs. For instance, the
TABLE 3
State correctional industries programs, ranking by net sales, fiscal year 2019

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

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

Source: National Correctional Industries Association (NCIA)

Like at the state level, federal agencies are required to purchase certain products from UNICOR. UNICOR reported $404 million in net sales in fiscal year 2021.

Many of UNICOR’s products are attractive to private purchasers as well, given that UNICOR is able to keep costs down by paying its incarcerated employees a rate exceptionally below minimum wage. Wages for these various manufacturing jobs or services range from $0.23 to $1.15 per hour. UNICOR explicitly advertises to private companies, telling them that they can benefit from the “Made in the USA marketing advantage” while eliminating the “waste and instability caused by offshore supply chain interruptions and unstable labor.”

As for services, UNICOR maintains call centers that it outsources to private companies. The program’s website urges these corporations to “imagine...all the benefits of domestic outsourcing at offshore prices. It’s the best kept secret in outsourcing!”

Apart from correctional industries, state and local governments also rely on unpaid and low-paid incarcerated workers for a variety of public food factories that employ incarcerated workers in California sell food products to veterans’ homes and state hospitals, while Montana’s prison industries program’s food factories produce meals for the state psychiatric hospital. New Jersey’s prison bakery sells doughnuts, cupcakes, and hot dog rolls to government agencies and public schools.

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

The federal government operates its own Federal Prison Industries program known as UNICOR, which functions as a wholly owned corporation of the U.S. government that employed 16,315 federally incarcerated people in fiscal year 2021 to produce goods and services. The program has seven areas of manufacturing carried out by people incarcerated in the federal system: metals, wires and plastics, vehicular repair/manufacturing, data and document conversion services, electronics, woods, and fabrics/materials. Like at the state level, federal agencies are required to purchase certain products from UNICOR. UNICOR reported $404 million in net sales in fiscal year 2021.

An incarcerated worker working in the Pheasantland Industries license plate shop catches a plate coming off the production line in the South Dakota Penitentiary in Sioux Falls, South Dakota.
works projects. Incarcerated people work for state and local agencies, nonprofit organizations, and the community at large—while receiving hardly any compensation or recognition. For example, in Georgia, nearly one-third of counties rely on the labor of unpaid incarcerated firefighters; in some of these communities, incarcerated workers are the sole fire protection and emergency medical response units in the entire area, responding to motor vehicle accidents, calls for medical assistance, and fires. In New York, incarcerated workers remove hazardous materials for state agencies and local governments, including asbestos, lead paint, mold, and bird feces. The New York State Department of Corrections and Community Supervision has drawn in over $7.5 million selling abatement services provided by incarcerated workers since 2017.

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

The Private Sector

Montrell Carmouche still dreams about Cancun. The white beaches, the coral reefs, and the fascinating history of the Mayan empire whose ancient stories of grandeur and conquest are told by the pyramids lining the lush jungle. Carmouche spent their days weaving stories of trips to this Mexican paradise, hoping that the listener at the other end of the phone would buy a vacation package to experience this bliss for themselves. A key detail: Carmouche had never been to Cancun. Instead, they made these calls from within a prison call center, instructed to make hundreds of calls a week to unsuspecting customers on behalf of a private company that contracted with Carmouche’s employer to use incarcerated labor to sell vacation packages over the phone. All that Carmouche knew about Cancun had come from pictures, pamphlets, or what they dubbed “story time”—sessions designed to get the workers “in a trance” through detailed stories of a tropical paradise many of them would never see themselves. If a customer ever asked Carmouche who they were or if they had actually travelled to Cancun, Carmouche was instructed to lie. Carmouche’s employer made a point to ensure customers never knew that the person whom they were talking to was behind bars. Carmouche sold thousand-dollar dream vacations but was paid no wage except for a $6 commission per sale.

Private companies benefit from prison labor by purchasing goods and services through correctional industries for a lower cost than they would pay in the private market. Colorado Correctional Industries, for example, sold goods and services to around 100 private companies, which generated more than $6.2 million in revenue for the state correctional industries program in 2020. Utah Correctional Industries sold goods and services to almost a thousand private companies, including such major corporations as 3M Company, Allstate Insurance Company, American Apparel, American Express, Apple Inc., AT&T Mobility, Costco, Enterprise Rent-a-Car, FedEx, Frito Lay Inc., Fujifilm North America, Hertz Corporation, Hewlett-Packard, Hickory Farms, Infiniti Motor Company, Little Caesars Enterprises, Lowe’s, KFC, OfficeMax, Pepsi-Co, Procter & Gamble, Sara Lee Corporation, T-Mobile, Verizon, and Xerox Corporation.

These products are then sold by private companies to consumers who may be unaware they originated with prison labor. Agricultural products provide an instructive example. Colorado’s and South Carolina’s prison industries programs sell milk produced by incarcerated workers employed in prison dairies to
Dairy Farmers of America, the conglomerate that markets about 30 percent of the milk produced in the United States.\textsuperscript{363} The two state prison industries programs sold more than $10.5 million worth of milk from 2017 to 2020 to Dairy Farmers of America, which manufactures brands including Borden, Breakstone, Plugrá, and T.G. Lee Dairy.\textsuperscript{364}

In Louisiana, Louis Dreyfus Commodities, a commodities trader, purchased $2.4 million worth of corn and soybeans produced by incarcerated workers employed in the state prison industries program from 2017 to 2020, while numerous livestock auction companies purchased at least $5 million worth of livestock raised by workers incarcerated in Louisiana prisons during that same time period.\textsuperscript{365} The livestock sold at auction on the open market later finds its way as meat sold to consumers with no indication that it originated with the labor of incarcerated workers. Leprino Foods Company, which supplies mozzarella to Domino’s Pizza, Papa John’s, and Pizza Hut, purchased more than 600 tons of buffalo milk from 2017 and 2020 produced by incarcerated people working in Colorado Correctional Industries.\textsuperscript{366} Colorado Correctional Industries also reports that its customers include Avis Budget Group and Hertz Corporation.\textsuperscript{367}

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

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

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

Through the PIECP program—a program enabled by the congressionally authorized exception to the Ashurst-Sumners Act of 1935—private companies can contract with correctional institutions to employ prison workers to produce goods, either at production workshops within prisons or offsite. Today, 4,860 incarcerated workers nationwide are employed in the PIECP program to produce goods authorized for sale in interstate commerce on behalf of private corporations. Although private corporations participating in this program are required to adhere to some minimal labor standards, which include paying incarcerated workers the “prevailing wage,” they enjoy significant benefits and cost-savings from employing this captive labor force.

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

Another major cost-saving feature of PIECP labor is not having to pay employee benefits. Direct Trailer and Equipment Company, a Texas-based manufacturer of flatbed trucks, used this to their advantage to undercut their local competitors, eventually driving competitor Lufkin Industries into bankruptcy. A media report in 2010 concluded that Direct Trailer’s use of incarcerated labor allowed it to avoid paying full wages or employee benefits, resulting in an artificially cheap product.

There is some evidence that unionization could help incarcerated people negotiate more favorable terms, but the state has a strong interest in suppressing union activity to ensure a “secure, frugal penal system.” Furthermore, the Supreme Court has held that incarcerated people do not have a First Amendment right to form a prison union.

Small companies like Direct Trailer and Equipment are not the only ones reaping the benefits. Consider Walmart and the claims under its Standards for Suppliers that it does not tolerate involuntary labor in the production of its goods. Despite this
public-facing promise, Walmart benefitted from cheap prison labor by using subcontractors that use prison labor themselves. One of Walmart’s partners is the Minnesota-based Jacobs Trading Company, which has used PIECP labor to “demanufacture” customer returns. Jacobs Trading Company has employed incarcerated workers in Indiana, Minnesota, Nevada, and Oklahoma. This means that incarcerated people worked indirectly for Walmart by removing all identifying marks and branding from returned clothing and putting them up for resale at superstores around the country. By hiding behind the anonymity of Jacobs Trading Company, Walmart benefitted from cheap incarcerated labor.

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

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

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

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

<table>
<thead>
<tr>
<th>State</th>
<th>Company</th>
<th>Product</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arizona</td>
<td>JIM-GLO Trailers LLC</td>
<td>Utility cargo trailers</td>
</tr>
<tr>
<td>Arizona</td>
<td>Sun Country and PlayCraft Trailers</td>
<td>Metal utility trailers</td>
</tr>
<tr>
<td>Arkansas</td>
<td>SemahTronix, LLC</td>
<td>Wiring harnesses</td>
</tr>
<tr>
<td>California</td>
<td>Barnum Farming Company/ Barnum Land and Cattle</td>
<td>Alfalfa, rye, wheat, and triticale</td>
</tr>
<tr>
<td>California</td>
<td>Big Dawg Manufacturing, LLC</td>
<td>Assembly/manufacturing of evaporator coils</td>
</tr>
<tr>
<td>California</td>
<td>Joint Venture Electronics</td>
<td>Circuit boards</td>
</tr>
<tr>
<td>California</td>
<td>Merit Corporation</td>
<td>Electronic remanufacturing</td>
</tr>
<tr>
<td>Idaho</td>
<td>Dickinson</td>
<td>Specialty roasted, baked, seasoned, and water-cooked potatoes</td>
</tr>
<tr>
<td>State</td>
<td>Company Name</td>
<td>Product/Service</td>
</tr>
<tr>
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</tr>
<tr>
<td>Idaho</td>
<td>Dickinson Frozen Foods</td>
<td>Frozen onions and peppers</td>
</tr>
<tr>
<td>Indiana</td>
<td>Jacobs Trading Sewing</td>
<td>Manufacturing of industrial air filters</td>
</tr>
<tr>
<td>Indiana</td>
<td>Kauffman Engineering</td>
<td>Assembly, inspection, and packing of wire harnesses</td>
</tr>
<tr>
<td>Indiana</td>
<td>Raine, Inc.</td>
<td>Making small item cases</td>
</tr>
<tr>
<td>Iowa</td>
<td>Game One</td>
<td>Custom screen printing and embroidery</td>
</tr>
<tr>
<td>Iowa</td>
<td>H&amp;H, LLC</td>
<td>Steel trailers</td>
</tr>
<tr>
<td>Iowa</td>
<td>Lomont Molding</td>
<td>Plastic molded parts</td>
</tr>
<tr>
<td>Iowa</td>
<td>PDM Precast</td>
<td>Precast concrete products</td>
</tr>
<tr>
<td>Iowa</td>
<td>Quantum Plastics</td>
<td>Custom injection-molded parts</td>
</tr>
<tr>
<td>Kansas</td>
<td>BAC Company</td>
<td>Leather goods</td>
</tr>
<tr>
<td>Kansas</td>
<td>Electrex Inc.</td>
<td>Wire harnesses</td>
</tr>
<tr>
<td>Kansas</td>
<td>Great Plains Manufacturing</td>
<td>Agricultural equipment</td>
</tr>
<tr>
<td>Kansas</td>
<td>Hubco Inc.</td>
<td>Cloth bags</td>
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<tr>
<td>Kansas</td>
<td>Impact Design, LLC (AllCustomWear Sports Apparel)</td>
<td>Sports apparel</td>
</tr>
<tr>
<td>Kansas</td>
<td>Koch &amp; Co., Inc.</td>
<td>Wood doors</td>
</tr>
<tr>
<td>Kansas</td>
<td>LPF High Performance Coatings, LLC</td>
<td>Sewing, painting, and welding machine operators</td>
</tr>
<tr>
<td>Kansas</td>
<td>Moly Manufacturing, LLC</td>
<td>Agricultural equipment</td>
</tr>
<tr>
<td>Kansas</td>
<td>Pioneer Worldwide</td>
<td>Balloons</td>
</tr>
<tr>
<td>Kansas</td>
<td>Polo</td>
<td>Clothing and textiles</td>
</tr>
<tr>
<td>Kansas</td>
<td>Redbarn Pet Products, Inc.</td>
<td>Pet products</td>
</tr>
<tr>
<td>Kansas</td>
<td>Seat King</td>
<td>Transportation seating</td>
</tr>
<tr>
<td>Minnesota</td>
<td>Anagram</td>
<td>Assembly and packaging of decorated party balloons</td>
</tr>
<tr>
<td>Minnesota</td>
<td>Plastech Corporation</td>
<td>Plastic products assembly</td>
</tr>
<tr>
<td>Minnesota</td>
<td>Stillwater Assembly and Manufacturing</td>
<td>Miscellaneous subcontract assembly and light manufacturing</td>
</tr>
<tr>
<td>Minnesota</td>
<td>Stillwater Metal</td>
<td>Metal fabrication</td>
</tr>
<tr>
<td>Montana</td>
<td>Simms Fishing</td>
<td>Wading boots</td>
</tr>
<tr>
<td>Nebraska</td>
<td>CleanCore Solutions</td>
<td>Janitorial supply</td>
</tr>
<tr>
<td>Nebraska</td>
<td>Millard Lumber</td>
<td>Cabinet and drawer boxes</td>
</tr>
<tr>
<td>Nebraska</td>
<td>TekBrands, LLC</td>
<td>Wood storage cases for paper cutting dies, metal assembly, scrapbooking machines and dies</td>
</tr>
<tr>
<td>South Carolina</td>
<td>Craig Industries, Inc.</td>
<td>Cut and sew operation and golf shirts</td>
</tr>
<tr>
<td>South Carolina</td>
<td>Midcon Cables</td>
<td>Electronic cables</td>
</tr>
<tr>
<td>South Carolina</td>
<td>Standard Plywood, Inc.</td>
<td>Hardwood flooring, pressed plywood, and scraped hardwood</td>
</tr>
<tr>
<td>South Dakota</td>
<td>Badlands Quilting</td>
<td>Textile, apparel, and furnishings</td>
</tr>
<tr>
<td>South Dakota</td>
<td>Metal Craft Industries</td>
<td>Truck suspension, boat docks, miniature lamps, window sashes, and fence stakes</td>
</tr>
<tr>
<td>Texas</td>
<td>Henderson Controls, Inc.</td>
<td>Brass valves and fittings</td>
</tr>
<tr>
<td>Texas</td>
<td>OnShore Resources, Inc.</td>
<td>Circuit boards and wire harnesses</td>
</tr>
<tr>
<td>Utah</td>
<td>Nexo HR</td>
<td>Manufacturing, assembly, and labor requirements</td>
</tr>
</tbody>
</table>

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

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

Private companies also directly employ incarcerated workers through work-release programs and restitution centers. In Kansas, about 150 women incarcerated at a state prison have been sent to work at candy maker Russell Stover Chocolates work-release program since 2021.\textsuperscript{393} Although they are paid $14 an hour, their take-home pay is less than $6 an hour because the prison keeps one-quarter of their wages for room and board and deducts for transportation costs and other expenses. Men incarcerated at another state prison in Kansas are sent to work for Husky Hogs, LLC, a private hog operation, where they are assigned to job assignments such as breeding, farrowing, maintenance, and finishing.\textsuperscript{394} In North Carolina, incarcerated workers have worked at Tyson Foods poultry plants as part of a work-release program.\textsuperscript{395} Workers in Mississippi’s restitution centers have been employed by private employers, including Arby’s, Church’s Chicken, McDonald’s, and Popeyes franchises, as well as for meat- and poultry-processing plants.\textsuperscript{396}
Kevin Rashid Johnson is incarcerated in a solitary cell in a maximum-security prison in Virginia. He has been starved, beaten, and chained to a wall. The men held in the solitary cells on either side of him have been ordered not to speak to him. Johnson has been told that he is there for a number of reasons: He has organized prison strikes, tried to attract media attention to the abusive conditions of confinement, and above all else, he has refused to work.\textsuperscript{397} Prison labor, as he sees it, is a form of modern-day slavery.\textsuperscript{398}

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

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

The coercion applied through the threat of further punishment has the backing of state and federal courts, which have upheld the practice of using prison-specific sanctions, like solitary confinement, for refusing to work or instigating others to refuse work.\textsuperscript{401} Some states threaten the loss of basic “privileges,” like family visitation and access to the commissary to buy food and other necessities. Others use subtler but still coercive methods, such as the promise of earning “good time” (a reduction in sentence), if the individual engages in good behavior, studying, and work.\textsuperscript{402}
This section details the dynamics, factors, and policy choices that have led to a form of prison labor practiced in the United States that runs afoul of many of the most basic and universal human rights standards and with no equivalent in other western democracies.

**Involuntary Labor in Confinement**

The 13th Amendment to the U.S. Constitution prohibits slavery and its modern manifestations, including forced labor, debt bondage, and human trafficking. Yet it carves out an exception for incarcerated workers, one which U.S. courts have construed broadly, granting prison administrations unfettered discretion to set prison labor conditions and requirements. States such as Colorado, Utah, and Nebraska have recently amended their state constitutions to abolish slavery without exception, but 20 state constitutions still contain language mirroring the 13th Amendment carve-out for incarcerated labor. The constitution of Georgia, for example, states: “[t]here shall be no involuntary servitude within the State of Georgia except as a punishment for crime after legal conviction thereof.”

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

In state and federal prisons, incarcerated people who refuse to work may be placed in disciplinary or administrative segregation—which often is a form of solitary confinement. During this time, they may have most or all of their personal property taken away and are allowed out of their cells only for brief periods to shower and exercise, often at most only an hour a day or every other day, and the “exercise” is usually alone in a small, dog kennel-like enclosure. People incarcerated in federal prisons can be placed in solitary confinement for up to three months as punishment for work-related violations, and up to six months for “encouraging others to refuse to work, or to participate in a work stoppage.”

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

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

In Texas, all incarcerated people who are able to work are required to do so, and those who refuse to work can be confined to their cell; stripped of their personal property; lose good time credits; and lose access to commissary, recreation, visitation, and personal telephone calls. A refusal to work while incarcerated in Tennessee can lead to solitary...
Workers incarcerated in Illinois report that refusing to work means the loss of recreation time, phone privileges, and warm food. In California, when incarcerated people refuse to accept or perform a work assignment, they lose all access to family visits, phone calls (except during emergencies), recreational or entertainment activities, and all personal packages. They may face “disciplinary detention or confinement” (solitary confinement) for a period of 10 days. During this time, they have their personal property taken away, are allowed out of their cells for exercise for only one hour per day, five days a week, and lose all privileges, including access to personal nonemergency telephone calls. In more serious cases, confinement and loss of privileges may become prolonged or permanent. Refusing to work in California can also lead to a “115” write-up, a serious rule violation that then can keep an individual from attaining parole.

In Louisiana, if an incarcerated person refuses to work, fails to perform their assigned jobs with “reasonable speed and efficiency,” or does not answer during work roll calls, they can be placed in solitary confinement for up to 30 days for first offense and up to 180 days for a third offense, although in practice people are placed in confinement for indefinite periods of time for these work offenses. Dolfinette Martin, the housing director at Operation Restoration who was formerly incarcerated in Louisiana, attested that “the choice [was] work or go to solitary.” When Montrell Carmouche was incarcerated at Louisiana Correctional Institute for Women, they cut grass on a “chain squad,” reminiscent of chain gangs after the Civil War. Once Montrell decided they no longer wanted to participate in forced manual labor, they spent about one year in solitary confinement.

Multiple respondents to a survey of 700 people incarcerated in Louisiana likewise reported that they were placed in solitary confinement because they were unwilling or unable to work in the fields. One respondent said, “Most of my lockdown came from refusing to be a slave... working in fields of corn, etc. Free people riding horses with guns telling you to pick this, do that, and/or write you up for disciplinary just because he or she can.”

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

Refusing to participate in a work assignment can have serious consequences for those preparing for reentry into society. For instance, an incarcerated person asserting their right to refuse work in Connecticut could lose their place in a community release program. California’s prisons provide incentives to incarcerated people to perform particularly dangerous labor—fighting the state’s raging wildfires—knowing that such incentives are not easily passed up by an incarcerated population with very

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

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

N’ashid Abdul Latif, a former hospice worker in California’s Medical Facility prison echoed this observation: “Often, it’s not a matter of choice. If you get assigned you have to work, otherwise you get a write-up, which can result in adding days to your sentence.” Incarcerated workers report, again and again, being threatened with worse jobs or disciplinary action to ensure their compliance. One of them, Romarilyn Ralston, noted: “You’re captive at the mercy of your jailer. You get what they give you and buy what they sell you. The only choice is to survive or not.”

Not only is work compulsory in many prisons but imprisoned workers report that illness, injury, disability, or a physical inability to work often does not relieve them of work duties. One formerly incarcerated worker recalled in an interview with NPR: “I was diagnosed with HIV right when I got into the prison, so I would have days where I physically did not have the energy to stand and work in the kitchen for 12 hours. But I had to work. You don’t get days off. You don’t get to have sick days. And if I didn’t go to work, it was a rule violation.” A worker incarcerated in Illinois reported she was punished with a rule violation for refusing to report to her job in the kitchen after testing positive for COVID-19. A survey respondent incarcerated in Louisiana said he was placed in solitary confinement “over and over” because he was unable to perform certain work assignments due to problems with degenerative disks in his spine, anemia, and asthma. Kelly Savage-Rodriguez, of the California Coalition for Women Prisoners, remembers one incarcerated woman being required to work as a porter almost immediately after having her leg amputated. Though she was not able to stand because her prosthetics had not yet arrived, she was denied her request to be released from the work assignment.

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

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

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

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

For James “JC” Cavitt, the Housing and Outreach Program coordinator at Project Rebound in California, the classroom was a one of his first safe spaces. As a child, he was drawn to school by the promise of two hot meals a day, and he would go with his sister when they began to feel hungry. Eventually, showing up led to learning. And a young Cavitt soon realized his potential for something great. His teachers validated his hard work and intelligence, planting a lifelong love of education that survived a harsh entry into the criminal justice system. By the time he was 19, Cavitt stood, scared and alone, in front of the California maximum security prison’s Institutional Classification Committee (ICC), a group of high-ranking prison officials who would review his young life, deliberate, and design a labor program that would shape the rest of his time in prison. Cavitt, the boy who loved going to school with his sister, the man who would later put himself through college and now has a master’s in social work, faced an ICC that was on the verge of assigning him to a job wiping down tables in the kitchen. When Cavitt objected to his initial work assignment, the captain snapped back with “who are you to tell me what you aren’t going to do?” Although Cavitt did find another sympathetic ear on the ICC who allowed him to start a job as a teacher’s assistant, he admits that it could have easily gone the other way.

Race, Gender, and Disability Discrimination

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

Analysis using nationwide data sets from 2004 and 2005 on people incarcerated in prisons and
multilevel modeling to examine the nature of work assignments found that race significantly impacted work assignments. The 2016 study found that Black men have significantly higher odds of being assigned to maintenance and other facility services work than white men—41.2 percent of Black men and 35.3 percent of white men were assigned such jobs, which are typically paid the lowest wage, if at all. The study also found that a significantly lower percentage of Black men were assigned work in prison industries—2.8 percent of Black men versus 3.7 percent of white men had such jobs, which are typically the most sought-after and more highly paid jobs that may provide useful skills. Men who identified as a race other than Black or white were less likely than white men to be paid for their jobs. While the study did not find significant differences based on gender for most job categories, it did find that women who identified as a race other than Black or white had significantly increased odds of being assigned a maintenance or other facility services job assignment.

