

Testimony to the Charles Colson Task Force on Federal Corrections, March 11, 2015

International Citizens United For Rehabilitation of Errants (CURE)

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Introduction:

My name is Thomas Petersik, CURE's labor economist. Our testimony addresses rehabilitation and employment, specifically Federal Prison Industries, FPI, with respect to inmate work.

Much of my education, from which this work arises, comes from University of Oklahoma undergraduate and graduate degrees in economics.

Despite 75 years' effort by dedicated staff, FPI's bilateral monopoly design – that is, FPI's exclusive rights to its incarcerated labor force, and to at the same time to some markets, has not worked well, and is getting worse. FPI misses reasonable goals for incarcerated worker employment, training, and recidivism reduction. FPI whiffs almost entirely on obligations to crime victims and for child/family support, as well as for the US economy and social fabric. CURE recommends replacing FPI's separated, protected, and struggling market structure with normalizing FPI and incorporating the incarcerated work force into the mainstream competitive American economy on equivalent terms.

FPI is Not Meeting Reasonable Goals:

- FPI's oft-stated workforce goal is 25% of qualified inmates. At year-end 2014, however, **only 6% of the Federally incarcerated population was reported employed**, and further losses are expected with declines in Federal government contracts.ⁱ

- **Most Federal inmates never work in FPI.** Our best estimate is that only 1/6 of Federal inmates ever work in FPI.
- **Those working in FPI are unemployed 2/3 of the average 8 years** in Federal custody.
- **FPI pays 81 cents an hour.**ⁱⁱ Either or both of two explanations are most likely: Either FPI inmate workers are so unproductive as to meet barely 1/10 the US minimum productivity threshold of \$7.25 per hour, thereby raising serious doubts about FPI replicating competitive civilian work places. Or, as we conclude, FPI behaves as a traditional monopolist, paying workers far below their added value.
- **There is no Clear Evidence of FPI Improving Reducing Recidivism.** Except for the decades-old “Post Release Employment Project,” (PREP), FPI shows no current efforts to measure, understand, or improve upon FPI experiences to reduce recidivism, a supposed critical goal. FPI publications rely on anecdotes rather than measures.ⁱⁱⁱ
- **FPI Gives Mainly Lip - not Money - to Victims, Child Support, and Taxpayers.** FPI notes up to \$3 million in deductions each year for victim restitution, child support, and legal obligations (court costs, fines), meaning *about \$50 per category per year per incarcerated worker*, insufficient to defray even accrued interest let alone the charges.^{iv}

FPI has 100,000 Employment-Capable Incarcerated Workers.

FPI’s *maximum* inmate hourly wage is \$1.15, meaning *no FPI workers capable of more than 1/6 the US minimum wage.*^v But Justice reports 100,000 Federal inmates having both education and employment experience capable of minimum or better employment.^{vi}

FPI Likely Pay Discriminates Against its Incarcerated Work Force and Its Dependents.

An FPI civilian employee grosses \$43 an hour (\$91,000 a year) plus generous benefits, 100 times the net of its incarcerated breadwinners getting \$0.81 and 0 family- health or Social

Security. While recognizing civilian FPI employment disproportionately supervisory, nevertheless with a \$26 US average manufacturing wage (\$54,000 per year), the yawning pay gap points to significant pay discrimination between civilian and incarcerated FPI labor.^{vii}

FPI Fails Larger Social Objectives.

The causal intersection of incarceration and other social ills appears both obvious and mostly unmeasured (or ignored). My working conclusion is that 40-50 percent of US chronic and enduring poverty interconnects causally with incarceration, significantly affecting US poverty for children (more unsupported children of US inmates than inmates); blacks and other minorities; female single householders and the elderly; for homelessness, including for veterans; US economic inequality, in income, savings, and wealth; community poverty and welfare (TANF); Social Security deficits; and slowed US economic growth. In failing to acknowledge or address these intersections, the nation and FPI miss important opportunities to improve the US economy, reduce poverty, and mend the social fabric.

CURE-Proposes Transforming FPI to the Open Market

In 1970, Oklahoma coach Chuck Fairbanks did the inconceivable, adopting archrival Texas' wishbone offense, launching top-ranked OU seasons including those of quarterback JC Watts under coach Barry Switzer. CURE proposes a similar inconceivable transformation of the BOP's labor system, but one concurred upon by top US economists, liberal to conservative.^{viii}

The best place for incarcerant work experience toward entering the civilian economy is experience in the normal civilian economy.

