Prison Labor in the United States: an Investor Perspective

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DISCLOSURES:

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Again we have deluded ourselves into believing the myth that capitalism grew and prospered out of the Protestant ethic of hard work and sacrifice. The fact is that capitalism was built on the exploitation and suffering of black slaves and continues to thrive on the exploitation of the poor – both black and white, both here and abroad.

Martin Luther King, Jr.

From Dr. King's address, "The Three Evils of Society,"
delivered at the First Annual
National Conference on New Politics
August 31, 1967

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Executive Summary

Prison labor is enabled in the United States by the 13th amendment of the U.S. Constitution which prohibits slavery "except as a punishment for crime." Over 2.2 million individuals are incarcerated in state, federal, and private prisons in the United States, and nearly all able-bodied people work in some fashion. While many incarcerated workers are employed in maintenance of the prison, a significant number of them work to produce goods or perform services for private companies, nonprofit organizations, and state or federal agencies that partner with prisons.

Prison labor in the U.S. started with convict leasing during slavery and has ballooned into a billion-dollar industry that is rooted in the racially-skewed nature of excessive incarceration. The abundance and use of prison labor, rather than being challenged by legislators, has been monetized through the sale of cheap labor to companies and state-funded entities, thereby supporting the expense of expanded incarceration and providing a hidden slave labor force.

While a small percentage of prison labor lies within one specific federally regulated program, the vast majority exists in state, federal, and private prisons that have no centralized regulatory body. Prison labor is pervasive in the United States penal system, but the extent to which that labor is used to supply American corporations with goods and services is shrouded in secrecy.

As a duty to our clients to better understand supply chain risk and to illuminate practices that we consider inhumane, we have undertaken a long-term research project to map prison labor in the supply chains of our portfolio companies and to provide practical steps that shareholders and companies can take in order to pursue solutions.

We specifically urge companies to develop and adopt a company Prison Labor Policy to guide companies in formulating a standard process for identifying incidences of prison labor and, when discovered, addressing them with a transparent plan (details follow in this paper).

We urge investors to engage the corporations in their portfolios to seek a complete survey of the company supply chain for prison labor (we offer an engagement template later in this paper).

Introduction

As a wealth manager focused on the social responsibility of our clients' portfolios, NorthStar Asset Management, Inc. engages with investee companies as part of our fiduciary duty to our clients. We seek to improve the positions and policies of the companies in our clients' portfolios regarding various issues that affect those companies as well as our society's long-term viability. Our stance is that corporate policies, decisions, and actions that prioritize short-term financial returns to shareholders can undercut fair and equitable treatment of a company's employees, suppliers, and customers. Those policies can compromise a company's long-term planning, research, and development and can harm the health of our planet and people. In today's global economy, it is increasingly important to take a full-cycle perspective that includes all aspects of a company's supply and distribution chain. For the purposes of our research and analysis, we consider companies responsible for their entire network of employees, contractors, and suppliers.

Over 2.2 million individuals are incarcerated in state, federal, and private prisons in the United States, and nearly all able-bodied incarcerated individuals work in some fashion. While many of those incarcerated are employed in maintenance of the prison, a significant number of them work to produce goods or perform services for private companies, nonprofit agencies, and state or federal agencies that partner with prisons. Prison labor is enabled in the United States by the 13th amendment of the U.S. Constitution which prohibits slavery "except as a punishment for crime," and, while prison labor began with convict leasing during slavery, it has ballooned into a billion-dollar industry.[1]

Minimal regulation exists around prison labor, leaving the treatment of prisoners to the discretion of the customer (such as a private company, nonprofit agency, or state or federal agency) and/or the prison, both of which reap financial benefit from the arrangement. As we detail in a later section, we view correctional industries as part of a rigged system. Incarceration rates for black men are substantially higher than for whites due to our country's history of racially-skewed criminal justice laws, and those who are incarcerated are employed to work in conditions often described as modern slavery. In today's economy, incarcerated workers have replaced slaves as the cheapest available source of labor in the United States. In some states, they are required to work but do not get paid; in other states, they are paid a nominal hourly wage. Overall, incarcerated workers are vastly underpaid and have very few rights related to their employment.

Anecdotal stories describe some potential benefits for individuals working while incarcerated; however, there are also numerous reports of inhumane treatment, including people being

[1] "Prison labour is a billion-dollar industry, with uncertain returns for inmates." *The Economist.* March 16, 2017. www.economist.com/news/united-states/21718897-idaho-prisoners-roast-potatoes-kentucky-they-sell-cattle-prison-labour

forced to work against their will. Our role as concerned investment advisors is to educate ourselves, fellow investors, and investee companies on the extent of prison labor in the United States and to encourage public companies to understand their responsibility to ensure safe working conditions and reasonable wages for any person performing services or creating products in the company's supply chain.

Prison labor must not be viewed simply as a strategy to reduce overhead costs when it inherently exploits this country's history of racism, implicitly affirms the racist origins of the United States' economic system, and increases economic inequality. Companies that buy products and services have an obligation to identify any incidences of prison labor in the company supply chain and engage suppliers to improve the treatment of incarcerated workers. All companies that profit from the labor of people that are underpaid, potentially forced into working, or working in inappropriate or inhumane conditions must be held accountable for their supply chain. Incarcerated people's inability to unionize may enhance short term profit for companies, but these partnerships also support an unjust, unethical partnership with correctional institutions. Without knowledge of *where* prison labor lies (or verified evidence that there is no prison labor), the company cannot protect itself or shareholders from risk, nor can it intervene on behalf of the incarcerated workers to improve treatment. If companies are using prison labor either directly or indirectly, we believe that they are participants in an exploitative practice that is likely in conflict with many companies' stated values. For these reasons, company involvement on this issue is crucial.

Prison labor was not always the opaque, secretive industry it is now. Before the internet burgeoned into a robust route of knowledge distribution, prison industries were promoted nationwide and government agencies actively and openly recruited companies to bring manufacturing onto prison grounds.[2] Now, however, it is apparently no longer desirable to publicly acknowledge or highlight the use of prison labor in supply chains. While open to a national supply of vendors, prison industries have been deeply buried within the supply chain, with sub-vendors shrouded in secrecy. Items we are able to identify as made by prisoners are often produced under generic or little-known brand names and are thus very difficult to track from production through the supply chains of the companies in our clients' portfolios.

Without involvement from the companies sourcing the products, it remains exceedingly difficult to identify incidences of prison labor in the supply chain. There may be supply chain routes that are reasonably simple to track (for example, raw agricultural products harvested from the field by incarcerated workers, sold to a distributor, and then sold to various grocery stores), but most situations are more complex. They may harvest potatoes that are sold to a manufacturer that transforms those potatoes into a component such as potato starch which then is incorporated into a prepared food item and then sold to a distributor before finally showing up as an ingredient in a product on store shelves. In another example, incarcerated workers make generic electrical wiring that is sold as a component for a high-tech product. In a specific example provided by a prisoner advocate, the parent company of a fast-food chain hired a screen-printing supplier to print merchandise with no knowledge that the screen-printing was completed in prisons and made by prisoners' hands.[3]

Given that the route from prison to consumer is often through multiple suppliers or assembly contractors, it is not sufficient for a sourcing company to perform cursory reviews of only their top-level suppliers. Due to the pervasive nature of prison labor and the risk to brand name and confidence that comes from association with prison labor (as discussed in the next section), we recommend that all companies undertake an audit throughout the supply chain – working down the chain from supplier to supplier, identifying any and all incidences of prison labor. Beginning on page 34, we offer specific recommendations to companies on how to search for prison labor in the supply chain as well as suggested next steps once prison labor is identified.

[2] View an archived video here which advertises opportunities for prison labor: https://www.youtube.com/watch?v=cUJHaELZQrc
[3] Sloan, Bob. Personal interview. 17 February 2017.

Prison Labor as an Investor Concern

Prison labor is undeniably a shareholder issue. Research shows that national concern about the American criminal justice system is vast across "all political parties, regions, age, gender, and racial/ethnic groups."[4] In general, American consumers believe that our criminal justice system needs reform and that too many people are incarcerated. While little data exists about public opinion of prison labor specifically, we did not come across any instances in which the public's knowledge of prison labor was beneficial to the company. On the contrary, when prison labor is identified as associated with public corporations and private brands, the company suffers.

For example, Victoria's Secret is *still* trying to distance its brand name from the 1990s incident in which a supplier used incarcerated labor to sew garments, causing substantial controversy and embarrassment to the company.[5] Despite the fact that the brand's owner insists[6] that no further prison labor has been used to make its products, Victoria's Secret still remains on numerous websites that report lists of companies that are using prison labor to produce products. At least one website refers to Victoria's Secret as one of the companies that are "supporting modern American slavery."[7] Decades after the incident, Victoria's Secret simply cannot succeed at abolishing this scandal from society's collective memory. More recently, Wal-Mart experienced "community uproar" when it used incarcerated workers to build a distribution center in Wisconsin in 2005.[8] Whole Foods experienced significant backlash for selling goat cheese made from prisoner-produced milk and prisoner-farmed tilapia when a protest broke out at one of its stores in Texas in 2015.[9]

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[4] Pew Survey: "Public Opinion on Sentencing and Corrections Policy in America." Pew Trusts. http://www.pewtrusts.org/~/media/assets/2012/03/30/pew_nationalsurveyresearchpaper_final.pdf

[5] Caroline Winter. "What Do Prisoners Make for Victoria's Secret?" *Mother Jones.* July/August 2008 Issue. https://www.motherjones.com/politics/2008/07/what-do-prisoners-make-victorias-secret/

[6] "Labor From Correctional Institutions/Prisons" L Brands. Accessed Feb 27, 2018. https://www.lb.com/media/our-responses/labor-from-correctional-institutions-prisons?print=true

[7] "50 Companies Supporting Modern American Slavery." *Caged Bird Magazine.* March 28, 2017. www.cagedbirdmagazine.com/single-post/2017/03/28/50-Companies-Supporting-Modern-American-Slavery

[8] Caroline Winter. "What Do Prisoners Make for Victoria's Secret?" *Mother Jones.* July/August 2008 Issue. https://www.motherjones.com/politics/2008/07/what-do-prisoners-make-victorias-secret/

[9] Allison Aubrey. "Whole Foods Says It Will Stop Selling Foods Made With Prison Labor." *NPR.* September 30, 2015. https://www.npr.org/sections/thesalt/2015/09/30/444797169/whole-foods-says-it-will-stop-selling-foods-made-by-prisoners

NorthStar Asset Management, Inc. filed the first-ever shareholder proposal on this topic in the fall of 2017. Thus far, we have found that companies have not audited their supply chains for prison labor and may not have given prison labor much consideration at all. Some companies rely upon assumptions that suppliers already have third party audits and that those audits include verifying the absence of prison labor. When pushed on this issue, the staff of at least one company with which we have engaged admitted that while they *assume* the suppliers use third party auditors and that those audits seek answers about prison labor, the company staff do not complete due diligence checks to verify that a satisfactory audit report exists. Additionally, companies may have in place a policy that *prohibits* prison labor in their supply chain, but they then fail to establish and follow a diligence process to verify that suppliers do not buy prisoner-made goods or use prisoner services.