Allocation of work assignments can perpetuate racial and socioeconomic inequalities. Dolfinette Martin now works at Operation Restoration, a reentry organization for women in New Orleans. While incarcerated in Louisiana, she was assigned to manual agricultural labor in the fields. She described how white women worked in “prestigious jobs”—the dining hall, housekeeping, or the “snack shack” for visitors. But “there weren’t a lot of white girls in the field,” she observed. “The only people who could approach the Deputy Warden to ask for a job were white women,” she said.

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

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

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

**Arbitrary Assignment, Sexual Abuse, and Favoritism**

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

Another woman formerly incarcerated at Albion Correctional Facility corroborated this account. She said that corrections officers demanded oral sex from incarcerated women and punished those who did not submit by switching them to lower-paying jobs, taking away their jobs, or docking their payroll. “I’ve seen plenty of inmates giving oral sex to officers, girls doing something they don’t want, girls in a position they didn’t deserve,” she said. “These officers will take advantage of you. They are the ones controlling your payroll, they are the ones submitting payroll. These officers had pull with certain people in program committee and would switch women out [of their jobs]. If you aren’t doing what they want, they will set you up to lose your job. And if you lose your job, you lose your money.”
Overt abuse and discrimination aside, getting an acceptable job assignment can be as arbitrary as gaining favor with a particular correctional officer or being acquainted with someone with influence inside the prison. When it comes to the most coveted industry jobs, which are better compensated but much less accessible because they are fewer in number, personal connections are determinative: “Guys from the outside who run the industries simply handpick people whom they like.”

As a result, job placements usually have little relationship with the skills or abilities of the worker. Someone with skills as a computer engineer may be assigned to work as a janitor—when someone enters prison, their skills and backgrounds hardly matter. “It’s as if we lived in a communist regime,” remarked a person incarcerated in California. Meanwhile, some job assignments may be arbitrarily restricted only to people with lengthy sentences or only to those who are close to release. One incarcerated worker noted, “Most of the industry jobs or high paying jobs are [reserved] for those who have the most time due (if not life) [but] those closest to going home would benefit from a high paying job so they are able to save some money and gain marketable skills.”
In addition to working under coercive and arbitrary conditions, incarcerated workers in U.S. prisons are often working for paltry wages or no wages at all. Alabama, Arkansas, Florida, Georgia, Mississippi, South Carolina, and Texas pay zero compensation to incarcerated people for the vast majority of work assignments. For instance, in Texas, only the approximately 80 workers employed by private companies through the PIECP program are paid a wage,\(^{469}\) while the rest of the state’s incarcerated workers—121,167 workers as of April 2019—are not paid.\(^{470}\) Even workers in Texas’ state correctional industries program—which reported more than $76.7 million in net sales in 2019—are not paid any wage.\(^ {471}\) In South Carolina, incarcerated people working in all institutional jobs, some correctional industries jobs, and on community labor crews are not paid any wage. As of June 2018, the most recent available data, more than 90 percent of South Carolina’s 14,786 incarcerated workers had these unpaid job assignments.\(^{472}\) Several prisons in Maine do not pay at all for laundry, kitchen, cleaning, and grounds-keeping work.\(^ {473}\) In Nevada, a number of jobs in the prison facilities are unpaid, including porter and maintenance jobs.\(^{474}\) In Louisiana, incarcerated workers who are not eligible for sentence reductions must work for an initial period of three years without pay. Those who are eligible to be paid are only paid two to four cents per hour for most jobs or may choose to forego wages and instead receive “good time” to reduce the length of their sentences.\(^{475}\)

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

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

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In California, all workers with jobs classified as “laborer,” which includes most maintenance jobs such as janitor, kitchen helper, landscaper, porter, server, gardener, and construction worker, are paid eight to 13 cents per hour. In incarcerated workers in Illinois laboring as “general laborers,” which includes jobs as janitors, lawn workers, laundry handlers, and commissary workers, are paid 85 cents to $1.10 per day. Incarcerated workers’ wages remain stagnant for years, even decades. For instance, incarcerated workers in New York have not received a pay increase since 1993. Incarcerated workers in South Dakota working in non-industry jobs have been paid $0.25 per hour for at least the past 20 years. Incarcerated workers with non-industry jobs in Virginia have been paid $0.27 to $0.45 per hour for decades. In Vermont, most incarcerated workers have been paid $0.25 per hour since 1988, when the pay scale for non-industry jobs was last revised. In 2021, incarcerated illinois workers in non-industry jobs received a pay raise for the first time in 11 years: merely 14 cents a day for general laborers, who are now paid $0.85 to $1.10 per day ($17 to $22 a month).

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

The Wages Paid to Incarcerated Workers in Each State

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

The table divides work assignments into two categories: work for state-owned correctional industries and all non-industry jobs. State-owned correctional industries jobs have separate pay scales and generally pay higher wages; these account for about 6.5 percent of prison jobs overall. Non-industry jobs include all jobs operated by state correctional industries in the state.
agencies, a broad category that includes prison maintenance work and a variety of skilled or specialized work assignments. The vast majority of workers have jobs that support the operation of the

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

**TABLE 5**
The wages paid to incarcerated workers in each state and in federal prisons, by jurisdiction

<table>
<thead>
<tr>
<th>State</th>
<th>Pay scale: non-industry jobs</th>
<th>Pay scale: Jobs in state-owned correctional industries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal Prisons</td>
<td>$0.12 to $0.40 per hour</td>
<td>$0.23 to $1.15 per hour</td>
</tr>
<tr>
<td>Alabama</td>
<td>$0</td>
<td>$0.25 to $0.75 per hour</td>
</tr>
<tr>
<td>Alaska</td>
<td>$0.30 to $0.90 per hour</td>
<td>Alaska no longer has a correctional industries program.</td>
</tr>
<tr>
<td>Arizona</td>
<td>$0.15 to $0.45 per hour</td>
<td>$0.23 to $1.00 per hour</td>
</tr>
<tr>
<td>Arkansas</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>California</td>
<td>$0.08 to $0.37 per hour</td>
<td>$0.35 to $1.00 per hour</td>
</tr>
<tr>
<td>Colorado</td>
<td>$0.33 to $1.61 per hour</td>
<td>$0.86 to $2.49 per hour</td>
</tr>
<tr>
<td>Connecticut</td>
<td>$0.75 to $1.75 per day</td>
<td>$0.30 to $1.50 per hour</td>
</tr>
<tr>
<td>Delaware</td>
<td>Not publicly available</td>
<td>$0.25 to $2.00 per hour</td>
</tr>
<tr>
<td>Florida</td>
<td>$0 for nearly all jobs; some jobs are paid up to $50 per month</td>
<td>$0.20 to $0.95 per hour</td>
</tr>
<tr>
<td>Georgia</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Hawaii</td>
<td>$0.25 to $1.00 per hour</td>
<td>$0.50 to $2.50 per hour</td>
</tr>
<tr>
<td>Idaho</td>
<td>$0.20 to $0.90 per hour</td>
<td>Not publicly available</td>
</tr>
<tr>
<td>Illinois</td>
<td>$0.85 to $2.50 per day</td>
<td>$0.30 to $2.40 per hour</td>
</tr>
<tr>
<td>Indiana</td>
<td>$0.12 to $0.25 per hour</td>
<td>$0.30 to $0.55 per hour</td>
</tr>
<tr>
<td>Iowa</td>
<td>$0.28 to $0.71 per hour</td>
<td>$0.70 to $0.95 per hour</td>
</tr>
<tr>
<td>Kansas</td>
<td>$0.45 to $1.05 per day</td>
<td>$0.25 to $3.00 per hour</td>
</tr>
<tr>
<td>Kentucky</td>
<td>$0.48 to $1.58 per day</td>
<td>Not publicly available</td>
</tr>
<tr>
<td>Louisiana</td>
<td>$0.02 to $0.04 per hour</td>
<td>$0.02 to $0.40 per hour</td>
</tr>
<tr>
<td>Maine</td>
<td>$0 to $220 per month</td>
<td>$0.50 to $2.80 per hour</td>
</tr>
<tr>
<td>Maryland</td>
<td>$0.90 to $2.75 per day</td>
<td>$0.17 to $1.16 per hour</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>$1 to $2 per day generally; $5 to $25 per week</td>
<td>$0.40 to $1.55 per hour</td>
</tr>
<tr>
<td>Michigan</td>
<td>$0.74 to $1.77 per day</td>
<td>Not publicly available</td>
</tr>
<tr>
<td>Minnesota</td>
<td>$0.25 to $1.00 per hour</td>
<td>$0.50 to $2.00 per hour</td>
</tr>
<tr>
<td>Mississippi</td>
<td>$0 for most jobs</td>
<td>$0.20 to $1.30 per hour</td>
</tr>
<tr>
<td>Missouri</td>
<td>$7.50 to $8.50 per month</td>
<td>$0.30 to $0.71 per hour</td>
</tr>
<tr>
<td>Montana</td>
<td>$0.35 to $0.45 per hour, $1.25 to $4.50 per day</td>
<td>$0.40 to $0.60 per hour, $1.70 to $5.00 per day</td>
</tr>
<tr>
<td>Nebraska</td>
<td>$1.21 to $4.72 per day; $0.38 to $1.50 per hour</td>
<td>$0.38 to $1.08 per hour</td>
</tr>
<tr>
<td>Nevada</td>
<td>$0.00 for some jobs; pay scale for paid jobs is not publicly available</td>
<td>$0.35 to $4.50 per hour</td>
</tr>
</tbody>
</table>
The American judicial system has upheld these appallingly low wages. In 2010, a federal court ruled that “prisoners have no enforceable right to be paid for their work under the Constitution.” Higher courts have held repeatedly that the Fair Labor Standards Act, which establishes basic worker protections such as minimum wage, overtime pay, and recordkeeping requirements, does not protect workers in prison. Courts have reasoned that incarcerated people working full-time for the state are not employees but wards, and are thus not guaranteed any “standard of living” like free workers. This leaves incarcerated people with the responsibilities, anxieties, and dangers of full-time employment without the basic labor protections or wages needed to sustain them.

### Garnishing Already Low Wages

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

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

Note: For all sources and a more complete description of wages in each state and in federal prisons, see the table in Appendix B. For calculated average and hourly wages, see Appendix C.
Prisons deduct as much as 80 percent from incarcerated people’s paychecks for court-imposed fines, taxes, family support, restitution, and room and board, among other fees. Over half of the incarcerated people surveyed for this report said funds had been deducted from their wages. These wage deductions often leave incarcerated workers with less than half of their gross pay. As a result, an incarcerated worker earning a wage of $1 per hour might only receive 50 cents or less. After subtracting for basic necessities, this number is even lower.

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

In many states the majority of these deductions are to pay down the costs of incarceration. In Minnesota, 77 percent ($3.48 million) of wages earned by incarcerated workers were deducted in fiscal year 2021, about two-thirds of which went to “cost of confinement.” More than 60 percent of the deducted wages earned by incarcerated workers in the PIECP program from July 2020 to June 2021 went to room and board. The share of incarcerated workers’ salaries in the PIECP program deducted to pay for room and board has increased in recent years: One study found that nearly a third of deductions went to room and board in 1998 to 2001, and cumulative deductions that went to room and board amounted to 26 percent from 1979 to 2001. Notably, the federal government’s regulations stipulate that “room and board” covers not only “sleeping accommodations and meals,” but also “the costs of most necessities and some additional provisions covering most items for the security, justice, rehabilitation, and daily lives of State prison inmates.”

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

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

In the PIECP program, up to 80 percent of a worker’s wages can evaporate through deductions. In fact, as wages in PIECP rise, so too do deductions—for
taxes, family support, restitution funds, and even room and board inside prisons. In the first half of 2021, 59 percent of the wages earned by incarcerated workers employed in the PIECP program was deducted.\textsuperscript{510} In a single year (a one-year period from July 1, 2020, to June 30, 2021), over $22.5 million was deducted from the wages of incarcerated workers in the PIECP program.\textsuperscript{511}

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

Excluded from Earning into the Social Safety Net

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

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

Incarcerated workers also do not qualify for the Earned Income Tax Credit (EITC) and the Child Tax Credit (CTC) because Congress explicitly excluded any wages earned while the person is incarcerated from the earnings that earn towards the EITC and the CTC.\textsuperscript{518} Incarcerated workers have lost litigation challenging the denial of these benefits.\textsuperscript{519} The EITC and the CTC are the largest redistributive social welfare programs in the United States and are intended to alleviate poverty. These benefits could be garnished for child support and other dependent obligations. The exclusion of incarcerated workers from these benefits denies critical financial support to workers and their children and other dependents. Moreover, because the work performed by incarcerated workers is explicitly excluded from the statutorily defined employment that counts toward the accrual of unemployment insurance benefits under the Federal Unemployment Tax Act, incarcerated workers are ineligible to receive the protections offered by the unemployment insurance system if they cannot find work upon their release from prison or if they lose jobs while in prison through no fault of their own.\textsuperscript{520}
While incarcerated at a prison in Michigan, Glen Lilly was tasked with cleaning up a massive sewage spill at Michigan’s Parnall Correctional Facility. To do so, he had to repair a damaged sewer line, which required wading through excrement. Made to perform this work without adequate protective gear, Lilly later contracted hepatitis C. “[T]here were no respirators and not enough protective suits to go around,” he said. When Lilly went down to open and clean backed up vents per prison officials’ commands, sewage “shot onto the wall and was splattering all the way to the ceiling.” A Michigan State Occupational Safety and Health Administration investigation partially corroborated these reports.

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

Excluded from Basic Workplace Protections

The main U.S. federal statute that sets minimum standards and safeguards for health and safety in the workplace, the Occupational Safety and Health Act (OSHA), excludes most incarcerated workers—namely, those who work in state correctional facilities—from its coverage. Moreover, many health and safety workplace statutes at the state level do the same, resulting in gaps in protections for most incarcerated workers. Other federal statutes, such as the Fair Labor Standards Act (FLSA), Title VII of the Civil Rights Act of 1964, and the National Labor Relations Act (NLRA), contain standards that aim to protect the physical and mental health of workers, albeit indirectly, by providing for minimum wage, overtime pay, protection from discrimination, and the right to collectively bargain for improved work conditions—but the vast majority of incarcerated workers are excluded from these too. Such exclusion has severe implications for the basic safety, bodily integrity, and mental health of workers in prison.
The U.S. Constitution also provides little workplace protection for prison workers. Although the Supreme Court in *Farmer v. Brennan* explained that “prison officials must... take reasonable measures to guarantee the safety of the inmates,” the court’s “deliberate indifference” test makes incarcerated workers’ access to remedies based on an Eighth Amendment cruel and unusual punishment claim difficult. Under this standard, it is not enough for the incarcerated worker to establish the presence of unsafe working conditions by showing an absence of safety equipment, a lack of training in safety procedures, a pattern of similar injuries, or even the violation of state or federal safety regulations. The incarcerated worker must instead meet the much higher burden of proving that the prison official “knew of a substantial risk of serious injury and did nothing to protect [the incarcerated person].” Clearly, this standard makes proving a constitutional violation particularly difficult—if not impossible—for most incarcerated workers.

**Dangerous Work Conditions and Preventable Injuries**

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

Unsurprisingly, this leads to injuries. Incarcerated workers have been burned with chemicals, maimed, or killed on the job. Although lack of data related to workplace conditions and injuries in prisons makes it difficult to know the full extent of injuries and deaths, injury logs generated by the California Prison Industry Authority (CALPIA) show that incarcerated workers reported more than 600 injuries over a four-year period, including body parts strained, crushed, lacerated, or amputated. In numerous cases we documented nationwide, injuries could have been prevented with proper training, machine guarding mechanisms, or personal protective equipment.

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

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

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Incarcerated workers with minimal experience or training are assigned work in unsafe conditions and without protective gear that would be standard in workplaces outside prisons.
In prison industries, reports of dangerous conditions of labor and workplace injuries involving incarcerated workers abound and often involve repeat players. For instance, several incarcerated workers working at egg factories in Arizona sued the factories’ owner, alleging serious injuries. Robert McLaughlin, an incarcerated worker in Arizona working at Hickman’s Family Farms’ egg factory, claimed that he broke his leg in May 2019 when “a cart weighing several hundred pounds came loose and pushed him off a trailer that was six feet off the ground.” Michael Gerhart, another incarcerated worker assigned to Hickman’s, alleged that in October of the same year he lost function in his left hand and fingers after they were caught in a machine that reportedly had “no safety mechanism, guard, or emergency shut-off.” Gerhart claimed that his hand was “sucked in and crushed” but, instead of being taken to the hospital, he was just returned to the prison. In what would amount to the third case of an incarcerated worker injury at Hickman’s in the same year, Mary Stinson alleged she was forced to rip her own finger off rather than lose her whole hand to a piece of machinery she had never been trained on. Two other incarcerated workers filed lawsuits against Hickman’s in 2019 and 2020 alleging they sustained serious hand injuries while working on a manure belt, one alleging he suffers from “permanent disfigurement” and a “lack of function in his hands and fingers” and the other alleging he “suffered mangled and extensive fractures to his right hand” (both cases subsequently settled, according to court records).

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

Even though the Occupational Safety and Health Administration (OSHA) does not have jurisdiction over labor conditions inside most prisons, its limited investigations into businesses employing incarcerated workers under work-release programs have confirmed the endemic failure to protect these workers’ health and safety. For example, CALPIA, the PIECP-certified entity that manages the joint venture program between private business and prisons in California, has been the subject of at least 13 OSHA complaints. When incarcerated workers are hurt on the job, they may be denied medical care or receive substandard care. In one case in North Carolina, four incarcerated workers with severe chemical burns received nothing more than diaper rash ointment for their injuries. In Georgia, a kitchen worker had his leg amputated due to improper medical care of a wound he sustained from slipping and falling while working in the prison kitchen. In Pueblo, Colorado, an incarcerated
worker assigned to a sawmill was told by a supervisor to reach into a conveyor belt area to dislodge a piece of wood. A blade sliced through her helmet and straight into her skull, nearly decapitating her.\textsuperscript{554} Instead of being rushed to the emergency room, a shift commander ordered her back to the prison infirmary. Given that the sawmill had no first aid kit, she was loaded onto the prison transport van with two feminine hygiene pads on her wound while fellow incarcerated workers made sure she did not pass out from blood loss. She later developed an antibiotic-resistant staph infection.\textsuperscript{555}

Incarcerated workers have also been exposed to dangerous toxins on the job. Incarcerated workers perform asbestos abatement in New York, Pennsylvania, Ohio, and Utah through each state’s correctional industries program. In 2019, OSHA cited U.S. Battery Manufacturing Co., a local battery maker in Augusta, Georgia, for routine violations of health and safety standards resulting in exposure of incarcerated workers to dangerous levels of lead.\textsuperscript{556} In 2010, the Office of the Inspector General at the Department of Justice released a report on the federal UNICOR program’s electronic-waste recycling program. Incarcerated people who disassembled and recycled computer parts were exposed to poisonous metals at the workplace, causing serious health problems.\textsuperscript{557} The report criticized UNICOR staff members, who had “failed to perform hazard assessments...or did so incorrectly.”\textsuperscript{558} The report also found that the program’s managers and assistants went so far as to lie about toxic metals hazards to UNICOR staff and from incarcerated workers.\textsuperscript{559} Even after these hazards were identified, UNICOR failed to make the prompt, necessary changes to prevent further harm.\textsuperscript{560} The report stressed an overall “culture at UNICOR that did not sufficiently value worker safety,”\textsuperscript{561} needlessly exposing men and women to dangerous toxins outlawed by OSHA’s federal protections.

Incarcerated workers also endure brutal temperatures with inadequate water or breaks, while working outdoors and inside facilities without air conditioning. Incarcerated firefighters have been sickened and killed by heat exposure during routine training exercises in California.\textsuperscript{562} In Texas, an incarcerated man working as a dog trainer died of severe hyperthermia; he had been wearing a 75-pound fight suit on a hot day and collapsed while training attack dogs to catch escaped prisoners.\textsuperscript{563} In Louisiana’s Angola prison, the majority of incarcerated people work in the fields. They harvest vegetables and pick cotton, enduring temperatures that average 92 degrees Fahrenheit and can rise as high as 105 degrees.\textsuperscript{564} To make a 7:00 a.m. start time, incarcerated people get up at 5:00 a.m. and are typically out in the fields until 4:00 p.m.\textsuperscript{565} Water is scarce in the fields. Formerly incarcerated agricultural workers at Louisiana’s Angola prison report witnessing other farm workers collapse from exhaustion or dehydration while working in the fields on hot days.\textsuperscript{566} You just survived the day,” said Hakeen Sukkar, who was incarcerated at Angola for 41 years.\textsuperscript{567} Sukkar recalls that if a corrections officer decided that an incarcerated worker who had collapsed was “faking,” they could be sent to solitary, or simply left to lie unconscious. Those who protested these conditions saw a similar fate—they were either ignored or sent to solitary.\textsuperscript{568} When temperatures in the winter months fall below freezing, they are still required to work, sometimes without proper clothing. “Even if it was too cold, you stayed,” recalled Wayne Thomas, who spent some of his 41-year term working in Angola’s fields.”\textsuperscript{569}
Failure to Train

Prisons fail to adequately train incarcerated workers to perform the tasks they are assigned to complete, even when such tasks involve significant danger. Incarcerated workers report receiving inadequate or no training on how to handle hazardous chemicals, operate dangerous equipment with cutting blades, operate specialized agricultural or manufacturing equipment, clean biohazardous materials like excrement and blood, and use dangerous kitchen equipment. In fact, almost 70 percent of currently incarcerated workers who participated in the survey circulated for this report indicated that they received no formal job training.

A worker incarcerated in Chicago said he was surprised when his superiors at a prison food facility quickly put him to work with only minimal training. Not long after, he lost several of his fingers on a deli slicer. At a trial concerning the incident, he explained that he never received an orientation session or even an explanation of the facility’s rules or safety precautions. Nevertheless, he was denied any legal remedy. Tragedies like his workplace injury are not random accidents—they are the results of systemic failures to adequately train incarcerated workers, failures which have resulted in serious injuries and deaths, and which carry no accountability due to the lack of oversight mechanisms and judicial remedies.