Therefore, CURE recommends replacing the FPI segregated market structure with integrated employment for private firms in the normal economy, absent any privilege or penalty different from other labor or business, and subject to all the rights and obligations of other members of the labor force – along with rigorous public oversight and protections required for safety. Specifically –

- 1. Rather than monopolistic (sole) employer of incarcerated labor outside the civilian economy, FPI should instead facilitate private industry employing incarcerated workers as normal civilian labor force – inside and outside the walls.**
- 2. BOP and FPI should transform Federal correctional facilities (and eventually locations and structures) to maximize the productivity, efficiency, and economic contributions of the incarcerated work forces, including marketing the skills of its labor forces and comparative advantages of their locations and facilities, providing reliable labor supply 40 hours per workweek, and 52 weeks a year.**
- 3. Federally incarcerated workers for private industries (in interstate commerce) should be subject to all basic US labor law identical (absolutely no differences) with other civilian workers, including the protections, benefits, and obligations of the Fair Labor Standards Act, the National Labor Relations Act, health and safety requirements, appropriate Federal, state, and local taxation, and obligations of law, including for victim restitution, child and family support, and other legally imposed charges.**
- 4. The BOP should facilitate inmate workforce education and training, including in computer and internet skills, from the same agencies and organizations, and on the**

same terms, as applied to otherwise similar persons (and that related agencies and organizations include otherwise-qualified incarcerated persons in their education and workforce development missions).

- 5. That FPI access or provide supported work for limited-ability incarcerated workers by the same agencies and on the same qualifying terms as otherwise identical persons in the civilian world.**
- 6. That explicit objectives, timetables, and actions be established such that significant and measurable progress occur over a reasonable time period, including graduated testing, evaluation, and improvement. For example, by 2025 at least 15 percent of Federal inmates be employed full or part-time in the normal marketplace and 40% by 2040, either in work release, the Prison Industry Enhancement Certification (PIE) program, or other constructs normalizing inmate employment in civilian production.**
- 7. Success objectives and milestones should be in the performance standards of the chain of command, including for the directors of FPI and FBOP.**

For reasons beginning with the importance and value of the incarcerated person and extending to children, family, victims, neighborhoods, communities, and the nation's health, we can no longer ignore the costs of incarcerated worker unemployment or treat flippantly the potential gains to us all of successful legal employment and responsibility of persons in the nation's criminal justice system. No structure is more familiar or offers better prospects for meeting FPI's goals than the tried-and-true American economy. CURE recommends prison industries and incarcerated labor embrace the normal marketplace in both business and labor. Thank you.

ⁱ Sources: Derived from 2014 Federal inmate population, at www.bop.gov/resources/news/20141024_populationDecline.jsp; FPI inmate work force from *Federal Prison Industries, Inc., Fiscal Year 2014, Annual management Report*, November 12, 2014.

ⁱⁱ Source: Derived by the author from *FPI Annual Report 2009*, page 12, assuming a 2080-hour work year for a full-time-equivalent position.

ⁱⁱⁱ Source: *About the Bureau of Prisons* – published January, 2011, page 8. Note: While we are confident that good employment experience reduces recidivism, a legitimate criticism of the PREP research is its “selection bias,” in selecting for FPI participants with superior release prospects in the first place, better behaved, better educated, and with better work experience than the overall inmate population. Pages 15-19 of the *FPI Annual Report 2009*, for example, contain only anecdotes and no data or analysis.

^{iv} Source: *FPI Annual Report 1979*, page 18.

^v Source: *FPI Annual Report 2009*, page 12.

^{vi} Sources: Pay ranges, *FPI Annual Report 2009*, page 12; education and employment history: derived by the author from Bureau of Justice Statistics Special Report *Education and Correctional Populations* NCJ195670, January 2003, combining measures for Federal inmate populations with measures for state inmates. Because state inmates are generally less well educated than Federal, using state education estimates likely understates Federal inmate employment potential.

^{vii} Sources: For civilian FPI pay: *FY2013 Congressional Budget for Federal Prison Industries*; for civilian sector manufacturing (durable goods) pay: <http://www.bls.gov/news.release/empsit.t19.htm>

^{viii} Sources: See, for example, *National Symposium, The Economics of Inmate Labor Force Participation*, May 21, 1999, George Washington University, DC, in which four prominent US economists addressed the issue and uniformly concurred that incarcerated worker integration into the normal US economy, on identical terms with other labor – save for required security and strong public oversight – would like yield best results for the US economy, justice, and the social fabric. Important note: Tom Petersik organized this symposium.