Because prison labor is clandestine in nature, only an active pursuit will uncover any or all incidences within the supply chain. If company management does not know whether prison labor exists in the company's supply chain, management cannot know if they are exposed to these risks, nor can they properly protect shareholder value. Waiting until public controversy erupts only risks harm to the brand and shareholder value.

In addition to brand risk, litigation risk may rise in the near future for companies connected to prison labor in the supply chain. Because incarcerated workers are not expressly excluded from the definition of "employee" in workers' protection statutes such as the Fair Labor Standards Act (FLSA), they have attempted to sue prison-employers for fair wages. Those lawsuits have failed because "courts have ruled that the relationship between the penitentiary and the incarcerated worker is not primarily economic,"[10] but a growing number of outspoken voices argue that paying them a minimum wage and offering other typical employee benefits are beneficial for both the incarcerated individual and his or her family as well as for society at large and for the economy.[11] In 2016, incarcerated workers staged a largescale work strike to protest unfair treatment[12] and we expect that they and their advocates will continue to gain attention for this issue, as well as continue to seek litigious routes for fairer pay and conditions. Companies benefiting from free or undercompensated labor will surely not be excluded as targets of these attempts.

We encourage all shareholders in publicly traded corporations to engage with their investee companies to urge them to identify instances of prison labor in the entire supply chain. Companies need to regularly audit the supply chain to verify either the lack of prison labor or to

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[10] Whitney Benns. "American Slavery, Reinvented" *The Atlantic.* September 21, 2015. www.theatlantic.com/business/archive/2015/09/prison-labor-in-america/406177/

[11] As one example, this *Bloomberg* article explains why paying inmates a minimum wage would benefit the American working class: https://www.bloomberg.com/view/articles/2017-06-02/paying-inmates-minimum-wages-helps-the-working-class

[12] Read more about the strike in this CNN article: https://www.cnn.com/2016/10/30/us/us-prisoner-strike/index.html

identify and improve prison labor programs that are found within the company supply chain. To aid other shareholders, we have included our shareholder proposal example in **Appendix A.**

We contend that shareholders should be concerned about the potential existence of prison labor in their investee companies' supply chains due to the risk to the business, if nothing else. A company without full knowledge of its exposure to prison labor cannot defend shareholder value against those potential risks.

Connecting the Dots — Capitalism, Slavery, and Incarceration

If capitalism…is about wage labor, markets, contracts, and the rule of law, and, most important, if it is based on the idea that markets naturally tend toward maximizing human freedom, then how do we understand slavery's role within it? No other national story raises that question with quite the same urgency as the history of the United States: The quintessential capitalist society of our time, it also looks back on long complicity with slavery…The relationship of slavery and capitalism is, in fact, one of the keys to understanding the origins of the modern world.

Sven Beckert, "Slavery and Capitalism"
Chronicle of Higher Education, December 12, 2014

The birth of our nation as an industrialized powerhouse depended on slave labor. Early "for-profit" corporations were formed so that groups of people could "invest" together, essentially creating an economic framework to trade commodities. Human beings (slaves) were considered commodities, and their market value fluctuated as demand for the goods they produced (cotton, tobacco, sugar, etc.) waxed and waned and as the closing of the African slave trade eventually eliminated "supply." Textile mills, railway systems, and agricultural industries created the oldest stores of wealth in this nation, but this wealth would have been substantially reduced if early cotton, steel, and tobacco workers had earned a wage.

Historian Sven Beckert explains:

> For the first half of the 19th century, slavery was at the core of the American economy. The South was an economically dynamic part of the nation for its white citizens. Its products not only established the United States' position in the global economy but also created markets for agricultural and industrial goods grown and manufactured in New England and the mid-Atlantic states. More than half of the nation's exports in the first six decades of the 19th century consisted of raw cotton, almost all of it grown by slaves.[13]

In order to accommodate the growing demand for commodities, entrepreneurs developed a banking system that would grant access to capital for the purchase of slaves. In *The Business of Slavery and the Rise of American Capitalism, 1815-1860,* author Calvin Schermerhorn describes a method of supplying "credit" to landowners, allowing them to use slaves as collateral for loans to purchase more slaves. Because currency was in short supply in the South, some Louisiana bankers essentially bundled these collateralized loans and sold them to wealthy individuals in New York and Europe who were willing to buy "slave-based securities."[14] The bundling of

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[13] Beckert, Sven. "Slavery and Capitalism." December 12, 2014, *Chronicle of Higher Education*
[14] Eric Herschtal. "How Slavery Gave Capitalism Its Start." *The Daily Beast.* April 24, 2015. https://www.thedailybeast.com/how-slavery-gave-capitalism-its-start

"collateralized obligations" is precisely the type of financial manipulation that occurred during the 2008 financial collapse. Unfortunately, banks that participated in these early "collateralized obligations" like Bank of America and JP Morgan Chase ended up surviving both the collapse of slavery and the 2008 financial crisis.[15,16]

[15] A Chicago city rule requires that companies disclose historic dealings in slavery in order to do business with the city. As a result of those disclosures, we learned that predecessor companies for major banks such as JP Morgan Chase and Wachovia (acquired in 2008 by Wells Fargo) accepted slaves as loan collateral, and sometimes took ownership of slaves when plantation owners defaulted on loans. Bank of America disclosed that it found at least two slave-related deals.

[16] As reported by another source, "Bank of America found that two of its predecessor banks (Boatman Savings Institution and Southern Bank of St. Louis) had ties to slavery and another predecessor (Bank of Metropolis) accepted slaves as collateral on loans." http://yourblackworld.net/2013/08/29/shocking-list-of-10-companies-that-profited-from-the-slave-trade/

Since economic growth, capitalism, and slavery are so closely linked, one might ask how capitalism, and indeed the U.S. corporation, survived after the Civil War and the end of slavery (i.e. cheap labor). The truth is that **slavery did not go away**: it morphed into sharecropping which allowed landowners to continue to profit from the labor of their renters; then Jim Crow laws that enforced racial segregation; and now mass incarceration in the United States.

Indeed, it appears that since slavery was abolished those in power have sought ways to over-incarcerate and overwork former slaves and their descendants:

> Both in response to [the demand for convict labor] and as a way for white society to reassert its power over the newly emancipated black population, the Southern states began to increase dramatically the sentences exacted against petty criminals, the vast majority of whom were former slaves. For example, in 1876, the Mississippi legislature passed a "major crime bill," known as the "Pig Law," which redefined the crime of grand larceny to include "the theft of a farm animal or any property valued at ten dollars or more." Violation of this law, which was "aimed directly" at the newly freed slaves, meant up to five years in state prison. Moves like this one accompanied the legalization of convict leasing and ensured sufficient convicts to meet the demand.[17]

Mass incarceration and prison labor are two routes through which the U.S. economic system has continued to push people of color into positions of exploitation. Increased incarceration levels combined with pressure from growing deficits have led states to cut costs and seek revenue opportunities in the criminal justice system. Political pressure on corporations to repatriate capital to the United States may lead companies to seek prison labor as a source of cheap domestic labor. Because companies that repatriate assets are pressured to keep overhead low, paying prisoners a minimal wage allows the company to satisfy political pressures of "hiring locally" while not increasing production costs.

Keep the "Good Ones" In

"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. In addition to the bad ones, 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."

- Steve Prator, Sheriff of Caddo Parish, Louisiana, in response to the 2017 Justice Reinvestment Act that would allow release of "good" non-violent incarcerated people.

[17] Sharon Dolovich. "State Punishment and Private Prisons." *Duke Law Journal.* Dec 2005. Vol 55, No. 3 (437-546)

The supply of prison labor today offers companies in the United States access to the slave labor of yesterday. Prison labor has become a profit-driven manufacturing option for many companies: instead of dealing with import fees and costs of long-distance transport in order to hire cheap labor, companies have found a low-cost and convenient source of labor here in the United States.