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

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

The Southern Poverty Law Center also investigated Ellington’s death. Their investigation revealed that at least seven other states have a practice of sending...
their incarcerated people to work in the same type of
dangerous poultry plant that Ellington was sent to,
where inadequate training regularly puts their lives
and limbs at risk.\textsuperscript{584}

Another incarcerated worker in Alabama was
tasked with clearing dead pine trees from near a
county road while on a community work crew. No
one had provided the incarcerated workers with any
orientation or training about the use of chainsaws. He
says that he told his work supervisor he did not feel
he was qualified to use the chainsaw and feared for
his safety because of the tree’s precarious position.
Still, he was ordered to cut the tree. He complied with
the order because otherwise he would have received
a written reprimand that would affect his parole
eligibility. He was struck by a large fallen branch
and severely injured, suffering a broken back and
rendered a paraplegic for life.\textsuperscript{585}

A federal court found
that assigning incarcerated workers to use chainsaws
without safety training raised a substantial and
obvious risk.\textsuperscript{586}

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

Blanca Ruiz-Thompson worked in an optical
laboratory operated by CALPIA.\textsuperscript{588} This included
working with industrial machine cutters and other
specialized equipment for which Ruiz-Thompson
received no training. She recalls being paired with
another incarcerated worker with more experience
who was instructed to “train her.”\textsuperscript{588} She noted that
whether any worker received good or adequate
training depended on how much the “supervisor”
was willing to share and teach. According to Ruiz-
Thompson, there was no formal training program
to ensure every worker knew how to operate the
equipment and perform the work safely.\textsuperscript{590}

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

### Degrading Conditions

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

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

Some incarcerated workers report racial harassment
by correctional staff. A worker incarcerated at
Angola said, “Now we are really slaves all over again.
We work for free, hard labor, must work or you will
be beaten.” He added, “Most of the deputies from
warden on down are real racist and will let you know
can’t nothing we can do. One of the deputies told me
the reason they named this Angola because that’s where slaves escaped from the motherland, and that will never happen again because it’s legal now. So we lost.”

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

Insurmountable Barriers to Redress and Accountability When Rights Are Violated

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

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

Meanwhile, the few administrative remedies available inside prisons tend to be burdensome and obscure. Grievance procedures vary, but generally they require that incarcerated individuals submit written complaints to a correctional official, followed by appeals to higher authorities such as a warden. Often these steps must be carried out within strict deadlines, which can be unreasonable for full-time incarcerated workers to meet. For example, in Georgia, the deadline for filing a grievance is 10...
In California, a person in prison has 30 calendar days from the date of the incident to submit a 602-grievance form and 30 days to appeal any denial. Although 30 days may sound like plenty of time, prison grievance procedures can be so complicated and opaque that even a team of 10 qualified lawyers needed 18 months to decipher Illinois’ procedures.

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

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

Although the requirement that claimants exhaust internal grievance systems is likely the biggest hurdle incarcerated people face to accessing justice, the PLRA introduced a number of other barriers. First, the law requires that incarcerated individuals pay court filing fees in full. For those who are indigent or unable to afford these upfront costs, the law requires them to pay the filing fee over time, through monthly installments from their prison commissary account. Second, the law includes a three-strikes provision, whereby each lawsuit or appeal filed and dismissed by a judge—because it is deemed frivolous, malicious, or simply insufficient to constitute a proper claim—counts as a “strike.” After three strikes, an incarcerated individual is barred from filing another lawsuit unless they are prepared to pay the entire court filing fee upfront.

Third, the bar for showing enough physical injury to receive judicial redress is inordinately high: An incarcerated man working at the electrical shop of the federal prison in Marion, Illinois, filed suit after his supervisor ordered him to crush fluorescent bulbs containing mercury in an unventilated room. When he asked for a face mask, he was told that he was “sh*t out of luck.” The Seventh Circuit Court of Appeals, while recognizing these claims, nonetheless held that he “did not present sufficient evidence that he was exposed to an unreasonably high amount of mercury, that he had sustained injuries because of it, or that the exposure necessarily created a risk of serious future health complications.” Likewise, when an incarcerated worker in Arkansas filed a federal lawsuit against his prison for forcing him to work in the freezing cold and blazing summer heat despite a blood pressure condition that made over-exertion a deadly prospect, the Eighth Circuit Court of Appeals denied his claim, finding that he had not been in imminent danger of physical injury.
As of April 1, 2022, at least 802,575 incarcerated people and staff have been confirmed to have been infected with COVID-19, and at least 3,077 incarcerated people died due to the virus. At least one in three people incarcerated in state prisons contracted COVID-19, and at least 39 percent of people incarcerated in federal facilities were infected. Meanwhile, incarcerated workers were tasked with manufacturing hand sanitizer, masks, medical gowns, face shields, and other personal protective equipment that they were then prohibited from using to protect themselves. Not surprisingly, the pandemic ripped through prisons like wildfire.

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

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

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

Incarcerated workers at Green Haven Correctional Facility in New York built 1,400 coffins per week in April 2020 as COVID-19 spread through the prison and killed at least one incarcerated person on May 4. California prisons halted most programming in an effort to slow down the spread of COVID-19, while keeping open its state prison factories as incarcerated women worked seven days a week to produce masks and hand sanitizer, “until their bodies ached, and all they could do at night was collapse asleep in their cells.” In Pennsylvania, while the state prison system was under quarantine, some incarcerated workers worked 12 hours a day, six days a week to manufacture masks, medical gowns, antibacterial soap, and disinfectant. Incarcerated workers in at least 15 federal prisons around the country manufactured masks, gowns, and sanitizer for $0.23 an hour.

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

Incarcerated workers in Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Indiana, Iowa, Kansas, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Nebraska, South Carolina, South Dakota, Virginia, Tennessee, and Utah likewise manufactured masks, hospital gowns, face shields, and hand sanitizer.

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

In April 2020, incarcerated people working in Oregon’s prison laundries—run by the semi-independent state agency Oregon Corrections Enterprises, which operates like a private sector business—were tasked with cleaning linens from hospitals across the state treating COVID-19 patients. Despite the risks, the prison laundries implemented few changes to working conditions and failed to adopt sufficient measures to protect incarcerated workers from the virus, such as personal protective equipment and social distancing. Paul Dawson, who worked in the prison laundry at the time, observed, “We’re just stacked on top of each other. It seems like one of the worst places to be in the country [right now].” If Dawson had tried to quit for his own safety, he would have been prevented by Oregon’s
Ballot Measure 17, which required incarcerated people to work full-time.\textsuperscript{678}

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

In late March 2020, Hickman’s Family Farms, the Arizona egg production company mentioned in the above section about workplace injuries sustained by incarcerated workers, moved 140 incarcerated workers—more than half of its Perryville Women’s Prison workforce—out of the prison and into the production facility itself to ensure they would continue working.\textsuperscript{681} At least five of the incarcerated workers assigned to live and work onsite subsequently tested positive for COVID-19.\textsuperscript{682} “The inmates are on top of each other, literally,” said Carlos Garcia, executive director of the Arizona Correctional Peace Officers Association. “If these inmates had it, they’ve all been exposed.”\textsuperscript{683}

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

Incarcerated workers labored during the pandemic under the threat of punishment if they refused their work assignments. For instance, incarcerated workers in Colorado who opted out of kitchen work assignments in 2020 due to health concerns lost “earned time,” meaning their parole eligibility dates were pushed later.\textsuperscript{686} Workers who subsequently returned to their job assignments because of the threats of having to serve more time in prison, being placed in more restrictive housing units, and losing phone calls and family visits filed a class-action lawsuit alleging that state prison authorities violated the state ban on slavery and involuntary servitude by forcing them to work.\textsuperscript{687} DG Foods, a poultry processing plant in Bastrop, Louisiana, avoided shutting down operations at the height of COVID-19 by relying on incarcerated laborers who similarly faced loss of their earned-time credits should they refuse to work.\textsuperscript{688} Video recorded by an incarcerated person working on the line exposed the abysmal working conditions: no soap, no social distancing, and often no masks.\textsuperscript{689}
The prison system does not just coerce and exploit labor through the overt mechanisms discussed in the previous sections, such as solitary confinement and loss of family visitation. It also exerts another insidious form of coercion—that of deprivation.

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

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

The cost to an incarcerated person of their own incarceration can run over $10,000 a year and many cannot bear this cost alone. Almost 70 percent of our survey respondents said that they were not able to afford basic necessities with their prison labor wages. This often means that families must step in. Most state prison systems ban or severely limit care packages from families to supply necessities; instead, families are required to go through prison commissaries and private vendors that offer care package programs. One study estimates that families with an incarcerated loved one, many of whom are impoverished themselves, spend $2.9 billion a year on commissary accounts and phone calls. Over half of these families are forced to go into debt to afford a relative’s conviction and subsequent incarceration.
This section lays out the myriad ways that the prison system bleeds dry a population already in dire financial circumstances, creating a need to work in the exploitative conditions of prison labor. It describes the inflated day-to-day costs of incarceration, which end up further impoverishing incarcerated people and their families.

Requiring Self-Payment for Basic Necessities

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

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

Aside from the sheer lack of quantity, the food served to incarcerated individuals is sometimes inedible. Incarcerated people in Michigan, for example, have reported food spoiled by maggots, dirt, and mold. At the Pontiac Correctional Center in Illinois, incarcerated people described seeing rat droppings “on the majority of the food” and cockroaches “crawling [through] the bread” after rats chewed holes in the storage bags. Incarcerated people are then forced to choose between hunger and purchasing supplemental food from the commissary at exorbitant prices.

Furthermore, many prisons do not provide standard hygiene products—or provide products of extremely low quality—forcing incarcerated people to spend money on necessities such as toilet paper, over-the-counter medicine, and soap. For example, in Massachusetts, incarcerated people paid an average of $22 each for soap throughout 2016 to supplement the meager rations of soap provided by the prison. In Illinois, the average incarcerated person spends $80 per year on toiletries and hygiene products, totaling half their average annual wages. Toiletries like toothpaste “[are] not essential,” according to standards issued by the National Institute for Jail Operations. “Teeth can be cleaned with baking
soda, salt, or tooth powders. One person formerly incarcerated in California remembers thinking of toilet paper as an occasional luxury. And women in prison have been forced to purchase tampons and menstrual pads for years; in some cases, they have only been provided free menstrual products after having to undergo humiliating rituals, like turning in used products in exchange for new ones.

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

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

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

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

### Table 6

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

Source: Federal Bureau of Prisons Commissary List
June 2021, when Connecticut became the first state to make all prison phone calls free. This is a historic move towards keeping families connected, and all federal and state systems should follow suit.

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

Some states have started to reckon with the perils of privatization. Michigan provides an illustrative case study. The state’s Department of Corrections contracted with Aramark Correctional Services and later Trinity Services Group to run its prisons’ kitchens and commissaries. This deal cut the state’s costs to just $1.29 per meal. However, the Department of Corrections ended its contract with Aramark 18 months early because of “meal shortages, [ ] maggots in the kitchen, [ ] smuggling of drugs and other contraband by Aramark employees, [and] Aramark workers engaging in sex acts with incarcerated people.” Trinity Services Group, which later took up Aramark’s contract, was riddled with similar problems and ultimately fined more than $2 million dollars for “unplanned meal substitutions, delays, staffing shortages and contract violations.” The Department of Corrections in Michigan has since abandoned the privatization of its foods service and returned to a state-run food service. Other states should learn from that experience.
At Central California Women’s Facility (CCWF) prison, Amika Mota was just another number in the eyes of those in charge of her life. She wore the same clothes, ate the same foods, and was subjected to the same daily indignities as the roughly 2,000 incarcerated women she lived with. It was not until Mota joined the prison firehouse as an institutional firefighter that she began to feel a change. Only then were the corrections officers willing to put aside old rules and demeaning treatment, which were meant to divide and diminish, for the sake of saving a home or a child’s life. Mota did not just respond to calls within the prison. She and her team were often dispatched out into the surrounding Madera County community where the CCWF staff and their families lived. Mota recalls: “We knew we had this particular level of responsibility, and we knew we would get into situations where we would meet correctional officers at this human level rather than this power-dynamic level.”

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

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

States sell the benefits of their work programs in grand terms. In Louisiana, for example, the state’s Prison Industries program purports to “offer jobs that teach offenders valuable skills...which are
vital for eventual reentry to society.” The alleged mission in California is to “facilitate the successful reintegration of the individuals in our care back to their communities...by providing education, treatment, rehabilitative, and restorative justice programs, all in a safe and humane environment.” Incarcerated people are continuously told that their work will help them—that prison labor will teach useful job skills and lead to work providing a living wage upon release.

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

Upon release, formerly incarcerated people are thrown into the labor market and essentially made to sink or swim. The states with the most generous “gate money” (money given to someone as they leave prison to help ease reentry) like California only give $200. Alabama and Louisiana give as little as $10. Formerly incarcerated people without external support are forced to prioritize their immediate needs, like food and housing, over investments in their employability, like a cellphone or professional clothing.

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

Unemployment among the formerly incarcerated can be traced, in part, to the dearth of job training and skills development in prisons. Indeed, vocational programs increased employment prospects by up to a third. Another significant cause of unemployment comes in the form of “collateral consequences,” more than 44,000 civil penalties that weigh down incarcerated people long after they finish their sentences. Under these statutes, states can deny formerly incarcerated people public benefits such as food stamps, exclude them from public housing, and bar them from holding a driver’s license. The most common and burdensome collateral consequences, however, are those related to employment. While not part of prison life itself, such collateral consequences play a key role in the criminal legal system. Long after someone leaves prison and ceases to be a captive laborer, they remain captive to this larger system.

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

Dead-End Jobs

The overwhelming amount of job assignments in prisons are monotonous and in areas that are not marketable upon release. As noted above, of the nation’s approximately 800,000 workers incarcerated in prisons, around 80 percent perform typically low-paid maintenance labor. Some workers pick up cigarette butts from cracks in the pavement outside; others rake rocks in the yard or are simply told to go outside and stand in the rain. According to one survey, over half of federally incarcerated people work to maintain the prison itself. Although the people who do this work still deserve as much respect and protection as those who perform typically higher-paid labor, generally prison labor simply does not provide the useful job training that incarcerated people are told they will receive.
There are, of course, exceptions—some vocational programs exist which are designed to pass on valuable skills. Jerome Morgan, a co-founder of Free-Dem Foundations, a youth-advocacy nonprofit in New Orleans, had the opportunity to learn a trade through one such program during the 20 years he was incarcerated in Louisiana’s prison system. Incarcerated people like Morgan benefit from vocational programs. Those who are able to participate have an easier time finding work after prison and a lower chance of committing another crime.

One study found that vocational programs can boost formerly incarcerated individuals’ job prospects by almost 30 percent. The government benefits as well—money spent on vocational programs in the short term translates into long-term gains through reduced recidivism rates.

Currently, however, vocational programs fail to meet their full potential. “We were trained on stuff from the dinosaur era,” noted Morgan. His experience is not uncommon—incarcerated people report that vocational programs often involve training on outdated equipment no longer used outside of prison walls. An audit of the Louisiana Prison Enterprises program by the Legislative Auditor’s Office found that one-third of incarcerated people working in the program are trained for jobs that are projected to decrease in the labor market, such as garment factory work and agriculture. “This means many of the offenders working for Prison Enterprises may not be learning job skills that could help them after they are released,” the Legislative Auditor’s Office found. A state legislative audit of Mississippi’s correctional industries program likewise found it is providing “work skills in occupations for which there were expected to be few to no job prospects in Mississippi.”

Nor is access to vocational programs widely available. Only a fifth of incarcerated people nationwide participate in vocational programs, leaving the other 700,000 or so workers to stagnate doing typically lower-paid work. In Illinois, as state funding for vocational programs provided by community colleges has dropped, so too has participation in and access to these programs. In 2002, around 6,000 incarcerated people participated in over 130 vocational programs. But just seven years later, the number of vocational programs had fallen to 100, leaving over a thousand fewer incarcerated people with the opportunity to take part.

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

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

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

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

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

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

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

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

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

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

Recognizing such discriminatory impacts, 35 states and 150 cities and counties across the country have passed laws that prohibit employers from asking about a job seeker’s criminal record on their application form. These laws are commonly referred to as “ban the box” legislation, named after the checkbox on a job application that asks about criminal records. A number of jurisdictions have gone further and passed laws that stop employers from asking about applicants’ criminal records until after they have made a job offer.
Yet their effectiveness in rooting out discrimination is not yet clear.\textsuperscript{608} While some studies show promising results, others have shown that ban-the-box laws push discrimination elsewhere. Instead of discriminating against people with conviction records in hiring, some employers have ended up discriminating against Black men.\textsuperscript{609} And as National Book Award finalist and formerly incarcerated activist Albert Woodfox put it, “people can just Google you. It doesn’t matter.”\textsuperscript{610}
After years of toiling in low-wage, undervalued work, people leaving prison continue to carry the weight of incarceration. Barriers—from job disqualification to formal and informal discrimination—push some back into prison, creating a vicious cycle of dead-end jobs inside of prison and broken promises of rehabilitation outside of it.

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

The conditions of labor inside U.S. prisons invoke protections under customary and treaty-based international law against slavery, forced labor, as well as cruel, inhuman, and degrading treatment. The Universal Declaration of Human Rights, which is globally championed by the United States, prohibits exploitative workplace practices, as well as “cruel, inhuman or degrading treatment or punishment.” Importantly, these rights apply to all persons “without distinction of any kind” by virtue of their “inherent dignity.” The International Covenant on Civil and Political Rights (ICCPR), which the United States has ratified, reinforces the applicability of these rights and protections in the context of incarceration. Specifically, it provides that “[a]ll persons deprived of their liberty shall be treated with humanity and respect for the inherent dignity of the human person.” The ICCPR also states that the essential aim of the criminal justice system “shall be their reformation and social rehabilitation.” The Human Rights Committee, the authoritative U.N. body that interprets the ICCPR, has further stated that the ICCPR “imposes on States parties a positive obligation towards persons who are particularly vulnerable because of their status as persons deprived of liberty.” While the ICCPR does allow for the sentencing of imprisoned individuals to “hard” labor, it does not allow for that labor to be exacted under exploitative circumstances that violate basic tenets of human dignity.

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

The Committee on Economic, Social and Cultural Rights, the authoritative U.N. body that interprets the International Covenant on Economic, Social and Cultural Rights, which the United States has signed
but not ratified, has explicitly stated that forced or compulsory prison labor violates states’ obligation to respect prisoners’ right to work. The committee said states “are under the obligation to respect the right to work by...prohibiting forced or compulsory labour and refraining from denying or limiting equal access to decent work for all persons...including prisoners.”

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

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

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

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

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

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

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

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

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

**Forced Labor—Recommended Reforms**

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

- Congress should pass legislation repealing the exception clause of the 13th Amendment to the U.S. Constitution allowing slavery and involuntary servitude to be used as punishment for a criminal conviction, and states should ratify the constitutional amendment.

- The legislatures and voters of the 20 states whose constitutions contain language mirroring the 13th Amendment exclusion of incarcerated people (Alabama, Arkansas, California, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Nevada, North Carolina, North Dakota, Ohio, Oregon, Tennessee, Vermont, and Wisconsin) should pass legislation and approve voter referendums removing these exception clauses from their state constitutions.

- The legislatures and voters of states whose constitutions do not categorically ban slavery and forced labor (such as Florida, New York, New Jersey, and Texas, among others) should pass legislation and approve voter referendums to amend their constitutions to ban slavery and forced labor with no exceptions.
Recommendations

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

- State departments of corrections and the Federal Bureau of Prisons should eliminate rules, policies, and procedures that impose disciplinary measures for work-related infractions such as refusal to work or failure to complete work in a satisfactory manner.

- Ban the use of disciplinary segregation/solitary confinement for work-related infractions.

- Eliminate policies that negatively impact good time, other reductions of sentence, parole eligibility, or otherwise extend a person’s incarceration for refusal to work and other work-related infractions.

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

- State departments of corrections, the Federal Bureau of Prisons, and prison administrators should adopt policies and comply with existing laws that require:

  - Notice to incarcerated people of their right to ask for reasonable modifications due to a disability.

  - Policies ensuring that incarcerated people who seek exemptions from work duties are granted such exemptions when they are unable to do their jobs due to illness, injury, disability, or other physical or mental limitations.

  - Training for staff on those policies and how to implement them, along with monitoring to ensure that prison health authorities provide approval for work exemptions when incarcerated people are unable to carry out assigned work duties and seek such exemptions.

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

— Worker incarcerated at Ironwood State Prison

Arbitrary and Discriminatory Allocation of Work Assignments—Recommended Reforms

Provide reasonable accommodations to incarcerated people with disabilities who wish
to work, to allow them to fully and equally participate in work programs.

- Prison authorities must comply with federal disability rights laws, including the Americans with Disabilities Act and Section 504 of the Rehabilitation Act. All prison activities, programs, and services must be equally accessible to all incarcerated people with disabilities.

- When an incarcerated person with a disability wishes to work or participate in vocational or educational programs, prisons must have a system to provide reasonable modifications to allow them to fully and equally participate in such programs, such as modifying the job requirements to make them accessible.

- While it is possible that some jobs may not be possible to modify for every or any individual (e.g. a job driving a bus is not an option for a blind person), prisons have the obligation to ensure a range of jobs are equally accessible and available to incarcerated people with disabilities.

- Prisons must ensure that they are not excluding people with disabilities from work based on stereotypes or assumptions about people with disabilities.

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

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

- Prison authorities should permit incarcerated individuals to choose education, vocational, or rehabilitation programming in lieu of work assignments and require equitable pay for those enrolled in such programs.

- State departments of corrections and the Federal Bureau of Prisons should adopt policies ensuring that incarcerated workers’ work assignments are not changed or taken away arbitrarily and provide a meaningful process for incarcerated workers to appeal decisions about their work assignments.

- Correctional institutions should adopt and implement robust measures to eliminate discrimination, racial profiling, sexual harassment and abuse, and arbitrary decision-making by prison officials responsible for allocating job assignments and supervising incarcerated workers on the job.

- Congress should enact legislation that ensures that all incarcerated workers are protected under Title VII of the Civil Rights Act of 1964 and that requires that any grievances related to discrimination in job allocation and treatment are responded to in an efficient and impartial manner by prison authorities.

**Work Conditions and Labor Protections—Recommended Reforms**

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

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

- State legislatures should similarly clarify the meaning of “employee” in all labor-related
legislation, including state minimum wage laws, union legislation and collective bargaining laws, health and safety laws, sexual harassment and anti-discrimination laws, to explicitly include incarcerated workers within that definition.

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

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

- Congress should amend the Fair Labor Standards Act to include incarcerated workers or otherwise pass legislation ensuring that workers in federal prisons are paid prevailing wages no less than the minimum wage of the state where they work or the federal minimum wage, whichever is higher.

- State legislatures should pass legislation ensuring that workers in prisons receive the prevailing wages in the states or territories where they work, no less than the minimum wage of the state where they work.

- Until incarcerated workers are paid the state minimum wage, states and the federal government may phase in the wage increase, starting with a wage of no less than half of the state minimum wage.

- Congress, state legislatures, the Federal Bureau of Prisons, and state departments of corrections should adopt policies eliminating or limiting wage deductions to no more than 20 percent of incarcerated workers’ wages, solely to be used to cover legal obligations such as child support. Cease all deductions for room and board, costs of incarceration, prison capital improvement or construction funds, to support prison industries, or to otherwise sustain and expand incarceration.

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

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

- Congress should amend the Occupational Safety and Health Act to include correctional institutions operated by state and local governments as employers under the law.

- The U.S. Department of Labor should issue a regulation granting the Occupational Safety and Health Administration jurisdiction over the labor conditions of all workers incarcerated in federal, state, and local prisons.

- State legislatures should amend state occupational health and safety and workers’ compensation laws to include incarcerated workers.

- Federal, state, and local governments should ensure that their respective occupational health and safety administrations conduct routine and comprehensive inspections of all workplaces inside prisons and should make the results of these investigations public.

- Prison authorities should ensure that all incarcerated workers receive adequate personal protective equipment and safety equipment to minimize risks and exposure to hazards that cause workplace injuries and illnesses.
Institute mandatory safety standards and comprehensive safety training programs for all work assignments in correctional institutions.

- Comprehensive safety training should include mandatory safety standards, injury and illness prevention, job-specific training on identified hazards (e.g., industry, construction, agriculture, hazardous chemicals), and proper use of personal protective equipment and safety equipment.

- Correctional institutions should make safety training available as part of orientation in any work assignment and provide supplementary and recurrent training as needed.

- Correctional institutions should ensure that this training is delivered by competent professionals who treat incarcerated workers with respect for their dignity and rights.

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

- Congress should amend the Federal Insurance Contributions Act (FICA) to remove the exclusion of work performed by incarcerated workers as covered employment, so that the time incarcerated workers spend working while in prison may contribute toward earning Social Security, Medicare, and Social Security Disability Insurance (SSDI) benefits. Also amend FICA to require employers—either prisons or private businesses employing incarcerated workers—to pay both employer and employee contributions to FICA when incarcerated workers are not earning minimum wage.

- Congress should amend the Social Security Act so that incarcerated workers qualify for four quarters of credit each year to earn Social Security, Medicare, and SSDI benefits when incarcerated workers are not earning minimum wage.

- Congress should amend the Federal Unemployment Tax Act (FUTA), and state legislatures should amend state unemployment statutes to ensure that work performed by incarcerated workers counts toward the accrual of unemployment insurance benefits, so that incarcerated workers receive the same protections as other workers offered by the unemployment insurance system if they cannot find work upon their release from prison or lose their jobs while in prison through no fault of their own.

- State unemployment agencies should interpret existing state unemployment statutes to mean that incarcerated workers will be able to collect unemployment insurance benefits if they are later released from prison and unable to find work.

- Congress should amend the FUTA, and state legislatures should amend state unemployment statutes to waive or adjust base period earnings requirements, so that incarcerated workers being paid below minimum wage will be eligible to earn toward and receive future unemployment insurance benefits.

- The Social Security Administration, the Department of Health and Human Services’ Centers for Medicare and Medicaid Services, the Department of Labor, and state unemployment agencies should adopt or endorse policies that make it possible for incarcerated workers to earn towards and receive Social Security, Medicare, and unemployment insurance benefits, including the waiver or adjustment of base period earnings requirements.

- Congress should amend the Internal Revenue Code to remove the exclusion of wages earned while the worker is incarcerated from the earnings that earn toward the Earned Income Tax Credit and the Child Tax Credit.
Recognize incarcerated people’s right to associate and permit incarcerated workers to form labor unions and bargain collectively so that workers can negotiate improved working conditions for themselves.

- Prison authorities including state departments of corrections, the Federal Bureau of Prisons, and prison administrators should allow incarcerated workers to organize and form or join labor unions, meet regularly, and form collective bargaining units.

- The National Labor Relations Board should declare that incarcerated people are employees who are eligible to join a union.

- State public employee relations boards should declare that incarcerated workers who are employed by the state are public employees who are eligible to join a union.

- State legislatures should amend public employee collective bargaining statutes to include incarcerated workers employed by the state in their definition of “public employee” and to permit the association of incarcerated public employees to engage in collective bargaining.

- Existing labor unions, including public sector unions, should endorse the right of incarcerated workers to join a union.

Work Programs—Recommended Reforms

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

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

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

- Expand post-release employment services to connect incarcerated workers to long-term employment after their release. Incarcerated workers should be released from prison with a guaranteed, secure job placement.

- The federal and state governments should expand access to post-secondary education in prison by reinstating Pell grants in all U.S. states and territories, to increase employment rates and earnings for the formerly incarcerated.

Access to Remedies—Recommended Reforms

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

- Congress should repeal the Prison Litigation Reform Act so that incarcerated individuals have equal access to judicial and broader administrative agency (beyond state departments of corrections) avenues for redress when their rights are violated. State legislatures should repeal similar legislation.

- Correctional institutions should eliminate burdensome administrative barriers, such as strict timelines and fees, from internal grievance processes.

- Correctional institutions should ensure that complaints regarding unsafe conditions and abusive staff treatment are processed and addressed by correctional administrators in a timely fashion.

- The federal and state governments should recognize and implement the right of incarcerated individuals to receive workers’ compensation when they are injured or killed on the job.
Reentry Policy—Recommended Reforms

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

• Federal and state governments should eliminate occupational licensing restrictions that categorically disqualify people with convictions. At a minimum, ensure that any licensing restrictions and permanent bans from certain professions are rationally related to the requirements of the job.

• Occupational licensing boards should ensure conviction and arrest records are not an automatic disqualifier from occupational licensing, particularly if the conviction has no relation to the responsibility and qualifications for the license or certification being sought.

• States that have not already done so should adopt comprehensive fair-chance hiring laws or policies for public-sector employment.

• State legislatures that have not already done so should pass ban-the-box statutes prohibiting private employers from asking about an applicant’s conviction or arrest record on job applications and requiring private employers to delay inquiring about conviction and arrest history until later in the hiring process, usually after a conditional offer of employment has been made.

• Federal and state governments should monitor the existence of barriers to securing employment and formal and informal discrimination against formerly incarcerated individuals in hiring, access to promotions, and other aspects of the labor market, and should take steps to eliminate those practices.
This report was a collaborative project between the American Civil Liberties Union Human Rights Program and the Global Human Rights Clinic of the University of Chicago Law School. The primary author of this report is Jennifer Turner, Principal Human Rights Researcher, ACLU Human Rights Program. The co-authors of this report are a team of students and faculty of the Global Human Rights Clinic (GHRC) at the University of Chicago Law School. The GHRC drafting and research team includes: Mariana Olaizola Rosenblat and Nino Guruli, Lecturer and Former Lecturer, respectively, in GHRC; Claudia Maria Flores, Clinical Professor of Law at the University of Chicago Law School and Director, GHRC; GHRC law students Sophie Desch, Katya El Tayeb, Leena Elsadek, Eric Singerman, Joseph Nunn, Monika Weisman, Genevieve Auld, and Aaron Tucek; and GHRC interns Nico Thompson-Lleras and Johnny Walker. In addition to contributing to the drafting and research of the report, the GHRC filed FOIA requests in 50 states, conducted the three-state written survey of incarcerated workers, and conducted interviews with current and formerly incarcerated workers included in this report, including on-site field research in Louisiana. Data analysis was conducted by Jennifer Turner, ACLU Principal Human Rights Researcher, and Emily Greytak, ACLU Research Director.

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Justice Policy Attorney, ACLU of Illinois; Yoel Y. Haile, Director of the Criminal Justice Program at the ACLU of Northern California; and Lizzie Buchen, former Director of the Criminal Justice Program at the ACLU of Northern California.

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Number of Incarcerated Workers by State

The following Table A, based on publicly available data and responses to FOIA requests we filed with state departments of corrections, details the number of incarcerated workers in state and federal prisons for the jurisdictions where we were able to obtain such data. Numerous state departments of corrections and the Federal Bureau of Prisons either did not respond to the FOIA requests we filed or claimed not to be able to provide such data. The year for the data differs by state, which varies from 2018 to 2021 and is specified in the endnotes. The table contains the most recent available data for each state.

### Table A

<table>
<thead>
<tr>
<th>State</th>
<th>Number of incarcerated workers</th>
<th>Notes on distribution of jobs by type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal prisons</td>
<td>Total not publicly available</td>
<td>16,315 employed in Federal Prison Industries, Inc. (UNICOR) in fiscal year 2021. These UNICOR workers constitute only 8 percent of work-eligible people incarcerated in federal prisons; the rest work in Federal Bureau of Prisons (BOP) institutional jobs to support the running and maintenance of the prison facilities. BOP has not published data on institutional job assignments and did not respond to the FOIA request we filed.</td>
</tr>
<tr>
<td>Alabama</td>
<td>Total not publicly available</td>
<td>313 work for Alabama Correctional Industries, 955 employed in the work-release program, and 1,485 employed in work centers. The Alabama Department of Corrections has not published data on other work assignments and did not provide the data requested in our FOIA.</td>
</tr>
<tr>
<td>Arizona</td>
<td>18,097</td>
<td>15,035 employed in the Work Incentive Pay Program, which are assignments on prison grounds to support the running and maintenance of the prison facilities. 1,083 work for other local, county, or other state agencies through Intergovernmental Agreements. 1,979 work for Arizona Correctional Industries (ACI), 974 of whom work for outside employers through labor contracts and 1,005 of whom work for ACI-owned and -operated industries.</td>
</tr>
<tr>
<td>Arkansas</td>
<td>7,837</td>
<td>2,804 work in agriculture and on “hoe squads,” 1,650 work in building maintenance, 1,272 work in kitchen/food service, 1,959 work as porters, and 421 work for prison industries.</td>
</tr>
<tr>
<td>California</td>
<td>64,788</td>
<td>7,048 work for California Industry Prison Authority prison industries, 57,740 work for the California Department of Corrections and Rehabilitation, which includes 1,600 working for conservation fire camps.</td>
</tr>
<tr>
<td>Colorado</td>
<td>10,392</td>
<td>1,541 work for Colorado Correctional Industries.</td>
</tr>
<tr>
<td>State</td>
<td>Number of incarcerated workers</td>
<td>Notes on distribution of jobs by type</td>
</tr>
<tr>
<td>------------</td>
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<td>---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Florida</td>
<td>Total not publicly available</td>
<td>2,579 work for PRIDE prison industries and about 3,500 work on state road crews and community work squads. Florida Department of Corrections has not published data on other work assignments and did not respond to the FOIA request we filed.</td>
</tr>
<tr>
<td>Illinois</td>
<td>Total not publicly available</td>
<td>1,120 work for Illinois Correctional Industries each year.</td>
</tr>
<tr>
<td>Kansas</td>
<td>Total not publicly available</td>
<td>1,100 work for Kansas Correctional Industries, which constitutes 13 percent of the incarcerated workforce in Kansas prisons.</td>
</tr>
<tr>
<td>Maryland</td>
<td>13,242</td>
<td>11,726 work for the Maryland Department of Corrections and 1,516 work for Maryland Correctional Enterprises (prison industries).</td>
</tr>
<tr>
<td>Missouri</td>
<td>Total not publicly available</td>
<td>1,432 work for Missouri Vocational Enterprises (prison industries). Missouri Department of Corrections has not published data on other incarcerated workers and did not respond to the FOIA request we filed.</td>
</tr>
<tr>
<td>Montana</td>
<td>16,430</td>
<td>About 700 incarcerated workers are employed in Montana Correctional Enterprises, with job assignments in agriculture, wildland fire crews, vehicle restoration services, laundry, canteen, food factories producing meals for public institutions, manufacturing, and other industrial work for government agencies and private sector businesses.</td>
</tr>
<tr>
<td>Nebraska</td>
<td>3,092</td>
<td>About 500 incarcerated workers are employed in Cornhusker State Industries (prison industries) per year.</td>
</tr>
<tr>
<td>Nevada</td>
<td>Total not publicly available</td>
<td>1,500 employed per year in the Nevada Division of Forestry conservation camps and 655 work for Silver State Industries (prison industries). Nevada Department of Corrections has not published data on other incarcerated workers and did not respond to the FOIA request we filed.</td>
</tr>
<tr>
<td>New Hampshire</td>
<td>1,244</td>
<td>627 incarcerated workers with unskilled facilities jobs, 284 with skilled facilities jobs, 203 with correctional industries jobs, and 28 with unskilled jobs and two with skilled jobs for entities other than the Department of Corrections.</td>
</tr>
<tr>
<td>New York</td>
<td>About 31,000</td>
<td>1,850 employed in Corcraft, the New York correctional industries program.</td>
</tr>
<tr>
<td>North Carolina</td>
<td>13,142</td>
<td>5,592 work in unit services performing janitorial and general maintenance duties; 2,624 work in food service, preparing and serving meals; 1,559 work in prison maintenance such as groundskeeping, light construction, repair, and maintenance projects at the prisons; 1,245 work inside the prison in industry jobs for Carolina Correction Enterprises; 161 work on new prison construction projects; and 1,006 have jobs categorized as “other jobs.” Up to 73 at a time work as firefighters through the BRIDGE Program, a cooperative effort between the North Carolina Forest Service and the North Carolina Department of Public Safety. During fiscal year 2020–2021, jobs outside the prisons were significantly curtailed due to COVID-19 restrictions, and only 207 worked for state and local governments to provide janitorial services and groundskeeping, 204 worked on road squads, and 544 worked on work release. Prior to the COVID-19 pandemic, in fiscal year 2019–2020, 466 worked on road squads for the state Department of Transportation, 514 worked on manual labor jobs for state and local governments, and 1,218 were employed in work-release programs.</td>
</tr>
<tr>
<td>North Dakota</td>
<td>1,505</td>
<td>About 170 work for Rough Rider Industries (prison industries).</td>
</tr>
<tr>
<td>Ohio</td>
<td>Total not publicly available</td>
<td>1,382 work for Ohio Penal Industries. Ohio Department of Rehabilitation &amp; Correction has not published data on other work assignments and did not provide the data requested in the FOIA we filed.</td>
</tr>
</tbody>
</table>
The Wages Paid to Incarcerated Workers in Each State and in Federal Prisons

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

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

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

<table>
<thead>
<tr>
<th>State</th>
<th>Number of incarcerated workers</th>
<th>Notes on distribution of jobs by type</th>
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</thead>
<tbody>
<tr>
<td>Pennsylvania</td>
<td>30,491⁸⁶¹</td>
<td>28,840 work in institutional jobs for the Pennsylvania Department of Corrections; 1,651 work in prison industries jobs.</td>
</tr>
<tr>
<td>Rhode Island</td>
<td>2,163⁸⁶²</td>
<td>154 work in prison industries jobs.</td>
</tr>
<tr>
<td>South Carolina</td>
<td>14,786⁸⁶³</td>
<td>13,011 work in institutional jobs; 562 work for the labor crew/work program; 647 work for prison industries private sector; and 566 work for state prison industries.</td>
</tr>
<tr>
<td>Tennessee</td>
<td>At least 7,724⁸⁶⁴</td>
<td>5,000 work in support services inside the prisons; more than 1,000 work as teacher aides, counselor aides, clerks, and library assistants; and 1,724 work for TRICOR prison industries.</td>
</tr>
<tr>
<td>Texas</td>
<td>121,247⁸⁶⁵</td>
<td>121,167 incarcerated workers work for the Texas Department of Criminal Justice on duties related to agriculture, industry, maintenance, food services, laundry, and other forms of unit and agency support. 2,701 of these workers work for Texas Correctional Industries. About 80 people work in the PIECP program.</td>
</tr>
<tr>
<td>Virginia</td>
<td>About 16,000⁸⁶⁸</td>
<td>1,100 work for Virginia Correctional Enterprises (prison industries).</td>
</tr>
<tr>
<td>Washington</td>
<td>8,392⁸⁶⁹</td>
<td>6,039 have facilities jobs (Class 3); 542 have jobs on community work crews and as forestry/fire camp workers (Class 4); and 1,811 work for Washington Correctional Industries (Class 2). The total figure excludes workers working for private companies through the Prison Industries Enhancement Program (Class 1), as the number has not been made public.</td>
</tr>
<tr>
<td>West Virginia</td>
<td>1,010⁸⁷³</td>
<td>58 are employed in correctional industries.</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>15,724⁸⁷⁴</td>
<td>14,284 institutional job assignments; 569 work assignments in Badger State Industries (prison industries); and 871 work-release assignments. These numbers, provided by the Wisconsin Department of Corrections, are the total number of work assignments for calendar year 2021. The actual number of workers with work assignments may be lower because workers may hold more than one work assignment.</td>
</tr>
</tbody>
</table>
compensation policies differently—some by the hour, others by the day, week, or the month—and the table follows the format of reported pay scales.

Excluded from this table are work-release jobs and jobs working for private companies through the Prison Industry Enhancement Certification Program (PIECP); the latter pays prevailing wages by law and constitutes less than 1 percent of all work assignments.

### TABLE B

<table>
<thead>
<tr>
<th>State</th>
<th>Pay scale: Non-industry jobs</th>
<th>Pay scale: Jobs in state-owned correctional industries</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal prisons</td>
<td>$0.12 to $0.40 per hour(^{255})</td>
<td>$0.23 to $1.15 per hour(^{256})</td>
<td>Only 8 percent of work-eligible people incarcerated in federal prisons have correctional industries jobs with Federal Prison Industries, Inc. (UNICOR).(^{257}) The rest work in Federal Bureau of Prisons institutional jobs to support the running and maintenance of the prison facilities and are paid on the non-industry pay scale.(^{258})</td>
</tr>
<tr>
<td>Alabama</td>
<td>$0(^{279})</td>
<td>$0.25 to $0.75 per hour(^{280})</td>
<td>All institutional and community work crew assignments are unpaid. Only workers in work-release or work-center programs and prison industry jobs are paid.(^{281})</td>
</tr>
<tr>
<td>Alaska</td>
<td>$0.30 to $0.90 per hour(^{392})</td>
<td>Alaska no longer has a correctional industries program.</td>
<td>Work for long-term construction projects pay up to $0.75 to $1.25 per hour. Community work projects pay up to $1 per hour.</td>
</tr>
<tr>
<td>Arizona</td>
<td>$0.15 to $0.45 per hour(^{483})</td>
<td>$0.23 to $1.00 per hour(^{484})</td>
<td>Workers who are not literate are paid $0.10 per hour.</td>
</tr>
<tr>
<td>Arkansas</td>
<td>$0(^{485})</td>
<td>$0(^{486})</td>
<td>Correctional agency-operated correctional industry jobs are unpaid; only PIECP jobs in which incarcerated workers are directly employed by private companies are paid.(^{487})</td>
</tr>
<tr>
<td>California</td>
<td>$0.08 to $0.37 per hour(^{488})</td>
<td>$0.35 to $1.00 per hour(^{489})</td>
<td>Laborers are paid $0.08 to $0.13 per hour; semi-skilled workers are paid $0.11 to $0.18 per hour. Some jobs are unpaid, including vocational student assignments. Firefighters are generally paid $1.45 per day and $1 per hour for emergency firefighting.</td>
</tr>
<tr>
<td>Colorado</td>
<td>$0.33 to $1.61 per hour(^{490})</td>
<td>$0.86 to $2.49 per hour(^{491})</td>
<td>Pay differs by job; the majority of jobs pay $0.86 per hour. Under a new law passed in March 2022, incarcerated workers employed by private companies (“an external program for a private person or entity”) through Colorado Correctional Industries must be paid the state minimum wage.(^{492})</td>
</tr>
<tr>
<td>Connecticut</td>
<td>$0.75 to $1.75 per day(^{493})</td>
<td>$0.30 to $1.50 per hour(^{494})</td>
<td>Jobs in prison commissary pay $0.30 to $0.90 per hour.</td>
</tr>
<tr>
<td>Delaware</td>
<td>Not publicly available</td>
<td>$0.25 to $2.00 per hour(^{495})</td>
<td></td>
</tr>
<tr>
<td>Florida</td>
<td>$0 for nearly all jobs; some jobs are paid up to $50 per month(^{496})</td>
<td>$0.20 to $0.95 per hour(^{497})</td>
<td>Nearly all regular non-industry jobs are unpaid. The only jobs that pay are work-release center assignments, canteen assignments, and staff barbers and staff shoe sinkers, which are compensated at a maximum of $50 per month. Public works jobs are generally unpaid but may be compensated up to $20 per month.(^{498})</td>
</tr>
<tr>
<td>State</td>
<td>Pay scale: Non-industry jobs</td>
<td>Pay scale: Jobs in state-owned correctional industries</td>
<td>Notes</td>
</tr>
<tr>
<td>--------------</td>
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<td>--------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Georgia</td>
<td>$0</td>
<td>$0</td>
<td>Nearly all jobs are unpaid, including firefighters and community work crews. Correctional agency-operated correctional industry jobs are unpaid; only PIECP jobs in which incarcerated workers are directly employed by private companies are paid.</td>
</tr>
<tr>
<td>Hawaii</td>
<td>$0.25 to $1.00 per hour</td>
<td>$0.50 to $2.50 per hour</td>
<td>Facility jobs are paid $0.25 per hour. Community work jobs are paid $0.25 to $1.00 per hour.</td>
</tr>
<tr>
<td>Idaho</td>
<td>$0.20 to $0.90 per hour</td>
<td>Not publicly available</td>
<td>Non-industry jobs in the prisons are paid $0.20 to $0.40 per hour. Work camps pay $0.50 to $0.90 per hour. Vocational work crews working outside prisons pay $0.50 (for low-skilled workers) to $1.50 (for fire crew lead workers).</td>
</tr>
<tr>
<td>Illinois</td>
<td>$0.85 to $2.50 per day</td>
<td>$0.30 to $2.40 per hour</td>
<td>General laborers (which includes jobs as lawn workers, laundry handlers, janitors, commissary workers, and others) are paid $0.85 to $1.10 per day, or $17 to $22 per month. Correctional industries jobs in laundry and meat processing are based on pounds laundered/produced.</td>
</tr>
<tr>
<td>Indiana</td>
<td>$0.12 to $0.25 per hour</td>
<td>$0.30 to $0.55 per hour</td>
<td></td>
</tr>
<tr>
<td>Iowa</td>
<td>$0.28 to $0.71 per hour</td>
<td>$0.70 to $0.95 per hour</td>
<td></td>
</tr>
<tr>
<td>Kansas</td>
<td>$0.45 to $1.05 per day</td>
<td>$0.25 to $3.00 per hour</td>
<td></td>
</tr>
<tr>
<td>Kentucky</td>
<td>$0.48 to $1.58 per day</td>
<td>Not publicly available</td>
<td>Four-hour jobs are paid at $0.48 to $0.97 per day; eight-hour jobs are paid at $0.79 to $1.58 per day. Special assignments are $1.21 to $2.42 per day.</td>
</tr>
<tr>
<td>Louisiana</td>
<td>$0.02 to $0.04 per hour</td>
<td>$0.02 to $0.40 per hour</td>
<td>Work in cellblocks and field lines pays $0.02 per hour. Vocational programs pay $0.04 per hour. Legal workers and educational tutors are paid on a different pay scale, at $0.25 to $0.80 per hour. Some incarcerated workers must work for an initial period of up to three years without pay until they are eligible to be paid. Eligible incarcerated people may choose between earning a wage and receiving “good time” credits off their sentence.</td>
</tr>
<tr>
<td>Maine</td>
<td>$0 to $220 per month</td>
<td>$0.50 to $2.80 per hour</td>
<td>Pay varies by prison. Some prisons do not pay at all for laundry, kitchen, cleaning, and grounds-keeping work.</td>
</tr>
<tr>
<td>Maryland</td>
<td>$0.90 to $2.75 per day</td>
<td>$0.17 to $1.16 per hour</td>
<td>Jobs classified as unskilled pay $0.90 to $1.15 per day; semi-skilled are paid $0.95 to $1.25 per day; skilled are paid $1.05 to $1.35 per day.</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>$1 to $2 per day generally; $5 to $25 per week</td>
<td>$0.40 to $1.55 per hour</td>
<td>Pay varies by prison.</td>
</tr>
<tr>
<td>Michigan</td>
<td>$0.74 to $1.77 per day</td>
<td>Not publicly available</td>
<td>The standard pay scale is $0.74 to $1.77 per day. Food service jobs are paid $0.18 to $0.38 per hour. Jobs with advanced education/training pay $2.08 to $3.34 per day.</td>
</tr>
<tr>
<td>State</td>
<td>Pay scale: Non-industry jobs</td>
<td>Pay scale: Jobs in state-owned correctional industries</td>
<td>Notes</td>
</tr>
<tr>
<td>---------------</td>
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<td>-------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Minnesota</td>
<td>$0.25 to $1.00 per hour[^28]</td>
<td>$0.50 to $2.00 per hour[^29]</td>
<td>Unpaid jobs include unit maintenance workers, dining hall workers, tutors for literacy, chaplain workers, gym workers, administrative workers, central kitchen, and infirmary workers, among others. Instead, eligible incarcerated workers may earn Meritorious Earned Time or Trusty Earned Time for a reduction of sentence for satisfactory participation in selected work programs.[^2]</td>
</tr>
<tr>
<td>Mississippi</td>
<td>$0 for most jobs[^30]</td>
<td>$0.20 to $1.30 per hour[^31]</td>
<td></td>
</tr>
<tr>
<td>Missouri</td>
<td>$7.50 to $8.50 per month[^33]</td>
<td>$0.30 to $0.71 per hour[^34]</td>
<td>Most wages are set daily, while others such as food service and laundry jobs are set daily.</td>
</tr>
<tr>
<td>Montana</td>
<td>$0.35 to $0.45 per hour, $1.25 to $4.50 per day[^35]</td>
<td>$0.40 to $0.60 per hour, $1.70 to $5.00 per day[^36]</td>
<td>Most non-industry jobs are paid per day. Laborers are paid $1.21 per day, and skilled non-industry workers are paid $2.24 per day. Health porters and workers on designated work detail are the only non-industry workers who are paid hourly.</td>
</tr>
<tr>
<td>Nebraska</td>
<td>$1.21 to $4.72 per day; $0.38 to $1.50 per hour[^37]</td>
<td>$0.38 to $1.08 per hour[^38]</td>
<td>Most non-industry jobs are paid per day. Laborers are paid $1.21 per day, and skilled non-industry workers are paid $2.24 per day. Health porters and workers on designated work detail are the only non-industry workers who are paid hourly.</td>
</tr>
<tr>
<td>Nevada</td>
<td>$0 for some jobs; pay scale for paid jobs is not publicly available[^39]</td>
<td>$0.35 to $4.50 per hour[^40]</td>
<td>A number of jobs in the prison facilities are unpaid, including porter and maintenance jobs[^4]. The pay scale for the 1,682 jobs paid by the Nevada Department of Corrections is not publicly available[^4]. Industry jobs in hanger operations pay $10 per day, and jobs in the cardroom pay per completed case or pallet built[^4]. Jobs with the Nevada Division of Forestry conservation camps pay $2.10 per day for natural resource projects and $24 per day for fighting wildland fires[^4]. Incarcerated workers employed by the State Public Works Division, Buildings and Grounds Section are paid an average rate of $1.32 per hour, while workers employed on Department of Transportation work crews are paid $2.23 per day[^4].</td>
</tr>
<tr>
<td>New Hampshire</td>
<td>$0.85 to $3.00 per day[^46]</td>
<td>$1 to $5 per day[^47]</td>
<td>Wages for non-industry jobs are for general job assignments and are sourced from a 1990 New Jersey Department of Corrections policy that was still in effect in 2017 and may be outdated; no revised pay scale has been made public since then.</td>
</tr>
<tr>
<td>New Jersey</td>
<td>$1.30 to $1.60 per day[^46]</td>
<td>$1.30 to $10.00 per day[^48]</td>
<td></td>
</tr>
<tr>
<td>New Mexico</td>
<td>$0.10 to $1.00 per hour[^50]</td>
<td>$0.30 to $1.10 per hour[^51]</td>
<td>Maintenance jobs pay $0.10 to $0.60 per hour.</td>
</tr>
<tr>
<td>New York</td>
<td>$0.10 to $0.33 per hour[^52]</td>
<td>$0.16 to $0.65 per hour[^53]</td>
<td>Food service workers are paid $0.16 to $0.25 per hour[^54]. A small number of jobs classified as Grade 5 are paid a flat rate of $2.00 per day[^55].</td>
</tr>
<tr>
<td>North Carolina</td>
<td>$0.40 to $1.00 per day[^56]</td>
<td>No more than $3.00 per day[^57]</td>
<td>An incentive wage of up to $3.00 per day is paid for jobs that require special skill or training; this includes workers assigned to correctional enterprises and the construction program.</td>
</tr>
</tbody>
</table>