We believe that investors and companies should be concerned to learn that the American Legislative Exchange Council (ALEC), the "business-backed conservative group" which drafts model bills for congress[18] has been "instrumental" in the expansion of prison labor in the United States. ALEC was founded in 1973 by conservative activists to "promote conservative, pro-business legislation at the state level by bringing private companies together with state legislators."[19] As many as 2,000 state lawmakers (one-third of the nation's total) and more than 200 corporations and special-interest groups are included in ALEC's membership.[20] Perhaps most famous for Florida's controversial Stand Your Ground statute connected to the killing of Trayvon Martin in 2012 (a law that has been academically confirmed to have racial bias[21]), ALEC and its members have used political influence to increase the prison population through questionable and even corrupt arrangements that directly benefit companies related to prison industries:

> Both the Corrections Corporation of America (CCA) [now CoreCivic] and The GEO Group, the country's two largest private prison companies, have been longtime members and supporting contributors to ALEC. CCA paid an additional annual membership fee to secure a seat on ALEC's Public Safety Task Force, a key incubator of the signature law-and-order legislation that fueled the prison boom in the 1980s and 1990s, including mandatory minimums, truth in sentencing, and three-strikes laws.[22]

These laws, promoted and supported by ALEC, have dramatically increased incarceration rates in the past three decades, leading to the United States' outsized proportion of incarcerated individuals. The NAACP reports that "the United States makes up about 5% of the world's population and has 21% of the world's prisoners."[23] Not only does the U.S. have an extremely high incarceration rate, but the racially-skewed nature of our criminal justice system becomes apparent when we learn that white offenders have been convicted less and given shorter

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[18] Alexander Hertel-Fernandez. "Who Passes Business's 'Model Bills'? Policy Capacity and Corporate Influence in U.S. State Politics." *American Political Science Association.* 2014.
[19] Alexander Hertel-Fernandez. "Who Passes Business's 'Model Bills'? Policy Capacity and Corporate Influence in U.S. State Politics." *American Political Science Association.* 2014.
[20] Beau Hodai. "Corporate Con Game." *In These Times*. June 21, 2010. http://inthesetimes.com/article/6084/corporate_con_game/
[21] Nicole Ackermann et al. "Race, law, and health: Examination of 'Stand Your Ground' and defendant convictions in Florida." *Social Science & Medicine*. Volume 142, October 2015, Pages 194-201, http://www.sciencedirect.com/science/article/pii/S0277953615300642
[22] Gottschalk, Marie. *Caught, The Prison State and the Lockdown of American Politics.* Princeton, New Jersey: Princeton University Press, 2015. (85)
[23] "Criminal Justice Fact Sheet." NAACP, http://www.naacp.org/criminal-justice-fact-sheet/

sentences[24] and African Americans are incarcerated at more than five times that of whites,[25] but "whites and blacks engage in drug offenses, possession, and sales at roughly comparable rates."[26] Author Michelle Alexander explains in *The New Jim Crow* that more black men "are in prison or jail, on probation or on parole than were enslaved in 1850," in great part due to the War on Drugs[27] (an American government anti-drug movement that features, among other things, mandatory minimum sentencing laws based on ALEC model legislation).

Just as ALEC was involved in model legislation that ramped up incarceration rates, "ALEC has proven expertly capable of devising endless ways to help private corporations benefit from the country's massive prison population."[28] An exposé by *The Nation* in 2011 revealed that ALEC laid the groundwork for "states and corporations to replace unionized workers with prison labor."[29] As prison overcrowding increased, ALEC began orchestrating new ways to benefit its members by pushing for the expansion of prison labor industries. In *Caught*, by Marie Gottschalk, we learn that for at least two decades now, "ALEC has been pushing to expand [a small-scale prison labor program known as] PIECP and to make prison industries more attractive to the private sector, especially the organization's large corporate benefactors." In fact, in 1995 ALEC introduced its Prison Industries Act which "was modeled on a controversial bill that the Texas legislature had enacted with the help of state representative Ray Allen, who was active with ALEC and also was a lobbyist for the National Correctional Industries Association (NCIA)."[30]

As we detail later in the paper, farmers have been encouraged to hire incarcerated workers to fill the labor void created by legislative efforts at "immigration reform." A 2010 investigation by *In These Times* uncovered the connection between ALEC and SB 1070, Arizona's so-called Support Our Law Enforcement and Safe Neighborhoods Act which "invite[s] rampant racial profiling against Latinos, Asian-Americans and others

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24 Rania Khalek. "21st-Century Slaves: How Corporations Exploit Prison Labor." AlterNet. http://www.alternet.org/story/151732/21st-century_slaves%3A_how_corporations_exploit_prison_labor
25 "Criminal Justice Fact Sheet." NAACP, www.naacp.org/criminal-justice-fact-sheet/
26 Rania Khalek. "21st-Century Slaves: How Corporations Exploit Prison Labor." *AlterNet.* www.alternet.org/story/151732/21st-century_slaves%3A_how_corporations_exploit_prison_labor
27 Alexander, Michelle. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. New York: New Press, 2010. (179-180)
28 Mike Elk and Bob Sloan. "The Hidden History of ALEC and Prison Labor." *The Nation.* Aug 11, 2011. https://www.thenation.com/article/hidden-history-alec-and-prison-labor/
29 "New Exposé Tracks ALEC-Private Prison Industry Effort to Replace Unionized Workers with Prison Labor." *DemocracyNow!* August 5, 2011. www.democracynow.org/2011/8/5/new_expos_tracks_alec_private_prison
30 Gottschalk, Marie. *Caught, The Prison State and the Lockdown of American Politics.* Princeton, New Jersey: Princeton University Press, 2015. (85)

presumed to be "foreign" based on how they look or sound,"[31] as well as the various "copycat" legislation that followed in other states. When SB 1070 was signed into law, ALEC's Public Safety and Elections Task Force included the private prison company CCA (now CoreCivic), the American Bail Coalition, and the National Rifle Association. Other model legislation that arose from this task force included the "No Sanctuary Cities for Illegal Immigrants Act," which along with SB 1070 would lead to higher incarceration rates (and revenue) for private prison ALEC members GEO Group and CoreCivic as well as increased profits for prison suppliers like Sodexho Marriott (a large food services supplier to private prisons and a member of ALEC).[32] An article from *Daily KOS* explains that "ALEC's efforts of eliminating 'illegal' aliens from agribusiness work coincided with their SB 1070 and earlier state legislative efforts. They realized the impact the laws would have upon immigrant workers and that a labor force would be necessary to take the place of immigrants picked up or scared off by laws like SB 1070."[33] See our section Agriculture and Recent Political Changes for more details.

With more companies turning to prison labor in an increasingly tight labor market, lack of worker protections and a dearth of company policies related to prison labor will put even greater stress on an already untenable situation. Though ALEC has had a clear and influential role in expanding prison industry programs across the United States, we see no evidence that the organization considers issues such as the welfare of incarcerated workers or risks posed to companies when designing its model legislation. Given the organization's history and connection to laws that have increased economic inequality for people of color, we consider the connection between ALEC and prison industries to be of particular concern. Prison work projects should be focused strictly on prisoner rehabilitation and reducing recidivism, not on profit. We see indications that ALEC has sought to increase incarceration rates in order to provide a larger workforce, but there is no evidence that ALEC has any interest in their rehabilitation and reintegration into society. Given these facts, we approach prison labor with a skeptical view that we believe is essential for all concerned investors and companies.

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[31] "Arizona's SB 1070." *ACLU*. https://www.aclu.org/issues/immigrants-rights/state-and-local-immigration-laws/arizonas-sb-1070

[32] Beau Hodai. "Corporate Con Game." *In These Times*. June 21, 2010. http://inthesetimes.com/article/6084/corporate_con_game/

[33] Bob Sloan. "INSOURCING - Identifying businesses involved in prison labor or supporting those who are." *DailyKOS*. December 14, 2010. https://www.dailykos.com/stories/2010/12/14/928611/-INSOURCING-Identifying-businesses-involved-in-prison-labor-or-supporting-those-who-are

Overview on the Structure of Prison Labor in the United States

Prison labor in the United States has developed into a profitable and complex system that is remarkably opaque and covert. It involves multiple paths through which corporations can establish production sites, farmland, and processing plants, and even call centers in or near state, federal, or for-profit prison compounds.

The Ashurst–Sumners Act of 1935 made it illegal to knowingly transport convict-made goods for interstate or foreign commerce, with a few exceptions:

> The prohibition applies only to originally manufactured *goods* produced by inmates that cross state lines, entering into interstate commerce. Service operations, such as refurbishing goods that have already entered into interstate commerce, are not prohibited. Goods produced in conjunction with private sector partners which do not cross state lines are subject only to state law which varies from state to state. Agricultural goods are exempt from regulation as are goods produced for a non-profit organization.[34]

It appears that the term "agricultural goods" is applied in a deliberately broad manner. One definition describes it as "agricultural, horticultural, viticultural, and dairy products, livestock and the products thereof, the products of poultry and bee raising, the edible products of forestry, and any and all products raised or produced on farms and processed or manufactured products thereof, transported or intended to be transported in interstate and/or foreign commerce."[35] While fish farming is not expressly named in this definition, we can assume that fish are included as an "agricultural product" given that at least one correctional industry has been documented as selling farmed fish to a retailer's supplier.

The Justice System Improvement Act of 1979 allowed for more exceptions to the rule through the creation of the Prison Industry Enhancement Certification Program ("PIECP," described in detail below). The Ashurst–Sumners restrictions are generally related to avoiding competition with "free-world" enterprises that could not compete with the low cost of prisoner labor, and the Justice System Improvement Act created opportunities for interstate commerce of goods made by incarcerated people under circumstances that are also intended to avoid competition with free-world enterprises. PIECP has certain requirements, including payment of a minimum wage; however, we detail below a variety of concerns about this program.