[^2]: [Captive Labor](#)
[^3]: [Captive Labor](#)
[^4]: [Captive Labor](#)
[^5]: [Captive Labor](#)
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[^57]: [Captive Labor](#)
<table>
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<tr>
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<th>Pay scale: Jobs in state-owned correctional industries</th>
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</tr>
</thead>
<tbody>
<tr>
<td>North Dakota</td>
<td>$1.55 to $7.07 per day&lt;sup&gt;556&lt;/sup&gt;</td>
<td>$0.45 to $1.79 per hour&lt;sup&gt;559&lt;/sup&gt;</td>
<td>Assignments pay at least $6 per month for less than 60 hours per month, at least $9 per month for 60 to 89 hours per month, at least $12 per month for 90-139 hours per month, and $12 to $22 per month for at least 140 hours per month. Up to 3 percent of the institution's population may be paid $24 per month for full-time assignments requiring a great degree of skill or responsibility.</td>
</tr>
<tr>
<td>Ohio</td>
<td>$6 to $24 per month&lt;sup&gt;560&lt;/sup&gt;</td>
<td>$0.23 to $1.35 per hour&lt;sup&gt;561&lt;/sup&gt;</td>
<td>Some jobs that require a higher skill level, such as mechanics or law clerks, may be paid $27.09 per month.&lt;sup&gt;564&lt;/sup&gt;</td>
</tr>
<tr>
<td>Oklahoma</td>
<td>$7.23 to $14.45 per month&lt;sup&gt;562&lt;/sup&gt;</td>
<td>$0.20 to $0.60 per hour&lt;sup&gt;563&lt;/sup&gt;</td>
<td>Oregon does not pay wages to incarcerated workers. Compensation is paid via the Performance Recognition and Award system, through which workers may receive points that may be converted to a monthly monetary award.&lt;sup&gt;566&lt;/sup&gt;</td>
</tr>
<tr>
<td>Oregon</td>
<td>See note</td>
<td>$8 to $82 per month&lt;sup&gt;565&lt;/sup&gt;</td>
<td>Oregon does not pay wages to incarcerated workers. Compensation is paid via the Performance Recognition and Award system, through which workers may receive points that may be converted to a monthly monetary award.&lt;sup&gt;566&lt;/sup&gt;</td>
</tr>
<tr>
<td>Pennsylvania</td>
<td>$0.19 to $0.51 per hour&lt;sup&gt;562&lt;/sup&gt;</td>
<td>$0.19 to $0.51 per hour&lt;sup&gt;568&lt;/sup&gt;</td>
<td></td>
</tr>
<tr>
<td>Rhode Island</td>
<td>$0.50 to $3.00 per day&lt;sup&gt;569&lt;/sup&gt;</td>
<td>$1.50 to $3.00 per day&lt;sup&gt;570&lt;/sup&gt;</td>
<td></td>
</tr>
<tr>
<td>South Carolina</td>
<td>$0 for nearly all jobs&lt;sup&gt;571&lt;/sup&gt;</td>
<td>$0 to $2.00 per hour&lt;sup&gt;572&lt;/sup&gt;</td>
<td>All institutional jobs, some traditional correctional industries jobs, and on community labor crews are not paid any wage. As of June 2018, the most recent available data, more than 90 percent of South Carolina's 14,786 incarcerated workers had these unpaid job assignments.&lt;sup&gt;573&lt;/sup&gt; Workers in the prison industries service program are paid $0.35 to $2.00 per hour.</td>
</tr>
<tr>
<td>South Dakota</td>
<td>$0.25 per hour&lt;sup&gt;574&lt;/sup&gt;</td>
<td>$0.25 to $0.50 per hour&lt;sup&gt;575&lt;/sup&gt;</td>
<td>All prison industries workers also start at $0.25 per hour. Only people assigned to construction work for the South Dakota Housing Development Authority are paid $0.40 to $0.50 per hour, and firefighters assigned to wildland fire duties are paid $12 per day. Staff may assign incarcerated people duties without pay.</td>
</tr>
<tr>
<td>Tennessee</td>
<td>$0.17 to $0.59 per hour&lt;sup&gt;576&lt;/sup&gt;</td>
<td>Not publicly available&lt;sup&gt;577&lt;/sup&gt;</td>
<td>Jobs classified as unskilled are paid $0.17 to $0.34 per hour; semi-skilled are paid $0.25 to $0.42 per hour; and highly skilled are paid $0.42 to $0.59 per hour.</td>
</tr>
<tr>
<td>Texas</td>
<td>$0&lt;sup&gt;578&lt;/sup&gt;</td>
<td>$0&lt;sup&gt;579&lt;/sup&gt;</td>
<td>Only PIECP workers employed by contracting private companies are paid wages.&lt;sup&gt;565&lt;/sup&gt; An exception to this policy was granted to incarcerated workers tasked with working in mobile morgues during COVID-19, who were paid $2 per hour after refusing to work unpaid.&lt;sup&gt;561&lt;/sup&gt;</td>
</tr>
<tr>
<td>Utah</td>
<td>Not publicly available</td>
<td>$0.60 to $1.75 per hour&lt;sup&gt;582&lt;/sup&gt;</td>
<td></td>
</tr>
</tbody>
</table>
## Calculated Average and Hourly Wages Paid to Incarcerated Workers

The following Table C details the average and hourly wages paid to incarcerated workers, with calculated hourly wages for the state departments of correction that report compensation policies by the day, week, or the month. For states that report wages on a daily, weekly, or monthly basis, the authors calculated hourly rates based on work hours per day and work days per month, based on the state’s published policies on work hours. For the states where the authors could not find published information on work hours, we assumed 22 work days per month, an average work day of 6.35 hours per day for non-industry jobs, and an average work day of 6.79 hours per day for industry jobs. The table below uses the same sources as the detailed wage table in Table B.

### TABLE C
Calculated average and hourly wages paid to incarcerated workers

<table>
<thead>
<tr>
<th>State</th>
<th>Pay scale: non-industry jobs</th>
<th>Pay scale: Jobs in state-owned correctional industries</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Federal Prisons</td>
<td>$0.12 to $0.40 per hour</td>
<td>$0.23 to $1.15 per hour</td>
<td></td>
</tr>
<tr>
<td>Alabama</td>
<td>$0</td>
<td>$0.25 to $0.75 per hour</td>
<td></td>
</tr>
<tr>
<td>Alaska</td>
<td>$0.30 to $0.90 per hour</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Arizona</td>
<td>$0.15 to $0.45 per hour</td>
<td>$0.23 to $1.00 per hour</td>
<td></td>
</tr>
<tr>
<td>Arkansas</td>
<td>$0</td>
<td>$0</td>
<td></td>
</tr>
<tr>
<td>California</td>
<td>$0.08 to $0.37 per hour</td>
<td>$0.35 to $1.00 per hour</td>
<td></td>
</tr>
<tr>
<td>State</td>
<td>Pay scale: non-industry jobs</td>
<td>Pay scale: Jobs in state-owned correctional industries</td>
<td></td>
</tr>
<tr>
<td>---------------</td>
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<td>-----------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td>Colorado</td>
<td>$0.33 to $1.61 per hour</td>
<td>$0.86 to $2.49 per hour</td>
<td></td>
</tr>
<tr>
<td>Connecticut</td>
<td>$0.12 to $0.90 per hour</td>
<td>$0.30 to $1.50 per hour</td>
<td></td>
</tr>
<tr>
<td>Delaware</td>
<td>N/A</td>
<td>$0.25 to $2.00 per hour</td>
<td></td>
</tr>
<tr>
<td>Florida</td>
<td>$0 to $0.32 per hour</td>
<td>$0.20 to $0.95 per hour</td>
<td></td>
</tr>
<tr>
<td>Georgia</td>
<td>$0.996</td>
<td>$0.997</td>
<td></td>
</tr>
<tr>
<td>Hawaii</td>
<td>$0.25 to $1.00 per hour</td>
<td>$0.50 to $2.50 per hour</td>
<td></td>
</tr>
<tr>
<td>Idaho</td>
<td>$0.20 to $0.90 per hour</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Illinois</td>
<td>$0.13 to $0.39 per hour</td>
<td>$0.30 to $2.40 per hour</td>
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</tr>
<tr>
<td>Indiana</td>
<td>$0.12 to $0.25 per hour</td>
<td>$0.30 to $0.55 per hour</td>
<td></td>
</tr>
<tr>
<td>Iowa</td>
<td>$0.28 to $0.71 per hour</td>
<td>$0.70 to $0.95 per hour</td>
<td></td>
</tr>
<tr>
<td>Kansas</td>
<td>$0.06 to $0.13 per hour998</td>
<td>$0.25 to $3.00 per hour</td>
<td></td>
</tr>
<tr>
<td>Kentucky</td>
<td>$0.10 to $0.30 per hour999</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Louisiana</td>
<td>$0.02 to $0.04 per hour</td>
<td>$0.02 to $0.40 per hour</td>
<td></td>
</tr>
<tr>
<td>Maine</td>
<td>$0 to $1.57 per hour</td>
<td>$0.50 to $2.80 per hour</td>
<td></td>
</tr>
<tr>
<td>Maryland</td>
<td>$0.14 to $0.43 per hour</td>
<td>$0.17 to $1.16 per hour</td>
<td></td>
</tr>
<tr>
<td>Massachusetts</td>
<td>$0.16 to $0.79 per hour</td>
<td>$0.40 to $1.55 per hour</td>
<td></td>
</tr>
<tr>
<td>Michigan</td>
<td>$0.12 to $0.38 per hour1000</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Minnesota</td>
<td>$0.25 to $1.00 per hour</td>
<td>$0.50 to $2.00 per hour</td>
<td></td>
</tr>
<tr>
<td>Mississippi</td>
<td>$0 for most jobs</td>
<td>$0.20 to $1.30 per hour</td>
<td></td>
</tr>
<tr>
<td>Missouri</td>
<td>$0.05 to $0.06 per hour</td>
<td>$0.30 to $0.71 per hour</td>
<td></td>
</tr>
<tr>
<td>Montana</td>
<td>$0.16 to $1.12 per hour1001</td>
<td>$0.21 to $1.25 per hour</td>
<td></td>
</tr>
<tr>
<td>Nebraska</td>
<td>$0.16 to $1.50 per hour1002</td>
<td>$0.38 to $1.08 per hour</td>
<td></td>
</tr>
<tr>
<td>Nevada</td>
<td>$0.00 to N/A</td>
<td>$0.35 to $4.50 per hour</td>
<td></td>
</tr>
<tr>
<td>New Hampshire</td>
<td>$0.21 to $1.00 per hour1003</td>
<td>$0.25 to $1.60 per hour1004</td>
<td></td>
</tr>
<tr>
<td>New Jersey</td>
<td>$0.20 to $0.25 per hour</td>
<td>$0.38 to $2.00 per hour</td>
<td></td>
</tr>
<tr>
<td>New Mexico</td>
<td>$0.10 to $1.00 per hour</td>
<td>$0.30 to $1.10 per hour</td>
<td></td>
</tr>
<tr>
<td>New York</td>
<td>$0.10 to $0.33 per hour</td>
<td>$0.16 to $0.65 per hour</td>
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</tr>
<tr>
<td>North Carolina</td>
<td>$0.05 to $0.13 per hour</td>
<td>$0.05 to $0.38 per hour</td>
<td></td>
</tr>
<tr>
<td>North Dakota</td>
<td>$0.19 to $0.88 per hour1005</td>
<td>$0.45 to $1.79 per hour</td>
<td></td>
</tr>
<tr>
<td>Ohio</td>
<td>$0.10 to $0.17 per hour1006</td>
<td>$0.23 to $1.35 per hour</td>
<td></td>
</tr>
<tr>
<td>Oklahoma</td>
<td>$0.05 to $0.10 per hour</td>
<td>$0.20 to $0.60 per hour</td>
<td></td>
</tr>
<tr>
<td>Oregon</td>
<td>N/A</td>
<td>$0.05 to $0.47 per hour</td>
<td></td>
</tr>
<tr>
<td>Pennsylvania</td>
<td>$0.19 to $0.51 per hour</td>
<td>$0.19 to $0.51 per hour</td>
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</tr>
<tr>
<td>Rhode Island</td>
<td>$0.08 to $0.47 per hour</td>
<td>$0.22 to $0.44 per hour</td>
<td></td>
</tr>
<tr>
<td>South Carolina</td>
<td>$0 for nearly all jobs</td>
<td>$0 to $2.00 per hour</td>
<td></td>
</tr>
<tr>
<td>South Dakota</td>
<td>$0.25 per hour</td>
<td>$0.25 to $0.50 per hour</td>
<td></td>
</tr>
<tr>
<td>Tennessee</td>
<td>$0.17 to $0.59 per hour</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Texas</td>
<td>$0</td>
<td>$0</td>
<td></td>
</tr>
<tr>
<td>Utah</td>
<td>N/A</td>
<td>$0.60 to $1.75 per hour</td>
<td></td>
</tr>
<tr>
<td>Vermont</td>
<td>$0.25 per hour</td>
<td>$0.25 to $1.35 per hour</td>
<td></td>
</tr>
<tr>
<td>Virginia</td>
<td>$0.27 to $0.45 per hour</td>
<td>$0.55 to $0.80 per hour</td>
<td></td>
</tr>
<tr>
<td>State</td>
<td>Pay scale: non-industry jobs</td>
<td>Pay scale: Jobs in state-owned correctional industries</td>
<td></td>
</tr>
<tr>
<td>-----------------</td>
<td>------------------------------</td>
<td>--------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td>Washington</td>
<td>N/A to $0.39 per hour</td>
<td>$0.70 to $2.70 to hour</td>
<td></td>
</tr>
<tr>
<td>West Virginia</td>
<td>$0.09 to $0.51 per hour</td>
<td>$0.25 to $1.25 per hour</td>
<td></td>
</tr>
<tr>
<td>Wisconsin</td>
<td>$0.12 to $0.42 per hour</td>
<td>$0.97 per hour on average</td>
<td></td>
</tr>
<tr>
<td>Wyoming</td>
<td>$0.35 to $1.00 per hour</td>
<td>$0.50 to $1.20 per hour</td>
<td></td>
</tr>
<tr>
<td>Average</td>
<td>$0.13 to $0.52 per hour</td>
<td>$0.30 to $1.30 per hour</td>
<td></td>
</tr>
</tbody>
</table>
Endnotes

1. U.S. Const. amend. XIII (“Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction”).

2. U.S. Dep’t of Justice, Bureau of Justice Statistics, Survey of Prison Inmates, United States, 2016. Inter-university Consortium for Political and Social Research [distributor], (Sept. 2021), https://doi.org/10.3886/ICPSR37692.v4. This figure is based on the American Civil Liberties Union’s (ACLU) analysis of the published raw survey data.

3. See, e.g., Wallace v. Robinson, 940 F.2d 243, 246-7 (7th Cir. 1991); Williams v. Meese, 926 F.2d 994, 998 (10th Cir. 1991).


5. The following states replied to the Freedom of Information Act (FOIA) requests, with varying degrees of responsiveness: Alabama, Colorado, Illinois, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Montana, Nebraska, New Hampshire, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Utah, Washington, West Virginia, Wisconsin and Wyoming. The remaining states did not respond to the FOIA requests.


7. According to the Prison Policy Initiative in 2022, there are almost 2 million people held behind bars, including roughly 1,042,000 in state prisons, 547,000 in local jails, and 208,000 in federal prisons and jails. See, Prison Policy Initiative, Mass Incarceration: The Whole Pie 2022, by Wendy Sawyer and Peter Wagner (Mar. 14, 2022), https://www.prisonpolicy.org/reports/pie2022.html.

8. According to the Bureau of Justice Statistics prison census, 98.7 percent of state and federal public adult correctional facilities offer work programs for people incarcerated in those facilities, while 89.7 percent of private facilities offered such programs as of midyear 2019. The work programs measured include facility support services to maintain the prisons where workers are confined; prison industries; public work assignments; and farming or agriculture. U.S. Dep’t of Justice, Bureau of Justice Statistics, Census of State and Federal Adult Correctional Facilities, 2019 – Statistical Tables (Nov. 2021) at 13, https://bjs.ojp.gov/content/pub/pdf/cfac19st.pdf.


11. Id. This estimate is based on ACLU analysis of the published raw survey data, which revealed that 65.1 percent of survey respondents reported having a work assignment. We applied this percentage to the most recently published data on the state and federal prison population, which totaled 1,215,821 at yearend 2020, according to data from the Bureau of Justice Statistics published in December 2021, arriving at an estimated 791,499 incarcerated workers. U.S. Dep’t of Justice, Bureau of Justice Statistics, Prisoners in 2020–Statistical Tables (Dec. 2021) at 7, https://bjs.ojp.gov/content/pub/pdf/p20st.pdf.


14. Id. These percentages are based on ACLU analysis of the raw survey data. Because some of these Bureau of Justice Statistics survey categories likely encompass a proportionately small percentage of workers engaged in work outside the prison on public works assignments, such as in forestry, groundskeeping, maintenance, or road maintenance, we estimate that the percentage of incarcerated people working to maintain the prisons is somewhat lower than their sum of 86.1 percent.


As of the third quarter of 2021 ending on September 30, 2021, 4,860 incarcerated workers were employed through the Prison Industry Enhancement Certification Program (PIECP). See, National Correctional Industries Association, Prison Industry Enhancement Certification Program (PIECP) Certification & Cost Accounting Center Listing: Statistics for the Quarter Ending September 30, 2021 (Baltimore, MD: NCI, March 2022), https://www.nationalcia.org/files/udg/56bdf7_0ab8d01f21b1427b1b1d15c77d104f45.pdf.


See Appendix B for the wages paid to incarcerated workers in each state and in federal prisons, and see Appendix C for calculated average and hourly wages paid to incarcerated workers.

Maine Department of Corrections, FOIA response document (on file with authors).


Incarcerated workers do not qualify for the Earned Income Tax Credit (EITC) and the Child Tax Credit (CTC) because Congress explicitly excluded any wages earned while the person is incarcerated from the earnings that earn towards the EITC and the CTC. §32(c)(2)(B)(i)(v); §32(d)(1)(B)(i)(i). See also Stephanie Hunter McMahon, *Prison Work is Taxing and Should Be Taxed*, manuscript in preparation, 2022 (on file with authors).