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[34] *Summary Findings of the 2009-2010 PIECP Compliance Site Assessments*. National Correctional Industries Association, www.nationalcia.org

[35] "7 U.S. Code § 451 - "Agricultural products" defined." Legal Information Institute. Cornell Law School. https://www.law.cornell.edu/uscode/text/7/451

Taking these restrictions and exceptions together, the situation can be summarized as:

- Incarcerated individuals can be hired to manufacture goods while in prison and depending on state regulations those goods may be sold to private companies, state agencies, nonprofits, schools, universities, and private citizens that are located in the state of manufacture (but some states prohibit sale to certain categories of customers). Legally, these products cannot be resold out of state.
- Agricultural products can be produced by incarcerated people and sold across state lines without federal restriction. While some states restrict sales of goods to state-funded agencies, many of those states sell agricultural products on the open market.
- Service jobs such as call center services, moving labor, and furniture refurbishment are not restricted by federal legislation but may be restricted by state regulations.
- Prisoner-made products are eligible for international sale. [36]
- Any item produced through PIECP is eligible for interstate commerce.

Prison Labor Categorized:

We have organized United States prison labor into four broad categories, described below. Greater detail on each type of prison labor continues in further sections of this paper.

1. **Privately-run for-profit prisons** such as CoreCivic (formerly CCA) and GEO Group, house at least 126,000 federal and state incarcerated individuals (as of 2015)[37], many of whom work in for-profit company jobs in industries such as carpentry, computer applications, construction and building trades, electrical trades, horticulture and landscaping, masonry, painting, and plumbing. Pay can be as low as $0.16/day[38], although a CoreCivic prison in Tennessee can pay as much as $0.50/hour for high skilled positions.[39] Some for-profit prisons obtain Immigration and Custom Enforcement (ICE) detainees.

2. **Prison Industry Enhancement Certification Program (PIECP):** PIECP is a federal government program that allows for the creation of jobs by private sector companies

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[36] For an example of these stated restrictions, see: “Eligible Customer.” *PRIDE Enterprises*. https://www.pride-enterprises.org/content.aspx?page=EligibleCustomer
[37] Abigail Geiger. “U.S. private prison population has declined in recent years.” *Pew Research Center.* http://www.pewresearch.org/fact-tank/2017/04/11/u-s-private-prison-population-has-declined-in-recent-years/. April 11, 2017
[38] “Section III: The Prison Economy.” *Prison Policy Initiative.* www.prisonpolicy.org/prisonindex/prisonlabor.html
[39] Vicky Peláez. “The Prison Industry in the United States: Big Business or a New Form of Slavery?” *Centre for Research on Globalization*. 10 March 2008. http://www.globalresearch.ca/the-prison-industry-in-the-united-states-big-business-or-a-new-form-of-slavery/8289

for incarcerated people, puts in place certain minimal standards for treatment of incarcerated workers, and allows for the interstate commerce of prison-made goods. In general, only 5,000 people work on PIECP projects.

3. **State Prison Labor (outside of PIECP)**: With approximately 1,370,000 people total[40], state prisons provide the lion's share of incarcerated individuals for jobs that come from outside companies. Many of them work internally in prison upkeep jobs such as cooking, cleaning, and laundry; however, thousands of them produce goods and agricultural products, participate in animal husbandry, or perform call center services for outside companies.

4. **Federal Prison Labor (Outside of PIECP):** As of 2017, Federal Prison Industries (which functions under the trade name "UNICOR") reported 16,891 incarcerated people employed in UNICOR prison industry work, though it claims approximately 18,000 people as participants in the program. Non-PIECP workers earn only $0.23 - $1.15 per hour through 83 factories.[41] UNICOR workers manufacture a wide variety of products from apparel, awards, linens, and office furniture to distribution, 3D modeling, and call center services. See more details on page 27.

Payroll Deductions:

In the cases of prison labor programs we identified, incarcerated workers keep only a small percentage of their wages (most often 20%, which is sent to their prison commissary account, and sometimes 20% more that is placed in a long-term savings account) with the greater portion going to recipients such as the prison system for "room and board," victims' restitution, and legally obligated financial support for their families. Specifically for PIECP, "deductions, in aggregate, cannot exceed 80 percent of gross wages." [42] However, the remaining 20% may be directed to an "inmate worker's expense accounts, savings accounts, or toward the settling of the worker's legal obligations, including the payment of fines and restitution."[43] Therefore, they may not actually receive much at all.

Deductions are taken from the gross earnings of their wages, so an incarcerated person working on a PIECP project that pays the federal minimum wage (currently $7.25 per hour) may net only $1.45 per hour (20% of $7.25), and this is before any further deductions for fines or legal obligations. Those working on UNICOR projects for Federal Prison Industries (earning $0.23-

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[40] E. Ann Carson, Ph.D., Elizabeth Anderson, *Bureau of Justice Statistics.* December 29, 2016 https://www.bjs.gov/index.cfm?ty=pbdetail&iid=5869

[41] "FPI General Overview." *UNICOR*. https://www.unicor.gov/FAQ_General.aspx#4/

[42] "PIECP Final Guidelines." *National Correctional Industries Association*. http://www.nationalcia.org/piecp-2/piecp-final-guideline.

[43] "PIECP Final Guidelines." *National Correctional Industries Association*. http://www.nationalcia.org/piecp-2/piecp-final-guideline.

$1.15 per hour) would net $0.04-$0.23 per hour before additional deductions. Individuals at state prisons earn wages spanning a wider spectrum, but most earn $0.25-$2.00 per hour (though some are unpaid), netting similar amount as at UNICOR.

Prison Labor in For-Profit Prisons

Some reports indicate that for-profit prisons found their start around 1825 in Kentucky when the local government leased its prisons to an entrepreneur in exchange for a set fee and half of his profits. Louisiana and Tennessee followed similar paths in the decades to follow.[44] Other reports point to the construction of San Quentin State Prison in the 1850s as the first privately-owned prison since the state of California agreed to let a large contractor build and run the prison.[45] Early accounts of prison privatization or convict-leasing were tumultuous for the states entering into contract with private contractors;[46] however, the 1980s saw a resurgence of for-profit prisons. Now a flourishing industry, GEO Group and CoreCivic (formerly Corrections Corporation of America or CCA) are the two largest publicly traded for-profit prisons in the United States. "Thanks to a series of mergers, GEO and CCA now control about 80 percent of the private prison and jail beds in the United States… Put another way, the for-profit prison industry constitutes the country's fourth largest prison system. CCA is the fifth largest prison operator, just behind the federal Bureau of Prisons, California, Texas, and Florida."[47]

As a socially responsible investment firm, NorthStar Asset Management, Inc. has never and will never invest in for-profit prisons such as GEO Group and CoreCivic. We find incarcerated labor in these prisons particularly concerning due to the risky nature of an entirely *for-profit* enterprise being allowed to operate in its own interests rather than in the interests of our society. As *Time Magazine* described, "companies that build and run private prisons have a financial interest in the continued growth of mass incarceration."[48] As mentioned above, privately-run prison corporations were members of ALEC during the time it pushed for stronger sentencing, bail-bond regulation changes, and the expansion of the PIE program. All readers should be wary of the fact that corporations that benefit financially from legislation aimed toward increasing incarceration (i.e. more prisoners = more profit) have had influence in federal or state lawmaking related to incarceration. And all investors and all companies auditing supply chains must of course be aware of incidences of prison labor within publicly traded prisons.

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[44] Rick Paulas. "America's Private-Prison Industry Has Always Been All Right." *Prison Legal News.* May 31, 2017. www.prisonlegalnews.org/news/2017/may/31/americas-private-prison-industry-has-always-been-all-right/

[45] "Private Jails in the United States." *FindLaw.* https://civilrights.findlaw.com/other-constitutional-rights/private-jails-in-the-united-states.html

[46] Sharon Dolovich. "State Punishment and Private Prisons." *Duke Law Journal.* Dec 2005. Vol 55, No. 3 (452-453)

[47] Gottschalk, Marie. *Caught, The Prison State and the Lockdown of American Politics.* Princeton, New Jersey: Princeton University Press, 2015. (92)

[48] Joseph Margulies. "This Is the Real Reason Private Prisons Should Be Outlawed." *Time.* August 24, 2016. http://time.com/4461791/private-prisons-department-of-justice/

Later in this paper, we offer recommendations for companies that find prison labor in their supply chains. Companies discovering that the prison labor is associated with for-profit prisons should proceed with heightened scrutiny and concern due to the higher risk of exploitation and abuse[49] at for-profit prisons.

Prison Industry Enhancement Certification Program (PIECP)

As briefly referenced above, the Prison Industry Enhancement Certification Program (PIECP) is a federally legislated program that allows for interstate commerce of certain incarcerated-made goods. Most non-agricultural products made by them are prohibited from sale across state lines; however, PIECP allows for product sale and resale outside the state of manufacture.

As of this writing, only about 5,000 people are employed in PIECP industries throughout the state and federal prison systems. While this is a small percentage of the overall incarcerated worker population, PIECP is the most visible of all prison labor programs.

Not every state in the U.S. participates in PIECP, but states can have more than one active site (such as different prisons) as well as many active projects. For example, as of December 31, 2017, Utah had two active sites: the Utah Department of Corrections as well as the Utah County Sheriff's Office,[50] and those sites each had multiple active projects. For-profit prisons may participate as an active project if they qualify. It appears that the outside company partners of PIECP are most often small and medium size privately-owned companies which we believe may often serve as suppliers to larger companies, including publicly traded and/or customer-facing companies.

As required by law, PIECP offers certain (limited) labor protections for prisoners such as the fact that they must *volunteer* to work (it must not be compulsory) and employers are required to pay a "prevailing wage" (wages a non-incarcerated worker would make for the same job in the same region). Minimal government-sponsored reviews and oversight also exist. As socially responsible investors, we note that the prevailing wage requirement was apparently designed specifically to avoid competition with free-world jobs, not to enable incarcerated workers a fair wage or ensure safe conditions.

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[49] Timothy Williams. "Inside a Private Prison: Blood, Suicide and Poorly Paid Guards." *The New York Times.* April 3, 2018. www.nytimes.com/2018/04/03/us/mississippi-private-prison-abuse.html

[50] As per the Fourth Quarterly Statistical Report from NCIA: nationalcia.org

Concerns about PIECP

The minimal labor standards for PIECP may appear encouraging – require a minimum wage, ensure that labor is voluntary, eliminate competition with local businesses – but our research uncovered numerous allegations indicating that some supplier companies have devised ways to circumvent the regulations that would have protected incarcerated people's best interests.

For example, we found allegations that some companies have avoided paying the prevailing wage to *all* incarcerated people involved in a project by delineating two groups of workers: a group paid non-PIECP wages (below prevailing wage) to produce various *pieces* of a product and a second group of PIECP labor who are paid prevailing wage for the final assembly. [51] This allows the supplier to cut wage expenses while still permitting the company technical compliance with PIECP regulations and thus the ability to sell the product across state lines. Similarly, incarcerated people *producing* products would be required to receive prevailing wage, but incarcerated people providing the *service* of shipping and handling the items can be paid the prison's rate (far below prevailing wage, often less than $1.00 per hour).

In another example, a prison industry employs incarcerated individuals as trainees for an extended period of time (thereby paying them lower than the otherwise required prevailing wage), but as they become ready to move up to a level that would necessitate payment of a prevailing wage, the prison industry transfers the workers to a different job at the lower-wage trainee level.[52]

Additionally, we have read reports that new PIECP projects have sometimes attempted to circumvent the requirement to consult with local business organizations to verify that the PIECP project will not interfere with free-world employment. We have been told that, rather than initiate formal consultations with appropriate local groups (such as the local chamber of commerce), some PIECP ventures have sometimes simply advertised the new program in local newspapers before proceeding. Clearly, this may satisfy the letter of the law, but it is not consistent with the spirit. PIECP ventures are required to ensure "the avoidance of displacement of civilian workers in the locality," but a leading prisoner activist in this field of research alleges instances wherein local businesses were pushed out by PIECP ventures which undercut them on bids due to lower overhead costs.[53]

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[51] Bob Sloan. "PIECP, Prison Labor, Prison Industries Violations." *PIECP Program Violations Web Site*. http://prison-labor.50megs.com/rich_text_1.html

[52] Bob Sloan. "The Prison Industries Enhancement Certification Program: Why Everyone Should be Concerned." *Prison Legal News.* March 15, 2010.
https://www.prisonlegalnews.org/news/2010/mar/15/the-prison-industries-enhancement-certification-program-why-everyone-should-be-concerned/

[53] Bob Sloan. "INSOURCING - How your government does not protect your jobs - or prosecute PIECP Violations" *Daily Kos.* Dec 16, 2010.
https://www.dailykos.com/stories/2010/12/16/929506/-

Issues with Oversight and Organization

These aforementioned issues raise concern for us about oversight of PIECP, and we believe investors and companies should scrutinize practices in this program before supporting PIECP going forward. In particular, we are concerned about both the organization that oversees PIECP regulatory adherence and the actual processes in place to ensure that Bureau of Justice Assistance (BJA) regulations are followed. In 1995, the BJA outsourced oversight of PIECP to the National Correctional Industries Association (NCIA). NCIA's members are administrators and employees of state prison industry programs and their PIECP private sector partners, vendors, and suppliers.[54] We find this arrangement highly problematic. NCIA's board of directors has historically been comprised almost exclusively of prison industry officials; thus, the NCIA oversight group includes the very PIECP participants that it is charged with monitoring. Given the exploitation risks and the profit-enhancing incentives to lower costs further, the fact that NCIA is charged with policing its own dues-paying membership creates a clear and concerning conflict of interest.

Our research has also revealed that the actual oversight procedures for PIECP may be lackluster. According to regulations, the BJA requires that PIECP partners undergo review for compliance with the mandatory requirements prior to starting any new industry program. Additionally, annual reviews should be conducted from then on to verify that wages are appropriately paid to incarcerated workers, deductions from those wages are used for the purposes permitted, benefits are being provided, and local unions and competing free-world businesses are being consulted. However, due to the fact that "grant funds have been significantly reduced in recent years," on-site assessments have been dramatically reduced. The most recent reporting from NCIA indicates that in 2010 the organization performed 15 site assessments (assessing 38 active projects). While the report does not disclose the total number of projects that were active at that time, a third party reported that about 200 projects were active during this period.[55] Among the sites that were assessed, various violations and non-compliance issues were uncovered. The NCIA worked to rectify them, but our concern lies in the apparent infrequency of these assessments and the apparent failure to assess all project sites. With limited oversight on a regular basis, we have little confidence that the welfare of incarcerated people is being properly safeguarded.

Furthermore, we are concerned by the employment structure of many projects. In many cases project oversight is located at the local prison system, although it has come to our attention that *private sector partners* can be responsible for their own oversight in some instances. In one

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[54] *NCIA 2018 Board*. National Correctional Industries Association. Accessed March 15, 2018. http://www.nationalcia.org/wp-content/uploads/2018-Board-1.pdf

[55] Bob Sloan. "INSOURCING - How your government does not protect your jobs - or prosecute PIECP Violations" *Daily Kos.* Dec 16, 2010.
https://www.dailykos.com/stories/2010/12/16/929506/-

particular model of employment, "a private company owns and operates a business inside prison, and has direct control over business operations. Inmates are employed by the company."[56] In this model, we see significant opportunities for mistreatment of incarcerated people given the low level of oversight by the local correctional agency.

In all, PIECP does offer incarcerated workers limited benefits that they do not enjoy with non-PIECP prison jobs; however, investors and companies should perform rigorous due diligence to ensure that the PIECP private enterprise partners are adhering to the best practices we outline later in this paper.

Companies that use suppliers and service providers are encouraged to perform a quarterly review of NCIA's disclosure documents, including the listing of its current private enterprise partners (NCIA's Quarterly Statistical Reports.)[57] Unfortunately, simply reviewing NCIA's Quarterly Statistical Reports provides only minimal information about prison labor in the supply chain. Given that PIECP covers only about 5,000 working people, and because prison labor could appear anywhere downstream in the supply chain, PIECP reports are useful but very limited. In other words, if a publicly traded company reviews its own suppliers and finds no crossover with the private companies listed on NCIA's Quarterly Statistical Reports, it is still quite possible that incarcerated people are providing labor for other suppliers in the company's supply chain.

Federal and State Prisons Outside PIECP

State Prisons:

Nearly all states have "correctional industries" of some kind. Each state has its own regulations that dictate what people or entities can buy prisoner-made products. In many states, sale of products made by incarcerated people is limited to state, federal, and local government agencies, nonprofit organizations such as state universities and religious organizations, and other state-funded agencies. In many states, certain agencies are *required* to buy a variety of products from the state correctional agency, even to the apparent detriment of at least one local business.[58] While some correctional industries clearly acknowledge state laws prohibiting sale of prisoner-made goods outside these categories, it is unclear whether these restrictions apply to agricultural products and services. Further analysis of the actual laws in each state would be necessary to clarify the answer to this question.

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[56] Barbara Auerbach. "The Prison Industries Enhancement Certification Program: A Program History." *National Correctional Industries Association.* May 4, 2012. http://www.nationalcia.org/wp-content/uploads/PIECP-a-Program-History.pdf
[57] Access the Quarterly Statistical Reports on the NCIA website here: http://www.nationalcia.org/piecp-2/quarterly-statistical-reports
[58] Mike Wiser. "Iowa's Prison Industries & the open market." *The Gazette.* March 17, 2014 http://www.thegazette.com/2014/03/17/iowas-prison-industries-the-open-market

Many states explicitly allow private enterprise partnerships or customers. In our state-by-state analysis, we have identified at least 22 prison labor programs (21 states plus the federal UNICOR program) that we believe explicitly allow prisoners to produce goods for private companies through the local correction industry outside PIECP. The details of those partnerships are, in general, not disclosed to the public. While the vast majority of correctional industries offer product catalogues on their websites, and some even offer publicly available annual reports, very few offer explicit connections to named private company customers or partners.

With 2.2 million (or more) people in the federal and state prison systems and no centralized department overseeing state prison labor, state prison industries offer the largest volume of people for product production while also offering very little oversight or disclosure on what the incarcerated workers are making and whether these products enter the open market. It is nearly impossible to determine how many people in state prisons are producing products for resale by private sector companies.

Just as with PIECP, we have various concerns about state correctional industries. Some reports from formerly incarcerated people indicate that certain prison facilities transport incarcerated workers to and from work for an hour or more each way, and they often subject them to inhumane work conditions.[59] In many states, able-bodied people are required to work; in at least two states, correctional industry jobs are unpaid[60]; and, in some instances, those who refuse to work are punished by lengthened sentences or stints in solitary confinement.[61] Many states publicly declare that they have very few private enterprise partners or customers, but some of the products made and sold raise questions about who the customers are or whether state laws are being obeyed. We are concerned that some of these correctional industries may be circumventing regulations in order to sell to private companies for greater profit. For example, one allegation we discovered noted that companies producing items by prison labor can get around the interstate commerce restriction by simply selling their products to another company that has a distribution center in their home state.[62] After the sale to its distribution center within the state, the purchasing company can then proceed to move the product around the country.

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[59] Victoria Law. "Martori Farms: Abusive Conditions at a Key Wal-Mart Supplier." *TruthOut.* June 24, 2011. www.truth-out.org/index.php?option=com_k2&view=item&id=1808:martori-farms-abusive-conditions-at-a-key-walmart-supplier

[60] "State and federal prison wage policies and sourcing information." *Prison Policy Initiative.* www.prisonpolicy.org/reports/wage_policies.html

[61] Kanyakrit Vongkiatkajorn. "Inmates Are Kicking Off a Nationwide Prison Strike Today." *Mother Jones.* September 6, 2016. www.motherjones.com/politics/2016/09/national-prison-strike-inmates/

[62] Sloan, Bob. Personal interview. 17 February 2017.