The vast majority of incarcerated workers labor within correctional institutions operated by state and local governments, which are not considered “employers” under OSHA. See 29 U.S.C. § 652(5)(6) (“(5) The term “employer” means a person engaged in a business affecting commerce who has employees, but does not include the United States (not including the United States Postal Service) or any State or political subdivision of a State. (6) The term “employee” means an employee of an employer who is employed in a business of his employer which affects commerce.”). See also U.S. Department of Labor, OSHA, Standard Interpretations, in letter to William Linn, Clarification on whether an employer with multiple facilities needs a separate written ECP for each facility, Standard number 1910.1030, 1960 (2011), https://www.osha.gov/laws-regs/standardinterpretations/2011-12-13 (“Federal OSHA does not cover state or local government-operated prisons.”). See also U.S. Department of Labor, OSHA, Standard Interpretations, in letter to Deleon James Mintz, OSHA Does Not Have Jurisdiction Over State Employees or Inmates, Standard number 1975.5 (1992), https://www.osha.gov/laws-regs/standardinterpretations/1992-12-16-1 (“The definition of an ‘employer’ under Section 3(5) of the Occupational Safety and Health Act specifically excludes a State or any political subdivision of a State from coverage under the OSHA Act. Therefore, OSHA does not have jurisdiction over the State of Colorado or its employees, including inmates in correctional institutions, either paid or nonpaid.”). However, according to an OSHA instruction from 1995, “when inmates are required to perform work similar to that outside of prisons, e.g., farming, industries, machine operations, etc., the applicable protections open to anyone else in similar situations should apply, including the right to file a report of hazards with appropriate safety and health officials.” See U.S. Department of Labor, OSHA Directives, Federal Agency Safety and Health Programs with the Bureau of Prisons, U.S. Department of Justice, Directive number FAP 01-00-002 (1995), https://www.osha.gov/enforcement/directives/fap-01-00-002

For example, Arizona Revised Statutes provide that in the employ of the state, the term “employment” does not apply to services performed by “inmate[s] of a custodial or penal institution.” See Ariz. Rev. Stat. Ann. § 23-615(B)(6). The Michigan Supreme Court and Court of Appeals have held that there is no employer/employee relationship between incarcerated individuals and the state since the relationship is custodial and rehabilitative. See, *Thompson v. Brook*, 126 Mich 455, 456-457; 88 NW 1084 (1901); *Cadeau v. Boys’ Vocational School*, 559 Mich 598, 609-609; 103 NW2d 443 (1960); *Green v. Department of Corrections*, 30 Mich App 648; 186 NW2d 792; aff’d 386 Mich 459; 192 NW2d 491 (1971); *Prisoners’ Labor Union at Marquette v. Department of Corrections*, 13 Mich App 328; 336; 232 NW2d 699; 1100 NW2d 584 (1973). New York State’s Department of Labor Public Employee Safety and Health Field Operations Manual excludes incarcerated people from the definition of public employees, even though the Consolidated Laws of New York do not explicitly exclude them from the definition of

In the case of the Fair Labor Standards Act, there has been no specific guidance from Congress or the Supreme Court as to whether the language is meant to exclude incarcerated workers from its protections. However, most appellate courts have ruled that prison workers are excluded from the definition of “employee” in that Act, thereby excluding them from protection. Matthew J. Lang, *The Search for a Workable Standard for When Fair Labor Standards Act Coverage Should be Extended to Prisoner Workers* (2002). See also Jackson Taylor Kirklin, *Contributions Act (FICA) statute defining covered employment.* 

In the case of the National Labor Relations Act (NLRA), which protects the right of workers to engage in collective bargaining, an employer has recognized incarcerated workers employed in private companies through work release as eligible for the NLRA’s protections. However, the vast majority of incarcerated workers who labor within prisons and jails are currently not covered given that federal and state governments, when acting as employers, are excluded from the NLRA. Kara Goud, *Columbia University and Incarcerated Worker Labor Unions under the National Labor Relations Act*, 103 Cornell L. Rev. 177 (2017).

Work performed while incarcerated does not earn toward benefits for two reasons. First, it is excluded from the Federal Insurance Contributions Act (FICA) statute defining covered employment. See *Federal Insurance Contributions Act*, I.R.C. § 3121(b)(6)(A), § 3121(b)(7)(F)(ii), § 3121(o)(3), (o)(2)(B)(ii)(II). Second, even when this work may constitute covered employment (as in the case of some PIECP jobs, the only category of work not excluded from the statute), most incarcerated workers “do not earn sufficient income per quarter to surpass the statutory thresholds.” *Stephanie Hunter McMahon, Inmates May Work, But Don’t Tell Social Security*, 72 *South Carolina L. Rev.*, 757, 773 (2021); *Social Security Act of 1935*, 42 U.S.C. §§ 410(a)(6)(A), 418(a)(6)(B).

Data is calculated from the three-state survey conducted by the ACLU and the Global Human Rights Clinic.


In the case of the Fair Labor Standards Act, there has been no specific guidance from Congress or the Supreme Court as to whether the language is meant to exclude incarcerated workers from its protections. However, most appellate courts have ruled that prison workers are excluded from the definition of “employee” in that Act, thereby excluding them from protection. Matthew J. Lang, *The Search for a Workable Standard for When Fair Labor Standards Act Coverage Should be Extended to Prisoner Workers*, 5 U. Pa. J. Bus. L. 19 (2002). See also Jackson Taylor Kirklin, *Title VII Protections for Inmates: A Model Approach for Safeguarding Civil Rights in America’s Prisons*, 111 Colum. L. Rev. 1048-1089 (2011); Andre Montoya-Barthelemy, *Letter to the Editor, The Occupational Health of Prison Inmates: An Ignored Population and an Opportunity*, 61 J. of OCCUPATIONAL and ENVIRONMENTAL MED. e74-76 (2019). In the case of the National Labor Relations Act (NLRA), which protects the right of workers to engage in collective bargaining, there has also been little Congressional or Supreme Court guidance as to whether its protections include incarcerated workers. Given that the protections only apply to those who meet the specific legal definition of an “employee,” some lower courts have recognized incarcerated workers employed in private companies through work release as eligible for the NLRA’s protections. However, the vast majority of incarcerated workers who labor within prisons and jails are currently not covered given that federal and state governments, when acting as employers, are excluded from the NLRA. Kara Goud, *Columbia University and Incarcerated Worker Labor Unions under the National Labor Relations Act*, 103 Cornell L. Rev. 177 (2017).

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employee. New York State Department of Labor, Public Employee Safety and Health Field Operations Manual (2021), https://dol.ny.gov/system/files/documents/2021/04/peashom.pdf; N.Y. Lab. Law § 27-a (McKinney). Virginia Occupational Safety and Health (VOSH) interprets the exclusion of incarcerated individuals as employees under the Virginia Minimum Wage Act, § 40.1-29.9 to extend to VOSH. However, it considers VOSH to be responsible for prisoners employed by a public employer in a work-release program. Virginia Department of Labor and Industry, Virginia Occupational and Health Program, VOSH Administrative and Regulations Manual (Sep. 21, 2006), https://www.vaashalt.gov/wp-content/uploads/2012/10/DOL_AdminRegs_Manual-hitching_ride_on_paver_issue.pdf. In California, unlike other states, California Division of Occupational Safety and Health Administration (Cal/OSHA) may make recommendations to the Department of Corrections to improve the safety of the working conditions and work areas of state prisoners. Cal/OSHA may also conduct hearings and adopts special orders, rules, or regulations if the Department of Corrections and Rehabilitation fails to comply with recommendations. Cal. Code Regs. tit. 8, § 344.46.


65 Data is calculated from the three-state survey conducted by the ACLU and the Global Human Rights Clinic.


67 Written survey response by [Name withheld to preserve anonymity, at survey respondent’s request], incarcerated at Menard Corrections Center, IL (on file with authors).

68 Written survey response by [Name withheld to preserve anonymity, at survey respondent’s request], incarcerated at Stateville Correctional Center, IL (on file with authors).

69 Written survey response by [Name withheld to preserve anonymity, at survey respondent’s request], incarcerated at Lincoln Correctional Center in IL (on file with authors).

70 Data is calculated from the three-state survey conducted by the ACLU and the Global Human Rights Clinic.


77 Id.


81 Id.


89 Interview with Hakeem Sakur, New Orleans, LA, (Nov. 8, 2019) (on file with authors); Interview with Wayne Thomas, New Orleans, LA, (Nov. 8, 2019) (on file with authors).


Cary Aspinwall, Keri Blakinger, and Joseph Neff, Federal Prison Factories Kept Running as Coronavirus Spread, MARSHALL PROJECT

114 Coleen Slevin, Colorado Inmates Say State Is Violating Ban on Forced Work, Associated Press (Feb. 16, 2022); Lora Korpak, Inmates Say Colorado Prison Added Time to Sentences When They Refused Work, Newsweek (Feb. 16, 2022).


120 Bruce Western, Inside the Box: Safety, Health, and Isolation in Prison, 35 J. of Economic Perspectives 97, 102-103 (Fall 2021), https://pubs.aeaweb.org/doi/pdfplus/10.1257/jep.35.4.97.


122 Interview with Jerome Morgan, Free-Dem Foundations Co-Founder, in New Orleans, LA (Nov. 6, 2019) on file with authors.


132 Id.

133 Id.


135 Id.


139 According to the National Correctional Industries Association (NCIA), the value of saleable goods and services produced by incarcerated workers in prison industries programs nationwide totaled $2,089,022,613 in 2021. Telephone interview with Wil Heslop, interim executive director, NCIA, Nov. 18, 2021, citing 2021 NCIA Directory.


Estimate calculated by economist Eric Seligman, based on analysis of the wage data from the Bureau of Justice Statistics 2004 Survey of Prison Inmates and Bureau of Prisons data on state correctional spending, extrapolating to aggregate numbers of the total prison population. Interview with Eric Seligman, John Jay College of Criminal Justice, City University of New York (March 28, 2022).


American Correctional Association (ACA), Supporting Repeal of the “Exclusion Clause” in Section I of the Thirteenth Amendment of the U.S. Constitution (adopted by the ACA Delegate Assembly at the 146th Congress of Correction, Aug. 9, 2016), https://www.house.leg.state.mn.us/comm/docs/469186df-bf9d-4a9d-9211-5f6ed1b48ce.pdf.


160 Hereinafter “the authors.” While this report represents the views and perspectives of students, faculty and staff of the Global Human Rights Clinic at the University of Chicago Law School, it does not represent an institutional position of the Law School.

161 The following states replied to the FOIA requests, with varying degrees of responsiveness: Alabama, Colorado, Illinois, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Montana, Nebraska, New Hampshire, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Utah, Washington, West Virginia, Wisconsin and Wyoming. The remaining states did not respond to the FOIA requests.


163 Including one from Big Muddy River Correctional Center, 10 from Centralia Correctional Center, three from Danville Correctional Center, one from Decatur Correctional Center, one from Dixon Correctional Center, two from Graham Correctional Center, three from Hill Correctional Center, two from Illinois River Correctional Center, one from Jacksonville Correctional Center, one from Joilet Treatment Center, two from Lawrence Correctional Center, three from Lincoln Correctional Center, five from Menard Correctional Center, one from Pickneyville Correctional Center, two from Pontiac Correctional Center, one from Robinson Correctional Center, one from Shawnee Correctional Center, two from Stateville Correctional Center, two from Taylorville Correctional Center, and four from Western Illinois Correctional Center.

164 Including one from California Correctional Institution – Tehachapi, one from California Healthcare Facility, seven from California Medical Facility, one from California Rehabilitation Center, two from California State Prison – Los Angeles, four from California State Prison – Solano, one from California State Prison Vacaville, two from Calipatria State Prison, one from Central California’s Women Facility, two from Chuckawalla Valley State Prison, one from Folsom State Prison, one from Ironwood State Prison, two from Lancaster State Prison, six from Mule Creek State Prison, one from the R.J. Donovan Correctional Facility, and two from San Quentin State Prison.

165 Including one from Caldwell Correctional Center, three from David Wade Correctional Center, three from Elayan Hunt Correctional Center, one from Franklin Parish Detention Center, two from Louisiana State Penitentiary, two from Louisiana Transitional Center for Women, one from Madison Parish Correctional Center, two from Rayburn Correctional Center, and three from Raymond Laborde Correctional Center.

166 See, e.g., Wallace v. Robinson, 940 F.2d 243, 246-7 (7th Cir. 1991); Williams v. Meese, 926 F.2d 994, 998 (10th Cir. 1991).

167 According to the Prison Policy Initiative in 2022, there are almost 2 million people held behind bars, including roughly 1,042,000 in state prisons, 547,000 in local jails, and 208,000 in federal prisons and jails. See, Prison Policy Initiative, *Mass Incarceration: The Whole Pie 2022*, by Wendy Sawyer and Peter Wagner (Mar. 14, 2022), https://www.prisonpolicy.org/reports/pie2022.html.


170 Id. This estimate is based on ACLU analysis of the published raw survey data, which revealed that 65.1 percent of survey respondents reported having a work assignment. We applied this percentage to the most recently published data on the state and federal prison population, which totaled 1,215,821 at yearend 2020, according to data from the Bureau of Justice Statistics published in December 2021, arriving at an estimated 791,499 incarcerated workers. U.S. Dep’t of Justice, Bureau of Justice Statistics, *Prisoners in 2020—Statistical Tables* (Dec. 2021) at 7, https://bjs.ojp.gov/content/pubs/pdf/p20st.pdf.

171 This figure includes 775,469 incarcerated people participating in work programs and 24,738 incarcerated people participating in work release. U.S. Dep’t of Justice, Bureau of Justice Statistics, Census of State and Federal Correctional Facilities, 2005 (Oct. 2008) at Appendix Table 16 and 17, https://bjs.ojp.gov/content/pub/pdf/csf05.pdf.


U.S. Dep’t of Justice, Bureau of Justice Statistics, Methodology: Survey of Prison Inmates, 2016 (July 2019) at 1, 5 https://bjs.ojp.gov/content/pub/pdf/mspi16.pdf. The actual sample size was 37,058 incarcerated people.


According to the Bureau of Justice Statistics prison census, 98.7 percent of state and federal public adult correctional facilities offer work programs for people incarcerated in those facilities, while 89.7 percent of private facilities offered such programs as of midyear 2019. The work programs measured include facility support services to maintain the prisons where workers are confined; prison industries; public work assignments; and farming or agriculture. U.S. Dep’t of Justice, Bureau of Justice Statistics, Census of State and Federal Adult Correctional Facilities, 2019 – Statistical Tables (Nov. 2021) at 13, https://bjs.ojp.gov/content/pub/pdf/csfac19st.pdf.


U.S. CONST. amend. XIII ("Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.")
204 Id.


212 Under 18 U.S.C. § 1761(c), prevailing wages are defined as "wages at a rate which is not less than that paid for work of a similar nature in the locality in which the work was performed.

213 Interview with Vanessa Nelson-Sloane, staff member at the Life Support Alliance, (Dec. 23, 2020) (on file with authors).

214 U.S. Dep’t of Justice, Bureau of Justice Statistics, Survey of Prison Inmates, United States, 2016. Inter-university Consortium for Political and Social Research [distributor], (Sept. 2021), https://doi.org/10.3886/ICPSR37692.v4. This figure is based on ACLU analysis of the raw survey data.


216 Interview with Andrea Armstrong, professor of law at Loyola College in New Orleans, LA, (Apr. 15, 2019) (on file with authors) (interview concerning issues reported to Professor Armstrong by incarcerated people); Interview with James “JC” Cavitt, housing and outreach coordinator at Project Rebound, Long Beach, CA (June 18th, 2021) (on file with authors).

217 Michigan Department of Corrections, Work Assignment Pay and School Stipend, Document Number 05.02.110A, FOIA response document (on file with authors); Michigan Department of Corrections, Appendix E, Job Specifications, E-51, FOIA response document (on file with authors).

218 Id.


221 U.S. Dep’t of Justice, Bureau of Justice Statistics, Survey of Prison Inmates, United States, 2016. Inter-university Consortium for Political and Social Research [distributor], (Sept. 2021), https://doi.org/10.3886/ICPSR37692.v4. These percentages are based on ACLU analysis of the raw survey data.

222 Id. These percentages are based on ACLU analysis of the raw survey data.

223 Id.

224 Telephone interview with Wil Heslop, interim executive director, National Correctional Industries Association (NCIA), Nov. 18, 2021, citing 2021 NCIA Directory.


227 Precise total sales for 2021 was $2,089,022,613. Telephone interview with Wil Heslop, interim executive director, National Correctional Industries Association (NCIA), Nov. 18, 2021, citing 2021 NCIA Directory.


229 Alaska’s legislature repealed the state’s prison industries program in 2005.

230 See Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER) Mississippi, Issue Brief: A Review of

231 See, e.g., Illinois Department of Corrections, ICI Criteria for Inmate Assignment by Function, FOIA response document (on file with authors); Michigan Department of Corrections, Appendix D – Available Work Assignments – Michigan State Industries (MSI), FOIA response document (on file with authors)


235 Id.


239 Georgia Department of Corrections (GDC), County Prisons, http://docr.state.ga.us/Divisions/Facilities/CountyPrisons (stating “Some low-security, long-term state prisoners are incarcerated at county work camps. They provide unpaid, yet highly-skilled work to the counties in which they are housed…. GDC offenders assist in the maintenance of roads and parks; work at local landlords; serve on local fire crews; assist with small construction projects for government agencies, and assist local government agencies as needed.”); Georgia Department of Corrections, Reentry & Cognitive Programming, http://www.docr.state.ga.us/Divisions/Facilities/Transitional(stating “The maintenance residents are assigned full-time to maintain the facility or other state facilities in the area. For example, approximately half of the residents assigned to the Atlanta Transitional Center are maintenance workers who provide details to the Governor’s Mansion, the State Capitol Complex, and the State Highway Patrol Headquarters. These residents are not paid any wages.”); Adrian Drepaul, I Had a Shitty Job in Prison, MARSHALL PROJECT (Aug. 8, 2019), https://www.themarshallproject.org/2019/08/08/i-had-a-shitty-job-in-prison; Grady Capstone Journalist, Use of Unpaid Inmate Labor Scrutinized in Athens-Clarke County, GRADY NEWSOURCE (Apr. 5, 2019), https://gradynewsource.uga.edu/use-of-unpaid-inmate-labor-scrutinized-in-athens-clarke-county/.


246 In 2005, the last year for which such data was made public, over half of these prisons were located in the South. Of 798 correctional facilities with public works programs in 2005, 447 were located in the South, 98 in the Northeast, 133 in the Midwest, and 120 in the West. U.S. Dep’t of Justice, Bureau of Justice Statistics, Census of State and Federal Correctional Facilities, 2005 (Oct. 2008) at Appendix Table 16, https://bjs.ojp.gov/content/pub/pdf/csfaf05.pdf.


250 Washington State Department of Correction, Participation by Correction, by Program Summary (2020), https://www.doc.wa.gov/docs/publica-
wa.gov/information/policies/files/700400.pdf.

251 Arizona Department of Corrections Rehabilitation and Reentry, Corrections at a Glance, February 2022 (Mar. 8, 2022), https://
corrections.az.gov/sites/default/files/REPORTS/CAG/2022/
cagfeb-22.pdf.

252 Total hours logged by incarcerated workers on community labor through their work on fire crews, public sector work crews, and Arizona Department of Transportation work crews was 1,829,348 in FY 2020. Arizona Department of Corrections, Corrections at a Glance, June 2020, https://corrections.az.gov/sites/default/files/


ms.gov/Institutions/Pages/State-Prisons.aspx#map.

255 Arkansas Department of Corrections, Annual Report Fiscal Year 2020, at 21 (2021),
Division-of-Correction-FY20-Audit-Report-Board-of-Corrections-

256 J. Carlee Purdum and Michelle Meyer, Prisoner Labor Throughout the Life Cycle of Disasters, Risk, Hazards & Crisis in Public Policy (May 12, 2020).

unpaid-florida-prison-inmates-being-used-on-hurricane-irma-

258 Georgia Department of Corrections, Fire Services and Life Safety, http://www.dcor.state.ga.us/Divisions/Facilities/FireServices;
Erin Paige McGonigle, First Responders, Second Priority: Georgia’s Inmate Firefighter Program and International Human Rights Standards, 48 GEORGIA J. INTL. & COMP. L. 189 (Apr. 11,
cgi?article=2471&context=gicd.


262 As of the third quarter of 2021 ending on September 30, 2021, 4,860 incarcerated workers were employed through PIECP. See, National Correctional Industries Association (NCIA), Prison Industry Enhancement Certification Program (PIECP) Certification & Cost Accounting Center Listing: Q3 2021 Certification Listing Report (March 2022), https://www.nationalcia.org/files/ug-
d/56b9f7_0ab8d011f21b4127b18d1045.pdf.


gwu_center_for_economic_research_re_identifying_beneficia-

265 In 2005, it was reported that 28 percent of all correctional facilities under state or federal authority (or 502 out of 1,821 total correc?
tional facilities) offered work-release programs to incarcerated people, but only 2 percent of the total custody population across all facilities participated (or 24,739 out of 1,430,208 total incarcerated individuals). In Illinois, only 13.6 percent of the total facilities in the state offered work-release programs, with only 0.985 percent of the incarcerated individuals participating (or 440 out of 44,669 incarcerated individuals). In California, only 10 percent of the total facilities in the state offered work-release programs, with only 0.42 percent of the incarcerated individuals participating (or 728 out of 169,988 incarcerated individuals). Louisiana, on the other hand, had a much higher number of facilities in the state offering work-release programs (9 out of 23 total facilities, or 39 percent) and incarcerated individuals participating (460 out of 20,344, or 2.26 percent), Bureau of Justice Statistics, Census of State and Federal Correctional Facilities (2003), https://bjs.ojp.gov/content/
pub/pdf/csfacf05.pdf.

pdf.

267 On eligibility requirements alone, there is significant variation. For example, in California, work release furloughs are only granted to individuals incarcerated in a jail, and within 120 days of their release date. See Public Policy Institute of California, Alternatives to Incarceration in California, by Ryken Grattet and Brandon Martin, https://www.ppic.org/publication/alternatives-to-in-
carceration-in-california/. The work-release programs in Illinois are only available to those who are currently incarcerated in a
state prison, are within two years of release, and are classified as "minimum security." See, Illinois Department of Corrections, Frequently Asked Questions, https://www2.illinois.gov/idoc/aboutus/pages/faq.aspx#qet14. And in Louisiana, only those who are six months to four years from the end of their prison sentence are eligible to enter one of the state’s “Transitional Work Programs” (i.e., work-release programs). See, Louisiana Department of Public Safety and Corrections, Reentry Initiatives & Transitional Work Programs, https://doc.louisiana.gov/imprisoned-person-programs-resources/transition-reentry/.