Laws surrounding prison labor are complex, and it is this lack of clarity that necessitates action by companies sourcing products or services from suppliers. Only an audit of suppliers can uncover and clarify all the instances of prison labor in a company's supply chain and determine whether those suppliers are following state and federal regulations properly. Companies that find prison labor in their supply chain should endeavor (at a bare minimum) to ensure that the work is *paid* and *voluntary.*

Federal Prisons:

In Federal prisons, all able-bodied people are required to work during their incarceration, either for prison benefit (such as cleaning, cooking, maintenance) or for private sector partners. Federal Prison Industries functions under the trade name "UNICOR." Given that the federal PIE program employs less than 100 incarcerated workers generally, the vast majority of those working for federal prison industries are working outside PIECP restrictions.

Those working under UNICOR manufacture a wide variety of products, including apparel, awards, linens, and office furniture, and provide many services, including distribution, 3D modeling, and call centers. The majority of the products are sold to dozens of other federal and state agencies (such as other prisons, the postal service, the department of agriculture, and even the Smithsonian Institution), but we have seen reports of certain items being sold to private sector companies, such as solar panels produced for SolarCity.[63] Alternatively, it is possible that products are sold to other government agencies and are then resold to private sector companies or even other national governments. Multiple news reports have indicated that prisoners have built military products such as anti-tank missile components, body armor, and land mine sweepers that are sold to defense contractors or foreign governments.[64]

[63] Nichola Groom. "Prison labor helps U.S. solar company manufacture at home." *Reuters*. June 10, 2015, https://www.reuters.com/article/solar-prison-suniva/insight-prison-labor-helps-u-s-solar-company-manufacture-at-home-idUSL1N0YP17Y20150610
[64] Noah Shachtman. "Prisoners Help Build Patriot Missiles." *Wired.* March 8, 2011. https://www.wired.com/2011/03/prisoners-help-build-patriot-missiles/

Examples of Products Made by Incarcerated Workers

The list of prisoner-made goods that we have uncovered is both staggering and very likely incomplete. Incarcerated people in the U.S. are involved in sectors ranging from agriculture to defense contracting, from simple electrical wiring to solar panels. A partial list of goods and services we suspect (or have confirmed) have been made or provided by incarcerated workers and sold in the United States are:

- Vidalia onions from Georgia
- Watermelon from Arizona (using Colorado incarcerated workers)
- Idaho potatoes
- Washington state apples
- Processed foods
- Furniture such as desks, office chairs, dorm beds
- Solar panels
- Clothing and footwear
- Eyeglass lenses
- Cleaning supplies
- Dental laboratory products
- Industrial materials, packaging, wiring, IT materials
- Lumber
- Tire re-treading and vehicle painting
- Construction safety clothing
- Fences, park benches and tables, and outdoor park signage and trash cans
- Printing, mailing, and digital imaging services
- Latex balloons
- Call center services

Very few companies are explicit about their partnerships with prison industries, but our research has revealed several clear connections as well as many potential connections to major corporations and retail customers. We list some examples on the following pages and discuss strategies that companies and shareholders can pursue in order to find and assess prison labor in the supply chain.

PIECP Products and Private Enterprise Partners

To start, the National Corrections Industry Association (NCIA) has compiled a publicly available listing of its Corporate Members.[65] Although the relationships between these companies and the NCIA are not disclosed, we assume there is a mutually beneficial relationship between each company and prison labor. Some companies may benefit directly by hiring incarcerated workers to make products or provide services (or hiring subcontractors who do so), others may be providing supplies *to* prison labor industries for the incarcerated to use to create products, and others on this list appear to be companies dedicated solely to providing products to prisons themselves (officer clothing and weapons, prison bedding, prison recreational materials, etc.). Another example is Correctional Technology Representatives, "a professional services organization dedicated to providing clients a turnkey approach

[65] "NCIA Corporate Members." National Correctional Industries Association. http://www.nationalcia.org/resources/ncia-corporate-members

for introducing products into the correctional industries model to promote reduced recidivism through manufacturing of highly efficient technologies."

According to the NCIA website[66], certain recognizable company names appear on this list, including a major manufacturer of a variety of consumer and industrial supplies, a producer of office furniture, a company best known for its adhesive labels and packaging, a pioneer in the production of synthetic fabrics, and a manufacturer of dry baking mixes. What we are unable to know from this listing without further disclosure by the companies is the nature of the relationship with prison industries. Are incarcerated people making desk chairs for this NCIA member who produces office furniture to sell to retail customers? Is the NCIA member that manufactures baking mixes providing mixes *to* the prison for in-house consumption, or are incarcerated workers producing products that the member is reselling? Are incarcerated workers producing coats or other products for sale in the NICA member's stores, or is there another reason a major clothing retailer is an NCIA member? It was well-documented[67] in 2018 that at least one NCIA member may be connected to products made by those incarcerated in Chinese prisons, but anecdotal stories we've been told allege that the same company may also be connected to domestic prisons.

There are numerous companies whose relationships to prison labor are unclear, such as an industrial shredding company[68]; a company that creates various webbed textiles including shoelaces[69] (and whose website advertises a connection to a recognizable athletic shoe company); a furniture company[70] that appears to sell trendy items that probably wouldn't show up in a prison itself (raising questions as to who is buying these products and the exact nature of the prison industry relationship); and a variety of fabrics wholesalers that are most likely providing materials to prison industries for product manufacture.

We also note that several eyeglasses retailers are listed as members, and those retailers' websites indicate that they sell major name brand eyeglasses. Given that correctional industry websites often advertise prison labor for eyeglass lenses, it is possible that incarcerated workers are making lenses that are being sold to these eyeglass retailers who are then selling completed glasses to customers. However, without more disclosure and explanation, shareholders and customers cannot discern whether these eyeglass retailers are connected to NCIA for the purposes of providing eyeglasses to incarcerated people or whether they are outsourcing the creation of lenses to prison industries, thereby connecting these high-end eyeglass frames to prison-made lenses. We do know that PRIDE Enterprises, the Florida prison industry system, manufactures eyeglasses through PIECP; and we know that in several other states prison industries manufacture eyeglasses or lenses, although those products should theoretically remain in the state as they are made outside PIECP.

[66] Accessed for original publication and on August 25, 2022
[67] "H&M, C&A, 3M investigate China prison labor report." *Reuters.* Feb 21, 2018. https://www.reuters.com/article/us-china-prison/hm-ca-3m-investigate-china-prison-labor-report-idUSKCN1G51NF
[68] Industrial Shredders: http://www.industrialshredders.com/
[69] Hickory Brands: https://hickorybrands.com/
[70] AC Furniture: https://acfurniture.com/showcase.php

Moving away from the NCIA membership listing, through our research we also identified several other connections between known product or component manufacturers and suppliers that appear to sell to major brand names. For example, incarcerated workers in Arkansas manufacture cable assemblies and wiring harnesses for a major cable and wiring producer,[71] a supplier that uses incarcerated labor through PIECP and advertises on its website that it sells to a multinational high-tech industrial company and a leader patient monitoring and health informatics as well as to a several other electronics manufacturers.

As noted earlier in this paper, corporations that buy products from suppliers can search for these connections in order to identify prison labor in the supply chain. NCIA publishes several quarterly statistical reports[72], including a quarterly Certification and Cost Accounting Center Listing. The companies on these listings are generally small to mid-size suppliers and can include everything from actual product manufacturing to manufacturing the packaging materials or a component for a product. However, we must remember that these statistical reports only cover a small fraction of incarcerated people and arguably do not cover the most vulnerable incarcerated population given that there is a minimal level of uniform oversight for PIECP private company partnerships.

View updated lists of NCIA members on the NCIA website here: http://www.nationalcia.org.

Generic Products in the State Prison Industries

State prison industries outside PIECP are much more difficult to trace through the supply chain. By examining state prison industry websites and annual reports, we have been able to document a variety of *types* of products made by incarcerated workers and a few brand name linkages, but connecting those products with brand names *en masse* is the most significant challenge. While many of the products manufactured in prisons are clearly geared toward sale to other prisons and state-funded agencies like parks and recreations departments (benches, grills, and other outdoor products) and state universities (dorm and classroom furniture), there are many products that do not appear to be marketed toward nonprofits or state agencies. Only a complete audit of suppliers from raw ingredient sourcing to customer hands will allow us to know how many of these prisoner-made products are actually in the supply chain. The list of non-agricultural products and services incarcerated workers produce outside PIECP is too extensive to be contained within this paper, but several examples are listed below:

- Colorado participates in a variety of services and create various products that appear to be marketed to private customers, including televisions, motorcycles, sheep housing, cow and goat husbandry and dairy products, produce farming, fish farming and processing, honey production, lobster farming, orchard fruits, partridge hatching and pheasant farming, ranching, ultra-high

[71] SemahTronix: https://www.semahtronix.com/
[72] Access the Quarterly Statistical Reports on the NCIA website here: http://www.nationalcia.org/piecp-2/quarterly-statistical-reports

pasteurization, vineyard cultivation, canoes, water buffalo dairy and processing, and white bison housing.

- Kentucky Correctional Industries manufactures many items that may potentially enter the open market under generic branding, such as: janitorial supplies, dorm furniture, classroom furniture, metal lockers, office desks, desk chairs, lounge seating, wooden outdoor chairs (adirondack chairs and picnic tables), garment printing, reclaimed wood for flooring/walls/furniture, braille services, print shop, and even coupon printing.

- Maine Department of Corrections Industries sells bird feeders and houses, wooden kids' furniture and toys, wooden kitchen items (cutting boards, napkin holders, towel holders, candy dishes), games, ship models, a variety of wooden house furniture, jewelry boxes, leather goods, paintings, lamps, clocks, and wood carvings made by incarcerated people.

Agriculture and Recent Political Changes

While prison labor has been an aspect of the U.S. penal system for hundreds of years, recent political events have made it clear that agriculture relies on prison labor. News reports in 2012 highlighted how "immigration reform" efforts have precipitated a shortage of available labor for physically demanding jobs such as harvesting crops. Farmers have reported an inability to hire enough local willing laborers, and migrant workers have faced obstacles entering the U.S. safely due to an increasingly unfriendly political atmosphere. [73] This labor shortage caused losses of hundreds of millions of dollars in crops that rotted in the fields. [74] In response to this reduction in numbers of willing civilians for "backbreaking" labor in crop harvesting, several state governments have turned to prisons to provide a workforce to the agricultural sector.[75,76] Because of the agricultural products exemption and now with labor shortages, the agricultural segment is particularly rife with incidents of prison labor. Below, we list just a few examples:

- Martori Farms is a producer of fresh produce in the southwestern U.S. that came into the limelight in 2011 for using prison labor in its farms and was reportedly a major supplier to Wal-

[73] Chad Mills. "Some migrant workers could vanish with new Ga. immigration law." May 28, 2011 *WRDW.* http://www.wrdw.com/home/headlines/122785519.html
[74] Benjamin Powell. "The Law Of Unintended Consequences: Georgia's Immigration Law Backfires." *Forbes.* May 17, 2012. https://www.forbes.com/sites/realspin/2012/05/17/the-law-of-unintended-consequences-georgias-immigration-law-backfires/#7b98f73b492a
[75] Keegan Hamilton Thu. "Hard Labor: Prison Inmates Are Picking Washington Apples." *Seattle News.* Nov 3, 2011. http://archive.seattleweekly.com/home/934163-129/laboremployment
[76] Nicole Hill. "US farmers using prison labor." *The Christian Science Monitor*. August 22, 2007. www.csmonitor.com/2007/0822/p14s02-wmgn.html

Mart.[77,78] Given that agricultural products are exempt from the Ashurst–Sumners Act, we could assume that these products may be being sold to customers outside the state in which they were produced. We have also found references by Martori Farms indicating that the company's Kandy Melons have been sold in other food retailer stores.[79]

- Colorado Correctional Industries farms tilapia and produces goat milk for suppliers that sold to Whole Foods[80] until late 2015.[81] Our examination of records at the time did not indicate that tilapia was produced under the PIE program, and given that Whole Foods resells its products to customers (and likely out of state), we can extrapolate that fish are categorized as agricultural goods as well.

- Louisiana Prison Enterprises has raised cattle and flight birds at various state prisons[82] as well as a variety of crops[83] at the Louisiana State Penitentiary (commonly referred to as Angola). While the Prison Enterprises website states that only tax-supported and non-profit agencies are qualified to purchase from Prison Enterprises, these products are sold on the open market. While it is not stated clearly, we assume these items are considered agricultural products and therefore exempt from interstate commerce restrictions of the Ashurst–Sumners Act of 1935.

Recommendations for Corporations that Use Suppliers: Policy & Auditing

[77] Al Norman. "'I Ain't Gonna Work On Martori's Farm No More'" *Huffington Post.* June 29, 2011. https://www.huffingtonpost.com/al-norman/i-aint-gonna-work-on-mart_b_886596.html

[78] Case study is listed for illustrative purposes only. Information valid as of date of publication. The information provided herein does not provide information reasonably sufficient upon which to base an investment decision and should not be considered a recommendation to purchase or sell any particular security or to make any particular investment.

[79] Case study is listed for illustrative purposes only. Information valid as of date of publication. The information provided herein does not provide information reasonably sufficient upon which to base an investment decision and should not be considered a recommendation to purchase or sell any particular security or to make any particular investment.

[80] Case study is listed for illustrative purposes only. Information valid as of date of publication. The information provided herein does not provide information reasonably sufficient upon which to base an investment decision and should not be considered a recommendation to purchase or sell any particular security or to make any particular investment.

[81] Allison Aubrey. "Whole Foods Says It Will Stop Selling Foods Made With Prison Labor." *NPR The Salt.* September 30, 2015. https://www.npr.org/sections/thesalt/2015/09/30/444797169/whole-foods-says-it-will-stop-selling-foods-made-by-prisoners

[82] Louisiana Prison Enterprises: http://www.prisonenterprises.org/rangeherd/

[83] Louisiana Prison Enterprises: http://www.prisonenterprises.org/crops/

We believe that all corporations that source products or services from suppliers should enact three phases of "best practices" related to prison labor in the supply chain:

First, companies should adopt a **Prison Labor Policy** stating that the company will:

- Routinely and thoroughly audit all suppliers and service providers in the company's supply chain to identify and track incidences of prison labor;
- Engage all suppliers and service providers in the supply chain to identify the conditions of incarcerated laborers such as wages paid, actual wages enjoyed, post-release support programs (such as job matching), and health and safety of workers in the programs;
- Insist on certain minimum requirements such as payment of minimum wage, voluntary status of labor, assurances against free-world business displacement, and creation of programs which would match near-parole incarcerated people with jobs that match their skills gained in the prison labor program.

Second, the sourcing company should perform an audit of all supplier companies in the supply chain, from the highest-level supplier down to raw ingredients production. We recommend that corporations use NCIA's quarterly Certification Listing Reports as a starting point, but this audit will likely take the form of surveying all suppliers to identify the source(s) of labor. Any identification of prison labor, no matter how minor, should be pursued further (see below).

Third, after identifying instances of prison labor in the company's supply chain, it is the responsibility of the company to both identify the status of various risks at each prison labor program and to insist upon a variety of changes in each prison labor program. In engaging with suppliers, we recommend that companies: a) first request information related to all issue areas and preferred practices listed below in order to determine levels of adherence; and b) insist upon changes that would bring suppliers into adherence with the preferred practices below.

Preferred Practices:

For non-PIECP programs (Federal and State):

1. Require "prevailing wage" – a wage similar to that paid to a non-incarcerated employee in the same field in the same region of the United States. Federal or state minimum wage (whichever is higher) should be a bare minimum. All incarcerated individuals working on production/manufacture/harvesting at all points during the process, including those producing agricultural products, should be paid prevailing wage. Ensure that no incarcerated people are uncompensated, regardless of what point in the process they participated in the production/service. Require periodic verification of wages paid to incarcerated workers; require a format which allows verification that prevailing wage was paid.
2. Require that the supplier provides a job-matching program for the incarcerated workers upon release.

3. Ensure that incarcerated individuals have access to training programs in their prison to assist them in understanding logistics such as job applications, résumé writing, interview skills, and navigating social mores of being an ex-convict attempting to re-enter the workforce.
4. Require that labor is voluntary; insist that only those who volunteer for the labor program work on the company's product or service; and require documentation of this fact.
5. Require third-party oversight of the project to ensure the health and safety of workers.
6. Request explicit documentation illustrating dialogue with local businesses to ensure the prison industry will not displace local business.
7. Require explicit documentation that the prison industry followed appropriate protocol to identify the prevailing wage that should be paid to the incarcerated workers.
8. Request verification that the company has not sought or found loopholes allowing it to sell across state lines (outside of PIECP).
9. Require written documentation of the supplier's process for ensuring that *intermediary buyers* will not resell products across state lines and that those buyers are not distribution centers that intend to sell across state lines.
10. Require regular verification in writing that these minimum standards have been met and continue to be upheld.

For PIECP:

1. Require that suppliers use the "customer" or "manpower" models of PIECP, ensuring that the private sector partner (the supplier) is subject to oversight by a Cost Accounting Center (CAC) staffed by local prison administrative officials.[84]

[84] For PIECP, the BJA identifies "certificate holders," and those certificate holders then designate "Cost Accounting Centers" (CACs) – the business partners in PIECP projects. There are 2-3 employment models depending upon the state or program:

1. Customer model: "the private sector business is engaged in a CAC enterprise only to the extent that it purchases all or a significant portion of the output of a prison-based business owned and operated by a governmental entity" ;
2. Manpower model: "the private sector business will pay a pre-determined fee covering labor, overhead, and profit to the prison industry"; and
3. Employer model: "the private sector business owns and operates the CAC by controlling the hiring, firing, training, supervision, and payment of the inmate work force."

This last model concerns us: in the employer model, "the correctional agency assumes no major role in industry operations, does not direct production, and exercises minimum control over inmate labor performance." In the "employer model," we see significant opportunities for mistreatment of incarcerated workers given the low level of oversight by the local correctional agency. We can assume that the customer and manpower models offer a heightened level of oversight given that prison officials are in charge of most or all details of the pay, treatment, and reporting of incarcerated workers.

2. Require documentation that the PIECP industry was initially certified and has been continually renewed since inception, including both the original certification and any recertification if the industry program changed significantly after inception.
3. Request and retain photocopies of those review documents and inquire as to whether the supplier has at any time been in violation of any PIECP regulations.
4. Request explicit documentation illustrating dialogue with local businesses to ensure the prison industry will not displace local business.
5. Require written documentation that each part of the PIECP project from inception to final market sale is completed by PIECP workers. If anyone related to the project are outside PIECP, require information on those non-PIECP workers (such as wages paid, volunteer status, weekly hours worked during the project timeframe, etc.). Also seek explanation as to why only certain portions of the project are completed by PIECP incarcerated individuals.
6. Require documentation that all who work on the sourcing company's product/service are paid prevailing wage.
7. Request written documentation on the following:
    - What percent of wages does the local prison deduct from an incarcerated worker's wages for room and board?
    - On average, what percentage of wages does the incarcerated worker receive in his or her commissary account after deductions? Note: This response may differ from the response to the above question.
8. Require documentation that local competing businesses (in addition to the local Chamber of Commerce) were consulted before initiating the PIECP project.
9. Require that the supplier fund a pre- and post-release assistance program related to job acquisition after release, interviewing skills, and managing job applications as an ex-convict.