269 It is not uncommon for individuals confined at restitution centers to have their wages collected directly by the state. See, e.g., Mississippi Department of Corrections, Restitution Centers, https://www.mdcc.ms.gov/Community-Corrections/Pages/Restitution-Centers.aspx. See also Anna Wolfe and Michelle Liu, Went out of Jail! First You Have to Take a Fast-Food Job, MISS. TODAY: WORKING TOWARD FREEDOM (Jan. 9, 2020), https://mississippitoday.org/2020/01/09/restitution/. These deductions are common among work-release programs as well, though are sometimes much more substantial. Indeed, individuals participating in work-release programs can be made to pay anywhere from $100 a week to $127 per day to cover room and board, transportation, and other fees. See, e.g., Public Policy Institute of California, Alternatives to Incarceration in California, by Ryken Grattet and Brandon Martin, https://www.ppic.org/publication/alternatives-to-incarceration-in-california/; John Howard Association of Illinois, JHA 2018 Special Report on Fox Valley Adult Transition Center and Reentry, https://static1.squarespace.com/static/5beeab4828ede1f7e8102102/t/5d13ae4b52113b00/01b1bba1/1561570892449/fox+valley+2018.pdf; Michelle Liu and Anna Wolfe, How Mississippi’s ‘Supercharged Temp Agencies’ Provide Inmate Labor to Employers, MISSISSIPPI TODAY (Jan. 9, 2020), https://mississippitoday.org/2020/01/09/restitution-labor/.


271 See, e.g., Miss. Code § 99-37-19 (2019); See Miss. Code Ann. § 47-7-57(5) (“If the court revokes probation for one or more technical violations, the court shall impose a period of imprisonment to be served in either a technical violation center or a restitution center.”); Fla. Admin. Code § 33-504.101(2)(a).


274 See, e.g., Public Policy Institute of California, Alternatives to Incarceration in California, by Ryken Grattet and Brandon Martin, https://www.ppic.org/publication/alternatives-to-incarceration-in-california/. The stay-at-home program operates like probation. The incarcerated workers are not under confinement, but still under supervision, i.e., they must report to a certain place at a certain time and either check in with an officer or have community service hours signed off on. If they fail to report to work, they can be considered to have committed an “escape” and/or sent back to jail. See, e.g., Ala. Code § 14-8-42.

275 Under Florida law, for example, individuals who have recently been released from prison without mandated supervision can seek a referral to a Restitution Center from the Florida Department of Corrections. See Fla. Admin. Code § 33-504.101(2)(b).


Id.; Georgia Department of Corrections, *Georgia Correctional Industries: Food Services and Agribusiness*, http://www.dcor.state.ga.us/sites/default/files/Georgia%20Correctional%20Industries_0.pdf.


Id. 239


Id. [311]


Id. [313]


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Workday Exclusive: Major Shifts in Minnesota Prison Industries Lead to Layoffs, WORKDAY MINNESOTA (Jan. 7, 2020),

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403 U.S. Const. amend. XIII (“Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction”).

404 See, e.g., United States v. Reynolds, 235 U.S. 133, 149 (1914) (“There can be no doubt that the State has authority to impose involuntary servitude as a punishment for crime”); Pollock v. Williams, 322 U.S. 4, 17 (1944) (“Forced labor has been sustained as a means of punishing crime”). See also Williams v. Henagan, 595 F.3d 610 (5th Cir. 2010); Murray v. Mississippi Department Of Corrections, 911 F.2d 1167 (5th Cir. 1990); Vanskike v. Peters, 974 F.2d 806, 809 (7th Cir. 1992) (“The Thirteenth Amendment excludes convicted criminals from the prohibition of involuntary servitude, so prisoners may be required to work... Further, there is no constitutional right to compensation for such work; compensation for prison labor is ‘by Grace Of The State’”); Ruark v. Solano, 928 F.2d 947, 949–50 (9th Cir. 1991) (“The thirteenth amendment’s restriction on involuntary servitude does not apply to prisoners”), overruled on other grounds by Lewis v. Casey, 518 U.S. 343 (1996); Omasta v. Wainwright, 696 F.2d 1304, 1305 (11th Cir. 1983) (holding “that where a prisoner is incarcerated pursuant to a presumptively valid judgment and commitment order issued by a court of competent jurisdiction and is forced to work pursuant to prison regulations or state statutes, the Thirteenth Amendment’s prohibition against involuntary servitude is not implicated”); Draper v. Rhay, 315 F.2d 193, 197 (9th Cir. 1963) (“Prison rules may require appellant to work but this is not the sort of involuntary servitude which violates Thirteenth Amendment rights...where a person is duly tried, convicted, sentenced and imprisoned for crime in accordance with law, no issue of peonage or involuntary servitude arises”).

405 These states are Alabama, Arkansas, California, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Nevada, North Carolina, North Dakota, Ohio, Oregon, Tennessee, Vermont, and Wisconsin.

406 Ga. Const. art. 1, § XXII (emphasis added).

407 Ca. Const. art. 1, § VI


411 28 C.F.R. § 541.3 (2020).

412 28 C.F.R. § 541.3 (2020).

413 See 28 C.F.R. § 541.3 (2020).


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421 Tenn. Admin. Code § 41-2-120(a)

422 Written survey response by [Name withheld to preserve anonymity, at survey respondent’s request], incarcerated at Centralia Correctional Center, IL (on file with authors).


426 Interview with N’ashid Abdul Latif, former hospice worker in California Medical Facility prison (Dec. 16, 2020). (on file with authors).

427 Cal. Code Regs. tit. 15, §§ 2281(c), 2402(c), 2422(c), 2432(c)


429 Interview with Dolfinette Martin, housing director, Operation Restoration, in New Orleans, LA (Nov. 8, 2019) (on file with authors).

430 Interview with Montrell Carmouche, director of Operation Restoration’s Safety and Freedom Fund, New Orleans, LA (Nov. 8, 2019) (on file with authors).
See, e.g., Interview with N’ashid Abdul Latif, former hospice worker in California Medical Facility prison (Dec. 16, 2020) (on file with authors).

See, e.g., Interview with Blanca Ruiz-Thompson, program director, Reentry Relief Project, California (June 16, 2020) (on file with authors); Interview with Dolfinette Martin, housing director, Operation Restoration, in New Orleans, LA (Nov. 8, 2019) (on file with authors).

Interview with Romarilyn Ralston, program director, Project Rebound, California (April 28, 2020) (on file with authors).

Id.

Id.

Written survey response by [Name withheld to preserve anonymity, at survey respondent’s request], incarcerated at Western Illinois Correctional Center, IL (on file with authors).


Interview with Kelly Savage-Rodriguez, California Coalition for Women Prisoners (Apr. 30, 2020) (on file with authors).

Id.


Interview with James “JC” Cavitt, Housing and Outreach Coordinator at Project Rebound, Long Beach, CA (June 18, 2021) (on file with authors).


Id. at 138.


Written survey response by Ronni Curry, incarcerated at Centralia Correctional Center, IL (on file with authors).

Written survey response by Jesus Duran, incarcerated at Centralia Correctional Center, IL (on file with authors).

Written survey response by [Name withheld to preserve anonymity, at survey respondent’s request], incarcerated at Western Illinois Correctional Center, IL (on file with authors).


Written survey response by [Name withheld to preserve anonymity, at survey respondent’s request], incarcerated at Shawnee Correctional Center, IL (on file with authors).

The Americans with Disabilities Act (ADA) applies to state and local correctional settings. Section 504 of the Rehabilitation Act applies to federal prisons as well as virtually all state and local jails and prisons. See 42 U.S.C. § 12132; 29 U.S.C. § 794 (Section 504).

See, e.g., Pa. Dep’t of Corr. v. Yeskey, 524 U.S. 206, 213 (1998); Montez v. Romer, 32 F. Supp. 2d 1235, 1237 (D. Colo. 1999) (noting that prisoners argue that they were excluded from employment programs because of their disabilities, including mobility impairments, diabetes, hearing impairments, and vision impairments); Love v. Westville Corr. Ctr., 103 F.3d 558, 560 (7th Cir. 1996) (upholding the decision that a quadriplegic prisoner’s rights under the ADA had been violated when he was denied access to “work programs”); Jaros v. Illinois Dep’t of Corr., 684 F.3d 667 (7th Cir. 2012) (finding that a prisoner who walked with a cane state claims under the
Section 504 for exclusion from a work release program, on the basis of his disability); Austin v. Pennsylvania Dep’t of Corrections, 876 F. Supp. 1437 (E.D. Penn. Jan. 17, 1995) (finding in approving settlement agreement that there is no evidence that prisoner food workers with HIV constitute direct threat). See also Raines v. Florida, 532 F.Supp 1362, 1372-74 (N.D. Fla. 1987) (holding that a prison policy withholding benefits of the Incentive Gain Time program from prisoners who are physically or mentally unable to perform work may be an ADA violation and rejecting the prison’s defense that allowing prisoners with disabilities into the work portion of the Incentive Gain Time program would fundamentally alter the program’s incentives).

Interview with Jacalyn Goldzweig Panitz, Paralegal Casehandler, Employment Law Unit, Legal Aid Society, and Lisa Zucker, Senior Attorney for Legislative Affairs, New York Civil Liberties Union, May 10, 2022.


Interview with [Name withheld to preserve anonymity, at interviewee’s request], formerly incarcerated at Albion Correctional Facility, June 2, 2022.

Written survey response by Jesus Duran, incarcerated at Centralia Correctional Center, IL; [Name withheld to preserve anonymity, at survey respondent’s request], incarcerated at Danville, IL; Written survey response by [Name withheld to preserve anonymity, at survey respondent’s request], incarcerated at Danville Correctional Center, IL(all on file with authors).

Telephone interview with [Name withheld to preserve anonymity, at interviewee’s request], incarcerated at Centralia Correctional Center, IL, survey conducted by phone (Dec. 4, 2020) (on file with authors).

Written survey response by [Name withheld to preserve anonymity, at survey respondent’s request], incarcerated at CA Medical Facility, interview on December 18, 2020 (on file with authors).

Id.

Written survey response by [Name withheld to preserve anonymity, at survey respondent’s request], incarcerated at IL Danville Correctional Center (on file with authors).


Maine Department of Corrections, FOIA response document (on file with authors).

See, e.g., Nevada Senate Committee on Judiciary, Meeting Minutes, SB 140 (Mar. 10, 2021), https://www.leg.state.nv.us/App/NELIS/REL/81st2021/Meeting/8982?p=2008982; Nevada Department of Corrections, Initial Orientation Handout (Oct. 2010) at 21, https://www.law.uchicago.edu/special/policyclearinghouse/Documents/Nevada%20Initial%20Orientation%20Handout.pdf; Nevada Department of Corrections, Department Organization (stating ‘Work assignments provide the basic labor to meets the institutions’ operational needs. Inmates are employed as clerks, cooks, boiler operators, porters, and in numerous other assignments... The inmates earn credit towards parole and discharge...and some earn small wages.”), https://doc.nv.gov/About/Human_Resources/HR_Organization/.


See Appendix B for the wages paid to incarcerated workers in each state and in federal prisons, and see Appendix C for calculated average and hourly wages paid to incarcerated workers.


Illinois Department of Corrections, Administrative Directive 05.03.103, Monetary Compensation for Assignments for Individuals in Custody (July 1, 2021), https://www2.illinois.gov/idoc/about/taxes/Policies/Policies/Operations/505103/20Monetary%20Compensation/2%00for%20Assignments%20for%20Individuals%20in%20Custody.pdf.

Serra v. Lappin, 600 F.3d 1191 (9th Cir. 2010).

written survey response by [Name withheld to preserve anonymity, at survey respondent’s request], incarcerated at Danville Correctional Center, II, (on file with authors).


Id.

Id.


See, e.g., Ndambi v. CoreCivic, Inc., 990 F.3d 369 (4th Cir. 2021) (affirming the district court’s dismissal of an action brought by ICE detainees to recover wages under the FLSA for work performed while detained, on the grounds that the FLSA does not apply to custodial settings); Harber v. State Use, Indus., 990 F.2d 131 (4th Cir. 1993) (rejecting the prisoners’ claim by distinguishing the employee-employer relationship covered in the FLSA from the “custodial relationship” of incarcerated workers); Sanders v. Hayden, 544 F.3d 812, 814 (7th Cir. 2008) (noting that the 2nd, 3rd, 4th, 7th, 8th, 11th, and D.C. Circuits had all held that prisoners are not covered by the FLSA); Bennett v. Frank, 395 F.3d 409, 409–10 (7th Cir. 2005); Villarreal v. Woodham, 113 F.3d 292, 205–07 (11th Cir. 1997); Gambetta v. Prison Rehab. Indus. & Diversified Enters., 112 F.3d 1119, 1124–25 (11th Cir. 1997); Heithorn v. Dept. of Navy, 29 F.3d 682, 687 (D.C. Cir. 1994); Harber, 990 F.2d at 133–36; Vankoske, 97 F.2d at 807–12; Glibrecht v. Cutter Biological Inc., 931 F.3d 1320, 1324–27 (9th Cir. 1995). The fifth circuit has developed a more nuanced posture, using the “economic reality” from the Supreme Court test in Goldberg v. Whitaker House Coop. to determine whether incarcerated workers are under an employer-employee relationship. See, e.g., Henagan, 595 F.3d at 620; Watson v. Graves, 909 F.2d 1549, 1553-56 (5th Cir. 1990) (holding that prisoners who had not been sentenced to hard labor and were employed by a private firm while on work release were “employees” of the private employer for the purposes of FLSA coverage). The “economic reality” test originates in the Supreme Court’s holding that “economic reality” should govern the determination of employer status under the FLSA. Goldberg v. Whitaker House Coop., 366 U.S. 28, 33, 81 S. Ct. 933, 936 (1961).


Id.

Id.


written survey response by [Name withheld to preserve anonymity, at survey respondent’s request], incarcerated at Danville Correctional Center, II, (on file with authors).


Serra v. Lappin, 600 F.3d 1191 (9th Cir. 2010).

The exclusion of prison workers is not explicitly provided for in the FLSA but has developed from judicial precedent. There has been no specific guidance from Congress or the Supreme Court as to whether the language of FLSA is meant to exclude incarcerated workers from its protections. However, most appellate courts have ruled that prison workers are excluded from the definition of “employee” in that Act, thereby excluding them from protection.


Over a one-year period from July 1, 2020 to June 30, 2021, deductions from the wages of workers in the PIECP program totaled $22,545,080, of which $13,631,910 was paid to room and board. Id.


28 C.F.R § 345.33.


28 C.F.R § 545.11(a) (2020).


Interview with Syrita Steib, co-founder and executive director, Operation Restoration, New Orleans (Nov. 8, 2019) (on file with authors).


Interview with Syrita Steib, co-founder and executive director, Operation Restoration, New Orleans (Nov. 8, 2019) (on file with authors).


Interview with Syrita Steib, co-founder and executive director, Operation Restoration, New Orleans (Nov. 8, 2019) (on file with authors).


Work performed while incarcerated does not earn toward benefits for two reasons. First, it is excluded from the Federal Insurance Contributions Act (FICA) statute defining covered employment. See Federal Insurance Contributions Act, I.R.C. § 3121(b)(6)(A), § 3121(b)(7)(F(ii), § 3121(u)(3), (u)(2)(B)(ii)(II). Second, even when this work may constitute covered employment (as in the case of some PIECP jobs, the only category of work not excluded from the statute), most incarcerated workers “do not earn sufficient income per quarter to surpass the statutory thresholds.” Stephanie Hunter McMahon, Inmates May Work, But Don’t Tell Social Security, 72 SOUTH CAROLINA L. REV. 757, 773 (2021); Social Security Act of 1935, 42 U.S.C. §§ 410(a)(6)(A), 418(c)(6)(B).


26 U.S.C. § 32(c)(2)(B)(iv) § 24(d)(1)(B)(ii) (carving out from the earnings that earn towards the EITC and CTC any “amount received for services provided by an individual while the individual is an inmate at a penal institution”). See also Stephanie Hunter McMahon, Prison Work is Taxing and Should Be Taxed, manuscript in preparation, 2022 (on file with authors).


Michigan’s OSHA investigated the reports in response to the initial claim filed by a Corrections Department special activities director at Parnall Correctional Facility where Glen Lilly is incarcerated. *Id.*

The vast majority of incarcerated workers labor within correctional institutions operated by state and local governments, which are not considered “employers” under OSHA. See 29 U.S.C. § 652(5)(6) (“(5) The term “employer” means a person engaged in a business affecting commerce who has employees, but does not include the United States (not including the United States Postal Service) or any State or political subdivision of a State. (6) The term “employee” means an employee of an employer who is employed in a business of his employer which affects commerce.”). See also U.S Department of Labor, OSHA, Standard Interpretations, Clarification on whether an employer with multiple facilities needs a separate written ECP for each facility, 1910.1030; 1960 (2011), https://www.osha.gov/laws-regs/standardinterpretations/2011-12-13 (“Federal OSHA does not cover state or local government-operated prisons.”). See also OSHA, Standard Interpretations, OSHA Does Not Have Jurisdiction Over State Employees or Inmates, 1975.5 (1992), https://www.osha.gov/laws-regs/standardinterpretations/1992-12-16-1 (“The definition of an ‘employer’ under Section 3(5) of the Occupational Safety and Health Act specifically excludes a State or any political subdivision of a State from coverage under the OSHA Act. Therefore, OSHA does not have jurisdiction over the State of Colorado or its political subdivision of a State whose employees, including inmates in correctional institutions, either paid or nonpaid.”). However, according to an OSHA instruction from 1995, “when inmates are required to perform work similar to that outside of prisons, e.g., farming, industries, machine operations, etc., the applicable protections open to anyone else in similar situations should apply, including the right to file a report of hazards with appropriate safety and health officials.” See OSHA, Directives, Federal Agency Safety and Health Programs With the Bureau of Prisons, U.S. Department of Justice, Directive No.: FAP 01-00-002 (1993), https://www.osha.gov/enforcement/directives/fap-01-00-002.


In the case of the Fair Labor Standards Act, there has been no specific guidance from Congress or the Supreme Court as to whether the language is meant to exclude incarcerated workers from its protections. However, most appellate courts have ruled that prison workers are excluded from the definition of “employee” in that Act, thereby excluding them from protection. Lang MJ, *The Search for a Workable Standard for When Fair Labor Standards Act Coverage Should Be Extended to Prisoner Workers*, 5 U. Pa. J. Bus. L. 19 (2002); Renee Elaine Henson, *Picking Cotton for Penalties: An Exploration into the Law’s Modern Endorsement of a Free-Prison Workforce*, 2 Bus. Entrepreneurship & Tax L. Rev. 193, 200–01 (2018). See also Jackson Taylor Kirklin, *Title VII Protections for Inmates: A Model Approach for Safeguarding Civil Rights in America’s Prisons*, 111 Colum. L. Rev. 1048,1048–1089 (2011); Andre Montoya-Barthelemy, Letter to the Editor, *The Occupational Health of Prison Inmates: An Ignored Population and an Opportunity*, 61 J. of Occupational Envtl. Med. e74 (2019). In the case of the National Labor Relations Act, which protects the right of workers to engage in collective bargaining, there has also been little Congressional or Supreme Court guidance as to whether its protections include incarcerated workers. Given that the protections only apply to those who meet the specific legal definition of an “employee,” some lower courts have recognized incarcerated workers employed in private companies through work release as eligible for the NLRA’s protections. However, the vast majority of incarcerated workers who labor within prisons and jails are currently not covered given that federal and state governments, when acting as employers, are excluded from the NLRA. Kara Goad, *Columbia University and Incarcerated Worker Labor Unions under the National Labor Relations Act*, 103 Cornell L. Rev. 177 (2017).


Data is calculated from the three-state survey conducted by the ACLU and the Global Human Rights Clinic.


Written survey response by Ronni Curry, incarcerated at Centralia Correctional Center, IL (on file with authors).

Written survey responses by Lataisha Millander, incarcerated at Centralia Correctional Center, IL (on file with authors).

Written survey response by [Name withheld to preserve anonymity], incarcerated at Pontiac Correctional Center, IL (on file with authors).


Number of cases was derived from searching on the OSHA database by typing the name of each prison industry in all 50 states under the “establishment” search box. See https://www.osha.gov/pls/imis/establishment.html.

This is based on a search of OSHA’s complaint database, https://www.osha.gov/pls/imis/establishment.html (In database, enter ‘California Prison Industry Authority’ for Establishment, ‘California’ for State, and set start date as far back as database will allow).


Tarver v. McLaughlin, M.D. Ga., Case No. 5:14-CV-214-MTT-MSH (July 18, 2017); Georgia to Pay $550,000 to Convicted Felon For Amputation, ASSOCIATED PRESS (Sept. 23, 2017), https://apnews.com/article/1a49e1f1bb4cd0860f03d3c1817287.

Keep Getting Injured While Training, And Some Have Died


Interview with Wayne Thomas, New Orleans, LA, (Nov. 8, 2019) (on file with authors).

Id. at xiii.

Id. at xiii.

Interview with Wayne Thomas, New Orleans, LA, (Nov. 8, 2019) (on file with authors); Interview with Wayne Thomas, New Orleans, LA, (Nov. 8, 2019) (on file with authors).

Interview with Hakeen Sukkar, New Orleans, LA, (Nov. 8, 2019) (on file with authors).

Id. at xiii.

Id. at xiii.

Interview with Wayne Thomas, New Orleans, LA, (Nov. 8, 2019) (on file with authors); Interview with Wayne Thomas, New Orleans, LA, (Nov. 8, 2019) (on file with authors).

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.

Id. at xiii.
Interview with Andrea Armstrong, Professor of Law at Loyola College of Law, in New Orleans, LA, (Apr. 15, 2019) (on file with authors) (interview concerning issues reported to Professor Armstrong by incarcerated people).

Written survey response by [Name withheld to preserve anonymity, incarcerated at Centralia Correctional Center, IL (on file with authors)].


Written survey response by Jesus Duran, incarcerated in Centralia, IL (on file with authors).

Interview with [Name withheld to preserve anonymity, at interviewee’s request], wife of a CALPIA firefighter (Dec. 17, 2020).

Written survey response by Ronni Curry, incarcerated at Centralia Correctional Center, IL (on file with authors)

Written survey response by [Name withheld to preserve anonymity, at survey respondent’s request], incarcerated at Calipatria State Prison, CA (on file with authors).


Georgia Department of Corrections, Standard Operating Procedures, Georgia Statewide Grievance Procedure, Policy 227.02. See also, e.g., Woodford v. Ngo, 548 U.S. 81, 118 (2006) (Stevens, J., dissenting) (noting that grievance filing deadlines “are generally no more than 15 days, and ... in nine States, are between 2 and 5 days”).


Interview with Blanca Ruiz-Thompson, program director, Reentry Corrections, at Calipatria State Correctional Center, IL (on file with authors).


Id.

Id.


Interview with Blanca Ruiz-Thompson, program director, Reentry Relief Project, California (Jun. 16, 2020) (on file with authors)

ACLU, Know Your Rights, The Prison Litigation Reform Act (PLRA), https://www.aclu.org/sites/default/files/images/asset_upload_file79_25805.pdf. The only exception to this rule is if the incarcerated person is at risk of suffering serious and imminent physical injury. The imminence is evaluated at the time the prisoner attempts to file the new lawsuit, not at the time that the incident that gave rise to the lawsuit occurred. See Abdul-Akbar v. McKelvie, 239 F.3d 307 (3d Cir. 2001) (en banc).

Vidak v. Cox, 786 F. App’x 62 (7th Cir. 2019).