Conclusion: Moving Forward

All companies that purchase products or services from suppliers have influence over those suppliers. Just as we, as investment advisors, refuse to put certain companies or industries in our clients' portfolios, companies can adopt a zero-tolerance stance for inappropriate treatment of incarcerated people working in correctional industries. If supplier companies continue to participate in the use of prison labor, all companies should adopt a Prison Labor Policy and persistently pursue an accurate audit of the status of prison labor within the company's supply chain, as well as a documented, clear depiction of the conditions in those labor programs. Corporations with prison labor in their supply chain must establish standards which will enhance working conditions, provide job training and placement, and improve compensation for workers.

It is crucial that companies accept responsibility for easing the burden that prison labor has engendered. By denying incarcerated people fair wages and basic employee rights, we are continuing to deepen the economic inequality that was embedded in slavery. Prison labor takes advantage of a captive workforce that has no ability to speak out against unfair conditions, and it robs their families of supportive wages:

> Depriving prisoners of these basic rights . . . in turn deprives their victims of potential restitution and the economy at large of additional drivers of economic production. More specifically, the families of offenders miss out on financial support, especially if the household's sole breadwinner is the one incarcerated. There are more children of inmates than there are inmates in American prisons, many of whom wind up relying on public assistance. Prisoners' wages, if higher, could be garnished to support these families. At $2 a day, it's difficult to imagine a family getting any kind of support. It's also difficult to conceive of victims receiving any kind of meaningful compensation from this sort of work scheme.[85]

Company involvement in improving conditions and wages at prison labor sites will likely benefit the company itself as well as our economy as a whole. Actively involved companies gain the opportunity to avoid negative publicity and potential litigation by intervening in exploitative prison labor programs *before* a public outcry tarnishes the company's reputation and brand name. After a 1999-2000 study involving five leading U.S. economists, labor economist Tom Petersik argued that "virtually every stakeholder in the U.S. economy would be better off if people who were incarcerated were fully integrated into the U.S. labor force." [86,87]

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[85] Josh Kovensky. "It's Time to Pay Prisoners the Minimum Wage." *The New Republic.* August 15, 2014 https://newrepublic.com/article/119083/prison-labor-equal-rights-wages-incarcerated-help-economy
[86] Josh Kovensky. "It's Time to Pay Prisoners the Minimum Wage." *The New Republic.* August 15, 2014 https://newrepublic.com/article/119083/prison-labor-equal-rights-wages-incarcerated-help-economy
[87] Tom Petersik. "The Economics of Inmate Labor Force Participation." September 2000. http://correction.org/wp-content/uploads/2014/10/mateworkforceparticipation.pdf

Ideally, we believe that incarcerated workers should have the full rights and responsibilities of "free-world" employees, including the rights of prevailing wage and unionizing, as well as the responsibility of paying taxes and supporting their families. Given that many of these requests – mandated minimum wage, ability to unionize, worker's comp – would require legislative changes that are unlikely to occur in the near future, it is the responsibility and opportunity of the company that sources from suppliers to use its influence as a buyer to protect both the incarcerated people and company value.

Arguments for or against prison labor typically fall into one of two categories:

1. Companies and prison officials claiming lower recidivism and better behavior of incarcerated people; or
2. Vocal activists comparing prison labor to slave labor, calling for the immediate abolishment of convict labor programs.

We cannot deny the aspects of prison labor that resemble modern slavery, but, barring regulatory changes that would overhaul the entire system, it is clear to us that proactive corporate engagement in reforming correctional industries (at a bare minimum) would be beneficial to incarcerated workers involved in these industries.

Due to the fact that companies have influence over their suppliers, identification of instances of prison labor in the supply chain should result in a qualitative evaluation process (as described on page 34) to document, audit, examine, and improve each prison industry project identified. Severing of the supplier relationship may be necessary; however, corporations using suppliers that hire incarcerated labor have the responsibility to use their influence to improve working conditions of their incarcerated employees, provide job training and placement, and improve compensation for people employed in prison industries.

We move forward in this work by actively engaging the companies in our clients' portfolios on this issue. Though we cannot undo the history of racism that has brought us to this place in history, we believe that investors and corporations must take an assertive stance in identifying and holding companies accountable for their participation in the slave labor of our time. We refuse to accept excuses, trivialization, or dismissal by those who tolerate and perpetuate the exploitation of incarcerated humans in order to slash costs and reap higher profits, and we believe that good corporate citizens will ask hard questions of their suppliers and insist on better conditions for any incarcerated people who work in the supply chain.

Appendix A: Sample Shareholder Proposal

Supply Chain Policy on Prison Labor

WHEREAS: Financial and operational risks related to the sale of goods produced with prison labor, such as reputational damage, litigation, and supply chain disruption, can adversely affect shareholder value;

Our company's Supplier Code of Conduct prohibits illegal prison labor: "The use of prison or convict labor must be consistent with laws where the merchandise is manufactured, and with the laws where it is imported";

Prison labor is legally permissible in the United States and other countries where the Company's goods are sourced. Incarcerated people make numerous consumer products on behalf of companies, such as produce, office chairs, clothing, and packaging materials. Companies enjoy low overhead costs and potentially other benefits such as tax breaks;

Watchdogs assert that prison labor is often deployed in an inhumane manner that fails to balance cost savings to companies against treatment of prisoners;

Although slavery and involuntary servitude were abolished by the 13th Amendment, an exception was made for "punishment for crime." Although some U.S. prisoners may receive wages ranging from $0.23 to $1.15 per hour, in the U.S. and worldwide many incarcerated people are forced to work for no pay at all, and in unsafe or unhealthy conditions;

The use of prison labor in supply chains can undermine a retailer's reputation. In 2015, a major food retailer experienced significant backlash when customers learned that prisoner-made products were sold in stores;

Although the Company's supplier code of conduct leads to occasional audits of suppliers for certain potential issues, it lacks sufficient attention to the use of prison labor. Careful review of our supply chain for prison labor could help the Company ensure that risk to its reputation and shareholder value is minimized by demonstrating effective company oversight.

RESOLVED: Shareholders of the Company urge the Board of Directors to adopt a policy committing the Company to: a) Survey all suppliers to identify sources of prison labor in the Company's supply chain; b) Develop and apply additional criteria or guidelines for suppliers regarding the use of prison labor; and c) Report to shareholders no later than a year after the annual general meeting, at reasonable cost and omitting proprietary information, on the Company's progress in implementing the policy.

SUPPORTING STATEMENT: The Proponent recommends that the company's progress report include:

- Summary of results of the supplier survey, including actual and/or potential sources of prison labor identified, and in particular any use of:
    a) Suppliers who employ prison labor with compulsory, uncompensated, or severely undercompensated work programs,
    b) Suppliers who employ prison labor from privately-run prisons;
- Summary of new criteria and guidelines for the use of prison labor;
- Methodologies to be used to track, audit, and measure supplier performance;
- Nature and extent of consultation with relevant stakeholders in connection with the policy development and implementation.

Examples of topics for possible guidelines or criteria could include: consideration of a minimum wage and/or overtime pay for incarcerated laborers, safety/health conditions, supplier-provided job-matching programs for incarcerated workers upon release.

Past performance is no guarantee of future results. Case study listed for illustrative purposes only. Information valid as of date of publication.

Appendix B: Glossary of Terms

Term	Explanation
Ashurst–Sumners Act	The 1935 Federal act that made it illegal to knowingly transport convict-made goods for interstate commerce beyond certain exceptions.
ALEC: American Legislative Exchange Council	The “business-backed conservative group” which drafts model legislation for congress and, specific to the purposes of this paper, has been instrumental in increasing incarceration rates in the U.S. as well as expanding prison industry opportunities.
BJA: Bureau of Justice Assistance	BJA is part of the U.S. Department of Justice which oversees (among other things) PIECP.
CCA: CoreCivic	One of the two largest for-profit prison companies. Previously known as CCA or Corrections Corporation of America, this company recently re-branded as CoreCivic.
FLSA: Fair Labor Standards Act	The Fair Labor Standards Act (FLSA) establishes minimum wage, overtime pay, recordkeeping, and child labor standards affecting full-time and part-time workers in the private sector and in Federal, State, and local governments (www.dol.gov).
Justice System Improvement Act	The 1979 Federal act that created PIECP and allowed for more exemptions to interstate commerce restrictions on incarcerated people-made goods.
NCIA: National Correctional Industries Association	The nonprofit organization of correctional industry professionals which (among other things) oversees PIECP, as directed by BJA.
PIECP: Prison Industry Enhancement Certification Program	A federally-legislated prison labor program created by the Justice System Improvement Act of 1979 which allows for the interstate commerce of certain incarcerated people-made goods. Approximately 5,000 people work in prison industry jobs across state, federal, and private prisons that are regulated by this system. In our paper, this is sometimes referred to simply as "PIE" or the "PIE program."
Supply chain	The entire network of companies that are interrelated in the production of a product or completion of a service. This includes sourcing of raw materials all the way up to the final product that is sold to consumers or other companies.
UNICOR/Federal Prison Industries	UNICOR is the trade name for the federal prison system's correctional industries. UNICOR is sometimes referred to as FPI (Federal Prison Industries), but generally goes by its trade name UNICOR.

About NorthStar and the Authors

NorthStar is a wealth management firm based in Boston, Massachusetts USA. Since its inception, NorthStar has focused exclusively on socially responsible investing (SRI). NorthStar's mission is to provide integrative and effective portfolio management by connecting social concerns to stock selection, asset allocation, and activism. To that end, NorthStar uses targeted shareholder activism to encourage social change.

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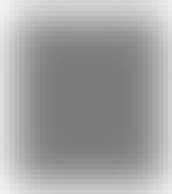

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