Vidak v. Cox, 786 F. App’x 62, 63 (7th Cir. 2019).

Martin v. Shelton, 319 F.3d 1048 (8th Cir. 2003). See also, e.g., Herman v. Holiday, 238 F.3d 660 (5th Cir. 2001) (claim of “physical health problems” by prisoner exposed to asbestos does not specify a physical injury which would permit recovery for emotional or mental damages due to fear caused by increased risk of developing asbestos-related disease).


Connecticut Inmates Make Face Masks to Help with Pandemic

ACLU Research Report


Florida Department of Corrections, Pride Inmates Increase Production of Much-Needed Supplies (Mar. 30, 2020): Florida Department of Corrections, FDC and PRIDE Begin Production of Cloth Face Coverings (Apr. 11, 2020).


Brent BonFleur, Inmates to Begin Production of Hand Sanitizer, Masks and Gowns, KLKNTV


Id.

Id.


Id.


Id.


Data is calculated from the three-state survey conducted by the ACLU and the Global Human Rights Clinic.


699 Id.


702 Id.

703 Id.

704 Written survey response by [Name withheld to preserve anonymity, at survey respondent’s request], incarcerated at Western Illinois Correctional Center, II. (on file with authors).

705 Id.


710 Id.


713 Id.

714 Interview with Kelly Savage-Rodriguez, California Coalition For Women’s Prisoners, via Zoom (Apr. 30, 2020) (on file with authors).


719 Id.


A recent report found that some incarcerated people have copays that are equivalent to non-incarcerated minimum wage workers being forced to pay over $1000 in copay. Prison Policy Initiative, "The Steep Cost of Medical Co-pays in Prison Puts Health at Risk," by Wendy Sawyer (Apr. 19, 2017), https://www.prisonpolicy.org/blog/2017/04/19/copays/.

An inmate must rely on prison authorities to treat his medical needs; if the authorities fail to do so, those needs will not be met. In the worst cases, such a failure may actually produce physical torture or a lingering death [...] In less serious cases, denial of medical care may result in pain and suffering which no one suggests would serve any penological purpose.” Estelle v. Gamble, 429 U.S. 97, 103 (1976).

The U.S. Supreme Court has held that the Eighth Amendment’s prohibition against cruel and unusual punishment requires the government to provide adequate health care to prisoners. It ruled in Estelle v. Gamble that ignoring a prisoner’s serious medical needs can amount to cruel and unusual punishment, noting that “[a]n inmate must rely on prison authorities to treat his medical needs; if the authorities fail to do so, those needs will not be met. In the worst cases, such a failure may actually produce physical torture or a lingering death [...] In less serious cases, denial of medical care may result in pain and suffering which no one suggests would serve any penological purpose.” Estelle v. Gamble, 429 U.S. 97, 103 (1976).

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753 Id. at 80; Michelle Alexander, *The New Jim Crow* 145 (2010).


763 Interview with Jerome Morgan, Free-Dem Foundations Co-Founder, in New Orleans, LA (Nov. 6, 2019) (on file with authors).


766 Id.


770 Id.

771 Interview with N’ashid Abdul Latif, former hospice worker in California Medical Facility prison (Dec. 16, 2020) (on file with authors).

772 Interview with Syrita Steib, co-founder and executive director, Operation Restoration, in New Orleans, LA (Nov. 8, 2019) (on file with authors).

773 Interview with [Name withheld to preserve anonymity, at interviewee’s request], incarcerated at Centralia Correctional Center, IL (Dec. 27, 2020) (on file with authors).


Id.


Id.


Id.

Id.


Id.


One study of three U.S. states found that those making over $10 per hour were half as likely to recidivate as those making $7, Urban Institute, *Employment after Prison: A Longitudinal Study of Releases in Three States*, by Christy Visher, Sara Debus-Sherrill, and Jennifer Yahner, 8 (Oct. 2008), https://www.urban.org/research/publication/employment-after-prison-longitudinal-study-releases-three-states.


This practice stopped as a result of a lawsuit by the NY Office of the Attorney General which resulted in a settlement mandating a combination of “policy reform, training of employees, and ongoing independent compliance monitoring.” Id. at 11.

Id.

Interview with Daniel Tapia, First 72+ Programs Manager, in New Orleans, LA (Nov. 8, 2019) (on file with authors).

Telephone Interview with Albert Woodfox (Nov. 10, 2019) (on file with author).


Id. (summarizing studies).

Telephone Interview with Albert Woodfox (Nov. 10, 2019) (on file with authors).

United Nations General Assembly Resolution 217 (III) A, Universal Declaration of Human Rights (UDHR), art. 23 (Dec. 10, 1948) (“Everyone has the right to work, to free choice of employment, to just and favourable conditions of work...Everyone who works has the right to just and favourable remuneration ensuring for himself...”). UDHR, art. 5. This provision has been codified in International Covenant on Civil and Political Rights (ICCPR) art. 7, opened for signature Dec. 16, 1966, 999 U.N.T.S. 171 and the Convention Against Torture (CAT) art. 16, opened for signature Dec. 10, 1984, 1456 U.N.T.S. 85.

UDHR, Preamble, art. 2.

ICCPR, art. 10(1).

ICCPR, art. 10(3).


The Human Rights Committee has never addressed ICCPR article 8(3)(b) in its jurisprudence or general comments. However, the American Convention on Human Rights, which contains a similar provision in article 6, excludes hard labor when imposed as punishment by a competent court. The European Convention on Human Rights excludes “any work required to be done in the ordinary course of detention.” Art. 4(3)(a). The European Court of Human Rights does evaluate any difference in legal protections and entitlements granted to prisoners under the non-discrimination provisions (Article 14) of the Charter. See Slummer v. Austria, App. No. 37452/02, Eur. Ct. H.R. (Jul. 7, 2011).


The Mandela Rules seek to ensure that the criminal justice system does not “aggravate the suffering inherent” in being “cut[ ] off...from the outside world” and deprived of “the right of self-determination.” G.A. Res. 70/175, UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), U.N. Doc. A/Res/70/175, at Rule 3 (Jan. 8, 2016).
827 Nelson Mandela Rules, Rule 96 states: “sentenced prisoners shall have the opportunity to work and/or to actively participate in their rehabilitation” and “sufficient work of a useful nature shall be provided to keep prisoners actively employed for a normal working day.” Rule 97 states that “[p]rison labour must not be of an afflictive nature” and “prisoners shall not be held in slavery or servitude.” Rule 98 states that “[i]f far as possible the work provided shall be such as will maintain or increase the prisoners’ ability to earn an honest living after release” and that “[p]risoners shall be able to choose the type of work they wish to perform.” With respect to working conditions, Rule 101 provides that the “precautions laid down to protect the safety and health of free workers shall be equally observed in prisons.” The same Rule also requires adoption of relevant provisions in order to “indemnify prisoners against industrial injury, including occupational disease, on terms not less favourable than those extended by law to free workers.” Rule 102 provides that working hours “shall leave one rest day a week and sufficient time for education and other activities required as part of the treatment and rehabilitation of prisoners.” Finally, Rule 103 stipulates that “[t]here shall be a system of equitable remuneration of the work of prisoners.”


836 Id.


838 Data is as of December 2018. Colorado Department of Corrections, Employed as of 12/31/2018, FOIA response document (on file with authors).


845 Data is as of May 2019. Montana Department of Corrections, Work Assignments, FOIA response document (on file with authors).


847 Data is for number of incarcerated workers with work assignments between January 1 and May 1, 2019. Nebraska Department of Correctional Services, Inmate Jobs, FOIA response document (on file with authors). Some incarcerated workers had multiple work assignments and we eliminated duplicate work assignments to arrive at this figure, so that each incarcerated worker is counted only once.


849 Nevada State Legislature, Fiscal Notes for SB 140, Nevada Department of Conservation and Natural Resources, Nevada Division of Forestry, BDR 16-39 Fiscal Impact Analysis (Apr. 1, 2021), https://www.leg.state.nv.us/Session/81st2021/FiscalNotes/5663.pdf; Nevada State Legislature, Fiscal Notes for SB 140, Nevada Department of Corrections BDR 16-38 Fiscal...
Data is as of April 2019. New Hampshire Department of Corrections, Job Summary Report, FOIA response document (on file with authors).

Leighann Starkey and Jacalyn Goldzweig Panitz, forthcoming report to be published by Legal Aid Society on behalf of the 13th Forward Coalition, based on records provided by the New York State Department of Corrections and Community Supervision (DOCCS) in response to a Freedom of Information Law (FOIL) request filed by the Legal Aid Society. https://www.legalaidny.org/PrisonLaborReport2022. The New York State Department of Corrections and Community Supervision has not published data on work assignments other than those with Corcraft and did not respond to the FOIL request filed by the authors of this report. According to responsive records provided by DOCCS to Legal Aid Society, in March 2020, DOCCS reported that incarcerated workers filled 53,522 jobs across New York State’s prisons. DOCCS job codes include educational and rehabilitation programs, and the 14,334 incarcerated students and several thousand various program participants are paid the minimum wage but are not workers for the purpose of this report. From April 2017 to March 2020, the average monthly number of jobs filled by incarcerated workers in New York prisons was 56,810, with about 12,000 individuals with “unknown” job placement. Based on the responsive records it is impossible to determine how many incarcerated workers work multiple jobs, although the “Inmate Worker Wage Plan” DOCCS directive suggests that many people enrolled as students work additional jobs.


Data is the number of incarcerated workers on payroll in March 2019. West Virginia Division of Corrections and Rehabilitation, Payroll (Apr. 29, 2019), FOIA response document (on file with authors).

Data is for calendar year 2021. Data provided by the Wisconsin Department of Corrections, Office of the Secretary, Research and Policy Unit, to the International Workers Organizing Committee (IWOC) Milwaukee chapter. The Wisconsin Department of Corrections did not respond to the FOIA request we filed.


Wages are not published by the Alabama Department of Corrections, which did not respond to a FOIA request we filed. A spokesperson for the Alabama Department of Corrections did provide a statement to Reckon confirming that work assignments are not paid, with the exception of work-release and work-center programs. Alabama Department of Corrections Statement on Commissaries, Reckon (Aug. 19, 2020), https://www.reckonsouth.com/alabama-department-of-corrections-state-ment-on-commissaries/.

In 2017, it was reported that incarcerated workers employed by Alabama Correctional Industries were paid $0.25 to $0.75 per hour. Connor Sheets, Not Just License Plates: 54 Products Alabama Prisoners Get 25 to 75 Cents an Hour to Make, AL.com (Apr. 2, 2017), https://www.al.com/news/2017/04/not_just_license_plates_produc.html.


Id. at Attachment B.


Id.

Ark. Code Regs § 60, Rule 004-00-20.


Colorado Department of Corrections, Job Pay, FOIA response document (on file with authors).

Id.


Florida Office of Program Policy and Government Accountability, Department of Corrections: Inmate Programs, https://opppaga.fl.gov/ProgramSummary/ProgramDetail?programNumber=1045.

Georgia Department of Corrections, which did not respond to a FOIA request we filed, does not have any published work policies on pays for any job assignments other than assignments with the PIEC work program. See Georgia Department of Corrections, Policy 409: GCI Inmate Workers, http://www.dcor.state.ga.us/content/409-policy-gci-inmate-workers; Georgia Department of Corrections, Prison Industry Enhancement Program, Policy 409.05.01, SOP VJ01-0001. State law governing incarcerated people’s work does not mention wages or other compensation. See Ga. R. & Reg. § 125-3-5. The Georgia Department of Corrections Inmate Handbook similarly does not mention wages for work. See Georgia Department of Corrections, Inmate Handbook, http://www.dcor.state.ga.us/sites/all/files/pdf/GDC_Inmate_Handbook.pdf. Numerous news sources also state that nearly all incarcerated workers’ jobs assignments are unpaid. See, e.g., Adrian Drepaul, I Had a Shitty Job in Prison, MARSHALL PROJECT (Aug. 8, 2019), Christie Thompson, Do Prison Strikes Work?, MARSHALL PROJECT (Sept. 21, 2016); Use of Unpaid Inmate Labor Scrutinized in Athens-Clarke County, GEADY (Apr. 5, 2019); Erin Paige McGonigle, First Responders, Second Priority: Georgia’s Inmate Firefighter Program and International Human Rights Standards, 48 GEORGIA J. INTL. & COMP. L. 189 (Apr. 11, 2021); Spencer Donovan, UGA Agriculture College Evaluates Research Program that Uses Unpaid Inmate Labor, RED & BLACK (Jul. 20, 2021); George Lavender, Alabama Prison Work Strike ‘Stills But Wins Support from Wobbles, IN THESE TIMES (Apr. 25, 2014), Adam Crisp, Georgia Inmates Strike in Fight for Pay, CHATTANOOGA TIMES FREE PRESS (Dec. 14, 2010).


Erin Paige McGonigle, First Responders, Second Priority: Georgia’s Inmate Firefighter Program and International Human Rights Standards, 48 GEORGIA J. INTL. & COMP. L. 189 (Apr. 11, 2021), https://digitalcommons.law.uga.edu/cgi/viewcontent.cgi?article=2471&context=gjicl Use of Unpaid Inmate Labor Scrutinized in Athens-Clarke County, GEADY (Apr. 5, 2019); Georgia Department of Corrections (GDC), County Prisons, http://dcor.state.ga.us/Divisions/Facilities/CountyPrisons (stating “Some low-security, long-term state prisoners are incarcerated at county work camps. They provide unpaid, yet highly-skilled work to the counties in which they are housed…. GDC offenders assist in the maintenance of roads and parks; work at local landfill; serve on local fire crews; assist with small construction projects for government agencies, and assist local government agencies as needed.”); Georgia Department of Corrections, Reentry & Cognitive Programming, http://www.dcor.state.ga.us/Divisions/Facilities/Transitional (stating “The maintenance residents are assigned full-time to maintain the facility or other state facilities in the area. For example, approximately half of the residents assigned to the Atlanta Transitional Center are maintenance workers who provide details to the Governor’s Mansion, the State Capitol Complex, and the State Highway Patrol Headquarters. These residents are not paid any wages.”).


Illinois Department of Corrections, Administrative Directive 05.03.103, Monetary Compensation for Assignments for Individuals in Custody (July 1, 2021), https://www2.illinois.gov/idoc/aboutus/Policies/Policies/Operations/503103%20Monetary%20


Id.


Id.


La. Rev. Stat. Tit. 15, § 873. A state legislative audit of the Prison Enterprises program found that the majority of incarcerated workers employed in the program were either not paid, or received between two and ten cents per hour. Specifically, of the 767 incarcerated people working in Prison Enterprises in June 2018, 104 were not eligible for any payment (13.6 percent), 131 earned “good time” rather than receiving any payment (17 percent), 180 were paid between two and ten cents per hour (23.5 percent), and 350 (45.6 percent) earned the “highest” wages of between 11 and 20 cents per hour. Louisiana Legislative Auditor, Prison Enterprises—Evaluation of Operations, Department of Public Safety and Corrections (May 1, 2019) at 4, https://www.prisonlegalnews.org/media/publications/Louisiana_Legislative_Auditor_-_Prison_Entreprises_-_Evaluation_of_Operations_Dept._of_Public_Safety_and_Corrections_2019.pdf.


La. Admin. Code Tit. 22, § I-331(C-D); La. Rev. S. § 15:571.3..

Maine Department of Corrections, Pay Matrix, FOIA response document (on file with authors).

Id. See also Maine Department of Corrections, Pay Matrix 25.3: Work Opportunities and Industries (revised Oct. 4, 2010), https://www.maine.gov/corrections/sites/maine.gov.corrections/files/inline-files/INDUSTRIES%20GENERAL%20PROCEDURES%202015%200729%20FINAL%20pdf.pdf (stating that 50 percent of the work force may earn between $1,000.00 and $2,500.00 annually, 25 percent of the work force may earn between $2,500.00 and $4,000.00 annually, 25 percent may earn between $4,000.00 and $5,000.00 annually. The only exception to this shall be that three positions at each facility may be paid up to $6,000.00 annually based on extraordinary circumstances or the responsibility of the positions).


Massachusetts Department of Correction, All Institution MassCor Stipend Report, FOIA response document (on file with authors).


Id.

The Mississippi Department of Corrections has not published wage policies for incarcerated workers and did not respond to the FOIA request we filed. South Mississippi Correctional Institution reported to a legislative oversight body in 2013 that the following work assignments are unpaid: “dining hall workers, tutors for literacy, chaplain workers, unit maintenance, gym workers, administrative workers, central kitchen, and infirmary workers, among others.” Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER) Mississippi, Report to the Mississippi Legislature: A Performance Review of the Mississippi Prison Industries Corporation (June 11, 2013) at 11, https://www.peer.ms.gov/reports/rpt571.pdf.


Miss. Code Ann. § 47-5-138.1; Miss. Code Ann. § 47-5-142. Mississippi Department of Corrections did not respond to the FOIA request we filed. Mississippi Prison Industries Corporation, ICI Criteria for Inmate Assignment to Work at ICI Products?


Id.

Id.

Id.

Id.

Id.

Id.

Id.

Id.

Id.

Id.

Id.

Id.

Id.
<p>Work assignments provide the basic labor to meet the institutions’ operational needs. Inmates are employed as clerks, cooks, boiler operators, porters, and in numerous other assignments... The inmates earn credit towards parole and discharge...and some earn small wages.);</p>

Id.


Id.


Oregon Department of Corrections, FOIA response document (on file with authors); Oregon Administrative Rules 291-007-0010, Department of Corrections: Performance Recognition and Award System; Oregon Administrative Rules 291-077-0030, Department of Corrections: Performance Awards.

Pennsylvania Department of Corrections, Policy DC-ADM 816, Inmate Compensation Manual (March 18, 2016), FOIA response document (on file with authors).


Rhode Island Department of Corrections, FOIA response document (on file with authors).

Id.


South Carolina Department of Corrections Division of Industries, Who We Are Brochure, https://scedindustries.sc.gov/sites/default/files/Documents/Who%20We%20Are%20Brochure%20July%202019.pdf.


All workers hired after December 2001 earn $0.25 to $0.50 per hour; workers who were paid $0.70 per hour prior to a policy change in December 2001 continue to be paid that wage. PhasingClazz Industries, Forging the Future: Prison Industries in South Dakota, 2020 Annual Report (2021) at 2, https://doc.sd.gov/documents/FY2020PIAnnualReport.pdf.


The state’s prison industries program, Tennessee Rehailitative Initiative in Correction (TRICOR), has not published its pay policies and procedures.


Tennessee’s prison industries program, Tennessee Rehailitative Initiative in Correction (TRICOR), has not published its pay policies and procedures.


Utah Department of Corrections, FOIA response document (on file with authors).


West Virginia Division of Corrections, Monthly Pay Rates for Jobs at MOCCJ, FOIA response document (on file with authors).

Id.


Id.

Wyoming Department of Corrections (WDOC), WDOC Form 528, Inmate Payscale—Institutional Work Assignments (March 6, 2012) (FOIA response document) (on file with authors); Wyoming Department of Corrections, Policy and Procedure 5.004, Inmate Incentive Pay (July 9, 2021).

Wyoming Department of Corrections (WDOC), WDOC Form 512, Inmate Payscale—WY Brand Industries (June 1, 2014); Wyoming Department of Corrections, Policy and Procedure 5.004, Inmate Incentive Pay (July 9, 2021).

Georgia Department of Corrections, which did not respond to a FOIA request we filed, does not have any published work policies on pay for any job assignments other than assignments with the PIECP program. See Georgia Department of Corrections, Policy 409: GCI Inmate Workers, http://www.dcor.state.ga.us/content/409-policy-gci-inmate-workers; Georgia Department of Corrections, Prison Industry Enhancement Program, Policy 409.05.01, SOP VJ01-0001. State law governing incarcerated people’s work does not mention wages or other compensation. See Ga. R. & Reg. § 125-3-3. The Georgia Department of Corrections Inmate Handbook similarly does not mention wages for work. See Georgia Department of Corrections, Inmate Handbook, http://www.dcor.state.ga.us/sites/all/files/pdf/GDC_Inmate_Handbook.pdf. Numerous news sources also state that nearly all incarcerated workers’ job assignments are unpaid. See, e.g., Adrian Drepaul, I Had a Shitty Job in Prison, MARSHALL PROJECT (Aug. 8, 2019), Christie Thompson, Do Prison Strikes Work?, MARSHALL PROJECT (Sept. 21, 2016); Use of Unpaid Inmate Labor Scrutinized in Athens-Clarke County, GEAI (Apr. 5, 2019); Erin Paige McGonigle, First Responders, Second Priority: Georgia’s Inmate Firefighter Program and International Human Rights Standards, 48 GEORGIA J. INTL. & COMP. L. 189 (Apr. 11, 2021); Spencer Donovan, UGA Agriculture College Evaluates Research Program that Uses Unpaid Inmate Labor, RED & BLACK (Jul. 20, 2021); George Lavender, Alabama Prison Work Strike ‘Stulls’ But Wins Support from Wobblies, IN THESE TIMES (Apr. 25, 2014), Adam Crisp, Georgia Inmates Strike in Fight for Pay, CHATTANOOGA TIMES FREE PRESS (Dec. 14, 2010).


Four-hour jobs are paid at $0.48 to $0.97 per day; eight-hour jobs are paid at $0.79 to $1.58 per day. Special assignments are $1.21 to $2.42 per day. Kentucky Corrections, Policies and Procedures: Inmate Wage/Time Credit Program, Policy 19.3 (effective Jan. 4, 2019), https://corrections.ky.gov/About/cpp/Documents/19/CPP%2019.3%20PDF.pdf.


A full work day is between four and eight hours. Montana Department of Corrections, FOIA response document (on file with authors).

Most assignments are for 7.8-hour days for five days per week, but some are 9.5-hour days for four days per week. Five-day assignments are paid $1.21 to $3.78 per day. Four-day assignments are paid $1.51 to $4.72 per day. Nebraska Department of Correctional Services, Inmate Jobs (detailing all job assignments and wages), FOIA response document (on file with authors); Nebraska Department of Correctional Services, Policy 113.17, Inmate Work/Program Assignments and Stipends (revised November 30, 2021), https://corrections.nebraska.gov/system/files/rules_reg_files/113.17_2021.pdf.

Each shift is three to four hours. New Hampshire Department of Corrections, FOIA response document (on file with authors).

Id.

The work day is typically 8 hours, up to 10 hours at most. North Dakota Department of Corrections and Rehabilitation, Payroll Data 2014-2019 and North Dakota State Penitentiary Pay Grades 02-01-2019 (FOIA response documents) (on file with authors).

Assignments pay at least $6 per month for less than 60 hours per month, at least $9 per month for 60 to 89 hours per month, at least $12 per month for 90-139 hours per month, $12 to $22 per month for at least 140 hours per month. Up to 3 percent of the institution’s population may be paid $24 per month for full-time assignments requiring a great degree of skill or responsibility. An average month has 22 work days. Ohio Laws and Administrative Rules, Administrative Code Rule 5120-3-08, Prisoner Employment: Inmate Compensation for Work Program Assignments and Related Matters, https://codes.ohio.gov/ohio-administrative-code/rule-5120-3-08.